**Thursday, May 21, 2009**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 10:09 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

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

The prophet, Isaiah, declares:

“For you shall go out in joy, and be led back in peace; the mountains and the hills before you shall burst forth into song, and all the trees of the field shall clap their hands.” (Isaiah 55:12)

Join me as we pray:

O Lord, in spite of some tensions and pressures, we do thank You for the blessings of this 118th General Assembly. And there truly have been many blessings over the past months. Now, dear God, allow each of these leaders to “go out in joy” at five o’clock today, savoring a bit of a break from debates, discussions, and decisions. May each Senator experience release and relief at least for a time, and then lead them back to this Senate Chamber for further service to the people of South Carolina. We give You our heartfelt thanks and praise, O loving Lord.

Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Mark C. Sanford:

**Local Appointment**

Reappointment, Dorchester County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Tera S. Richardson, 214 Eagle Ridge Road, Summerville, SC 29485

**Doctor of the Day**

Senator RYBERG introduced Dr. Anthony Harris of Aiken, S.C., Doctor of the Day.

**Leave of Absence**

At 11:25 A.M., Senator COURSON requested a leave of absence beginning at 11:30 A.M.

**Leave of Absence**

At 12:36 P.M., Senator SHEHEEN requested a leave of absence beginning at 4:30 P.M.

**Expression of Personal Interest**

Senator CROMER rose for an Expression of Personal Interest.

**Privilege of the Chamber**

On motion of Senator DAVIS, with unanimous consent, the Privilege of the Chamber, to that area behind the rail, was extended to the Most Reverend Robert E. Guglielmone upon his installation as the thirteenth Bishop of the Diocese of Charleston.

**Privilege of the Chamber**

On motion of Senator BRYANT, with unanimous consent, the Privilege of the Chamber, to that area behind the rail, was extended to Mr. Newt Gingrich, former Speaker of the U. S. House of Representatives.

**RECALLED AND ADOPTED**

H. 3475 -- Rep. Hayes: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME BLACK BRANCH ROAD IN DILLON COUNTY “HOYT JACKSON MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS ROAD THAT CONTAIN THE WORDS “HOYT JACKSON MEMORIAL HIGHWAY”.

Senator WILLIAMS asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Transportation.

There was no objection.

Senator WILLIAMS asked unanimous consent to make a motion to take the Concurrent Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Concurrent Resolution. The question then was the adoption of the Concurrent Resolution.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 872 -- Senator Bright: A BILL TO AMEND CHAPTER 3, TITLE 46 OF THE 1976 CODE, RELATING TO THE DEPARTMENT OF AGRICULTURE, BY ADDING SECTION 46-3-250 TO PROVIDE FOR THE ESTABLISHMENT OF THE DIVISION OF AGRICULTURAL PUBLIC SERVICES ACTIVITIES; AND TO REPEAL SECTION 59-119-165, RELATING TO TRANSFER OF CERTAIN AGRICULTURAL FUNDS TO CLEMSON UNIVERSITY PUBLIC SERVICE ACTIVITIES.

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Read the first time and referred to the Committee on Agriculture and Natural Resources.

S. 873 -- Senator Fair: A BILL TO AMEND ARTICLE 1, CHAPTER 29 OF TITLE 59 OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS CONCERNING SUBJECTS OF INSTRUCTION IN THE STATE'S PUBLIC SCHOOLS, BY ADDING SECTION 59-29-15, TO PROVIDE THAT CURRICULUM USED TO TEACH STUDENTS ABOUT THE ORIGINS OF MANKIND MUST MAINTAIN NEUTRALITY BETWEEN RELIGIOUS FAITHS AND BETWEEN RELIGION AND NON-RELIGION, AND TO PROVIDE THAT CURRICULUM THAT DOES NOT MAINTAIN THE REQUIRED NEUTRALITY MUST BE REVISED OR REPLACED AS SOON AS PRACTICABLE.

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

S. 874 -- Senator Fair: A BILL TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, TO ENACT THE "SCHOOL CHILDREN'S RELIGIOUS LIBERTIES ACT" BY ADDING CHAPTER 155 RELATING TO STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS, TO PROVIDE THAT A SCHOOL DISTRICT SHALL TREAT RELIGIOUS VIEWPOINTS EXPRESSED BY STUDENTS CONCERNING AN OTHERWISE PERMISSIBLE SUBJECT IN THE SAME MANNER AS NON-RELIGIOUS VIEWPOINTS EXPRESSED BY STUDENTS ON THE SAME SUBJECT, TO PROVIDE THAT EACH SCHOOL DISTRICT IN THE STATE MUST ADOPT A POLICY ESTABLISHING A LIMITED PUBLIC FORUM FOR STUDENT SPEAKERS AT SCHOOL EVENTS, TO PROVIDE THE PARAMETERS OF THE POLICY, TO PROVIDE THAT STUDENTS MAY EXPRESS THEIR RELIGIOUS BELIEFS IN CLASS ASSIGNMENTS, AND TO PROVIDE THAT STUDENTS MUST BE PERMITTED TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES IN THE SAME MANNER THAT STUDENTS MAY ORGANIZE NON-RELIGIOUS GROUPS AND ACTIVITIES.

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

S. 875 -- Senator Fair: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-29-115 SO AS TO PROVIDE THAT THE STATE BOARD OF EDUCATION, AND DISTRICT AND SCHOOL GOVERNING AUTHORITIES, SHALL FACILITATE SCIENTIFIC EDUCATION, INCLUDING CONTROVERSIAL SCIENTIFIC EDUCATION, IN THE PUBLIC SCHOOLS OF THIS STATE, TO PROHIBIT THESE AUTHORITIES FROM IMPEDING THIS EDUCATION, AND TO PROVIDE FOR PUBLICATION OF THE PROVISIONS OF THIS ACT TO SCHOOL GOVERNING AUTHORITIES.

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

S. 876 -- Senator Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-45-17 SO AS TO PROVIDE MINIMUM CONTINUING EDUCATION COURSE REQUIREMENTS FOR COUNTY TAX COLLECTORS AND PROVIDE EXCEPTIONS; BY ADDING SECTION 12-59-85 SO AS TO ALLOW A COUNTY FORFEITED LAND COMMISSION TO REFUSE TO ACCEPT TITLE TO PROPERTY WHEN REFUSAL IS IN THE PUBLIC INTEREST; TO AMEND SECTION 12-37-2725, RELATING TO CANCELLATION OF A LICENSE PLATE AND REGISTRATION CERTIFICATE WHEN A VEHICLE OWNER MOVES OUT OF STATE AND THE PRORATED PROPERTY TAX REFUND DUE ON THAT CANCELLATION, SO AS TO ALLOW THE APPROPRIATE RECEIPT ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES TO SUBSTITUTE FOR THE ACTUAL LICENSE PLATE AND CERTIFICATE; TO AMEND SECTION 12-37-3150, AS AMENDED, RELATING TO ASSESSABLE TRANSFERS OF INTEREST FOR PURPOSES OF DETERMINING THE VALUE OF REAL PROPERTY FOR PROPERTY TAXATION, SO AS TO PROVIDE A CIVIL PENALTY FOR FAILURE TO PROVIDE NOTICE TO THE ASSESSOR OF OWNERSHIP TRANSFERS OF CERTAIN BUSINESS REAL PROPERTY; TO AMEND SECTION 12-39-220, RELATING TO THE DISCOVERY OF UNTAXED PROPERTY FOR PURPOSES OF PROPERTY TAXES, SO AS TO PROVIDE THE DUTIES OF THE ASSESSOR WITH RESPECT TO THIS PROPERTY; TO AMEND SECTIONS 12-51-50, AS AMENDED, AND 12-51-70, RELATING TO DELINQUENT TAX SALES, SO AS TO PROVIDE FOR THE SALES DATE AND TO INCREASE FROM THREE HUNDRED TO ONE THOUSAND DOLLARS THE DAMAGES FOR WHICH A DEFAULTING BIDDER IS LIABLE; AND TO AMEND SECTION 12-54-85, AS AMENDED, RELATING TO THE TIME LIMITS APPLICABLE FOR ASSESSING DELINQUENT TAXES, SO AS TO MAKE A CONFORMING AMENDMENT.

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

S. 877 -- Senator Bryant: A BILL TO AMEND CHAPTER 11, TITLE 40 OF THE 1976 CODE, RELATING TO CONTRACTORS, BY ADDING SECTION 40-11-580 TO PROVIDE A PROCESS FOR SUBCONTRACTORS TO PERFECT LABORER'S LIENS.

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

S. 878 -- Senator Courson: A SENATE RESOLUTION TO CONGRATULATE MR. ALAN B. DAVIS OF IRMO, SOUTH CAROLINA, UPON BEING CHOSEN THE 2009 ASSOCIATION EXECUTIVE OF THE YEAR BY THE SOUTH CAROLINA SOCIETY OF ASSOCIATION EXECUTIVES.

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The Senate Resolution was adopted.

S. 879 -- Senator Campsen: A BILL TO AMEND SECTION 12-37-3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ASSESSABLE TRANSFERS OF INTEREST FOR PURPOSES OF DETERMINING THE VALUE OF REAL PROPERTY FOR PROPERTY TAXATION, SO AS TO PROVIDE ADDITIONAL INSTANCES OF PROPERTY TRANSFERS NOT CONSIDERED ASSESSABLE TRANSFERS OF INTEREST, INCLUDING TRANSFERS OF FRACTIONAL INTERESTS CONSTITUTING NOT MORE THAN FIFTY PERCENT OF FEE SIMPLE TITLE, TRANSFERS INTO AND OUT OF A SINGLE MEMBER LIMITED LIABILITY COMPANY NOT TAXED AS A CORPORATION WHEN THE SINGLE MEMBER IS THE TRANSFEREE AND TRANSFEROR, TRANSFERS RELATING TO EASEMENTS, TRANSFERS TO QUIET TITLE OR ESTABLISH A BOUNDARY LINE, AND TRANSFERS CREATING OR TERMINATING A JOINT TENANCY WITH RIGHTS OF SURVIVORSHIP IF THE GRANTORS AND GRANTEES ARE THE SAME.

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

S. 880 -- Senator Jackson: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE LOWER RICHLAND HIGH SCHOOL TRACK AND FIELD TEAM FOR ITS OUTSTANDING SEASON, AND TO CONGRATULATE THE SQUAD MEMBERS AND COACHES FOR CAPTURING THE 2009 CLASS AAA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 881 -- Senators Elliott, Rankin and Cleary: A SENATE RESOLUTION TO MEMORIALIZE THE CONGRESS OF THE UNITED STATES TO PROVIDE THIRTY MILLION DOLLARS OF FEDERAL FUNDING FOR THE CONSTRUCTION OF A NEW SCIENCE BUILDING AT COASTAL CAROLINA UNIVERSITY.

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The Senate Resolution was adopted.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

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

S. 453 -- Senators Verdin and Ford: A BILL TO AMEND CHAPTER 4, TITLE 47 OF THE 1976 CODE, RELATING TO ANIMALS, LIVESTOCK, AND POULTRY, BY ADDING SECTION 47‑4‑160 TO PROVIDE THAT POLITICAL SUBDIVISIONS MAY NOT ENACT ORDINANCES, ORDER, OR OTHER REGULATIONS CONCERNING THE CARE AND HANDLING OF LIVESTOCK AND POULTRY, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY TO OCCUPY THE FIELD CONCERNING THE REGULATION OF CARE AND HANDLING OF LIVESTOCK AND POULTRY, AND TO PROVIDE THAT LOCAL LAWS, ORDINANCES, ORDERS, OR OTHER REGULATIONS CONCERNING THE CARE AND HANDLING OF LIVESTOCK AND POULTRY ARE PREEMPTED AND SUPERSEDED.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑23‑205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has receded from its amendments to the following Bill:

S. 593 -- Senator S. Martin: A BILL TO AMEND SECTION 16‑23‑430 OF THE 1976 CODE, RELATING TO THE CARRYING OF WEAPONS ON SCHOOL PROPERTY, TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO A PERSON WHO IS AUTHORIZED TO CARRY A CONCEALED WEAPON WHEN THE WEAPON IS INSIDE A MOTOR VEHICLE.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 11 to 104:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 4** **Part IB; Section 21.13; Page 342; Department of Health and Human Services; Medically Fragile Children's Programs.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 4 to 112:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 15 Part IB; Section 40.38; Page 379-380; Department of Commerce; Railway Transfer.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 9 to 102:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 18 Part IB; Section 48.11; Page 389; State Law Enforcement Division; Detective/Security Fee.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 10 to 102:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 19 Part IB; Section 49A.1; Page 391-392; Capitol Police Force; Retention of Private Detective Fees.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 9 to 103:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 20 Part IB; Section 49A.2; Page 392; Capitol Police Force; Commissioned Officers’ Physicals.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 9 to 106:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 21 Part IB; Section 49A.3; Page 392; Capitol Police Force; Meals in Emergency Operations.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 11 to 104:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 22 Part IB; Section 49A.4; Page 392; Capitol Police Force; Carry Forward Authority.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 10 to 105:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 23 Part IB; Section 49A.5 (D); Page 393; Capitol Police Force; Dispositions if Agency Not Established.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 11 to 102:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 25 Part IB; Section 89.131; Page 474; General Provisions; Capitol Police Force Training.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 7 to 101:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 26 Part IB; Section 89.132; Page 474; General Provisions; Capitol Police Force Storage and Maintenance.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 8 to 100:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 30 Part IB; Section 67.1; Page 407; Employment Security Commission; Salary Level.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 5 to 101:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 31 Part IB; Section 72.23; Page 418-419; Governor’s Office; OEPP Administration of Cabinet Agencies.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 2 to 110:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 34 Part IB; Section 80A.27; Page 430; Budget and Control Board; Competitive Grants.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 7 to 99:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 35 Part IB; Section 22.39; Page 354; Department of Health and Environmental Control; Competitive Grants.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 4 to 100:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 36 Part IB; Section 39.3; Page 373; Department of Parks, Recreation and Tourism; Competitive Grants.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 5 to 99:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 37 Part IB; Section 40.20; Page 377; Department of Commerce; Competitive Grants.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 3 to 107:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 42 Part IB; Section 89.137; Page 474-475; General Provisions; South Carolina Research Authority Officers.**

Very respectfully,

Speaker of the House

Received as information.

**HOUSE CONCURRENCE**

S. 815 -- Senator Bryant: A CONCURRENT RESOLUTION TO JOIN THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE IN RECOGNIZING THE WEEK OF MAY 11-15, 2009, AS “NATIONAL LAW ENFORCEMENT WEEK”.

Returned with concurrence.

Received as information.

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

**ORDERED ENROLLED FOR RATIFICATION**

The following Bills were read the third time and, having received three readings in both Houses, it was ordered that the titles be changed to that of Acts and enrolled for Ratification:

H. 3377 -- Reps. D.C. Moss, Vick, Simrill, Anthony, Bedingfield, H.B. Brown, Duncan, Gambrell, Gullick, Jennings and A.D. Young: A BILL TO AMEND SECTION 23‑1‑212, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF STATE CRIMINAL LAWS BY FEDERAL LAW ENFORCEMENT OFFICERS, SO AS TO PROVIDE THAT NATIONAL PARK SERVICE RANGERS ARE FEDERAL LAW ENFORCEMENT OFFICERS WHO ARE AUTHORIZED TO ENFORCE THE STATE’S CRIMINAL LAWS.

H. 3749 -- Reps. J.E. Smith and Williams: A BILL TO AMEND SECTION 25‑1‑380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ASSISTANT ADJUTANT GENERAL FOR THE ARMY, SO AS TO PROVIDE UPON NATIONAL GUARD BUREAU AUTHORIZATION, AN ADDITIONAL ASSISTANT ADJUTANT GENERAL WITH THE RANK OF MAJOR GENERAL.

H. 3944 -- Reps. Jennings and Neilson: A BILL TO AMEND SECTION 56‑3‑8710, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF NASCAR SPECIAL LICENSE PLATES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE THAT A PORTION OF THE FEES COLLECTED FROM THE SALE OF THESE LICENSE PLATES MUST BE DISTRIBUTED TO THE SOUTH CAROLINA ASSOCIATION OF CHILDREN’S HOMES AND FAMILY SERVICES AND NO LONGER TO THE SOUTH CAROLINA CHILDREN’S EMERGENCY SHELTER FOUNDATION.

**HOUSE BILLS RETURNED**

The following House Bill and Joint Resolution were read the third time and ordered returned to the House with amendments:

H. 3483 -- Reps. White, M.A. Pitts, Toole, Willis, Barfield, Clemmons, Hardwick and Hearn: A JOINT RESOLUTION TO PROPOSE AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE DECLARATION OF RIGHTS UNDER THE STATE’S CONSTITUTION, BY ADDING SECTION 25 SO AS TO PROVIDE THAT HUNTING AND FISHING ARE VALUABLE PARTS OF THE STATE’S HERITAGE, IMPORTANT FOR CONSERVATION, AND A PROTECTED MEANS OF MANAGING NONTHREATENED WILDLIFE; TO PROVIDE THAT THE CITIZENS OF SOUTH CAROLINA SHALL HAVE THE RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE TRADITIONALLY PURSUED, SUBJECT TO LAWS AND REGULATIONS PROMOTING SOUND WILDLIFE CONSERVATION AND MANAGEMENT AS PRESCRIBED BY THE GENERAL ASSEMBLY; AND TO SPECIFY THAT THIS SECTION MUST NOT BE CONSTRUED TO ABROGATE ANY PRIVATE PROPERTY RIGHTS, EXISTING STATE LAWS OR REGULATIONS, OR THE STATE’S SOVEREIGNTY OVER ITS NATURAL RESOURCES.

H. 3882 -- Labor, Commerce and Industry Committee: A BILL TO AMEND SECTION 48-39-150(F) OF THE 1976 CODE, RELATING TO THE TIME PERIOD BY WHICH WORK AUTHORIZED BY A PERMIT ISSUED BY THE COASTAL DIVISION OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MUST BE COMPLETED, TO PROVIDE THAT THE TIME LIMIT MUST BE TOLLED DURING THE PENDENCY OF A PROJECT’S FORECLOSURE OR BANKRUPTCY.

Senator ELLIOTT 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.

On motion of Senator ELLIOTT, with unanimous consent, the Bill was read the third time and ordered returned to the House.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, READ THE THIRD TIME**

H. 3722-- Representatives Kirsh and White: A BILL TO AMEND TITLE 12 OF THE 1976 CODE, TO PROVIDE FOR DETERMINATION OF GAINS AND LOSSES APPORTIONED TO THIS STATE BY THE INTERNAL REVENUE CODE STANDARDS; TO PROVIDE FOR CHANGES IN FILING TAX RETURNS; AND PROVIDE FOR ADOPTION OF FEDERAL RELIEF FOR CERTAIN ADVERSELY AFFECTED TAXPAYERS.

(ABBREVIATED TITLE)

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 amendment proposed by the Committee on Finance.

Senator RYBERG proposed the following amendment (3722R006.WGR), which was adopted:

Amend the committee amendment, as and if amended, by striking SECTION 6 in its entirety.

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Finance proposed the following amendment (3722FIN001), which was adopted:

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

/ SECTION 1.A. Section 12‑6‑2295(A) of the 1976 Code, as added by Act 116 of 2007, is amended to read:

“(A) The terms ‘sales’ as used in Section 12‑6‑2280 and ‘gross receipts’ as used in Section 12‑6‑2290 include, but are not limited to, the following items if they have not been separately allocated:

(1) receipts from the sale or rental of tangible real or personal property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business including inventory;

(2) ~~receipts from the sale of accounts receivable acquired in the ordinary course of trade or business for services rendered or from the sale or rental of property maintained for sale or rental to customers in the ordinary course of the taxpayer’s trade or business if the accounts receivable were created by the taxpayer or a related party. For purposes of this item, a related person includes a person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code;~~

~~(3)~~ receipts from the use of intangible property ~~in this State~~ including, but not limited to, royalties from patents, copyrights, trademarks, and trade names;

~~(4)~~(3) net gain from the sale of tangible personal property or intangible property used in the trade or business unless otherwise provided in item (1) or (4)~~.~~ ~~For purposes of this subsection, property used in the trade or business means property subject to the allowance for depreciation, real property used in the trade or business, and intangible property used in the trade or business which is:~~

~~(a)~~ ~~not property of a kind that properly would be includible in inventory of the business if on hand at the close of the taxable year; or~~

~~(b)~~ ~~held by the business primarily for sale to customers in the ordinary course of the trade or business~~;

(4) net gains from the sale of accounts receivable, loans, or other intangible property held for sale in the ordinary course of the taxpayer’s trade or business;

(5) receipts from services ~~if the entire income‑producing activity is within this State. If the income‑producing activity is performed partly within and partly without this State, sales are attributable to this State to the extent the income‑producing activity is performed within this State~~;

(6) receipts from the sale of intangible property which are unable to be attributed to any particular state or states are excluded from the numerator and denominator of the factor.”

B. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2008.

SECTION 2.A. Section 30‑2‑320(6) and (7) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(6) on a document filed in the official records of the courts; ~~and~~

(7) to an employer for employment verification or in the course of administration or provision of employee benefit programs, claims, and procedures related to employment including, but not limited to, termination from employment, retirement from employment, injuries suffered during the course of employment, and other such claims, benefits, and procedures; and

(8) by the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

B. Section 37‑20‑180(B)(9) and (10) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(9) to a recorded document in the official records of a county; ~~or~~

(10) to a document filed in the official records of the court; or

(11) to the South Carolina Department of Revenue or its agents or employees for the purposes of administering and collecting any tax, debt, or fee administered by that department and otherwise performing its duties and responsibilities.”

C. Upon approval by the Governor, this section takes effect December 31, 2008.

SECTION 3. Section 12‑36‑2120 of the 1976 Code, as amended by Act 338 of 2008, is amended by adding an appropriately numbered item to read:

“(\_\_\_) Machinery and equipment including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service on or after July 2, 2009 owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over a three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use this exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment and all other materials purchased tax‑free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.”

SECTION 4. Section 12‑2‑25(B) of the 1976 Code is amended to read:

“(B) For all South Carolina tax purposes:

(1) a single‑member limited liability company, which is not taxed for South Carolina income tax purposes as a corporation, is not regarded as an entity separate from its owner;

(2) a ‘qualified subchapter S subsidiary’, as defined in Section 1361(b)(3)(B) of the Internal Revenue Code, is not regarded as an entity separate from the “S’ corporation that owns the stock of the qualified subchapter ‘S’ subsidiary; and

(3) a grantor trust, to the extent that it is a grantor trust, is not regarded as an entity separate from its grantor.”

SECTION 5. Section 12‑37‑220 of the 1976 Code, as last amended by Act 357 of 2008, is further amended by adding an item at the end to read:

“(51) All property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.”

SECTION 6. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not exist presently;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

B. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2010.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of one hundred million dollars; (ii) there is an aggregate of not fewer than one thousand new jobs measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of five hundred jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of five hundred jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(f) The provisions of this section expire five years from the effective date of this section.”

SECTION 7. A. Section 12‑37‑220(B)(33) of the 1976 Code is amended to read:

“(33)(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55‑11‑500.

(b) All aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55‑11‑500(a)(3)(i) without regard to the other requirements of Section 55‑11‑500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.”

B. This section takes effect upon approval by the Governor and applies for property tax years beginning after 2006.

SECTION 8. A. Section 12‑65‑30 of the 1976, as added by Act 313 of 2008, is amended to read:

“Section 12‑65‑30. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates a textile mill site is eligible for either:

(1) a credit against real property taxes levied by local taxing entities; or

(2) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title or corporate license fees pursuant to Chapter 20 of this title, or ~~both~~ insurance premium taxes imposed by Chapter 7, Title 38, or any of them.

(B) If the taxpayer elects to receive the credit pursuant to subsection (A)(1), the following provisions apply:

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the textile mill site is located in an unincorporated area, in which the textile mill site is located before incurring its first rehabilitation expenses at the textile mill site. Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after notice is provided.

(2) Once the Notice of Intent to Rehabilitate has been provided to the county or municipality, the municipality or the county shall first by resolution determine the eligibility of the textile mill site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a textile mill site must be approved by a positive majority vote of the local governing body. For purposes of this subsection, “positive majority vote” is as defined in Section 6‑1‑300(5). If the county or municipality determines that the textile mill site and the proposed rehabilitation expenses are eligible for the credit, there must be a public hearing and the municipality or county shall approve the textile mill site for the credit by ordinance. Before approving a textile mill site for the credit, the municipality or county shall make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality.

(3)(a) The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site times the local taxing entity ratio of each local taxing entity that has consented to the credit pursuant to item (4), if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed. The ordinance must provide for the credit to be taken as a credit against up to seventy‑five percent of the real property taxes due on the textile mill site each year for up to eight years.

(b) The local taxing entity ratio is set as of the time the Notice of Intent to Rehabilitate is filed and remains set for the entire period that the credit may be claimed by the taxpayer.

(4) Not fewer than forty‑five days before holding the public hearing required by subsection (B)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the textile mill site is located of its intention to grant a credit against real property taxes for the textile mill site and the amount of estimated credit proposed to be granted based on the estimated rehabilitation expenses. If a local taxing entity does not file an objection to the tax credit with the municipality or county on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit.

(5) The credit against real property taxes for each applicable phase or portion of the textile mill site may be claimed beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service.

(C) If the taxpayer ~~has acquired the textile mill site after December 31, 2007, and~~ elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The ~~taxpayer shall file with the department a notice of Intent to Rehabilitate before incurring its first~~ amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site. ~~Failure to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after the notice is provided.~~

(2) ~~The amount of the credit is equal to twenty‑five percent of the actual rehabilitation expenses made at the textile mill site if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty‑five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed.~~ If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. If the actual rehabilitation expenses exceed one hundred twenty‑five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty‑five percent of the estimated expenses as opposed to the actual expenses incurred in rehabilitating the textile mill site.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over a five‑year period beginning with the tax year in which the applicable phase or portion of the textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12‑6‑3535, the taxpayer may claim both credits.

(5) The credit allowed by this subsection is limited in use to fifty percent of ~~either~~ each of the following:

(a) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title;

(b) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20; or

(c) the taxpayer’s insurance premium taxes imposed by Chapter 7, Title 38.

(6)(a) If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any applicable ~~remaining~~ credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. The provisions of item ~~(5)~~ (7) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the ~~remaining~~ credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes.

(7) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to ~~one~~ any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(D) A taxpayer is not eligible for the credit if the taxpayer owned the otherwise eligible textile mill site when the site was operational and immediately prior to its abandonment.”

B. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑50. (A) Entire textile mill sites placed in service on or before December 31, 2007, must be governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007.

(B) The provisions of this chapter shall apply to all textile mill sites or portions thereof placed in service on or after January 1, 2008.

(C) For any textile mill sites in which a portion but not all of the textile mill site was placed in service on or before December 31, 2007, the taxpayer may elect to either:

(1) have the portion of the textile mill site that was placed in service on or before December 31, 2007, governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007, as if the portion were an entire textile mill site; or

(2) have the portion be governed by this chapter such that the portion must be deemed to be a phase of the textile mill site placed in service on a date subsequent to December 31, 2007, identified by the taxpayer.”

C. Chapter 65, Title 12 of the 1976 Code is amended by adding:

“Section 12‑65‑60. The taxpayer may apply to the municipality or county in which the textile mill site is located for a certification of the textile mill site made by ordinance or binding resolution of the governing body of the municipality or county. The certification shall include findings that the:

(1) textile mill site was a textile mill as defined in Section 12‑65‑20(3);

(2) textile mill site has been abandoned as defined in Section 12‑65‑20(1); and

(3) geographic area of the textile mill site consistent with Section 12‑65‑20(4).

The taxpayer may conclusively rely upon the certification in determining the credit allowed; provided, however, that if the taxpayer is relying upon the certification, the taxpayer shall include a copy of the certification on the first return for which the credit is claimed.”

D. This section takes effect upon approval by the Governor.

SECTION 9. If any section, subsection, part, 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 severability, 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 10. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

Senator CAMPSEN proposed the following amendment (JUD3722.001), which was adopted:

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

/ SECTION \_\_\_. Section 12‑37‑3150(B) of the 1976 Code is amended to read:

“(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease;

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25 (B) (1);

(12) a conveyance, assignment, release or modification of an easement, including but not limited to:

(a) a conservation easement, as defined in Chapter 8 of Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, and regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line; or

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

The amendment was adopted.

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

**Statement by Senator GROOMS**

I have introduced a Resolution, S. 846, that calls for a committee to determine how to implement the Fair Tax because I believe that it is time for comprehensive tax reform in South Carolina. Today, I attempted to speed up that process by amending H. 3722, a comprehensive tax Bill, to include language that would have set up the Fair Tax study committee. I withdrew the amendment because a pending conference committee on another Bill addressing this issue is meeting. However, let me be clear that I remain committed to reforming our overly complicated, inefficient, tangled web of a tax code so that we can stimulate economic growth and prosperity. Fundamental tax reform must be attained and I will continue to work toward that goal.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 3131 -- Reps. Toole, M.A. Pitts and Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑711 SO AS TO DESIGNATE THE “SUMMER DUCK” AS THE OFFICIAL STATE DUCK.

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

Senator CROMER proposed the following amendment (3131R003.REC), which was adopted:

Amend the bill, as and if amended, page 1 by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. Section 50‑11‑840 of the 1976 Code is amended to read:

“Section 50‑11‑840. (A) No person may take or destroy, or attempt to take or destroy, ~~the~~ an active nest or the eggs of ~~any~~ a wild bird or have ~~such~~ an active nest or eggs in his possession, except ~~as permitted in Section 50‑11‑1180~~ pursuant to a permit issued by the department. An ‘active nest’ means a nest with birds or eggs present.

(B) The department may issue a permit for the removal of an active nest or eggs that constitute a public safety threat or when birds are causing damage to property.” /

Renumber sections to conform.

Amend title to conform.

Senator CROMER explained the amendment.

The amendment was adopted.

Senators CAMPSEN and LEVENTIS proposed the following amendment (3131R004.GEC), which was adopted:

Amend the bill, as and if amended, page 1, line 24 by inserting new SECTIONS to read:

/ SECTION \_\_\_. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Section 1-1-712. The ‘bottlenose dolphin’ (Tursiops truncatus) is designated as the official state marine mammal.

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

“Section 1-1-713. The ‘northern right whale’ (Eubalaena glacialis) is designated as the official state migratory marine mammal. /”

Renumber sections to conform.

Amend title to conform.

Senator CROMER explained the amendment.

The amendment was adopted.

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

**THIRD READING BILL**

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

S. 652 -- Senators Knotts, Elliott, Ford and Campbell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 33‑56‑75 SO AS TO REQUIRE PROFESSIONAL FUNDRAISING COUNSEL, PROFESSIONAL SOLICITORS, AND COMMERCIAL CO‑VENTURERS TO MAINTAIN LISTS OF DONORS FROM CAMPAIGNS AND SOLICITATIONS CONDUCTED BY THE SOLICITOR; TO PROVIDE THAT THESE LISTS ARE THE PROPERTY OF THE CHARITABLE ORGANIZATION; TO RESTRICT THE USE OF DONOR LISTS BY THE CAMPAIGN SOLICITOR; AND TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS.

**COMMITTEE AMENDMENT ADOPTED, AMENDED**

**READ THE THIRD TIME**

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

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

The Committee on Labor, Commerce and Industry proposed the following amendment (454R001.WGR), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 17 and inserting:

/pyrotechnics retailer or wholesaler, one must be a law enforcement /

Amend the bill further, as and if amended, page 2, by striking lines 36‑37 and inserting:

/ transacting official business, to be paid ~~from the general fund of the state~~ by the board. ~~The Director of the Department of Labor, Licensing, and~~  /

Amend the bill further, as and if amended, page 4, by striking lines 39‑40 and inserting:

/ (9) Each retailer is required to procure an annual license or permit at a cost of fifty dollars which shall authorize the licensee to sell permissible fireworks. The license or permit must be obtained from the municipal clerk, or comparable municipal official, for retail sales within a municipality, after approval of the applicant and his place of business by the municipal fire chief serving such municipality, or from the county clerk of court for retail sales in the county outside a municipality after approval of the applicant and his place of business by the county sheriff. No permit may be issued to an applicant until the premises where the fireworks are to be kept for the purpose of sale have been inspected and it is determined that the building and the facilities within the building meet safety standards for the storage and sale of permissible fireworks. The issuance of the permit is subject to regulations promulgated by the State Board of Pyrotechnic Safety governing the storage, safekeeping, and sale of fireworks. No person or firm may be issued a retail license who is not already licensed by the State Department of Revenue for sales tax purposes and who has not held the sales tax license for at least sixty days. Permits issued to retailers must be prominently displayed. No permit provided for herein may be transferred nor shall a person be permitted to operate under a permit issued to any other person. /

Amend the bill further, as and if amended, page 5, by striking lines 31‑43 and on page 6, by striking lines 1‑9 and inserting:

/ Section 40‑56‑80. The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Chapter 1. /

Amend the bill further, as and if amended, page 8, by striking lines 10‑31 in their entirety.

Amend the bill further, as and if amended, page 9, after line 37, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. The following sections of the 1976 Code are repealed: 23‑35‑10, 23‑35‑20, 23‑35‑30, 23‑35‑40, 23‑35‑70, 23‑35‑80, 23‑35‑90, 23‑35‑100, and 23‑35‑110. /

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the committee amendment.

The committee amendment was adopted.

Senator McCONNELL proposed the following amendment (JUD0454.001), which was adopted:

Amend the bill, as and if amended, page 9, by striking lines 24 through 30 in their entirety and inserting therein the following:

/ Section 40‑56‑260. An owner, manager, or operator of any location regulated by this chapter shall report to the board within twenty‑four hours of any fire or explosion of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the fire or explosion. No reports filed pursuant to this section may be disclosed unless disclosure is in compliance with the requirements of Chapter 4 of Title 30 of the South Carolina Code. /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The amendment was adopted.

Senator PEELER proposed the following amendment (S-454 HP AMENDMENT), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 15, and inserting:

/ Pyrotechnics retailer and wholesaler, one must be a law enforcement /

Amend the bill further, beginning on page 4, by striking lines 41-43, and on page 5, by striking lines 1-19, in their entirety.

Amend the bill further, page 9, by striking lines 19-21 and inserting:

/ SECTION 2. The following sections of the 1976 Code are repealed: 23‑35‑10, 23‑35‑20, 23‑35‑30, 23‑35‑40, 23-35-50, 23-35-60, 23‑35‑70, 23‑35‑80, 23‑35‑90, 23‑35‑100, 23‑35‑110, 23-35-120, 23-36-140 and 23-35-160. /

Renumber sections to conform.

Amend title to conform.

Senator PEELER explained the amendment.

The amendment was adopted.

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

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 3148 -- Reps. Clyburn, G.M. Smith, H.B. Brown, Branham, Ott, Agnew, R.L. Brown, Hayes, Battle, Miller, Weeks, J.R. Smith, D.C. Smith, Parks, Rice, Littlejohn, Hosey, Jefferson, Cobb‑Hunter, Howard, Cooper, Gunn, McLeod, T.R. Young, Kennedy, Vick, Edge, J.E. Smith, Harrell, A.D. Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen, Hodges, Knight and Funderburk: A BILL TO ENACT THE “FEDERAL EDUCATIONAL INFRASTRUCTURE TAX‑CREDIT BOND IMPLEMENTATION ACT”, INCLUDING PROVISIONS; TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-15-110 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THE STATE OF SOUTH CAROLINA SHALL ALLOCATE QUALIFIED SCHOOL CONSTRUCTION BONDS AUTHORIZED BY THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AMONG THE SCHOOL DISTRICTS OF THIS STATE SEEKING CAPITAL FOR SCHOOL CONSTRUCTION PROJECTS, AND TO PROVIDE FOR OTHER RELATED MATTERS IN REGARD TO QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS AUTHORIZED BY THE FEDERAL ACT; TO AMEND SECTION 11‑15‑460, AS AMENDED, RELATING TO THE INTEREST RATE ON REFUNDING BOND OBLIGATIONS OF POLITICAL SUBDIVISIONS, SO AS TO EXEMPT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS FROM THIS PROVISION; AND TO AMEND SECTION 11‑27‑50, AS AMENDED, RELATING TO THE EFFECT OF THE PROVISIONS OF ARTICLE X OF THE CONSTITUTION OF THIS STATE ON BONDS OF SCHOOL DISTRICTS, SO AS TO PROVIDE THAT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE AS DETERMINED BY THE GOVERNING BODY OF THE ISSUER.

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

There was no objection.

**Motion Under Rule 26B**

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

There was no objection.

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

Senator HAYES proposed the following amendment (3148R001.RWH), which was adopted:

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

/ SECTION 1. This act is known and may be cited as the “Federal Educational Tax‑Credit Bond Implementation Act”.

SECTION 2. The General Assembly finds that:

(1) Owing to a devastating upheaval in world financial markets, the United States is experiencing restricted access to credit, closures of numerous business concerns, and high levels of unemployment across the nation. In response, the United States Congress has made provision for a variety of strategies intended to stimulate economic activity in The American Recovery and Reinvestment Act of 2009 (ARRA). Among the strategies implemented by ARRA are various innovative financing programs for local governments.

(2) Traditionally, most financing undertaken by local governments is exempt from federal income tax. In order to stimulate local building activity and, further, to ameliorate the impact of a significant present weakness in the market for tax‑exempt securities, ARRA, through a change in federal tax law, provides for the issuance by local school districts of a new type of obligation, the Qualified School Construction Bond (QSCB). It is the intent of Congress that QSCB obligations will be issued with an interest rate at or near to zero. In exchange for forgoing interest, the holder of a QSCB obligation will receive a credit against federal income tax intended to provide tax benefits equivalent to the forgone interest payments. The proceeds of QSCB obligations only may be used to defray the cost of the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which a facility is to be constructed.

(3) ARRA authorizes the issuance of eleven billion dollars of QSCB obligations in each of calendar years 2009 and 2010. Allocations will be made to the states in proportion to the respective numbers of children in each state who have attained age five but not age eighteen for the most recent fiscal year ending before the calendar year. South Carolina has been allotted one hundred and thirty one million dollars under ARRA in 2009 plus special allocations for large districts. Forty percent of the total national allocation amount is being allocated to one hundred large school districts and up to twenty‑five additional school districts selected by the Secretary of the United States Department of Education. School districts of Charleston County and Greenville County are receiving direct allocations from the Secretary of the United States Department of Education.

(4) ARRA does not specify any method or criteria by which a state must allocate its share of QSCB issuance authority to its school districts. Accordingly, it is necessary for the General Assembly to direct the allocation of this issuance authority. The General Assembly has determined in this act to provide for the allocation of sixty percent of the State’s QSCB issuance authority, not including the amount allocated to school districts of Greenville and Charleston Counties, to school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed a maximum of twenty million dollars per school district, and forty percent of the State’s QSCB issuance authority to school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. By allocating QSCB issuance authority to such school districts, a portion of the critical facilities needs of these districts may be addressed, subject to Article X, Section 15 of the South Carolina Constitution, 1895.

(5) Because the public market for tax‑credit obligations is presently underdeveloped and may require several years or more to become a robust substitute for the tax‑exempt market of prior years, it is also necessary to make appropriate provision for the marketing of QSCB obligations.

SECTION 3. Chapter 3, Title 59 of the 1976 Code is amended by adding:

“Section 59‑3‑100. (A)(1) Issuance authority for Qualified School Construction Bonds (QSCB) obligations allotted to the State pursuant to the provisions of 26 U.S.C. Section 54F(d)(1) and any issuance authority allocated pursuant to 26 U.S.C. Section 54F(d)(2) to school districts of the State and not used by them shall be allocated by the State Superintendent of Education to one or more of the school districts, or county boards of education on behalf of one or more school districts of the State. In that regard, the State Superintendent of Education shall allocate sixty percent of the State’s QSCB issuance authority to or on behalf of school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed twenty million dollars per school district and forty percent of the State’s QSCB issuance authority to or on behalf of school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. School districts allocated issuance authority under 26 U.S.C. Section 54F(d)(2)(E)(i) are not eligible for allocation of issuance authority under this paragraph (A). When two or more school districts are proposing a joint construction rehabilitation of a qualified project, the priority level for the project must be based on the priority level of the joint partner having the lowest assessed value per pupil.

(2) The State may not issue a QSCB obligation. For purposes of Section 15, Article X of the South Carolina Constitution, a QSCB obligation shall be considered general obligation debt. A school district may not use the proceeds of a QSCB obligation for the purposes stated in Section 14003(b) of the American Recovery and Reinvestment Act of 2009.

(B) The State Superintendent of Education is authorized to establish for each allocation of issuance authority a schedule for issuance of QSCB obligations, giving due regard for the time required to initiate and hold bond referendums, and may reallocate issuance authority or any portion of issuance authority to another school district or county board of education if the schedule is not kept.

(C) Issuance authority allocated pursuant to this section but not utilized may be reallocated by the State Superintendent of Education in accordance with this section.

(D) Assessed value for purposes of this section means the assessed value of all taxable property, excluding property subject to a fee in lieu of tax. Each per pupil measurement is based upon the one hundred thirty‑five day count for the most recently completed fiscal year.”

SECTION 4. Section 11‑15‑460 of the 1976 Code, as last amended by Act 34 of 1989, is further amended to read:

“Section 11‑15‑460. These refunding bonds must bear interest at those rates as may be determined by the governing body of the issuer. However, ~~prior to~~ before the issuance of any refunding bonds, except in the case of the refunding of Qualified School Construction Bonds issued pursuant to the provisions of 26 U.S.C.§54F, the governing body shall determine that a savings can be effected through the issuance of these refunding bonds.”

SECTION 5. Section 11‑27‑50 of the 1976 Code, as last amended by Act 113 of 1999, is further amended by adding an appropriately numbered item at the end to read:

“\_\_\_. Notwithstanding any other provision of law, bonds issued as Qualified School Construction Bonds in amounts not exceeding one and a half million dollars pursuant to the provisions of 26 U.S.C.§54F may be sold at public or private sale at the price determined by the governing body of the issuer.”

SECTION 6. The powers and authorizations conferred by this act shall be in addition to all other powers and authorizations previously conferred upon the State Superintendent of Education, the State Department of Education, and the school districts of the State. The provisions of this act are remedial in nature and shall be liberally construed in order to give full force and effect to its provisions.

SECTION 7. 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 8. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the amendment.

The amendment was adopted.

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

**Recorded Vote**

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

**SECOND READING BILLS**

The following Bills, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 862 -- Senators Fair and Shoopman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 53, TITLE 59 SO AS TO CREATE THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION AND TO PROVIDE FOR ITS MEMBERSHIP.

H. 4051 -- Reps. Pinson, M.A. Pitts and Parks: A BILL TO AUTHORIZE THE TRANSFER FROM THE SINKING FUND OF GREENWOOD SCHOOL DISTRICT 52 TO ITS GENERAL FUND A SPECIFIED SUM OF MONEY TO REIMBURSE THE DISTRICT FOR AMOUNTS PAID BY IT FROM ITS GENERAL FUND FOR DEBT SERVICE ON A GENERAL OBLIGATION BOND OF THE DISTRICT.

**AMENDED, ADOPTED**

S. 802 -- Senators Alexander, McConnell, Rankin, Campbell, Grooms, Verdin, O’Dell and Hutto: A SENATE RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO FULLY EXAMINE AND TAKE INTO ACCOUNT EACH STATE’S CURRENT AND PROJECTED ENERGY PRODUCTION CAPABILITIES AND CURRENT ECONOMIC CONDITIONS WHEN CONSIDERING ANY GREENHOUSE GAS EMISSION INITIATIVES AND TO SAFEGUARD JOBS AND AFFORDABLE ENERGY WHEN CONSIDERING GREENHOUSE GAS EMISSION INITIATIVES.

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

Senator ALEXANDER proposed the following amendment (802R001.TCA), which was adopted:

Amend the senate resolution, as and if amended, page 3, by striking lines 34 - 37.

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the amendment.

The amendment was adopted.

There being no further amendments, the Resolution was adopted.

**CARRIED OVER**

H. 3148 -- Reps. Clyburn, G.M. Smith, H.B. Brown, Branham, Ott, Agnew, R.L. Brown, Hayes, Battle, Miller, Weeks, J.R. Smith, D.C. Smith, Parks, Rice, Littlejohn, Hosey, Jefferson, Cobb‑Hunter, Howard, Cooper, Gunn, McLeod, T.R. Young, Kennedy, Vick, Edge, J.E. Smith, Harrell, A.D. Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen, Hodges, Knight and Funderburk: A BILL TO ENACT THE “FEDERAL EDUCATIONAL INFRASTRUCTURE TAX‑CREDIT BOND IMPLEMENTATION ACT”, INCLUDING PROVISIONS; TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-15-110 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THE STATE OF SOUTH CAROLINA SHALL ALLOCATE QUALIFIED SCHOOL CONSTRUCTION BONDS AUTHORIZED BY THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AMONG THE SCHOOL DISTRICTS OF THIS STATE SEEKING CAPITAL FOR SCHOOL CONSTRUCTION PROJECTS, AND TO PROVIDE FOR OTHER RELATED MATTERS IN REGARD TO QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS AUTHORIZED BY THE FEDERAL ACT; TO AMEND SECTION 11‑15‑460, AS AMENDED, RELATING TO THE INTEREST RATE ON REFUNDING BOND OBLIGATIONS OF POLITICAL SUBDIVISIONS, SO AS TO EXEMPT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS FROM THIS PROVISION; AND TO AMEND SECTION 11‑27‑50, AS AMENDED, RELATING TO THE EFFECT OF THE PROVISIONS OF ARTICLE X OF THE CONSTITUTION OF THIS STATE ON BONDS OF SCHOOL DISTRICTS, SO AS TO PROVIDE THAT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE AS DETERMINED BY THE GOVERNING BODY OF THE ISSUER.

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 105 to 14:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 3 Part IB; Section 21.11; Page 342; Department of Health and Human Services; Chiropractic Services.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 3 Part IB; Section 21.11; Page 342; Department of Health and Human Services; Chiropractic Services.**

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

Senator ALEXANDER explained the veto.

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

Senator BRIGHT spoke on the veto.

Senator BRIGHT asked unanimous consent to make a motion to take up H. 3245 for immediate consideration.

There was no objection.

**CARRIED OVER**

H. 3245 -- Reps. Delleney, Nanney, Simrill, G.R. Smith, G.M. Smith, Lucas, Cooper, Stringer, Parker, Allison, Pinson, Hamilton, Erickson, J.R. Smith, Clemmons, Bedingfield, E.H. Pitts, Owens, Rice, Hiott, Littlejohn, Stewart, Viers, Willis, Loftis, Toole, Wylie, Vick, Millwood, Haley, Duncan, Ballentine, Frye and Barfield: A BILL TO AMEND SECTION 44‑41‑330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, AMONG OTHER THINGS, TO PREREQUISITES TO PERFORMING AN ABORTION, SO AS TO PROVIDE THAT IF AN ULTRASOUND IS PERFORMED, AN ABORTION MUST NOT BE PERFORMED SOONER THAN TWENTY‑FOUR HOURS, RATHER THAN SIXTY MINUTES, FOLLOWING THE COMPLETION OF THE ULTRASOUND, TO REQUIRE THE WOMAN TO BE INFORMED OF THE PROCEDURE TO BE INVOLVED AND THE PROBABLE GESTATIONAL AGE OF THE EMBRYO OR FETUS, AND TO PROVIDE THAT AN ABORTION MAY NOT BE PERFORMED SOONER THAN TWENTY‑FOUR HOURS, RATHER THAN ONE HOUR, AFTER THE WOMAN RECEIVES CERTAIN WRITTEN MATERIALS.

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

Senator BRIGHT resumed speaking on the Bill.

**Point of Order**

Senator HUTTO raised a Point of Order that the motion to take up the Bill was inaptly put before the body for consideration.

The PRESIDENT stated that a unanimous consent motion to take up the Bill had been made, no objections were heard and, therefore, the Bill was properly before the Senate for consideration.

Senator HUTTO spoke on the motion.

Senator LEVENTIS spoke on the motion.

Senator MULVANEY spoke on the motion.

Senator MALLOY spoke on the motion.

Senator SETZLER spoke on the motion.

Senator KNOTTS spoke on the motion.

Senator L. MARTIN spoke on the motion.

Senator McCONNELL spoke on the motion.

**Point of Order**

Senator SETZLER raised a Point of Order that, when a Senator at the podium makes a motion which is adopted, that Senator relinquishes the floor.

The PRESIDENT sustained the Point of Order.

Senator HUTTO spoke on the Bill.

Pursuant to the provisions of Rule 14, the PRESIDENT *Pro Tempore* moved to carry over the Bill, with Senator HUTTO retaining the floor.

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

**Ayes 24; Nays 19**

**AYES**

Alexander Anderson Cleary

Coleman Cromer Elliott

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McConnell McGill

Nicholson Pinckney Scott

Setzler Sheheen Williams

**Total--24**

**NAYS**

Bright Bryant Campbell

Campsen Davis Fair

Grooms Hayes *Martin, S.*

Massey Mulvaney O’Dell

Peeler Reese Rose

Ryberg Shoopman Thomas

Verdin

**Total--19**

The Bill was carried over.

**Statement by Senator LEATHERMAN**

I voted to carry over H. 3245 because the motion to take it up was made in the middle of the Senate debate regarding the Governor’s vetoes on the Appropriations Act, which I feel must be taken up before we adjourn, as the new fiscal year begins July 1, 2009. I also feel that the motion to take up H. 3245 was very underhanded. H. 3245 is on the Second Reading Calendar of the Senate and is not included in the *Sine Die* Resolution as a Bill that can be taken up if the Senate were to be called back into Session by the President *Pro Tempore*. As such, even if we were to give H. 3245 a second reading today, it could not receive a third reading until next year – the second year of this Session. I am in favor of the passage of H. 3245 and will vote for its passage during our Session in 2010.

**Statement by Senators L. MARTIN and ALEXANDER**

We strongly support this Bill and voted to set it for Special Order during the Motion Period last Thursday. However, the decorum and comity of the Senate require us to vote in support of the President *Pro Tem*’s motion to carry over this Bill. On this last day of the regular legislative session, we were in the middle of the budget veto debate with Senator BRIGHT at the podium. He had made it clear that he was going to speak at length on the veto and, in his own words, stated that he intended to speak for and against the veto before he was through speaking. Senator BRIGHT was not properly recognized to make his unanimous consent motion apart from his discussion on the veto under debate, and the Presiding Officer did not properly state the unanimous consent request that Senator BRIGHT made which became very clear in the ensuing moments with statements made by various members of the Senate. Again, fairness, decorum and the comity of the Senate unfortunately require us to vote to carry over a Bill that we fully support.

**Statement by Senator SETZLER**

I voted to carry over H. 3245, the 24-Hour Abortion Bill, because the motion came at a time when the Senate was in the middle of consideration of gubernatorial vetoes of the FY 09-10 Appropriations Act. This is also the last day of the legislative session and H. 3245 could not pass this year. I voted previously to put H. 3245 on Special Order but did not want to delay consideration of the budget vetoes by getting into an extended debate on the Bill on the last session day.

The Senate resumed consideration of **Veto 3**.

Senator HUTTO was recognized.

**EXECUTIVE SESSION**

At 11:31 A.M., on motion of Senator McCONNELL, with unanimous consent, the Senate agreed to go into Executive Session.

On motion of Senator McCONNELL, the seal of secrecy was removed and the Senate reconvened at 12:35 P.M.

**RECESS**

At 12:36 P.M., with Senator HUTTO retaining the floor, Senator McCONNELL moved that the Senate recede until 1:00 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 1:32 P.M. and was called to order by the PRESIDENT *Pro Tempore*.

The Senate resumed consideration of **Veto 3**.

Senator HUTTO was recognized.

With Senator HUTTO retaining the floor, the Senate reverted to the Morning Hour for the purpose of receiving Messages from the House.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54‑3‑140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

Very respectfully,

Speaker of the House

Received as information.

**S. 351--SENATE INSISTS ON ITS AMENDMENTS**

**CONFERENCE COMMITTEE APPOINTED**

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54‑3‑140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

On motion of Senator GROOMS, the Senate insisted upon its amendments to S. 351 and asked for a Committee of Conference.

Whereupon, Senators PEELER, GROOMS and McGILL were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has appointed Reps. Cato, Miller and Merrill to the Committee of Conference on the part of the House on:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, SO AS TO FURTHER PROVIDE FOR ITS ESTABLISHMENT AND ORGANIZATION INCLUDING PROVISIONS TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CERTAIN REASONS, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, AND TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2 SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST EMPLOY AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140, RELATING TO POWERS OF THE PORTS AUTHORITY, SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS, TO REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN, TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS, AND TO PROVIDE THAT THE AUTHORITY SHALL TAKE REASONABLE STEPS TO ESTABLISH RAIL ACCESS TO PORT FACILITIES; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, SO AS TO PROVIDE FOR THE FURNISHING OF THE STATEMENT TO CERTAIN OFFICIALS AND ENTITIES AND ITS POSTING ON THE AUTHORITY’S WEBSITE; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060 SO AS TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND FOR OTHER REQUIREMENTS IN REGARD TO THE REGISTER; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13 SO AS TO ESTABLISH A REVIEW AND OVERSIGHT COMMISSION ON THE STATE PORTS AUTHORITY AND PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND POWERS; BY ADDING SECTION 54‑3‑155 SO AS TO PROVIDE THAT WITHOUT PRIOR APPROVAL FROM THE STATE BUDGET AND CONTROL BOARD, THE AUTHORITY MAY NOT SELL ANY REAL PROPERTY OR ANY BUILDINGS, TERMINALS, OR OTHER PERMANENT STRUCTURES, EXCLUDING EQUIPMENT, APPURTENANT TO REAL PROPERTY THAT ARE OR MAY BE USED TO CARRY OUT THE PURPOSES OF THE AUTHORITY; TO AMEND SECTION 54‑3‑110, RELATING TO STATE HARBORS AND SEAPORTS OPERATED BY THE AUTHORITY, SO AS TO DELETE A REFERENCE TO PORT ROYAL AND ADD A REFERENCE TO JASPER; TO AMEND SECTION 54‑3‑130, RELATING TO THE PURPOSES OF THE AUTHORITY, SO AS TO REVISE REFERENCES TO THE PORTS IT IS REQUIRED TO DEVELOP; BY ADDING SECTION 54‑3‑115 SO AS TO DIRECT THE AUTHORITY TO TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY DEVELOP A PORT IN JASPER COUNTY IN A SPECIFIED MANNER; BY ADDING SECTION 54‑3‑117 SO AS TO PROVIDE THAT THE AUTHORITY SHALL TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY COMPLETE CONSTRUCTION OF A CONTAINER TERMINAL IN NORTH CHARLESTON; BY ADDING SECTION 54‑3‑118 SO AS TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PORTS AUTHORITY BOARD CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS WITH PRIVATE INVESTORS THAT INCREASE CAPITAL INVESTMENTS IN PORT FACILITIES AND IN THE STATE OF SOUTH CAROLINA; BY ADDING SECTION 13‑1‑1355 SO AS TO PROVIDE THAT ALL RAILROAD TRACKS, SPURS, EQUIPMENT, AND OTHER SPECIFIED PROPERTY WHICH ARE NECESSARY FOR THE OPERATION OF ANY RAILROAD LOCATED ON ANY ‘APPLICABLE FEDERAL MILITARY INSTALLATION’ OR ‘APPLICABLE FEDERAL FACILITY’ AS DEFINED IN SECTION 12‑6‑3450 MAY NOT BE TRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE BUDGET AND CONTROL BOARD; TO AMEND SECTION 1‑3‑240, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE STATE PORTS AUTHORITY TO THE LIST OF ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 54‑3‑700, RELATING TO CESSATION OF MARINE TERMINAL OPERATIONS AT PORT ROYAL, SO AS TO FURTHER PROVIDE FOR ITS CESSATION AND THE MANNER IN WHICH THE REAL PROPERTY THEREAT SHALL BE SOLD; BY ADDING SECTION 54‑3‑119 SO AS TO PROVIDE THAT THE STATE PORTS AUTHORITY BOARD IS DIRECTED TO SELL UNDER THOSE TERMS AND CONDITIONS IT CONSIDERS MOST ADVANTAGEOUS TO THE AUTHORITY AND THE STATE OF SOUTH CAROLINA ALL REAL PROPERTY IT OWNS ON DANIEL ISLAND AND THOMAS (ST. THOMAS) ISLAND, TO PROVIDE FOR THE MANNER OF SUCH SALE AND DISPOSITION, AND TO PROVIDE EXCEPTIONS; AND TO PROVIDE THAT THE GENERAL ASSEMBLY ENCOURAGES DISCUSSIONS BETWEEN INTERESTED PARTIES AND THE TOWN OF PORT ROYAL CONCERNING THE BUILDING OF A BOAT LANDING NORTH OF THE BROAD RIVER IN BEAUFORT COUNTY, AND TO PROVIDE THAT FUNDS NEGOTIATED BETWEEN THE TOWN OF PORT ROYAL AND THE SOUTH CAROLINA STATE PORTS AUTHORITY PURSUANT TO SECTION 54‑3‑700 SHOULD BE USED TO BUILD THE BOAT LANDING.

Very respectfully,

Speaker of the House

Received as information.

**S. 351--CONFERENCE REPORT ADOPTED BY THE SENATE**

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54‑3‑140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

On motion of Senator GROOMS, the Report of the Committee of Conference on S. 351 was adopted as follows:

**S. 351--Conference Report**

The General Assembly, Columbia, S.C., May 21, 2009

The Committee of Conference, to whom was referred:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54‑3‑140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

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

That the same do pass with the following amendments:

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

/ SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“Article 1

Creation and Organization

Section 54‑3‑10. (A) ~~The~~ There is created the South Carolina State Ports Authority. ~~is hereby created consisting of a~~ The governing body of the authority is a board of directors consisting of ~~nine~~ eleven members, ~~hereafter referred to as the Authority~~ nine voting members appointed by the Governor as provided in Section 54-3-20 and the Secretary of Transportation, or his designee, and the Secretary of Commerce, or his designee. The voting members shall be responsible for setting policies and direction for the authority so that the authority may achieve its mission. The powers and duties of the authority shall be exercised by the board. The board may delegate to one or more officers, agents, or employees such powers and duties as it determines are necessary and proper for the effective, efficient operation of the port.

(B) The Secretary of Transportation and the Secretary of Commerce:

(1) shall serve on the board, ex officio, as nonvoting members;

(2) are ineligible for election as chairman, vice chairman, secretary, treasurer, or any other office elected by the board; and

(3) may only attend meetings or portions of meetings open to the public. They are not permitted to attend executive session meetings.

Section 54‑3‑20. (A) The members of the board, except for the Secretary of Transportation and the Secretary of Commerce, shall be appointed by the Governor, with the advice and consent of the Senate, for terms of ~~seven~~ five years each and until their successors shall have been appointed, screened, and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by possessing the abilities, the experience, and the minimum qualifications contained in Section 54‑3‑60.

Section 54‑3‑30. ~~They~~ The board shall elect one of ~~their number~~ its members to serve as chairman ~~and~~ who shall serve for a term of two years in this capacity and may not serve more than three consecutive full two‑year terms as chairman. The board also shall elect one member to serve as vice chairman, and ~~shall also elect a~~ one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its voting members shall constitute a quorum for the transaction of its business.

Section 54‑3‑40. The ~~Authority~~ board shall select one of its members to serve as ~~its~~ treasurer. The ~~Authority~~ treasurer shall ~~require~~ give a surety bond ~~of such appointee~~ in ~~such~~ an amount ~~as the Authority may fix~~ fixed by the board and the premium ~~thereon~~ on the bond shall be paid by the authority as a necessary expense ~~of the Authority~~.

Section 54‑3‑50. Members of the board of directors may be removed by the Governor pursuant to Section 1‑3‑240(C)(1), for a breach of duty required by Section 54‑3‑80, or for entering into a conflict of interest transaction prohibited by Section 54‑3‑90.

Section 54‑3‑60. (A) Each member of the board, except for the Secretary of Transportation and the Secretary of Commerce, or their designees, must possess a four‑year baccalaureate or more advanced degree from:

(1) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(2) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(3) an institution of higher learning in this State chartered prior to 1962.

(B) In addition to the requirements in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

(a) maritime shipping;

(b) labor related to maritime shipping;

(c) overland shipping by truck or rail, or both;

(d) international commerce;

(e) finance, economics, or statistics;

(f) accounting;

(g) engineering;

(h) law; or

(i) business management gained from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item.

(C) When making appointments to the board, the Governor shall ensure that that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state’s economic development interests, and a member who has served as a corporate chief executive officer. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54‑3‑70. The board shall conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly.

Section 54‑3‑80. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

(1) in good faith;

(2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the authority as provided in Section 54‑3‑130;

(b) preservation of the financial integrity of the State Ports Authority and its ongoing operations;

(c) economic development and job attraction and retention;

(d) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and

(e) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person’s professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member.

Section 54‑3‑90. (A) A conflict of interest transaction is a transaction with the State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director’s interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director’s interest were disclosed or known to the board or a committee of the board, and the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority and its customers.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board; or

(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.”

SECTION 2. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Article 2

Ports Authority Management

Section 54‑3‑101. The board of directors shall employ an Executive Director of Port Operations who shall serve at the pleasure of the board. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations.

Section 54‑3‑102. (A) The executive director is charged with the affirmative duty to carry out the mission, policies, and direction of the authority as established by the board of directors. He must represent the authority in its dealings with other state agencies, local governments, special districts, and the federal government.

(B) The executive director shall appoint a director for each division contained in the organizational structure established by the board of directors, who shall serve at the pleasure of the executive director.

(C) For each division established by the organizational structure created by the board, the executive director must employ personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized or directed by the board of directors.

Section 54‑3‑103. Compensation for the executive director and division directors shall be approved by the board of directors in a public vote. For the purpose of this section, compensation includes, but is not limited to, annual salary, bonuses, severance, and vehicle allowances.

Section 54‑3‑104. The Executive Director of the Port Operations also shall employ a director of port operations for the port of Georgetown. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations.

Section 54‑3‑105. The director of port operations for the port of Georgetown is charged with the affirmative duty to carry out the mission, policies, and direction of the authority for the port of Georgetown as established by the board of directors.”

SECTION 3. Section 54‑3‑140(5) of the 1976 Code is amended to read:

“(5) ~~Shall appoint and employ and dismiss at pleasure such employees as may be selected by the board of the Authority and fix and pay the compensation thereof~~ Shall adopt an organizational structure for authority operations implemented by the executive director;”

SECTION 4. Section 54‑3‑140 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) shall develop a long‑range port development and capital financing plan, with a minimum twenty‑year forecast period at the time of adoption that provides for the promotion, development, construction, equipping, maintaining, and operation of the state’s harbors and seaports to maximize their economic benefit to the State, including, but not limited to, Charleston and Georgetown. The plan must be revised at least every five years, to reflect and account for changing conditions. The long‑range plan must be submitted to the General Assembly;

( ) shall review port operations and proposals for future operations and construction to determine whether utilizing a public‑private partnership to achieve the current or proposed operational goals and development is the most advantageous method to the State and would result in the most timely, economical, efficient, and successful fulfillment of the operational goals or completion of the development project;

( ) shall take all necessary steps it finds reasonable to establish rail access to port facilities in Charleston County by any Class I railway operating in Charleston County on the effective date of this item. The authority shall report annually to the General Assembly and the Governor on the status of efforts to establish rail access.”

SECTION 5. Section 54‑3‑1040 of the 1976 Code is amended to read:

“Section 54‑3‑1040. At least once ~~in~~ each year the authority shall ~~publish once in some newspaper published in Charleston County~~ furnish the Governor, the Chairmen of the Senate Transportation Committee, and the House of Representatives Ways and Means Committee, and conspicuously post on the authority’s Internet website**,** a complete detailed statement of all ~~moneys~~ monies received and disbursed by the ~~Authority~~ authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the ~~Authority~~ authority.”

SECTION 6. Article 11, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑1060. (A) For the purposes of this section, ‘detailed description of the expenditure’ means a description of an expenditure that distinguishes that expenditure from other expenditures and is particular enough in its account of the expenditure to discern the purpose of the expenditure.

(B) The authority shall maintain a transaction register that includes a complete record of all appropriated funds expended over one hundred dollars, from whatever source for whatever purpose. The register must be prominently posted on the authority’s Internet website and made available for public viewing and downloading.

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

(a) the transaction amount;

(b) the name of the payee; and

(c) a statement providing a detailed description of the expenditure.

(2) The register must not include an entry for salary, wages, or other compensation paid to individual employees.

(3) The register must not include any information that can be used to identify an individual employee.

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

(D) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the internet website for at least five years.”

SECTION 7. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Article 13

The Review and Oversight Commission on the South Carolina State Ports Authority

Section 54‑3‑1300. (A) There is hereby established a commission to be known as the Review and Oversight Commission on the South Carolina State Ports Authority, hereinafter referred to as the commission, which must exercise the powers and fulfill the duties described in this article.

(B) The commission is composed of the following ten members.

(1) From the Senate:

(a) the Chairman of the Finance Committee or his designee;

(b) the Chairman of the Judiciary Committee or his designee;

(c) the Chairman of the Transportation Committee or his designee; and

(d) two members appointed by the President Pro Tempore, one member upon the recommendation of the Senate Majority Leader and one member upon the recommendation of the Senate Minority Leader.

(2) From the House of Representatives:

(a) the Chairman of the Ways and Means Committee or his designee;

(b) the Chairman of the Judiciary Committee or his designee;

(c) the Chairman of the Labor, Commerce and Industry Committee, or his designee;

(d) two members of the House of Representatives appointed by the Speaker of the House of Representatives.

(C) In making appointments to the commission, race, gender, and other demographic factors, such as residence in rural or urban areas, must be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(D) The commission must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to screen candidates for appointment to and at the call of the chairman or by a majority of the members. A quorum consists of six members.

Section 54-3-1310. The commission has the following powers and duties:

(A) to screen each person appointed to serve on the board:

(1) in screening candidates and making its findings, the commission must give due consideration to:

(a) ability, area of expertise, dedication, compassion, common sense, and integrity of each candidate; and

(b) the impact that each candidate would have on the racial and gender composition of the commission, and each candidate’s impact on other demographic factors represented on the commission, such as residence in rural or urban areas, to assure nondiscrimination to the greatest extent possible of all segments of the population of the State;

(2) to determine if each candidate is qualified and meets the requirements provided by law to serve as a member of the board of directors of the State Ports Authority, make findings concerning whether each candidate is qualified, and deliver its findings to the Clerk of the Senate, the Clerk of the House of Representatives, and the Senate Transportation Committee for confirmation.

(B) To conduct an oversight review of the authority and its operations at least once every two years:

(1) the oversight reviews must consider whether the authority is promoting, developing, constructing, equipping, maintaining, and operating the harbors and seaports of this State in an efficient, effective manner in accordance with all applicable laws and regulations. The oversight reviews must also include an analysis of the performance of the executive director. In performing this analysis the commission must consider the report required pursuant to Section 54-3-70 in addition to other information collected concerning the executive director’s performance;

(a) a draft of a board member’s and executive director’s performance review and the evaluations of the actions of the board, must be submitted to the appropriate party, and that party must be allowed an opportunity to be heard before the commission conducting the oversight review by the performance review or evaluation, as the case may be, is final;

(b) the final performance review of a board member must be made a part of the member’s record for consideration if the member seeks reappointment to the board;

(2) a written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly’s Internet website and transmitted to the Governor and the board.

(C) To review and evaluate the complete list of the properties on Daniel and Thomas (St. Thomas) Islands transmitted to the commission. The commission must recommend to the Budget and Control Board whether to approve the sale or sell, as appropriate, any or all of the all real property the authority owns on Daniel Island and Thomas (St. Thomas) Island pursuant to Section 54-3-119.

(D) Undertake any additional reviews, studies, or evaluations as it considers necessary.

Section 54-3-1320. The commission by a two‑thirds vote of its membership, may waive the requirements of Section 54‑3‑60(A) and (B) for a candidate for the board of directors for the State Ports Authority.

Section 54-3-1330. State agencies must fully cooperate with requests from the commission for assistance in carrying out its responsibilities and duties as established in this article.

Section 54‑3‑1340. (A) The oversight report required by this article must at least contain:

(1) a performance review of each member of the board during the previous two years;

(2) a performance review of the State Ports Authority executive director; and

(3) an evaluation of the actions of the board, sufficient to allow the members of the General Assembly to better judge whether these actions serve the best interests of the citizens of South Carolina, both individual and corporate.

(B) To assist the commission in performing the performance reviews and evaluations required by this article, the commission may develop and distribute, as appropriate, an anonymous and confidential survey evaluating the board members and the executive director. At a minimum, the survey must include the following:

(1) knowledge and application of substantive port issues;

(2) the ability to perceive relevant issues;

(3) absence of influence by political considerations;

(4) absence of influence by identities of labor unions;

(5) courtesy to all persons appearing before the board;

(6) temperament and demeanor in general, preparation for hearings, and attentiveness during hearings; and

(7) any other issue the commission deems appropriate.

Section 54-3-1350. In order to discharge their oversight responsibilities in regard to State Ports Authority operations and management, the commission may request and shall be provided within fifteen days after the request with any documents related to the sale or disposition or contemplated sale or disposition of any real property owned by the authority. The provisions of this section supercede any conflicting provisions contained in the Freedom of Information Act and these documents may be shared only with members of the commission, staff assigned to the commission, members of the General Assembly with whom the commission chooses to consult concerning the matter, or legal counsel employed by the Senate or the House of Representatives. These documents and the information contained in them must be kept confidential, and are not subject to public disclosure, or any other disclosure not permitted by the provisions of this section.

Section 54-3-1360. (A) Commission members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid by the State Ports Authority.

(B) The State Ports Authority must pay for all reasonable expenses associated with the commission’s duties to screen appointees to the authority’s board and conduct oversight as required by this article.

Section 54-3-1370. The commission must use clerical and professional employees of the General Assembly for its staff, who must be made available to the commission. The commission may employ or retain other professional staff, upon the determination of the necessity for other staff by the commission and as may be funded in the legislative appropriation of the annual general appropriations act. The State Ports Authority must pay for all reasonable staff related expenses associated with the commission’s activities.

SECTION 8. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑155. Without prior approval from the State Budget and Control Board, the authority may not sell any real property or any buildings, terminals, or other permanent structures, excluding equipment, appurtenant to real property that are or may be used to carry out the purposes of the authority as provided in Section 54‑3‑130.”

SECTION 9. Section 54‑3‑110 of the 1976 Code is amended to read:

“Section 54‑3‑110. Through the authority the State may engage in promoting, developing, constructing, equipping, maintaining, and operating the harbors or seaports within the State, namely Charleston, Georgetown, and ~~Port Royal~~ Jasper, and works of internal improvement incident thereto, including the acquisition or construction, maintenance, and operation at such seaports of harbor watercraft and terminal railroads, as well as other kinds of terminal facilities, and belt line roads or highways and bridges thereon and other bridges and causeways necessary or useful in connection therewith.”

SECTION 10. Section 54‑3‑130(1) of the 1976 Code is amended to read:

“(1) To develop and improve the harbors or seaports of Charleston, Georgetown, and ~~Port Royal~~ Jasper for the handling of water‑borne commerce from and to any part of the State and other states and foreign countries;”

SECTION 11. Section 54‑3‑130(8) of the 1976 Code is amended to read:

“(8) To promote, develop, construct, equip, maintain, and operate a harbor or harbors within this State on the Savannah River, and in furtherance thereof have all of the powers, purposes, and authority given by law to the authority in reference to the harbors and seaports of Charleston, Georgetown, and ~~Port Royal~~ Jasper; and”

SECTION 12. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑115. The authority shall take all action necessary to expeditiously develop a port in Jasper County in accordance with the Intergovernmental Agreement for Development of a Jasper Ocean Terminal on the Savannah River within the State of South Carolina that was entered into between the South Carolina State Ports Authority, the Georgia Ports Authority, and the Georgia Department of Transportation dated on January 27, 2008. In determining whether the development of a Jasper Port is proceeding in an expeditious manner, the board must consider whether timelines or benchmarks included in either the Intergovernmental Agreement or amendments to it or other agreement with a partner to develop the port have been or will be met in a timely manner. A determination that a delay in the planning or construction of the port is reasonable must be based on an objective analysis of all available empirical data and expert opinion, as well as a comparison of the construction timelines of ports of similar size and expected capacity. If it is determined that a partner to an agreement to develop the port is not meeting its obligations that will result in the port not being developed in an expeditious manner, then the authority must take all available and necessary action to compel the partner to meet its obligations and, if necessary, terminate the agreement and transfer to Jasper County the assets and right to develop the port. The authority also shall take all action necessary and as may be requested from time to time by the committees in the House of Representatives and the Senate in connection with the State of South Carolina and the State of Georgia to enter into an Interstate Compact to operate a Jasper Port on or before December 31, 2010, as such compact is generally outlined in the Intergovernmental Agreement. In connection with the development of a port in Jasper County, the authority shall make specific inquiries regarding the merits of using private capital to finance the construction of that port to a greater extent than historically has been used by the South Carolina State Ports Authority in connection with their existing port operations.”

SECTION 13. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑117. The authority shall take all action necessary to expeditiously complete construction of a container terminal in North Charleston.”

SECTION 14. Article 3, Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑118. It is the intent of the General Assembly that the State Ports Authority board consider public‑private partnerships with private investors that increase capital investments in port facilities and in the State of South Carolina. However, the board retains all authority associated with entering a public‑private partnership on behalf of the port.”

SECTION 15. Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13‑1‑1355. All tracks, spurs, switches, terminal, terminal facilities, road beds, rights‑of‑way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, and all associated structures and equipment which are necessary for the operation of any railroad located on any ‘applicable federal military installation’ or ‘applicable federal facility’ as defined in Section 12‑6‑3450 may not be transferred without the prior approval of the Budget and Control Board.”

SECTION 16. Section 1-3-240(C)(1) of the 1976 Code, as last amended by Act 114 of 2007, is further amended by adding a new subitem at the end to read:

“(n) State Ports Authority.”

SECTION 17. Section 54-3-700 of the 1976 Code, as added by Act 313 of 2004, is amended to read:

“Section 54-3-700. (A) Upon the effective date of this section:

(1) the State Ports Authority has no statutory responsibility to operate a marine terminal at Port Royal; and

(2) marine operations at Port Royal shall cease as soon as practicable.

(B) The State Ports Authority is hereby directed to sell all its real and personal property at Port Royal upon the effective date of this section, but in a manner that is financially responsible and advantageous to the State Ports Authority.

(C)(1) The State Ports Authority ~~shall~~, in its discretion, shall determine the manner of the sale, but in no event shall terms of the sale extend beyond December 31, ~~2006~~ 2009, except for parcels ~~which may be~~ under long‑term contract, in which case the South Carolina Ports Authority is directed to terminate ~~such~~ these leases as soon as possible through ‘lease purchases’, ‘buy outs’, or ~~any~~ other lawful means.

(2) The property must be transferred to the Budget and Control Board for sale if the authority is unable to complete the sale by December 31, 2009. The Budget and Control Board is vested with all of the board’s fiduciary duties to the authority and the authority’s bondholders if the property is transferred to the Budget and Control Board for sale. The acceptance of any sales price by the Budget and Control Board must be exercised with due regard to the fiduciary duty owed to the authority and for the protection of the interests of the authority’s bondholders as set forth in its bond covenants, and otherwise according to law, including the conversion of a nonperforming asset into revenues in the most expeditious manner. The Budget and Control Board may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority.

(D) Any real or personal property at Port Royal which is to be sold must be first appraised and then sold at fair market value. The real property appraiser must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those of the surrounding properties. The State Ports Authority Board of Directors shall exercise its lawful discretion in the acceptance of any sales price with due regard to its fiduciary duties to the authority and for the protection of the interests of the authority’s bondholders as for forth in its bond covenants, and otherwise according to law, including conversion of a nonperforming asset into revenue in the most expeditious manner. The sale of the real property shall comply with all state procedures, must be approved by the State Budget and Control Board, and must be on an open‑bid basis, and no bid may be accepted which is less than the property’s fair market value as shown by the appraisal. All proceeds from the sale of real and personal property at Port Royal must be retained by the State Ports Authority; ~~provided, however,~~ except that the Town of Port Royal ~~shall have the right to~~ may petition the State Budget and Control Board for a portion of the net proceeds from ~~any~~ a sale and may be allocated a portion of these net proceeds in an amount not to exceed five percent of the net proceeds upon showing the allocation is necessary to pay for infrastructure needs directly associated with and necessitated by the closing of the port as Port Royal. These funds must be expended at the direction of the Town Council of Port Royal with the approval of the State Budget and Control Board, solely for ~~the~~ infrastructure, and shall have priority over all other expenditures except usual and necessary closing costs attributable to ~~any~~ a sales ~~contracts~~ contract.”

SECTION 18. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54‑3‑119. (A) Except as provided in subsection (B), the State Ports Authority Board is directed to sell under those terms and conditions it considers most advantageous to the authority and the State of South Carolina all real property it owns on Daniel Island and Thomas (St. Thomas) Island except for the dredge disposal cells that are needed in connection with the construction of the North Charleston terminal on the Charleston Naval Complex and for harbor deepening and for channel and berth maintenance. The sale shall be timed and concluded on a schedule that prudently considers all market conditions affecting the sale but in any event must be under contract for sale by December 31, 2012, and the sale completed by December 31, 2013. The property must be transferred to the Budget and Control Board for sale if authority is unable to complete the sale by December 31, 2013. To assist in the sale of the property, the board shall have the property appraised by at least two independent qualified commercial appraisers not affiliated with the authority. The real property appraisers must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those of the surrounding properties. The sale price must be equal to or greater than at least one of the independent appraisals. The approval of the State Budget and Control Board is required to effectuate the sale if completed on or before December 31, 2013.

(B) The board shall give the right of first refusal to those former landowners on Thomas (St. Thomas) Island who sold their land located within the transportation corridor to the authority in anticipation of the authority’s exercise of eminent domain. The right of first refusal must provide that the landowner may repurchase his land at the same price for which the authority purchased it from him. Each contract for the sale of a parcel located in the transportation corridor on Thomas Island must contain a covenant creating an easement over the parcel. The easement must permit the authority, and any successor in interest to the authority, reasonable ingress and egress to the real property on Daniel Island owned by the authority as of the effective date of this section. The easement must contain express language that the easement runs with the land.

(C)(1) With regard to the sale of real property pursuant to subsection (A), the Budget and Control Board is vested with all of the board’s fiduciary duties to the authority and the authority’s bondholders if the property is transferred to the Budget and Control Board for sale. The acceptance of any sales price by either the board or the Budget and Control Board must be exercised with due regard to the fiduciary duty owed to the authority and for the protection of the interests of the authority’s bondholders as set forth in its bond covenants, and otherwise according to law, including the conversion of a nonperforming asset into revenues in the most expeditious manner.

(2) The Budget and Control Board may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority.”

SECTION 19. The General Assembly encourages discussions between interested parties and the Town of Port Royal concerning the building of a boat landing north of the Broad River in Beaufort County. Funds negotiated between the Town of Port Royal and the South Carolina State Ports Authority pursuant to Section 54-3-700 should be used to build the boat landing.

SECTION 20. The provisions of this act related to a time limitation for members of the board of directors serving in a holdover capacity do not apply to board members serving in a holdover capacity as of the effective date of this act but apply to any subsequent term.

SECTION 21. 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 22. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 23. This act takes effect upon approval by the Governor. /

Amend title to read:

/TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, SO AS TO FURTHER PROVIDE FOR ITS ESTABLISHMENT AND ORGANIZATION INCLUDING PROVISIONS TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CERTAIN REASONS, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, AND TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2 SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST EMPLOY AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140, RELATING TO POWERS OF THE PORTS AUTHORITY, SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS, TO REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN, TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS, AND TO PROVIDE THAT THE AUTHORITY SHALL TAKE REASONABLE STEPS TO ESTABLISH RAIL ACCESS TO PORT FACILITIES; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, SO AS TO PROVIDE FOR THE FURNISHING OF THE STATEMENT TO CERTAIN OFFICIALS AND ENTITIES AND ITS POSTING ON THE AUTHORITY’S WEBSITE; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060 SO AS TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND FOR OTHER REQUIREMENTS IN REGARD TO THE REGISTER; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13 SO AS TO ESTABLISH A REVIEW AND OVERSIGHT COMMISSION ON THE STATE PORTS AUTHORITY AND PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND POWERS; BY ADDING SECTION 54‑3‑155 SO AS TO PROVIDE THAT WITHOUT PRIOR APPROVAL FROM THE STATE BUDGET AND CONTROL BOARD, THE AUTHORITY MAY NOT SELL ANY REAL PROPERTY OR ANY BUILDINGS, TERMINALS, OR OTHER PERMANENT STRUCTURES, EXCLUDING EQUIPMENT, APPURTENANT TO REAL PROPERTY THAT ARE OR MAY BE USED TO CARRY OUT THE PURPOSES OF THE AUTHORITY; TO AMEND SECTION 54‑3‑110, RELATING TO STATE HARBORS AND SEAPORTS OPERATED BY THE AUTHORITY, SO AS TO DELETE A REFERENCE TO PORT ROYAL AND ADD A REFERENCE TO JASPER; TO AMEND SECTION 54‑3‑130, RELATING TO THE PURPOSES OF THE AUTHORITY, SO AS TO REVISE REFERENCES TO THE PORTS IT IS REQUIRED TO DEVELOP; BY ADDING SECTION 54‑3‑115 SO AS TO DIRECT THE AUTHORITY TO TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY DEVELOP A PORT IN JASPER COUNTY IN A SPECIFIED MANNER; BY ADDING SECTION 54‑3‑117 SO AS TO PROVIDE THAT THE AUTHORITY SHALL TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY COMPLETE CONSTRUCTION OF A CONTAINER TERMINAL IN NORTH CHARLESTON; BY ADDING SECTION 54‑3‑118 SO AS TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PORTS AUTHORITY BOARD CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS WITH PRIVATE INVESTORS THAT INCREASE CAPITAL INVESTMENTS IN PORT FACILITIES AND IN THE STATE OF SOUTH CAROLINA; BY ADDING SECTION 13‑1‑1355 SO AS TO PROVIDE THAT ALL RAILROAD TRACKS, SPURS, EQUIPMENT, AND OTHER SPECIFIED PROPERTY WHICH ARE NECESSARY FOR THE OPERATION OF ANY RAILROAD LOCATED ON ANY ‘APPLICABLE FEDERAL MILITARY INSTALLATION’ OR ‘APPLICABLE FEDERAL FACILITY’ AS DEFINED IN SECTION 12‑6‑3450 MAY NOT BE TRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE BUDGET AND CONTROL BOARD; TO AMEND SECTION 1‑3‑240, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE STATE PORTS AUTHORITY TO THE LIST OF ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 54‑3‑700, RELATING TO CESSATION OF MARINE TERMINAL OPERATIONS AT PORT ROYAL, SO AS TO FURTHER PROVIDE FOR ITS CESSATION AND THE MANNER IN WHICH THE REAL PROPERTY THEREAT SHALL BE SOLD; BY ADDING SECTION 54‑3‑119 SO AS TO PROVIDE THAT THE STATE PORTS AUTHORITY BOARD IS DIRECTED TO SELL UNDER THOSE TERMS AND CONDITIONS IT CONSIDERS MOST ADVANTAGEOUS TO THE AUTHORITY AND THE STATE OF SOUTH CAROLINA ALL REAL PROPERTY IT OWNS ON DANIEL ISLAND AND THOMAS (ST. THOMAS) ISLAND, TO PROVIDE FOR THE MANNER OF SUCH SALE AND DISPOSITION, AND TO PROVIDE EXCEPTIONS; AND TO PROVIDE THAT THE GENERAL ASSEMBLY ENCOURAGES DISCUSSIONS BETWEEN INTERESTED PARTIES AND THE TOWN OF PORT ROYAL CONCERNING THE BUILDING OF A BOAT LANDING NORTH OF THE BROAD RIVER IN BEAUFORT COUNTY, AND TO PROVIDE THAT FUNDS NEGOTIATED BETWEEN THE TOWN OF PORT ROYAL AND THE SOUTH CAROLINA STATE PORTS AUTHORITY PURSUANT TO SECTION 54‑3‑700 SHOULD BE USED TO BUILD THE BOAT LANDING. **/**

/s/Sen. Harvey S. Peeler, Jr. /s/Rep. Harry F. Cato

/s/Sen. J. Yancey McGill /s/Rep. James H. Merrill

/s/Sen. Lawrence K. Grooms /s/Rep. Vida O. Miller

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

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, SO AS TO FURTHER PROVIDE FOR ITS ESTABLISHMENT AND ORGANIZATION INCLUDING PROVISIONS TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CERTAIN REASONS, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, AND TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2 SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST EMPLOY AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140, RELATING TO POWERS OF THE PORTS AUTHORITY, SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS, TO REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN, TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS, AND TO PROVIDE THAT THE AUTHORITY SHALL TAKE REASONABLE STEPS TO ESTABLISH RAIL ACCESS TO PORT FACILITIES; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, SO AS TO PROVIDE FOR THE FURNISHING OF THE STATEMENT TO CERTAIN OFFICIALS AND ENTITIES AND ITS POSTING ON THE AUTHORITY’S WEBSITE; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060 SO AS TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND FOR OTHER REQUIREMENTS IN REGARD TO THE REGISTER; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13 SO AS TO ESTABLISH A REVIEW AND OVERSIGHT COMMISSION ON THE STATE PORTS AUTHORITY AND PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND POWERS; BY ADDING SECTION 54‑3‑155 SO AS TO PROVIDE THAT WITHOUT PRIOR APPROVAL FROM THE STATE BUDGET AND CONTROL BOARD, THE AUTHORITY MAY NOT SELL ANY REAL PROPERTY OR ANY BUILDINGS, TERMINALS, OR OTHER PERMANENT STRUCTURES, EXCLUDING EQUIPMENT, APPURTENANT TO REAL PROPERTY THAT ARE OR MAY BE USED TO CARRY OUT THE PURPOSES OF THE AUTHORITY; TO AMEND SECTION 54‑3‑110, RELATING TO STATE HARBORS AND SEAPORTS OPERATED BY THE AUTHORITY, SO AS TO DELETE A REFERENCE TO PORT ROYAL AND ADD A REFERENCE TO JASPER; TO AMEND SECTION 54‑3‑130, RELATING TO THE PURPOSES OF THE AUTHORITY, SO AS TO REVISE REFERENCES TO THE PORTS IT IS REQUIRED TO DEVELOP; BY ADDING SECTION 54‑3‑115 SO AS TO DIRECT THE AUTHORITY TO TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY DEVELOP A PORT IN JASPER COUNTY IN A SPECIFIED MANNER; BY ADDING SECTION 54‑3‑117 SO AS TO PROVIDE THAT THE AUTHORITY SHALL TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY COMPLETE CONSTRUCTION OF A CONTAINER TERMINAL IN NORTH CHARLESTON; BY ADDING SECTION 54‑3‑118 SO AS TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PORTS AUTHORITY BOARD CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS WITH PRIVATE INVESTORS THAT INCREASE CAPITAL INVESTMENTS IN PORT FACILITIES AND IN THE STATE OF SOUTH CAROLINA; BY ADDING SECTION 13‑1‑1355 SO AS TO PROVIDE THAT ALL RAILROAD TRACKS, SPURS, EQUIPMENT, AND OTHER SPECIFIED PROPERTY WHICH ARE NECESSARY FOR THE OPERATION OF ANY RAILROAD LOCATED ON ANY ‘APPLICABLE FEDERAL MILITARY INSTALLATION’ OR ‘APPLICABLE FEDERAL FACILITY’ AS DEFINED IN SECTION 12‑6‑3450 MAY NOT BE TRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE BUDGET AND CONTROL BOARD; TO AMEND SECTION 1‑3‑240, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE STATE PORTS AUTHORITY TO THE LIST OF ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 54‑3‑700, RELATING TO CESSATION OF MARINE TERMINAL OPERATIONS AT PORT ROYAL, SO AS TO FURTHER PROVIDE FOR ITS CESSATION AND THE MANNER IN WHICH THE REAL PROPERTY THEREAT SHALL BE SOLD; BY ADDING SECTION 54‑3‑119 SO AS TO PROVIDE THAT THE STATE PORTS AUTHORITY BOARD IS DIRECTED TO SELL UNDER THOSE TERMS AND CONDITIONS IT CONSIDERS MOST ADVANTAGEOUS TO THE AUTHORITY AND THE STATE OF SOUTH CAROLINA ALL REAL PROPERTY IT OWNS ON DANIEL ISLAND AND THOMAS (ST. THOMAS) ISLAND, TO PROVIDE FOR THE MANNER OF SUCH SALE AND DISPOSITION, AND TO PROVIDE EXCEPTIONS; AND TO PROVIDE THAT THE GENERAL ASSEMBLY ENCOURAGES DISCUSSIONS BETWEEN INTERESTED PARTIES AND THE TOWN OF PORT ROYAL CONCERNING THE BUILDING OF A BOAT LANDING NORTH OF THE BROAD RIVER IN BEAUFORT COUNTY, AND TO PROVIDE THAT FUNDS NEGOTIATED BETWEEN THE TOWN OF PORT ROYAL AND THE SOUTH CAROLINA STATE PORTS AUTHORITY PURSUANT TO SECTION 54‑3‑700 SHOULD BE USED TO BUILD THE BOAT LANDING.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that the Report of the Committee of Conference having been adopted by both Houses, and this Bill having been read three times in each House, it was ordered that the title thereof be changed to that of an Act and that it be enrolled for ratification:

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, SO AS TO FURTHER PROVIDE FOR ITS ESTABLISHMENT AND ORGANIZATION INCLUDING PROVISIONS TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CERTAIN REASONS, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, AND TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS; TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 2 SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST EMPLOY AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR’S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54‑3‑140, RELATING TO POWERS OF THE PORTS AUTHORITY, SO AS TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS, TO REQUIRE A LONG‑RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN, TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS, AND TO PROVIDE THAT THE AUTHORITY SHALL TAKE REASONABLE STEPS TO ESTABLISH RAIL ACCESS TO PORT FACILITIES; TO AMEND SECTION 54‑3‑1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, SO AS TO PROVIDE FOR THE FURNISHING OF THE STATEMENT TO CERTAIN OFFICIALS AND ENTITIES AND ITS POSTING ON THE AUTHORITY’S WEBSITE; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54‑3‑1060 SO AS TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND FOR OTHER REQUIREMENTS IN REGARD TO THE REGISTER; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13 SO AS TO ESTABLISH A REVIEW AND OVERSIGHT COMMISSION ON THE STATE PORTS AUTHORITY AND PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND POWERS; BY ADDING SECTION 54‑3‑155 SO AS TO PROVIDE THAT WITHOUT PRIOR APPROVAL FROM THE STATE BUDGET AND CONTROL BOARD, THE AUTHORITY MAY NOT SELL ANY REAL PROPERTY OR ANY BUILDINGS, TERMINALS, OR OTHER PERMANENT STRUCTURES, EXCLUDING EQUIPMENT, APPURTENANT TO REAL PROPERTY THAT ARE OR MAY BE USED TO CARRY OUT THE PURPOSES OF THE AUTHORITY; TO AMEND SECTION 54‑3‑110, RELATING TO STATE HARBORS AND SEAPORTS OPERATED BY THE AUTHORITY, SO AS TO DELETE A REFERENCE TO PORT ROYAL AND ADD A REFERENCE TO JASPER; TO AMEND SECTION 54‑3‑130, RELATING TO THE PURPOSES OF THE AUTHORITY, SO AS TO REVISE REFERENCES TO THE PORTS IT IS REQUIRED TO DEVELOP; BY ADDING SECTION 54‑3‑115 SO AS TO DIRECT THE AUTHORITY TO TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY DEVELOP A PORT IN JASPER COUNTY IN A SPECIFIED MANNER; BY ADDING SECTION 54‑3‑117 SO AS TO PROVIDE THAT THE AUTHORITY SHALL TAKE ALL ACTION NECESSARY TO EXPEDITIOUSLY COMPLETE CONSTRUCTION OF A CONTAINER TERMINAL IN NORTH CHARLESTON; BY ADDING SECTION 54‑3‑118 SO AS TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PORTS AUTHORITY BOARD CONSIDER PUBLIC‑PRIVATE PARTNERSHIPS WITH PRIVATE INVESTORS THAT INCREASE CAPITAL INVESTMENTS IN PORT FACILITIES AND IN THE STATE OF SOUTH CAROLINA; BY ADDING SECTION 13‑1‑1355 SO AS TO PROVIDE THAT ALL RAILROAD TRACKS, SPURS, EQUIPMENT, AND OTHER SPECIFIED PROPERTY WHICH ARE NECESSARY FOR THE OPERATION OF ANY RAILROAD LOCATED ON ANY ‘APPLICABLE FEDERAL MILITARY INSTALLATION’ OR ‘APPLICABLE FEDERAL FACILITY’ AS DEFINED IN SECTION 12‑6‑3450 MAY NOT BE TRANSFERRED WITHOUT THE PRIOR APPROVAL OF THE BUDGET AND CONTROL BOARD; TO AMEND SECTION 1‑3‑240, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE STATE PORTS AUTHORITY TO THE LIST OF ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 54‑3‑700, RELATING TO CESSATION OF MARINE TERMINAL OPERATIONS AT PORT ROYAL, SO AS TO FURTHER PROVIDE FOR ITS CESSATION AND THE MANNER IN WHICH THE REAL PROPERTY THEREAT SHALL BE SOLD; BY ADDING SECTION 54‑3‑119 SO AS TO PROVIDE THAT THE STATE PORTS AUTHORITY BOARD IS DIRECTED TO SELL UNDER THOSE TERMS AND CONDITIONS IT CONSIDERS MOST ADVANTAGEOUS TO THE AUTHORITY AND THE STATE OF SOUTH CAROLINA ALL REAL PROPERTY IT OWNS ON DANIEL ISLAND AND THOMAS (ST. THOMAS) ISLAND, TO PROVIDE FOR THE MANNER OF SUCH SALE AND DISPOSITION, AND TO PROVIDE EXCEPTIONS; AND TO PROVIDE THAT THE GENERAL ASSEMBLY ENCOURAGES DISCUSSIONS BETWEEN INTERESTED PARTIES AND THE TOWN OF PORT ROYAL CONCERNING THE BUILDING OF A BOAT LANDING NORTH OF THE BROAD RIVER IN BEAUFORT COUNTY, AND TO PROVIDE THAT FUNDS NEGOTIATED BETWEEN THE TOWN OF PORT ROYAL AND THE SOUTH CAROLINA STATE PORTS AUTHORITY PURSUANT TO SECTION 54‑3‑700 SHOULD BE USED TO BUILD THE BOAT LANDING.

Very respectfully,

Speaker of the House

Received as information.

**S. 126-- SENATE REQUESTS FREE CONFERENCE POWERS FREE CONFERENCE COMMITTEE APPOINTED**

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED”, TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED AND TO DEFINE THE TERM “ACCESS AISLE”; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, PROPER USE AND DISPLAY OF HANDICAPPED PLACARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISION; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS; TO AMEND SECTION 56‑3‑1970, RELATING TO THE UNLAWFUL PARKING OF A VEHICLE IN A PARKING PLACE DESIGNATED FOR HANDICAPPED PERSON, SO AS TO PROVIDE THAT IT IS ALSO UNLAWFUL FOR CERTAIN PERSONS TO EXERCISE THE PRIVILEGES GRANTED TO A HOLDER OF A LICENSE PLATE OR PLACARD DESIGNATED FOR USE BY A HANDICAPPED PERSON, AND TO INCREASE THE PENALTY FOR A VIOLATION OF THIS PROVISION; AND TO AMEND SECTION 56‑3‑1975, RELATING TO THE IDENTIFICATION AND MAINTENANCE OF HANDICAPPED PARKING PLACES, SO AS TO PROVIDE THAT A HANDICAPPED PARKING PLACE INCLUDES ALL ACCESS AISLES.

On motion of Senator VERDIN, Free Conference Powers were granted.

Whereupon, Senators VERDIN, SHEHEEN and CAMPBELL were appointed to the Committee of Free Conference on the part of the Senate and a message was sent to the House accordingly.

**S. 126--FREE CONFERENCE REPORT ADOPTED**

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED”, TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED AND TO DEFINE THE TERM “ACCESS AISLE”; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, PROPER USE AND DISPLAY OF HANDICAPPED PLACARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISION; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS; TO AMEND SECTION 56‑3‑1970, RELATING TO THE UNLAWFUL PARKING OF A VEHICLE IN A PARKING PLACE DESIGNATED FOR HANDICAPPED PERSON, SO AS TO PROVIDE THAT IT IS ALSO UNLAWFUL FOR CERTAIN PERSONS TO EXERCISE THE PRIVILEGES GRANTED TO A HOLDER OF A LICENSE PLATE OR PLACARD DESIGNATED FOR USE BY A HANDICAPPED PERSON, AND TO INCREASE THE PENALTY FOR A VIOLATION OF THIS PROVISION; AND TO AMEND SECTION 56‑3‑1975, RELATING TO THE IDENTIFICATION AND MAINTENANCE OF HANDICAPPED PARKING PLACES, SO AS TO PROVIDE THAT A HANDICAPPED PARKING PLACE INCLUDES ALL ACCESS AISLES.

Senator VERDIN asked unanimous consent to take the Free Conference Report up for immediate consideration.

There was no objection.

Senator VERDIN moved to adopt the Report of the Committee of Free Conference.

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

**Ayes 46; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--46**

**NAYS**

**Total--0**

The Free Conference Report was adopted as follows:

**S. 126--Free Conference Report**

The General Assembly, Columbia, S.C., May 19, 2009

The Committee of Free Conference, to whom was referred:

S. 126 ‑‑ Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED” AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

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

That the same do pass with the following amendments:

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

/ SECTION 1. Section 56‑3‑1910 of the 1976 Code is amended to read:

“Section 56‑3‑1910. (A) As used in this article, ‘handicapped’ means a person who has one or more of the following conditions:

(1) an inability to ordinarily walk one hundred feet nonstop without aggravating an existing medical condition, including the increase of pain;

(2) an inability to ordinarily walk without the use of, or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) a restriction by lung disease to the extent that the person’s forced expiratory volume for one second when measured by spirometry is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(4) requires use of portable oxygen;

(5) a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association. If the person’s status improves to a higher level, for example as a result of bypass surgery or transplantation, he no longer meets this criteria;

(6) a substantial limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition, for example, coordination problems and muscle spasticity due to conditions that include Parkinson’s disease, cerebral palsy, or multiple sclerosis; or

(7) blindness.

(B) Upon payment of the regular motor vehicle license fee, the department may issue a license ~~tag~~ plate with a special number or identification indicating that the ~~tag~~ license plate was issued to a person ~~(a) disabled by an impairment in the use of one or more limbs and required to use a wheelchair or (b) disabled by an impairment in mobility, but otherwise qualified for a driver’s license as determined by the department. Each application for the license must be accompanied by the certificate of a licensed physician as defined in Section 40‑47‑5 as to the permanency of limb impairment or as to the severity or the permanency of mobility impairment.~~ certified as permanently handicapped. A license plate issued pursuant to this section must be accompanied by a certification form completed by a licensed physician.

(C)(1) The department must develop a standardized certification form designed to capture criteria related information relating to persons considered handicapped. The form shall indicate whether the applicant meets one or more of the criteria, whether the condition is permanent or temporary, and if temporary, the expected duration.

(2) All persons that have been issued a handicapped license plate as of the effective date of this section will be issued a certificate upon renewal of the license plate. To renew the plate and receive the certificate, the person must be certified as permanently handicapped as provided in this section. Failure to carry a certificate as required by this section by a person that has been issued a handicapped license plate as of the effective date of this section is not a violation of the provisions of this section until after the person renews his license plate.

(D) Forms must be completed by physicians licensed to practice in South Carolina as defined in Section 40‑47‑5.

(E) The special license plate authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who meets the requirements of this section if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family.

(F) The special license ~~tag~~ plate authorized by this section may also be issued for a vehicle of special design and equipment designed to transport a disabled person who ~~meets~~ is certified as meeting the requirements of this section ~~if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family or~~ for a vehicle used by an agency, organization, or facility ~~that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility~~. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for the special license ~~tag~~ plate issued to the agency, organization, or facility.

(G) When processing applications for special license plates pursuant to this section, the department shall also issue a license plate registration certificate that must be carried at all times in the vehicle driven by or transporting the disabled individual. The certificate must display the name of the individual or organization to which the plate was issued.

(H) Vehicles displaying a special handicapped license plate may only park in designated handicapped parking spaces if that vehicle is driven by or transporting the disabled individual whose name appears on the license plate registration certificate, or if the certificate lists the name of the agency, organization, or facility authorized under subsection (G). The driver of the vehicle displaying the plate must present the registration when requested by law enforcement entities or their duly authorized agents.

(I) A person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56‑3‑1110 must be issued the license plate provided for in this section free of charge.

(J)(1) Except as provided in item (2), a person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped license plate or a person who falsifies information on an application form for a handicapped license plate is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 2. Section 56‑3‑1950 of the 1976 Code is amended to read:

“Section 56‑3‑1950. As used in this article:

(1) ~~‘Handicapped’~~ ‘Handicapped’ means a person ~~who:~~

~~(a)~~ ~~has an obvious physical disability that impairs the ability to walk or requires the use of a wheelchair, braces, walkers, or crutches;~~

~~(b)~~ ~~has lost the use of one or both legs;~~

~~(c)~~ ~~suffers from lung disease to such an extent that he is unable to walk without the aid of a respirator;~~

~~(d)~~ ~~is disabled by an impairment in mobility; or~~

~~(e)~~ ~~is determined by the Social Security Administration or the Veterans Administration to be totally and permanently disabled.~~

~~(2)~~ ~~A licensed physician shall certify that the total and permanent disability substantially impairs the ability to walk, unless the applicant is an agency or organization complying with Section 56‑3‑1910.~~ as defined in Section 56‑3‑1910.

(2) ‘Access aisle’ means a designated space for maneuvering a wheelchair or other mobility device when entering or exiting a vehicle, and that is immediately adjacent to a properly designated parking space for handicapped persons, on public or private property. Access aisles must be marked so as to discourage parking in them.”

SECTION 3. Section 56‑3‑1960 of the 1976 Code is amended to read:

“Section 56‑3‑1960. (A)~~(1)~~ ~~Any person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate which must be issued by the department, pursuant to this section, Section 56‑3‑1910, or Section 56‑3‑1110, for vehicles registered to the disabled person. The license plate must be issued for the usual fee applicable to standard license plates, except that a person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56‑3‑1110 must be issued the license plate provided for in this section free of charge. Application must be made on a form prescribed by the department and applicants may apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 that the applicant is handicapped as defined in this article and that the handicap is permanent. No applicant may be denied a license plate if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 as required by this subsection.~~

~~(2)~~ ~~An agency, organization, or facility that transports a disabled or handicapped person or any person who is handicapped as defined in this article may apply to the department for issuance of a temporary or permanent distinguishing placard to be designed by the department. The department, if necessary, may design another distinguishing placard for an agency, organization, or facility that is eligible for a placard, however, all placards must be at least three inches by nine and one‑half inches in size and must hang from the rearview mirror of a vehicle or be displayed on the driver’s side dashboard when there is no hanging apparatus. The placard must be used on vehicles transporting the disabled person in lieu of the distinguishing license plate issued pursuant to subsection (1) of this section. When the placard is displayed on the driver’s side dashboard of a vehicle, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (1) of this section are applicable to the vehicle. The department shall establish procedures for the issuance of distinguishing placards, and the procedures shall permit applicants to apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5 that the applicant is handicapped as defined in this article, except that a physician’s certificate is not required for applications by an agency, organization, or facility which must include sufficient documentation as may be prescribed by the department that the applying agency, organization, or facility transports handicapped or disabled persons. The physician shall state on the certificate whether the applicant is handicapped temporarily or permanently. If the applicant is temporarily handicapped, the physician shall state the length of time for which the applicant is temporarily handicapped. A placard issued for a temporary disability is valid only for the anticipated length of time of the disability specified by the physician in the certificate. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40‑47‑5,~~  ~~as required by this subsection.~~ A person who is ‘handicapped’ as defined in Section 56‑3‑1910 may apply to the department for issuance of a temporary or permanent placard. A person may be issued a temporary placard if the condition causing his handicap is expected to last for at least four months. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the application is accompanied by a certificate from a licensed physician that certifies that the individual is handicapped and whether the handicap is temporary or permanent. The placards must indicate that the person is qualified to use reserved handicapped parking spaces. Applications for placards must be processed through and issued by the department’s headquarters. Only one placard may be issued to an applicant. The certification procedure shall adhere to the requirements set forth in Section 56‑3‑1910. In conjunction with the issuance of a placard, applicants also must be issued a placard registration certificate that must be carried at all times in the vehicle driven by or transporting the handicapped individual. The certificate will display the name of the individual to which the placard was issued. A placard can only be displayed on a vehicle driven by or transporting the disabled individual whose name appears on the placard registration certificate. The department shall charge a fee of one dollar for a placard ~~and may issue two placards to an individual applicant upon request~~. An agency, organization, or facility that transports a disabled or handicapped person may receive a placard for each vehicle registered upon proper application and the payment of the appropriate fees.

~~The permanent placards may be issued and renewed only for a maximum period of four years renewable on the owner’s birth date; however, placards issued to an agency, organization, or facility must be renewed every four years. The placards must be of a color as determined by the department which is easily recognizable by law enforcement personnel. The placard shall indicate on its face when it expires.~~

~~(3)~~ ~~A vehicle displaying an out‑of‑state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided for in this section.~~

(B) The placards authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who is certified as meeting the requirements of this section for a vehicle used by an agency, organization, or facility that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for placards issued to an agency, organization, or facility. At the time of qualification, applicants qualifying for a placard under this section also must be issued a placard registration certificate that must be carried at all times in the vehicle transporting handicapped or disabled individuals. The certificate will display the name of the agency, organization, or facility to which the placard was issued.

(C) The placards shall conform to specifications set forth in the standards established for compliance with the Americans with Disabilities Act. The design must incorporate a means for hanging the placard from a vehicle windshield rearview mirror, and:

(1) contain the international symbol of access;

(2) be color‑coded to reflect user status in the following manner:

(a) dark blue ‑ permanently disabled; and

(b) red ‑ temporarily disabled.

(D) Blue and red placards shall contain the qualified user’s photograph. The photograph must be taken from the qualified user’s driver’s license or identification card on file with the department. However, a photograph is not required for a placard issued to an agency, organization, or facility.

(E) Each placard shall contain the placard’s expiration date.

(F) When qualified users park in designated spaces, the placard must be displayed in the windshield of the vehicle by hanging it from the rearview mirror. In vehicles in which hanging may not be feasible, the placard must be placed on the side of the dashboard so that it is clearly visible through the windshield. When more than one placard holder is transported in the same vehicle, only one placard needs to be displayed.

(G) Placards used for parking in designated handicapped spaces must be displayed on vehicles driven by or transporting the handicapped individual whose name appears on the placard registration certificate. When parked in designated spaces, the driver of the vehicle displaying the placard must present the placard registration certificate when requested by law enforcement entities or their duly authorized agents.

(H) Placards and placard registration certificates for permanently disabled persons may be issued and renewed for a maximum period of four years and are renewable on the owner’s birth date. Placards issued to an agency, organization, or facility must be renewed every four years.

(I) A vehicle displaying a valid out‑of‑state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided in this section. Handicapped individuals from other states seeking permanent residence in South Carolina have forty‑five days after becoming a resident to obtain South Carolina certification.

(J) Placards issued prior to the effective date of this section must be renewed by the expiration date on the placard or by January 1, 2013, whichever is sooner. To renew the placard and receive the certificate, the person must be certified as permanently handicapped as provided in Section 56‑3‑1910. Upon renewal, the department will issue a certificate as required by this section. Failure to carry a certificate as required by this section by a person using a placard issued prior to the effective date of this section is not a violation of the provisions of this section until after the placard is renewed or January 1, 2013, whichever is sooner.

(K)(1) Except as provided in item (2), a person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped placard or a person who falsifies information on an application form for a handicapped placard is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 4. Section 56‑3‑1965 of the 1976 Code is amended to read:

“Section 56‑3‑1965. Those municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons. A person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section does not apply to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or to areas which are reserved for special types of vehicles. A vehicle must display a distinguishing license plate which must be issued by the department, or a distinguishing placard which must be issued by the department, pursuant to Section 56‑3‑1960 when parked in metered or timed parking places.”

SECTION 5. Section 56‑3‑2010 of the 1976 Code is amended by adding at the end:

“(C) If a person who qualifies for the special license plate issued under this section also qualifies for the handicapped license plate issued pursuant to Section 56‑3‑1910, then the license plate issued pursuant to this section also shall include a decal with the International Symbol of Access used on license plates issued pursuant to Section 56‑3‑1910. The decal can only be used if space is available to place the decal on the license plate without covering any identifying numbers or letters on the license plate.”

SECTION 6. Section 56‑3‑1970 of the 1976 Code is amended to read:

“Section 56‑3‑1970. (A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56‑3‑1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56‑3‑1910, ~~Section~~ 56‑3‑1960, and 56‑3‑1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five hundred dollars nor more than ~~two hundred~~ one thousand dollars or imprisoned for not more than thirty days for each offense.”

SECTION 7. Section 56‑3‑1975 of the 1976 Code is amended to read:

“Section 56‑3‑1975. Each handicapped parking place must be clearly identified as a handicapped parking place. The handicapped parking place includes all access aisles. If the handicapped parking place is on public property, the marker must be maintained by the political subdivision having jurisdiction over the public property or the street or highway where the handicapped parking place is located. If the handicapped parking place is on private property, the marker must be maintained by the owner of the property.”

SECTION 8. This act takes effect six months after approval by the Governor. /

Amend title to read:

/ TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED”, TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED AND TO DEFINE THE TERM “ACCESS AISLE”; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, PROPER USE AND DISPLAY OF HANDICAPPED PLACARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISION; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS; TO AMEND SECTION 56‑3‑1970, RELATING TO THE UNLAWFUL PARKING OF A VEHICLE IN A PARKING PLACE DESIGNATED FOR HANDICAPPED PERSON, SO AS TO PROVIDE THAT IT IS ALSO UNLAWFUL FOR CERTAIN PERSONS TO EXERCISE THE PRIVILEGES GRANTED TO A HOLDER OF A LICENSE PLATE OR PLACARD DESIGNATED FOR USE BY A HANDICAPPED PERSON, AND TO INCREASE THE PENALTY FOR A VIOLATION OF THIS PROVISION; AND TO AMEND SECTION 56‑3‑1975, RELATING TO THE IDENTIFICATION AND MAINTENANCE OF HANDICAPPED PARKING PLACES, SO AS TO PROVIDE THAT A HANDICAPPED PARKING PLACE INCLUDES ALL ACCESS AISLES. /

/s/Sen. Daniel B. Verdin III /s/Rep. Donald C. Smith

/s/Sen. Vincent A. Sheheen /s/Rep. Phillip D. Owens

/s/Sen. Paul G. Campbell, Jr. /s/Rep. Lester P. Branham, Jr.

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

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has requested and was granted Free Conference Powers and has appointed Reps. Owens, Branham and D. C. Smith to the Committee of Free Conference on the part of the House on:

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED” AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED” AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that the Report of the Committee of Conference having been adopted by both Houses, and this Bill having been read three times in each House, it was ordered that the title thereof be changed to that of an Act and that it be enrolled for ratification:

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56‑3‑1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM “HANDICAPPED”, DELETE THE TERM “LICENSE TAG” AND REPLACE IT WITH THE TERM “LICENSE PLATE”, AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56‑3‑1950, RELATING TO THE DEFINITION OF THE TERM “HANDICAPPED”, AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON’S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM “HANDICAPPED”, TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED AND TO DEFINE THE TERM “ACCESS AISLE”; TO AMEND SECTION 56‑3‑1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, PROPER USE AND DISPLAY OF HANDICAPPED PLACARDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISION; TO AMEND SECTION 56‑3‑1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56‑3‑2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS; TO AMEND SECTION 56‑3‑1970, RELATING TO THE UNLAWFUL PARKING OF A VEHICLE IN A PARKING PLACE DESIGNATED FOR HANDICAPPED PERSON, SO AS TO PROVIDE THAT IT IS ALSO UNLAWFUL FOR CERTAIN PERSONS TO EXERCISE THE PRIVILEGES GRANTED TO A HOLDER OF A LICENSE PLATE OR PLACARD DESIGNATED FOR USE BY A HANDICAPPED PERSON, AND TO INCREASE THE PENALTY FOR A VIOLATION OF THIS PROVISION; AND TO AMEND SECTION 56‑3‑1975, RELATING TO THE IDENTIFICATION AND MAINTENANCE OF HANDICAPPED PARKING PLACES, SO AS TO PROVIDE THAT A HANDICAPPED PARKING PLACE INCLUDES ALL ACCESS AISLES.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3919 -- Reps. Mitchell, Alexander, Gunn, Dillard, Hamilton, Limehouse, J.R. Smith, King, Kirsh, Littlejohn, J.M. Neal, Herbkersman, Stavrinakis, Chalk, Cobb‑Hunter, Anthony, Branham, Brantley, Parker, Allison, Gilliard, J.H. Neal, Whipper, Mack, Battle, Hosey, Allen, Weeks, Jennings, Loftis, Knight, Vick, Rutherford and Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑1‑250 SO AS TO ESTABLISH THE SOUTH CAROLINA HOUSING COMMISSION TO PROVIDE RECOMMENDATIONS TO ENSURE AND FOSTER THE AVAILABILITY OF SAFE, SOUND, AND AFFORDABLE HOUSING AND WORKFORCE HOUSING FOR EVERY SOUTH CAROLINIAN, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND FOR OTHER PROCEDURAL MATTERS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3087 -- Reps. Brady and M.A. Pitts: A BILL TO AMEND SECTION 23‑3‑535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITATIONS ON PLACES OF RESIDENCE FOR SEX OFFENDERS, SO AS TO PROVIDE THAT A LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE THAT EXPANDS OR CONTRACTS THE BOUNDARIES OF THE AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE THAT ARE CONTAINED IN THIS SECTION; AND TO AMEND ACT 333 OF 2008, RELATING TO LIMITATIONS ON PLACES OF RESIDENCE FOR SEX OFFENDERS AND PENALTIES FOR FAILURE TO REGISTER AS A SEX OFFENDER, SO AS TO PROVIDE AN EFFECTIVE DATE FOR VARIOUS PORTIONS OF THIS ACT.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3013 -- Reps. Limehouse, Parker and Toole: A BILL TO AMEND SECTION 16‑11‑650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF REMOVING OR DESTROYING FENCES, GATES, OR OTHER BARRIERS ENCLOSING ANIMALS, CROPS, OR UNCULTIVATED LANDS, SO AS TO REVISE THE ELEMENTS OF THE OFFENSE AND INCREASE PENALTIES FOR VIOLATIONS AND TO VEST JURISDICTION TO HEAR AND DISPOSE OF THIS OFFENSE IN MAGISTRATES COURT.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3761 -- Rep. Cooper: A BILL TO AMEND SECTION 44‑53‑530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FORFEITURE PROCEDURES RELATED TO DRUG PROCEEDS, SO AS TO ALLOW THE USE OF FORFEITED MONIES AND PROCEEDS FROM THE SALE OF PROPERTY FOR TRAINING AND EDUCATION BY LAW ENFORCEMENT IN ADDITION TO OTHER USES PREVIOUSLY DELINEATED.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**ACTING PRESIDENT PRESIDES**

At 1:40 P.M., Senator L. MARTIN assumed the Chair.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50‑5‑1707 RELATING TO SHARK CATCH LIMITS; BY ADDING SECTION 50‑13‑400 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR CRAPPIE TAKEN IN LAKE MURRAY; AND BY ADDING SECTION 50‑5‑2017 SO AS TO ESTABLISH THE FLOUNDER POPULATION STUDY PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES, TO SET FLOUNDER CATCH LIMITS AND PROHIBIT THE USE OF ARTIFICIAL ILLUMINATION POWERED BY GENERATORS, AND TO ESTABLISH THE DURATION OF THE PROGRAM.

Very respectfully,

Speaker of the House

Received as information.

**H. 3572--REPORT OF THE COMMITTEE OF CONFERENCE ADOPTED BY THE SENATE**

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50‑5‑1707 RELATING TO SHARK CATCH LIMITS; BY ADDING SECTION 50‑13‑400 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR CRAPPIE TAKEN IN LAKE MURRAY; AND BY ADDING SECTION 50‑5‑2017 SO AS TO ESTABLISH THE FLOUNDER POPULATION STUDY PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES, TO SET FLOUNDER CATCH LIMITS AND PROHIBIT THE USE OF ARTIFICIAL ILLUMINATION POWERED BY GENERATORS, AND TO ESTABLISH THE DURATION OF THE PROGRAM.

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

Senator KNOTTS spoke on the report.

The question then was the adoption of the Report of the Committee of Conference to H. 3572.

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

**Ayes 45; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

*Martin, S.* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--45**

**NAYS**

**Total--0**

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

**H. 3572--Conference Report**

The General Assembly, Columbia, S.C., May 20, 2009

The Committee of Conference, to whom was referred:

H. 3572 ‑‑ Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50‑5‑1707 RELATING TO SHARK CATCH LIMITS.

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

That the same do pass with the following amendments:

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

/ SECTION 1. Section 50‑5‑1707 of the 1976 Code is repealed.

SECTION 2. Article 1, Chapter 13, Title 50 of the 1976 Code is amended by adding:

“Section 50‑13‑400. (A) In Lake Murray it is unlawful to take or possess more than twenty crappie (Pomoxis spp.) per day.

(B) In Lake Murray it is unlawful to take or possess crappie (Pomoxis spp.) less than eight inches in total length.”

SECTION 3. Chapter 5, Title 50 of the 1976 Code is amended by adding:

“Section 50‑5‑2017. (A) There is established the Flounder Population Study Program to be administered by the Department of Natural Resources. The program shall study the effects of flounder catch limits and the prohibition of artificial illumination powered by generators on flounder of the species Paralichthys dentatus, commonly known as the summer flounder, located in the waters of Murrells Inlet Estuary, Pawleys Island Estuary, and the creeks of Litchfield flowing into Pawleys Island Estuary. For purposes of this resolution, ‘gigging’ means using a rod with one or multiple prongs to spear a fish.

(B) During the term of the program in the area defined in subsection (A):

(1) the lawful flounder gigging and fishing catch limit is ten per day for any individual, not to exceed twenty flounder in any one day on any boat;

(2) it is unlawful to use any type of artificial illumination powered by generator while gigging or fishing for flounder from a boat or while wading in the water.

(C) The program shall run for five years, beginning January 1, 2010, and ending December 31, 2015.

(D) The Department of Natural Resources must compile its findings and submit the report to the General Assembly by March 16, 2016.”

SECTION 4. This act takes effect upon approval by the Governor./

Amend title to read:

/TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50‑5‑1707 RELATING TO SHARK CATCH LIMITS; BY ADDING SECTION 50‑13‑400 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR CRAPPIE TAKEN IN LAKE MURRAY; AND BY ADDING SECTION 50‑5‑2017 SO AS TO ESTABLISH THE FLOUNDER POPULATION STUDY PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES, TO SET FLOUNDER CATCH LIMITS AND PROHIBIT THE USE OF ARTIFICIAL ILLUMINATION POWERED BY GENERATORS, AND TO ESTABLISH THE DURATION OF THE PROGRAM./

/s/Sen. J. Yancey McGill /s/Rep. G. Murrell Smith, Jr.

/s/Sen. John M. "Jake" Knotts, Jr. /s/Rep. C. David Umphlett, Jr.

/s/Sen. Raymond E. Cleary III /s/Rep. H. Boyd Brown

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

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that the Report of the Committee of Conference having been adopted by both Houses, and this Bill having been read three times in each House, it was ordered that the title thereof be changed to that of an Act and that it be enrolled for ratification:

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50‑5‑1707 RELATING TO SHARK CATCH LIMITS; BY ADDING SECTION 50‑13‑400 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR CRAPPIE TAKEN IN LAKE MURRAY; AND BY ADDING SECTION 50‑5‑2017 SO AS TO ESTABLISH THE FLOUNDER POPULATION STUDY PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES, TO SET FLOUNDER CATCH LIMITS AND PROHIBIT THE USE OF ARTIFICIAL ILLUMINATION POWERED BY GENERATORS, AND TO ESTABLISH THE DURATION OF THE PROGRAM.

Very respectfully,

Speaker of the House

Received as information.

The Senate resumed consideration of **Veto 3**.

Senator HUTTO was recognized.

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

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

**Ayes 34; Nays 11**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Scott

Setzler Sheheen Verdin

Williams

**Total--34**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Massey Mulvaney Rose

Ryberg Shoopman

**Total--11**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 84 to 37:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 5 Part IB; Section 21.36; Page 346; Department of Health and Human Services; Prior Authorization -Formulary Changes.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 5 Part IB; Section 21.36; Page 346; Department of Health and Human Services; Prior Authorization -Formulary Changes.**

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

Senator ALEXANDER explained the veto.

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

Senator BRYANT argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 33; Nays 13**

**AYES**

Alexander Anderson Coleman

Courson Davis Elliott

Fair Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, S.*

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Sheheen

Shoopman Thomas Williams

**Total--33**

**NAYS**

Bright Bryant Campbell

Campsen Cleary Cromer

Grooms *Martin, L.* Massey

Mulvaney Rose Ryberg

Verdin

**Total--13**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 88 to 31:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 6 Part IB; Section 22.49; Page 355; Department of Health and Environmental Control; Rural Hospital Grants.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 6 Part IB; Section 22.49; Page 355; Department of Health and Environmental Control; Rural Hospital Grants.**

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

Senator ALEXANDER spoke on the veto.

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

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

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

**Ayes 34; Nays 12**

**AYES**

Alexander Anderson Campbell

Coleman Cromer Elliott

Fair Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Massey Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Sheheen Thomas Verdin

Williams

**Total--34**

**NAYS**

Bright Bryant Campsen

Cleary Courson Davis

Grooms *Martin, S.* Mulvaney

Rose Ryberg Shoopman

**Total--12**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 95 to 23:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 7 Part IB; Section 37.1; Page 371; Department of Natural Resources; County Funds.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 7 Part IB; Section 37.1; Page 371; Department of Natural Resources; County Funds.**

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

Senator McGILL explained the veto.

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

Senator DAVIS spoke on the veto.

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

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

**Ayes 30; Nays 16**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Sheheen Thomas Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Courson Davis Fair

Grooms *Martin, L. Martin, S.*

Massey McConnell Mulvaney

Rose Ryberg Shoopman

Verdin

**Total--16**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 7 was subsequently reconsidered and veto 7 was overridden.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 90 to 25:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 8 Part IB; Section 37.2; Page 371; Department of Natural Resources; County Game Funds/Equipment Purchase.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 8 Part IB; Section 37.2; Page 371; Department of Natural Resources; County Game Funds/Equipment Purchase.**

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

Senator McGILL explained the veto.

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

Senator DAVIS spoke on the veto.

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

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

**Ayes 30; Nays 16**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Sheheen Thomas Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Courson Davis Fair

Grooms *Martin, L. Martin, S.*

Massey McConnell Mulvaney

Rose Ryberg Shoopman

Verdin

**Total--16**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 8 was subsequently reconsidered and veto 8 was overridden.

On motion of Senator HAYES, with unanimous consent, the Senate proceeded to a consideration of H. 3301.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE THIRD TIME, RETURNED TO THE HOUSE  
WITH AMENDMENTS**

H. 3301 -- Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J.R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Battle, Bowers, Brady, G.A. Brown, H.B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Jefferson, Horne, Kirsh, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E.H. Pitts, M.A. Pitts, Scott, Simrill, Skelton, D.C. Smith, G.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire and Wylie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34‑39‑175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL‑TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34‑39‑270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34‑39‑130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34‑39‑180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

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 amendment proposed by the Committee on Banking and Insurance.

Senator MALLOY asked unanimous consent to take up Amendment No. 72 for immediate consideration.

There was no objection.

**Amendment No. 72**

Senators MALLOY, LOURIE, JACKSON, LAND, HAYES, FORD and SETZLER proposed the following Amendment No. 72 (3301R080.GM), which was adopted:

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

/ SECTION 1. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑175. (A) In order to prevent a person from having a deferred presentment transaction that exceeds the limit in Section 34‑39‑180(B) and Section 34‑39‑270(A), the Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real‑time access through an internet connection for deferred presentment providers, as provided in this subsection. The board shall enter into a contract with a single source private vendor to develop and operate the database. By no later than February 1, 2010, the database must be accessible to the board and the deferred presentment providers to meet the requirements of this chapter and verify if a deferred presentment transaction is outstanding for a particular person. Deferred presentment providers shall submit the person’s data to the database provider before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by regulation, including the drawer’s name, social security number, or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The database provider may impose the database verification fee authorized by Section 34‑39‑270(G) for data required to be submitted by a licensee. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction;

(2) who has repaid a previous deferred presentment transaction with any licensee on the same business day;

(3) who has repaid a previous deferred presentment transaction with any licensee on the same business day or the previous business day if the transaction being requested would be the customer’s eighth or more transaction within a calendar year; or

(4) who has entered into an extended payment plan agreement with any licensee as provided in Section 34‑39‑280 which has not been paid in full or terminated.

(B) No eighth or subsequent deferred presentment transaction within a calendar year may be entered into on the same or subsequent business day of the repayment of the previous deferred presentment transaction.

(C) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by accessing the deferred presentment transaction database established pursuant to subsection (D).

(D) The board shall contract with a single third party database provider that is SAS 70 certified to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board should give full consideration to Section 11‑35‑5210 when selecting the third‑party database provider to establish and operate the deferred presentment transaction database required by this chapter. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract and immediately substitute another qualified third party database provider. The database must have real‑time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the internet including, but not limited to, verification by telephone. The database must be established and operated so as to prevent a licensee from entering into a transaction that violates the provisions of this section.

(E) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider’s determination that the person is ineligible to enter into the transaction.

(F) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is paid in full, the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is paid in full, the database provider immediately shall designate the transaction as paid in full in the database. For purposes of this subsection, an item is paid in full when the payor bank makes final payment on the customer’s check pursuant to Section 36‑4‑215 or the customer has redeemed the check with a cash payment in full.

(G) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(H) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board as the actual cost of verifying a person’s eligibility, not to exceed one dollar. A licensee may charge a person seeking to enter into a deferred presentment transaction one‑half of the actual cost of the verification fee.

(I) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(J) A licensee may rely on the information contained in the database as accurate and is not subject to an administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(K) A licensee will give a customer the right to rescind, at no cost, a deferred presentment transaction on or before the close of the following business day.

Section 34‑39‑280. (A) Subject to the terms and conditions contained in this section, a customer who is unable to repay a deferred presentment transaction when due may elect once in any twelve month period to repay the deferred presentment transaction to licensee by means of an extended payment plan. The twelve month period is measured from the date the customer enters into one extended payment plan with licensee until the date that the customer enters into another extended payment plan with licensee.

(B) To request an extended payment plan, the customer, before the due date of the outstanding deferred presentment transaction, must request the plan and sign an amendment to the deferred presentment agreement that memorializes the plan’s terms.

(C) The extended payment plan’s terms must allow the customer, at no additional cost, to repay the outstanding deferred presentment transaction including any fee due in at least four substantially equal installments. Each plan installment must be due on or after a date on which the customer receives regular income. The customer may prepay an extended payment plan in full at any time without penalty. The licensee shall not charge customer any interest or additional fees during the term of the extended payment plan. The licensee may, with each payment under the plan by a customer, provide for the return of the customer’s prior held check and require a new check for the remaining balance under the plan. Alternatively, the licensee may require the customer at the time the customer enters into the extended payment plan to provide multiple checks, one for each of the scheduled payments in the amount of those payments.

(D) If the customer fails to pay any extended payment plan installment when due, the customer shall be in default of the payment plan and the licensee may immediately accelerate payment on the remaining balance. Upon default, the licensee may take action to collect all amounts due.

(E) If a customer enters into an extended repayment plan, the licensee must enter that information into the database established in Section 34‑39‑175, and the customer and a licensee is prohibited from entering into a subsequent deferred presentment transaction until repayment in full of the original deferred presentment transaction.

(F) At each licensed location, a licensee shall prominently post a notice in at least twenty‑four point bold type, in a form established or approved by the board, informing persons that if they are unable to repay a deferred presentment transaction when due they shall be eligible to enter into one extended payment plan in a twelve month period. A licensee also shall notify a person of his right to an extended payment plan by displaying the following statement, in at least twelve point bold type, on the first page of each deferred presentment agreement: ‘If you are unable to repay a deferred presentment transaction when due, you are eligible to request one extended payment plan in a twelve month period.’”

SECTION 3. Section 34‑39‑130 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.”

SECTION 4. Section 34‑39‑180(B) of the 1976 Code is amended to read:

“(B) The ~~face~~ total amount ~~of a check taken~~ advanced by a licensee to any customer at one time for deferred presentment or deposit may not exceed ~~three hundred dollars~~ five hundred fifty dollars, exclusive of the fees allowed in Section 34‑39‑180(E). A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by the customer.”

SECTION 5. Section 34‑39‑150 of the 1976 Code is amended to read:

“Section 34‑39‑150. (A) An application for licensure pursuant to this chapter must be in writing, under oath, and on a form prescribed by the board. The application must set forth all of the following:

(1) the legal name and residence and business addresses of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, managing employee, and director of it;

(2) the location of the registered office of the applicant;

(3) the registered agent of the applicant if the applicant is required by other law to have a registered agent;

(4) the addresses of the locations to be licensed; and

(5) other information concerning the financial responsibility, background experience, and activities, such as other partnerships, associations, and corporations located at or adjacent to the licensed location of the applicant and its members, officers, managing employees, and directors as the board requires.

(B) Upon receipt of an application in the form prescribed by the board, accompanied by the required fee, the board shall investigate whether the qualifications for licensure are satisfied. If the board finds that the qualifications are satisfied, it shall issue to the applicant a license to engage in the deferred presentment services business. If the board fails to issue a license, it shall notify the applicant of the denial and the reasons for it. The provisions of the Administrative Procedures Act apply to the appeal of the denial of a license.

(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~ one thousand dollars and an investigation fee of five hundred dollars. These fees are not refundable or abatable. If the license is granted, however, payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~ one thousand dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~ one thousand dollars for the first location and ~~fifty~~ two hundred fifty dollars for each additional location.

(E) One-half of the renewal fees collected pursuant to subsection (D) must be credited to the Board of Financial Institutions for enforcement of this chapter and one‑half must be credited to the Attorney General to prosecute actions brought for violations of this chapter.”

SECTION 6. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑290. (A) Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

(1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;

(2) borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;

(3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;

(4) loans that were not paid off in the previous year by loan amount;

(5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection; and

(6) the number of twenty‑four hour periods within which a successive loan is conducted after a prior loan is completed.

(B) The Senate Banking and Insurance Committee and the House of Representatives Labor Commerce and Industry Committee must annually meet, jointly or separately, to hold a hearing concerning the data provided by the database vendor and the report submitted by the Board of Financial Institutions. The vendor and the Board of Financial Institutions must testify at the meeting and answer questions, including questions related to the data and the report.”

SECTION 7. Section 34‑39‑200(9) of the 1976 Code is amended to read:

“(9) engage in the retail sale of goods or services, other than deferred presentment services and Level I check‑cashing services as defined in Section 34‑41‑10, at the location licensed pursuant to this chapter, ~~provided, however~~ except that ~~a~~ the sale of money orders, postage stamps, payment of utility bills with no additional fee to the customer, vending machines for food or beverage, facsimile services, ~~Western Union~~ wire transfer services, or the rental of postal boxes at rates not higher than allowed by the United States Postal Service ~~is~~ are not the sale of goods or services prohibited by this subsection;”

SECTION 8. Section 34‑39‑180(E) of the 1976 Code is amended to read:

“(E) A license shall not charge, directly or indirectly, a fee or other consideration in excess of fifteen percent of the ~~face amount of the check~~ principal amount of the transaction for accepting a check for deferred presentment or deposit. The fee or other consideration authorized by this subsection may be imposed only once for each written agreement. Records must be kept by each licensee with sufficient detail to ensure that the fee or other consideration authorized by this subsection may be imposed only once for each written agreement.”

SECTION 9. Section 34‑39‑180(G) of the 1976 Code is amended to read:

“(G) If a check is returned to the licensee from a payer financial institutions due to insufficient funds, closed account, or stop payment order, the licensee may pursue all legally available civil means to collect the check ~~including, but not limited to,~~ except for the imposition of a returned check charge ~~as provided in Section 34‑11‑70(a), except that the service charge imposed by the licensee shall not exceed the lesser of ten dollars or the fee imposed by the financial institution on the licensee for the returned check~~. An individual who issues a personal check to a licensee under a deferred presentment agreement is not subject to criminal liability.”

SECTION 10. 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 11. SECTIONS 2, 3, and 4 of this act take effect upon implementation of the common database as required in SECTION 1. The remaining SECTIONS of this act take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

Senator LOURIE spoke on the amendment.

The amendment was adopted.

The Committee on Banking and Insurance proposed the following amendment (3301R017.DLT), which was adopted:

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

/ SECTION 1. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑175. (A) In order to prevent a person from having a deferred presentment transaction that exceeds the limit in Section 34‑39‑180(B), the Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real‑time access through an internet connection for deferred presentment providers, as provided in this subsection. The board shall enter into a contract with a single source private vendor to develop and operate the database. By no later than February 1, 2010, the database must be accessible to the board and the deferred presentment providers to meet the requirements of this chapter and verify if a deferred presentment transaction is outstanding for a particular person. Deferred presentment providers shall submit the person’s data to the database provider before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by regulation, including the drawer’s name, social security number, or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The database provider may impose the database verification fee authorized by Section 34‑39‑270(G) for data required to be submitted by a licensee. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction;

(2) who has repaid a previous deferred presentment transaction with any licensee on the same business day or the previous business day; or

(3) who has entered into an extended payment plan agreement with any licensee as provided in Section 34‑39‑280 which has not been paid in full or terminated.

(B) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by accessing the deferred presentment transaction database established pursuant to subsection (C).

(C) The board shall contract with a single third party database provider that is SAS 70 certified to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board should give full consideration to Section 11‑35‑5210 when selecting the third‑party database provider to establish and operate the deferred presentment transaction database required by this chapter. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract and immediately substitute another qualified third party database provider. The database must have real‑time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the internet including, but not limited to, verification by telephone. The database must be established and operated so as to prevent a licensee from entering into a transaction that violates the provisions of this section.

(D) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider’s determination that the person is ineligible to enter into the transaction.

(E) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is paid in full the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is paid in full, the database provider immediately shall designate the transaction as paid in full in the database.

(F) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(G) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board as the actual cost of verifying a person’s eligibility, not to exceed one dollar. A licensee may charge a person seeking to enter into a deferred presentment transaction one‑half of the actual cost of the verification fee.

(H) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(I) A licensee may rely on the information contained in the database as accurate and is not subject to an administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

Section 34‑39‑280. (A) Subject to the terms and conditions contained in this section, a customer who is unable to repay a deferred presentment transaction when due may elect once in any twelve month period to repay the deferred presentment transaction to licensee by means of an extended payment plan. The twelve month period is measured from the date the customer enters into one extended payment plan with licensee until the date that the customer enters into another extended payment plan with licensee.

(B) To request an extended payment plan, the customer, on or before the due date of the outstanding deferred presentment transaction, must request the plan and sign an amendment to the deferred presentment agreement that memorializes the plan’s terms. The licensee shall require that as a condition of providing the extended payment plan, the customer agree to make an appointment with an approved consumer credit counseling agency within seven days after entering into the extended payment plan and complete the credit counseling by the end of the extended payment plan. A list of approved credit counseling agencies shall be provided by the board to licensees for distribution to customers.

(C) The extended payment plan’s terms must allow the customer, at no additional cost, to repay the outstanding deferred presentment transaction including any fee due in at least four substantially equal installments. Each plan installment must be due on or after a date on which the customer receives regular income. The customer may prepay an extended payment plan in full at any time without penalty. The licensee shall not charge customer any interest or additional fees during the term of the extended payment plan. The licensee may, with each payment under the plan by a customer, provide for the return of the customer’s prior held check and require a new check for the remaining balance under the plan. Alternatively, the licensee may require the customer at the time the customer enters into the extended payment plan to provide multiple checks, one for each of the scheduled payments in the amount of those payments.

(D) The customer must notify licensee within seven days after entering into the extended payment plan that the customer has made an appointment with a consumer credit counseling agency. The licensee may verify this information with the agency.

(E) If the customer fails to pay any extended payment plan installment when due, make an appointment with a consumer credit counseling agency within seven days, or notify the licensee of the appointment as required, the customer shall be in default of the payment plan and the licensee may immediately accelerate payment on the remaining balance. Upon default, the licensee may take action to collect all amounts due.

(F) If a customer enters into an extended repayment plan, the licensee must enter that information into the database established in Section 34‑39‑175, and the customer and a licensee is prohibited from entering into a subsequent deferred presentment transaction until repayment in full of the original deferred presentment transaction.

(G) At each licensed location, a licensee shall prominently post a notice in at least twenty-four point bold type, in a form established or approved by the board, informing persons that if they are unable to repay a deferred presentment transaction when due they shall be eligible to enter into an extended payment plan. A licensee also shall notify a person of his right to an extended payment plan by displaying the following statement, in at least twelve point bold type, on the first page of each deferred presentment agreement: ‘If you are unable to repay a deferred presentment transaction when due, you may be eligible to request an extended payment plan.’ ”

SECTION 3. Section 34‑39‑130 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.”

SECTION 4. Section 34‑39‑180(B) of the 1976 Code is amended to read:

“(B) The ~~face~~ total amount ~~of a check taken~~ advanced to a customer for deferred presentment or deposit at one time by all licensees ~~may not exceed three hundred dollars~~, exclusive of the fees allowed in Section 34‑39‑180(E), may not exceed five hundred dollars. A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by the customer.”

SECTION 5. Section 34‑39‑150 of the 1976 Code is amended to read:

“Section 34‑39‑150. (A) An application for licensure pursuant to this chapter must be in writing, under oath, and on a form prescribed by the board. The application must set forth all of the following:

(1) the legal name and residence and business addresses of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, managing employee, and director of it;

(2) the location of the registered office of the applicant;

(3) the registered agent of the applicant if the applicant is required by other law to have a registered agent;

(4) the addresses of the locations to be licensed; and

(5) other information concerning the financial responsibility, background experience, and activities, such as other partnerships, associations, and corporations located at or adjacent to the licensed location of the applicant and its members, officers, managing employees, and directors as the board requires.

(B) Upon receipt of an application in the form prescribed by the board, accompanied by the required fee, the board shall investigate whether the qualifications for licensure are satisfied. If the board finds that the qualifications are satisfied, it shall issue to the applicant a license to engage in the deferred presentment services business. If the board fails to issue a license, it shall notify the applicant of the denial and the reasons for it. The provisions of the Administrative Procedures Act apply to the appeal of the denial of a license.

(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~ five hundred dollars and an investigation fee of five hundred dollars. These fees are not refundable or abatable. If the license is granted, however, payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~ one thousand dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~ one thousand dollars for the first location and ~~fifty~~ two hundred dollars for each additional location.

(E) Upon annual license renewal, a licensee shall pay a fee to the board of ten cents for each deferred presentment transaction paid in full during the previous license year. The funds collected from this fee shall be credited to the Department of Consumer Affairs to establish and maintain a fund to provide support for consumer credit counseling programs in the State.

(F) One-half of the renewal fees collected pursuant to subsection (D) must be credited to the Board of Financial Institutions for enforcement of this chapter and one‑half must be credited to the Attorney General to prosecute actions brought for violations of this chapter.”

SECTION 6. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑290. Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

(1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;

(2) borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;

(3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;

(4) loans that were not paid off in the previous year by loan amount;

(5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection; and

(6) the number of twenty‑four hour periods within which a successive loan is conducted after a prior loan is completed.”

SECTION 7. Section 34‑39‑210 of the 1976 Code is amended to read:

“Section 34‑39‑210. (A) The board may ~~suspend or revoke a license issued pursuant to this chapter~~ impose penalties on a licensee if, after notice and opportunity for hearing, the board issues written findings that the licensee has wilfully and knowingly:

(1) violated this chapter or applicable state or federal law;

(2) made a false statement on the application for a license under the chapter;

(3) refused to permit investigation by the board as authorized by this chapter;

(4) failed to comply with an order of the board;

(5) demonstrated incompetency or untrustworthiness to engage in the business of deferred presentment services; or

(6) been convicted of a felony or misdemeanor involving fraud, misrepresentation, or deceit.

(B) For wilful and knowing violations found pursuant to subsection (A), the board may impose the following penalties:

(1) a fine of one thousand five hundred dollars for the first such violation;

(2) a fine of three thousand dollars for the second violation;

(3) suspension of the license for one year for the third violation;

(4) permanent revocation of license for the fourth violation.

~~(B)~~(C) The board may not suspend or revoke a license issued pursuant to this chapter unless the licensee has been given notice and opportunity for hearing in accordance with the Administrative Procedures Act.”

SECTION 8. Section 34‑39‑200(9) of the 1976 Code is amended to read:

“(9) engage in the retail sale of goods or services, other than deferred presentment services and Level I check‑cashing services as defined in Section 34‑41‑10, at the location licensed pursuant to this chapter, ~~provided, however~~ except that a sale of money orders~~,~~ or postage stamps, and services such as the payment of utility bills with ~~no additional~~ a fee to the customer that does not exceed one percent of the bill being paid, vending machines for food or beverage, facsimile services, ~~Western Union~~ wire transfer services, or rental of postal boxes at rates not higher than allowed by the United States Postal Service ~~is~~ are not the ~~sale~~ sales of goods or services prohibited by this subsection;”

SECTION 9. Section 34‑39‑170 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) A licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.”

SECTION 10. 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 11. SECTIONS 2, 3, and 4 of this act take effect upon implementation of the common database as required in SECTION 1. The remaining SECTIONS of this act take effect upon approval by the Governor. /

Amend title to conform.

The committee amendment was adopted.

The question then was the third reading of the Bill.

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

**Ayes 41; Nays 4**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

*Martin, S.* Massey Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--41**

**NAYS**

Bright Bryant Ford

Mulvaney

**Total--4**

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

Senator JACKSON spoke on the Bill.

**CONCURRENCE**

H. 3482 -- Reps. Harrell, Cooper, Mack and Bannister: A BILL TO AMEND SECTION 12‑37‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT FROM PROPERTY TAX ALL PERSONAL PROPERTY, INCLUDING AIRCRAFT, OF A COMPANY ENGAGED IN AIR TRANSPORT OF SPECIALIZED CARGO.

The House returned the Bill with amendments.

Senator HAYES moved that the Senate concur in the House amendments.

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

**Ayes 46; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--46**

**NAYS**

**Total--0**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 76 to 37:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 9 Part IB; Section 37.15; Page 373; Department of Natural Resources; Sale of Existing Offices.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 9 Part IB; Section 37.15; Page 373; Department of Natural Resources; Sale of Existing Offices.**

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

Senator McGILL spoke on the veto.

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 22; Nays 22**

**AYES**

Alexander Anderson Campbell

Coleman Ford Hayes

Hutto Land Leatherman

Leventis Lourie Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Williams

**Total--22**

**NAYS**

Bright Bryant Campsen

Cleary Courson Cromer

Davis Elliott Fair

Grooms Knotts Malloy

*Martin, L. Martin, S.* Massey

McConnell Mulvaney Rose

Ryberg Shoopman Thomas

Verdin

**Total--22**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 89 to 28:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 10 Part IB; Section 39.4; Page 373-374; Parks, Recreation and Tourism; State Park Privatization Approval.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 10 Part IB; Section 39.4; Page 373-374; Parks, Recreation and Tourism; State Park Privatization Approval.**

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

Senator McGILL spoke on the veto.

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

Senator MULVANEY argued in favor of sustaining the Governor’s veto.

Senator SHEHEEN argued in favor of overriding the Governor’s veto.

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

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

**Ayes 22; Nays 21**

**AYES**

Alexander Anderson Coleman

Elliott Ford Hutto

Land Leatherman Leventis

Malloy *Martin, L.* Matthews

McConnell McGill Nicholson

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--22**

**NAYS**

Bright Bryant Campbell

Campsen Cleary Courson

Cromer Davis Fair

Grooms Hayes Knotts

*Martin, S.* Massey Mulvaney

O’Dell Rose Ryberg

Shoopman Thomas Verdin

**Total--21**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it insists upon the amendments proposed by the House to:

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

asks for a Committee of Conference, and has appointed Reps. Toole, White and Neilson to the committee on the part of the House.

Very respectfully,

Speaker of the House

Received as information.

**S. 116--CONFERENCE COMMITTEE APPOINTED**

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

Whereupon, Senators O'DELL, McGILL and SHOOPMAN were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

**S. 116--CONFERENCE REPORT ADOPTED BY SENATE**

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

On motion of Senator O’DELL, the Report of the Committee of Conference on S. 116 was adopted as follows:

**S. 116--Conference Report**

The General Assembly, Columbia, S.C., May 21, 2009

The Committee of Conference, to whom was referred:

S. 116 ‑‑ Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

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

That the same do pass with the following amendments:

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

/Whereas, the General Assembly finds that the economic crisis plaguing our nation and this State, particularly the exceptionally high rate of unemployment in our State, requires action; and

Whereas, the General Assembly finds that it is crucial to this state’s economic recovery to purchase goods manufactured and produced in the State, maintain the circulation of the funds of the citizens of this State within this State, and encourage and facilitate job development and economic growth by providing both assistance and opportunity to this state’s small businesses to participate as providers and vendors of goods and services to the State; and

Whereas, the General Assembly determines that various preferences should be accorded to residents both for the purpose of employment and business development when the State expends funds in the manner provided in this act. Now, therefore, /

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

/ SECTION 1. Section 11‑35‑310(22) of the 1976 Code, as added by Act 153 of 1997, is amended to read:

“(22) ~~‘Office’ means a nonmobile place for the regular transaction of business or performance of a particular service and staffed by at least one employee on a routine basis.~~ Reserved.”

SECTION 2. Section 11‑35‑1524 of the 1976 Code, as last amended by Act 333 of 2002, is further amended to read:

“Section 11‑35‑1524. ~~(A)~~ ~~A preference of seven percent must be provided to vendors who are residents of South Carolina or whose products are made, manufactured, or grown in South Carolina as set forth in this section.~~

~~(B)~~ ~~As used in this section, unless the context indicates otherwise, the terms below have the following meanings:~~

~~(1)~~ ~~‘Made’ means to assemble, fabricate, or process component parts into a finished end‑product, the value of which assembly, fabrication or processing is a significant portion of the value of the finished end‑product.~~

~~(2)~~ ~~‘Manufacture’ means to make or process raw materials into a finished end‑product.~~

~~(3)~~ ~~‘Grown’ means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end‑product that is locally derived from the product cultivated, raised, caught, or harvested.~~

~~(4)~~ ~~‘End‑product’ means the item sought by the governmental body of the State and described in the solicitation including all component parts and in final form and ready for the use intended by the governmental body.~~

~~(5)~~ ~~‘Unreasonable Cost’ means:~~

~~(a)~~ ~~the cost of an item from a resident vendor or an end‑product made, manufactured, or grown in South Carolina is unreasonable if the bid exceeds by more than seven percent the lowest qualified bid on the same item or end‑product which is made, manufactured, or grown in other states of the United States, or in a foreign country or territory;~~

~~(b)~~ ~~the cost of an end‑product made, manufactured, or grown in other states of the United States is unreasonable if the bid exceeds by more than two percent the lowest qualified bid on the same or similar end‑product which is made, manufactured, or grown in a foreign country or territory;~~

~~(6)~~ ~~‘Resident vendor’ means a vendor who is considered to be a resident of this State if the vendor:~~

~~(a)~~ ~~is an individual, partnership, association, or corporation that is authorized to transact business within the State,~~

~~(b)~~ ~~maintains an office in the State,~~

~~(c)~~ ~~maintains an inventory for expendable items which are representative of the general type of commodities on which the bid is submitted and located in South Carolina at the time of the bid having a total value of ten thousand dollars or more based on the bid price, but not to exceed the amount of the contract, or is a manufacturer which is headquartered and has at least a ten million dollar payroll in South Carolina and the product is made or processed from raw materials into a finished end‑product by such manufacturer or an affiliate (as defined in Section 1563 of the Internal Revenue Code) of such manufacturer, and~~

~~(d)~~ ~~has paid all assessed taxes.~~

~~(C)~~ ~~Application.~~ ~~Competitive procurements made by governmental bodies shall be made from vendors resident to South Carolina or vendors who bid end‑products made, manufactured, or grown in South Carolina or in the United States if available, provided that (1) the bidder has certified in writing in the bid that he or she is resident to the State, or (2) the bidder has certified in writing in the bid that the end‑product was made, manufactured, or grown in South Carolina or in the United States, (3) the end‑product is available, and (4) the cost of the end‑product is not unreasonable. In order to receive the award the vendor must be a responsible and responsive bidder, and the bid must otherwise comply with the Procurement Code and Regulations.~~

~~In the case of a request for resident vendor status, this requirement shall apply to the entire solicitation. In the case of a request for end‑product status, this requirement shall apply to each line item or each lot in a solicitation to which a separate, responsive bid may be made.~~

~~(D)~~ ~~Exceptions.~~ ~~This section shall not apply:~~

~~(1)~~ ~~to any procurements conducted under Article 9 of the 1976 Code;~~

~~(2)~~ ~~to any prime contractor or subcontractor providing materials or services relating to permanent improvements to real estate;~~

~~(3)~~ ~~to any solicitation, bid, offer, or procurement when the price of a single unit of the end‑product is more than thirty thousand dollars, whether or not more than one unit is bid or offered;~~

~~(4)~~ ~~to any solicitation, bid, offer, or procurement where the contract award is less than ten thousand dollars;~~

~~(5)~~ ~~to any solicitation conducted under Section 11‑35‑1530 of the 1976 Code; or~~

~~(6)~~ ~~to any solicitation, bid, offer, or procurement of motor vehicles as defined in Section 56‑15‑10.~~

~~(E)~~ ~~Enforcement.~~ ~~A bidder shall be suspended or debarred from doing business with the State in accordance with Section 11‑35‑4220 of the South Carolina Consolidated Procurement Code if the chief procurement officer determines that the certification made by the bidder as to the resident vendor request or the origin of the end‑product was filed under false pretenses and is not valid. In addition, if the bidder with the invalid certification of origin was awarded the contract, he shall also pay the State of South Carolina the amount by which the bid based on the invalid certification exceeded the lowest responsible and responsive bid that would have been selected but for the invalid certification.~~

~~If a bidder has not requested the preference, he will neither be entitled to claim any preference against another bidder nor will he be protected from application of another bidder’s claim to a preference against his bid in determining contract award.~~

~~(F)~~ ~~If a vendor qualifies as a resident vendor and is bidding a product made, manufactured, or grown in South Carolina, an additional three percent preference must be given if claimed by the bidder~~

(A) For purposes of this section:

(1) ‘End product’ means the tangible product described in the solicitation including all component parts and in final form and ready for the state’s intended use.

(2) ‘Grown’ means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end product that is locally derived from the product cultivated, raised, caught, or harvested.

(3) ‘Labor cost’ means salary and fringe benefits.

(4) ‘Made’ means to assemble, fabricate, or process component parts into an end product, the value of which, assembly, fabrication, or processing is a substantial portion of the price of the end product.

(5) ‘Manufactured’ means to make or process raw materials into an end product.

(6) ‘Office’ means a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty‑five hours a week each.

(7) ‘Services’ means services as defined by Section 11‑35‑310(29) and also includes services as defined in Section 11‑35‑310(1)(d).

(8) ‘South Carolina end product’ means an end product made, manufactured, or grown in South Carolina.

(9) ‘United States end product’ means an end product made, manufactured, or grown in the United States of America.

(B)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by seven percent the price of any offer for a South Carolina end product.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for a United States end product. This preference does not apply to an item to which the South Carolina end product preference has been applied.

(3) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product. A preference must not be applied to an item for which a bidder does not qualify.

(4) If a contract is awarded to a bidder that received the award as a result of the South Carolina end product or United States end product preference, the contractor may not substitute a nonqualifying end product for a qualified end product. A substitution in violation of this item is grounds for debarment pursuant to Section 11‑35‑4220. If a contractor violates this provision, the State may terminate the contract for cause and, in addition, the contractor shall pay to the State an amount equal to twice the difference between the price paid by the State and the bidder’s evaluated price for a substituted item.

(5) If a bidder is requesting this preference, the bidder, upon request of the procurement officer, must provide documentation that establishes the bidder’s qualifications for the preference. Bidder’s failure to provide this information promptly is grounds to deny the preference and for enforcement pursuant to subsection (E)(6).

(C)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder’s price by seven percent if the bidder maintains an office in this State and either (i) maintains at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities on which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars or the annual amount of the contract; (ii) is a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product is made or processed from raw materials into a finished end product by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code); or (iii) at the time of bidding, directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to bidder for those individuals to provide those services exceeds fifty percent of bidder’s total bid price.

(2) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product or work, as applicable. A preference must not be applied to an item for which a bidder does not qualify.

(3) If a bidder is requesting this preference, the bidder, upon request by the procurement officer, must provide documentation that establishes the bidder’s qualifications for the preference and, for the preference claimed pursuant to subsection (C)(1)(iii), must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, and documentation of the bidder’s labor cost for each person identified. Bidder’s failure to provide this information promptly is grounds to deny the preference and for enforcement under subsection (E)(6) below.

(D)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder’s price by two percent if:

(a) the bidder has a documented commitment from a single proposed first‑tier subcontractor to perform some portion of the services expressly required by the solicitation; and

(b) at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to subcontractor for those individuals to provide those services exceeds twenty percent of bidder’s total bid price.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder’s price by four percent if:

(a) the bidder has a documented commitment from a single proposed first‑tier subcontractor to perform some portion of the services expressly required by the solicitation; and

(b) at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to subcontractor for those individuals to provide those services exceeds forty percent of bidder’s total bid price.

(3) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of work. A preference must not be applied to an item for which a bidder does not qualify.

(4) Subject to other limits in this section, an offeror may benefit from applying for more than one of, or from multiple applications of, the preferences allowed by items (1) and (2).

(5)(a) In its bid, a bidder requesting any of the preferences allowed by items (1) and (2) must identify the subcontractor to perform the work, the work the subcontractor is to perform, and the bidder’s factual basis for concluding that the subcontractor’s work constitutes the required percentage of the work to be performed in the procurement.

(b) If a bidder is requesting a preference allowed by items (1) or (2), upon request by the procurement officer, the bidder shall identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, the employer of those persons, the bidder’s relationship with the employer, and documentation of the subcontractor’s labor cost for each person identified. Bidder’s failure to provide this information promptly will be grounds to deny the preference and for enforcement pursuant to subsection (E)(6) below.

(c) If a contract is awarded to a bidder that received the award as a result of a preference allowed by items (1) or (2), the contractor may not substitute any business for the subcontractor on which bidder relied to qualify for the preference, unless first approved in writing by the procurement officer. A substitution in violation of this subitem is grounds for debarment pursuant to Section 11‑35‑4220. If a contractor violates this provision, the procurement officer may terminate the contract for cause. If the contract is not terminated, the procurement officer may require the contractor to pay the State an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder, unless the substituted subcontractor qualifies for the preference.

(E)(1) A business is not entitled to any preferences unless the business, to the extent required by law, has:

(a) paid all taxes assessed by the State; and

(b) registered with the South Carolina Secretary of State and the South Carolina Department of Revenue.

(2) The preferences provided in subsections (B) and (C)(1)(i) and (ii) do not apply to a single unit of an item with a price in excess of fifty thousand dollars or a single award with a total potential value in excess of five hundred thousand dollars.

(3) The preferences provided in subsections (C)(1)(iii) and (D) do not apply to a bid for an item of work by the bidder if the annual price of the bidder’s work exceeds fifty thousand dollars or the total potential price of the bidder’s work exceeds five hundred thousand dollars.

(4) A solicitation must provide potential bidders an opportunity to request the preferences that apply to a procurement. By submitting a bid and requesting that a preference be applied to that bid, a business certifies that its bid qualifies for the preference for that procurement. For purposes of applying this section, a bidder is not qualified for a preference unless the bidder makes a request for the preference as required in the solicitation. If a solicitation specifies which preferences, if any, apply to a procurement, the applicability of preferences to that procurement is conclusively determined by the solicitation unless the solicitation document is timely protested as provided in Section 11‑35‑4210. If two or more bidders are tied after the application of the preferences allowed by this section, the tie must be resolved as provided in Section 11‑35‑1520(9). Price adjustments required by this section for purposes of evaluation and application of the preferences do not change the actual price offered by the bidder.

(5) This section does not apply to an acquisition of motor vehicles as defined in Section 56‑15‑10 or an acquisition of supplies or services relating to construction. This section does not apply to a procurement conducted pursuant to Section 11‑35‑1550(2)(a) or (b), Section 11‑35‑1530, or Article 9 of Chapter 35.

(6) Pursuant to Section 11‑35‑4220, a business may be debarred if (i) the business certified that it qualified for a preference, (ii) the business is not qualified for the preference claimed, and (iii) the certification was made in bad faith or under false pretenses. If a contractor has invalidly certified that a preference is applicable, the chief procurement officer may terminate the contract for cause, and the chief procurement officer may require the contractor to pay the State an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder.

(7) The sum of all preferences allowed by items (D)(1) and (D)(2), when applied to the price of a line item of work, may not exceed six percent unless the bidder maintains an office in this State. Under no circumstances may the cumulative preferences applied to the price of a line item exceed ten percent.

(8) As used in items (C)(1)(iii), (D)(1)(b), and (D)(2)(b), the term ‘documented commitment’ means a written commitment by the bidder to employ directly an individual, and by the individual to be employed by the bidder, both contingent on the bidder receiving the award.

(9) The remedies available in this section are cumulative of and in addition to all other remedies available at law and equity.”

SECTION 3. Section 11‑35‑40(3) of the 1976 Code, as last amended by Act 153 of 1997, is further amended to read:

“(3) Compliance with Federal Requirements. Where a procurement involves the expenditure of federal assistance, grant, or contract funds, the governmental body ~~shall~~ also shall comply with ~~such~~ federal ~~law and~~ laws (including authorized regulations) as are mandatorily applicable and which are not presently reflected in ~~the~~ this code. Notwithstanding, where federal assistance, grant, or contract funds are used in a procurement by a governmental body as defined in Section 11‑35‑310(18), this code, including any requirements that are more restrictive than federal requirements ~~shall~~, must be followed, except to the extent such action would render the governmental body ineligible to receive federal funds whose receipt is conditioned on compliance with mandatorily applicable federal law. In those circumstances, the solicitation must identify and explain the impact of such federal laws on the procurement process, including any required deviation from this code.”

SECTION 4. Section 11‑35‑3215 of the 1976 Code, as added by Act 375 of 2006, is amended to read:

“Section 11‑35‑3215. (A) As used in this section:

(1) ‘Design services’ means architect‑engineer, construction management, or land surveying services as defined in Section 11‑35‑2910 and awarded pursuant to Section 11‑35‑3220.

(2) ‘Resident’ means a business that ~~(i)~~ employs, either directly or through consultants, an adequate number of persons domiciled in South Carolina ~~or (ii) performs in South Carolina~~ to perform a majority of the design services involved in the procurement.

(B) A business responding to an invitation involving design services shall submit a certification with its response stating whether the business is a resident for purposes of the procurement. Submission of a certification under false pretenses is grounds for suspension or debarment.

(C) An award to a ~~resident or~~ nonresident of a contract involving design services must be supported by a written determination explaining why the award was made to the selected firm.

(D) ~~When qualifications appear to be equal, the resident firm must be selected~~ In an evaluation conducted pursuant to Section 11‑35‑3220, a resident firm must be ranked higher than a nonresident firm if the agency selection committee finds the two firms otherwise equally qualified.

(E) This section does not apply to a procurement if either the procurement does not involve construction or the design services are a minor accompaniment to a contract for nondesign services.”

SECTION 5. Section 11‑35‑3025 of the 1976 Code is repealed.

SECTION 6. This act takes effect upon approval by the Governor and applies to solicitations issued after that date; except that Sections 1, 2, and 4 of this act take effect upon and apply to solicitations issued after the first Monday in September following approval by the Governor. /

Amend title to conform.

/s/Sen. William H. O’Dell /s/Rep. McLain R. Toole

/s/Sen. J. Yancy McGill /s/Rep. W. Brian White

/s/Sen. Phillip W. Shoopman /s/Rep. Denny W. Neilson

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

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

Very respectfully,

Speaker of the House

Received as information.

**S. 116--ENROLLED FOR RATIFICATION BY THE SENATE**

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11‑35‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR “OFFICE”; TO AMEND SECTION 11‑35‑1524, AS AMENDED, RELATING TO VENDOR PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11‑35‑40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11‑35‑3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11‑35‑3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

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.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 90 to 28:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 11 Part IB; Section 40.37; Page 379; Department of Commerce; Aeronautics Assets and Funds.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 11 Part IB; Section 40.37; Page 379; Department of Commerce; Aeronautics Assets and Funds.**

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

Senator LEVENTIS spoke on the veto.

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

**PRESIDENT PRESIDES**

At 4:15 P.M., the PRESIDENT assumed the Chair.

Senator CAMPSEN argued in favor of sustaining the Governor’s veto.

Senator LEATHERMAN spoke on the veto.

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

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

**Ayes 27; Nays 19**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie *Martin, L.* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Scott Verdin Williams

**Total--27**

**NAYS**

Bright Bryant Campsen

Cleary Davis Fair

Grooms Malloy *Martin, S.*

Massey Mulvaney Rankin

Reese Rose Ryberg

Setzler Sheheen Shoopman

Thomas

**Total--19**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 11 was subsequently reconsidered and veto 11 was overridden.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 88 to 28:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 12 Part IB; Section 80A.63; Page 436; Budget and Control Board; Carry Forward Sale of Aircraft Proceeds.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 12 Part IB; Section 80A.63; Page 436; Budget and Control Board; Carry Forward Sale of Aircraft Proceeds.**

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

Senator LEVENTIS spoke on the veto.

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

Senator CAMPSEN argued in favor of sustaining the Governor’s veto.

Senator LEATHERMAN spoke on the veto.

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

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

**Ayes 27; Nays 19**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie *Martin, L.* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Scott Verdin Williams

**Total--27**

**NAYS**

Bright Bryant Campsen

Cleary Davis Fair

Grooms Malloy *Martin, S.*

Massey Mulvaney Rankin

Reese Rose Ryberg

Setzler Sheheen Shoopman

Thomas

**Total--19**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 12 was subsequently reconsidered and veto 12 was overridden.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 88 to 31:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 13 Part IB; Section 80A.64; Page 436-437; Budget and Control Board; Aviation Grants.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 13 Part IB; Section 80A.64; Page 436-437; Budget and Control Board; Aviation Grants.**

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

Senator LEVENTIS spoke on the veto.

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

Senator CAMPSEN argued in favor of sustaining the Governor’s veto.

Senator LEATHERMAN spoke on the veto.

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

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

**Ayes 27; Nays 19**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie *Martin, L.* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Scott Verdin Williams

**Total--27**

**NAYS**

Bright Bryant Campsen

Cleary Davis Fair

Grooms Malloy *Martin, S.*

Massey Mulvaney Rankin

Reese Rose Ryberg

Setzler Sheheen Shoopman

Thomas

**Total--19**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 13 was subsequently reconsidered and veto 13 was overridden.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 84 to 36:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 14 Part IB; Section 89.127; Page 473; General Provisions; Transfer Division of Aeronautics.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 14 Part IB; Section 89.127; Page 473; General Provisions; Transfer Division of Aeronautics.**

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

Senator LEVENTIS spoke on the veto.

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

Senator CAMPSEN argued in favor of sustaining the Governor’s veto.

Senator LEATHERMAN spoke on the veto.

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

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

**Ayes 27; Nays 19**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie *Martin, L.* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Scott Verdin Williams

**Total--27**

**NAYS**

Bright Bryant Campsen

Cleary Davis Fair

Grooms Malloy *Martin, S.*

Massey Mulvaney Rankin

Reese Rose Ryberg

Setzler Sheheen Shoopman

Thomas

**Total--19**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 14 was subsequently reconsidered and veto 14 was overridden.

**OBJECTION**

H. 3342 -- Reps. Delleney, Simrill, Nanney, Allison, Clemmons, Erickson, Hamilton, Lucas, Owens, Parker, Pinson, Scott, G.R. Smith, J.R. Smith, Loftis, Duncan, Hiott, Bedingfield, Rice and Vick: A BILL TO AMEND SECTION 2‑7‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS “PERSON” AND “PARTY” AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF “PERSON”, “HUMAN BEING”, “CHILD”, AND “INDIVIDUAL”, SO THAT THEY INCLUDE EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE “BORN ALIVE”.

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

Senator HUTTO objected.

**CONCURRENCE**

S. 673 -- Senators Thomas and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA MORTGAGE LENDING ACT”, BY ADDING CHAPTER 22 TO TITLE 37 SO AS TO REQUIRE THE LICENSING OF A MORTGAGE LENDER, LOAN ORIGINATOR, OR SOMEONE ACTING AS A MORTGAGE LENDER; PROVIDE DEFINITIONS; ESTABLISH QUALIFICATIONS FOR LICENSURE AND GROUNDS FOR REVOCATION, SUSPENSION, RENEWAL, AND TERMINATION; DESCRIBE PROHIBITED ACTIVITIES; PROVIDE FOR RECORD‑KEEPING, TRUST AND ESCROW ACCOUNTS, AND ANNUAL REPORTS; PROVIDE FOR ENFORCEMENT THROUGH ADMINISTRATIVE ACTION BY THE COMMISSIONER OF THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS AND THROUGH CRIMINAL PENALTIES, AND TO PROVIDE FOR PARTICIPATION IN A NATIONAL MORTGAGE REGISTRY; TO AMEND SECTION 34‑1‑20, AS AMENDED, RELATING TO APPOINTMENT OF MEMBERS OF THE STATE BOARD OF FINANCIAL INSTITUTIONS, SO AS TO PROVIDE FOR A REPRESENTATIVE OF THE MORTGAGE BANKERS ASSOCIATION; TO AMEND SECTION 34‑1‑110, AS AMENDED, RELATING TO AUTHORITY OF CERTAIN FINANCIAL INSTITUTIONS TO ENGAGE IN BUSINESS, SO AS TO PROVIDE FOR MORTGAGE LENDERS AND LOAN ORIGINATORS; TO AMEND SECTIONS 37‑1‑301, 37‑3‑105, 37‑3‑501, AND 37‑23‑20, ALL RELATING TO DEFINITIONS IN CONNECTION WITH MORTGAGE LENDING AND BROKERING AND HIGH‑COST AND CONSUMER HOME LOANS, SO AS TO CONFORM DEFINITIONS, AND TO ADD A DEFINITION FOR “ADJUSTABLE RATE MORTGAGE”; TO AMEND SECTIONS 37‑23‑40, 37‑23‑45, AND 37‑23‑75, ALL RELATING TO PROTECTIONS FOR THE BORROWER IN A HIGH‑COST OR CONSUMER HOME LOAN TRANSACTION, SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH AN ADJUSTABLE RATE MORTGAGE; TO AMEND SECTION 29‑4‑20, RELATING TO THE DEFINITION OF “REVERSE MORTGAGE”, SO AS TO CONFORM THE DEFINITION; AND TO AMEND CHAPTER 58, TITLE 40, RELATING TO THE REGISTRATION OF MORTGAGE LOAN BROKERS, SO AS TO CHANGE THE REGISTRATION REQUIREMENTS TO LICENSING REQUIREMENTS, TO CONFORM DEFINITIONS TO THOSE SET FORTH IN THE SOUTH CAROLINA MORTGAGE LENDING ACT, REQUIRE CERTAIN PROFESSIONAL COURSES, AN ADDITIONAL YEAR OF EXPERIENCE, AND A FINGERPRINT CHECK FOR MORTGAGE BROKERS AND LOAN ORIGINATORS, REQUIRE CERTAIN RECORDS BE KEPT AND MADE ACCESSIBLE, ADD CERTAIN PROHIBITIONS IN CONNECTION WITH A REAL ESTATE APPRAISAL, REQUIRE AND PRESCRIBE MORTGAGE BROKER AGREEMENTS, AUTHORIZE ENFORCEMENT BY THE DEPARTMENT OF CONSUMER AFFAIRS AND PRESCRIBE ADMINISTRATIVE PENALTIES INCLUDING FINES AND INJUNCTIONS AND A CRIMINAL PENALTY, REQUIRE CERTAIN REPORTS AND FILINGS, AND PROVIDE FOR PARTICIPATION IN A NATIONWIDE MORTGAGE REGISTRY.

The House returned the Bill with amendments.

Senator THOMAS 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 concurrence in the House amendments.

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 88 to 28:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 16 Part IB; Section 49.1; Page 390; Department of Public Safety; Special Events Traffic Control.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 16 Part IB; Section 49.1; Page 390; Department of Public Safety; Special Events Traffic Control.**

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

Senator FAIR spoke on the veto.

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

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

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

**Ayes 31; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McConnell McGill

Nicholson O’Dell Pinckney

Rankin Reese Scott

Setzler Sheheen Verdin

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Davis Grooms Knotts

*Martin, S.* Massey Mulvaney

Peeler Rose Ryberg

Shoopman Thomas

**Total--14**

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

**NONCONCURRENCE**

H. 3342 -- Reps. Delleney, Simrill, Nanney, Allison, Clemmons, Erickson, Hamilton, Lucas, Owens, Parker, Pinson, Scott, G.R. Smith, J.R. Smith, Loftis, Duncan, Hiott, Bedingfield, Rice and Vick: A BILL TO AMEND SECTION 2‑7‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS “PERSON” AND “PARTY” AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF “PERSON”, “HUMAN BEING”, “CHILD”, AND “INDIVIDUAL”, SO THAT THEY INCLUDE EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE “BORN ALIVE”.

The House returned the Bill with amendments.

On motion of Senator HUTTO, the Senate nonconcurred in the House amendments and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it insists upon the amendments proposed by the House to:

H. 3342 -- Reps. Delleney, Simrill, Nanney, Allison, Clemmons, Erickson, Hamilton, Lucas, Owens, Parker, Pinson, Scott, G.R. Smith, J.R. Smith, Loftis, Duncan, Hiott, Bedingfield, Rice and Vick: A BILL TO AMEND SECTION 2‑7‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS “PERSON” AND “PARTY” AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF “PERSON”, “HUMAN BEING”, “CHILD”, AND “INDIVIDUAL”, SO THAT THEY INCLUDE EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE “BORN ALIVE”.

asks for a Committee of Conference, and has appointed Reps. Delleney, Bedingfield and Vick to the committee on the part of the House.

Very respectfully,

Speaker of the House

Received as information.

**H. 3342--CONFERENCE COMMITTEE APPOINTED**

H. 3342 -- Reps. Delleney, Simrill, Nanney, Allison, Clemmons, Erickson, Hamilton, Lucas, Owens, Parker, Pinson, Scott, G.R. Smith, J.R. Smith, Loftis, Duncan, Hiott, Bedingfield, Rice and Vick: A BILL TO AMEND SECTION 2‑7‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS “PERSON” AND “PARTY” AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF “PERSON”, “HUMAN BEING”, “CHILD”, AND “INDIVIDUAL”, SO THAT THEY INCLUDE EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE “BORN ALIVE”.

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

**Motion to Reconsider Adopted on Vetoes 11, 12, 13 and 14**

Having voted on the prevailing side, Senator RANKIN moved to reconsider the vote whereby vetoes 11, 12, 13 and 14 were sustained.

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

**Ayes 28; Nays 14**

**AYES**

Alexander Campbell Cleary

Coleman Courson Cromer

Elliott Fair Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McConnell McGill

Nicholson O’Dell Peeler

Rankin Reese Verdin

Williams

**Total--28**

**NAYS**

Bright Bryant Campsen

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Setzler Sheheen

Shoopman Thomas

**Total--14**

The motion to reconsider the vote whereby vetoes 11, 12, 13 and 14 were sustained was adopted.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 11 Part IB; Section 40.37; Page 379; Department of Commerce; Aeronautics Assets and Funds.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Setzler Sheheen

Shoopman Thomas

**Total--14**

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

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 12 Part IB; Section 80A.63; Page 436; Budget and Control Board; Carry Forward Sale of Aircraft Proceeds.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Setzler Sheheen

Shoopman Thomas

**Total--14**

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

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 13 Part IB; Section 80A.64; Page 436-437; Budget and Control Board; Aviation Grants.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Setzler Sheheen

Shoopman Thomas

**Total--14**

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

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 14 Part IB; Section 89.127; Page 473; General Provisions; Transfer Division of Aeronautics.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Setzler Sheheen

Shoopman Thomas

**Total--14**

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

At 5:00 P.M., Senator L. MARTIN announced to the Senate that pursuant to the provisions of H. 4000, the *Sine Die* Resolution, the only order of business before the Senate would be the vetoes on R. 49, H. 3560, the General Appropriations Act.

**Motion to Reconsider Vetoes 7 and 8 Adopted**

Having voted on the prevailing side, Senator L. MARTIN moved to reconsider the vote whereby vetoes 7 and 8 were sustained.

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

**Ayes 26; Nays 13**

**AYES**

Alexander Anderson Campbell

Cleary Cromer Elliott

Ford Hutto Jackson

Land Leventis Lourie

Malloy *Martin, L.* Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Sheheen Williams

**Total--26**

**NAYS**

Bright Bryant Campsen

Courson Davis Fair

Hayes *Martin, S.* Massey

Mulvaney Rose Ryberg

Shoopman

**Total--13**

The motion to reconsider the vote whereby vetoes 7 and 8 were sustained was adopted.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 7 Part IB; Section 37.1; Page 371; Department of Natural Resources; County Funds.**

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

**Point of Order**

Senator GROOMS raised a Point of Order that, under Section A of

H. 4000, the *Sine Die* Resolution, the Senate should stand adjourned at 5:00 P.M. on May 21, 2009, and inasmuch as it was 5:20 P.M., the work of the Senate was in question.

Senator L. MARTIN spoke on the Point of Order.

Senator McCONNELL spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 31; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Scott

Setzler Sheheen Thomas

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Courson Davis Fair

Grooms *Martin, S.* Massey

Mulvaney Rose Ryberg

Shoopman Verdin

**Total--14**

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

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 8 Part IB; Section 37.2; Page 371; Department of Natural Resources; County Game Funds/Equipment Purchase.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 31; Nays 14**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Cromer

Elliott Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Scott

Setzler Sheheen Thomas

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Courson Davis Fair

Grooms *Martin, S.* Massey

Mulvaney Rose Ryberg

Shoopman Verdin

**Total--14**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 83 to 35:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 17 Part IB; Section 49.15; Page 391; Department of Public Safety; Hunley Security.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 17 Part IB; Section 49.15; Page 391; Department of Public Safety; Hunley Security.**

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

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

Senator FAIR spoke on the veto.

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

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

**Ayes 39; Nays 4**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Rose

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--39**

**NAYS**

Bright Bryant Campsen

Ryberg

**Total--4**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 85 to 30:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 24 Part IB; Section 68A.13; Page 409-410; Department of Transportation; Shop Road Farmers Market Bypass Carry Forward.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 24 Part IB; Section 68A.13; Page 409-410; Department of Transportation; Shop Road Farmers Market Bypass Carry Forward.**

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

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

Senator FAIR spoke on the veto.

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

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

**Ayes 32; Nays 13**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Massey Matthews

McGill Mulvaney Nicholson

O’Dell Pinckney Rankin

Reese Scott Setzler

Sheheen Williams

**Total--32**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

*Martin, S.* Peeler Rose

Ryberg Shoopman Thomas

Verdin

**Total--13**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 85 to 29:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 27 Part IB; Section 49A.5(B); Page 392; Capitol Police Force; Dispositions if agency not established - Amending Part IB; Section 89.89; General Provisions; Lt. Governor Security Detail.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 27 Part IB; Section 49A.5(B); Page 392; Capitol Police Force; Dispositions if agency not established - Amending Part IB; Section 89.89; General Provisions; Lt. Governor Security Detail.**

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

Senator FAIR spoke on the veto.

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

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

**Ayes 38; Nays 8**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Davis Elliott Fair

Ford Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--38**

**NAYS**

Bright Bryant Campsen

Cleary Grooms Hayes

Mulvaney Ryberg

**Total--8**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.49, H. 3560 by a vote of 72 to 47:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 32 Part IB; Section 80A.7; Page 427-428; Budget and Control Board; Compensation – Agency Head Salary.**

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has reconsidered the vote whereby the House had sustained the veto by the Governor on R.49, H. 3560 and has overridden the veto by a vote of 86 to 33:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 32 Part IB; Section 80A.7; Page 427-428; Budget and Control Board; Compensation – Agency Head Salary.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 32 Part IB; Section 80A.7; Page 427-428; Budget and Control Board; Compensation – Agency Head Salary.**

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

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

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

**Ayes 24; Nays 20**

**AYES**

Anderson Coleman Elliott

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

*Martin, L.* McConnell McGill

Nicholson O’Dell Pinckney

Rankin Reese Scott

Setzler Sheheen Williams

**Total--24**

**NAYS**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Fair Grooms *Martin, S.*

Massey Mulvaney Peeler

Rose Ryberg Shoopman

Thomas Verdin

**Total--20**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 83 to 34:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 33 Part IB; Section 80A.25; Page 430; Budget and Control Board; Lawsuit Funding.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 33 Part IB; Section 80A.25; Page 430; Budget and Control Board; Lawsuit Funding.**

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

Senator LEATHERMAN spoke on the veto.

Senator McCONNELL spoke on the veto.

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

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

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

**Ayes 43; Nays 3**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Fair Ford

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, L. Martin, S.*

Massey Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

**NAYS**

Bright Bryant Mulvaney

**Total--3**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 87 to 32:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 38 Part IB; Section 86.6; Page 442; Aid to Subdivisions, State Treasurer; Legislative Delegations.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 38 Part IB; Section 86.6; Page 442; Aid to Subdivisions, State Treasurer; Legislative Delegations.**

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

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

Senator L. MARTIN spoke on the veto.

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

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

**Ayes 31; Nays 14**

**AYES**

Alexander Anderson Campbell

Coleman Cromer Elliott

Fair Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Thomas

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Cleary Courson Davis

Grooms *Martin, S.* Massey

Mulvaney Rose Ryberg

Shoopman Verdin

**Total--14**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 112 to 0:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 39 Part IB; Section 89.96; Page 468-469; General Provisions; Flexibility.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 39 Part IB; Section 89.96; Page 468-469; General Provisions; Flexibility.**

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

Senator GROOMS spoke on the veto.

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

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

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

**Ayes 46; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* *Martin, S.* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--46**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 97 to 17:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 40 Part IB; Section 89.118; Part 471-472; General Provisions; ARRA Oversight.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 40 Part IB; Section 89.118; Part 471-472; General Provisions; ARRA Oversight.**

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

Senator CAMPSEN spoke on the veto.

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

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

**Ayes 29; Nays 15**

**AYES**

Alexander Anderson Campbell

Coleman Cromer Elliott

Ford Hayes Hutto

Jackson Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Thomas Williams

**Total--29**

**NAYS**

Bright Bryant Campsen

Cleary Courson Davis

Fair Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Shoopman Verdin

**Total--15**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 40 was subsequently reconsidered and veto 40 was overridden.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 84 to 34:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 41 Part IB; Section 89.136; Page 474; General Provisions; Economic Activity Web-Based Applications.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 41 Part IB; Section 89.136; Page 474; General Provisions; Economic Activity Web-Based Applications.**

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

Senator ROSE spoke on the veto.

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

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

**Ayes 0; Nays 46**

**AYES**

**Total--0**

**NAYS**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--46**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 97 to 18:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 43 Part IB; Section 90.15; Page 479; Statewide Revenue; State Budget Stabilization Fund.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 43 Part IB; Section 90.15; Page 479; Statewide Revenue; State Budget Stabilization Fund.**

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 34; Nays 11**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Thomas

Williams

**Total--34**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Mulvaney Rose Ryberg

Shoopman Verdin

**Total--11**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 98 to 18:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 44 Part IB; Section 90.16; Page 480; Statewide Revenue; ARRA Fund Authorization.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 44 Part IB; Section 90.16; Page 480; Statewide Revenue; ARRA Fund Authorization.**

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

Senator GROOMS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 34; Nays 11**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Thomas

Williams

**Total--34**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Mulvaney Rose Ryberg

Shoopman Verdin

**Total--11**

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

**Motion to Reconsider Adopted on Veto 40**

Having voted on the prevailing side, Senator FAIR moved to reconsider the vote whereby Veto 40 was sustained.

By a division vote of 32-9, the motion to reconsider was adopted.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 40 Part IB; Section 89.118; Part 471-472; General Provisions; ARRA Oversight.**

Senator LEATHERMAN explained the veto.

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

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

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

**Ayes 32; Nays 13**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Thomas Williams

**Total--32**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

*Martin, S.* Massey Mulvaney

Rose Ryberg Shoopman

Verdin

**Total--13**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 100 to 16:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 45 Part IB; Section 90.19; Page 480-481; Statewide Revenue; Nonrecurring Revenue.**

Very respectfully,

Speaker of the House

Received as information.

**VETO SUSTAINED**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 45 Part IB; Section 90.19; Page 480-481; Statewide Revenue; Nonrecurring Revenue.**

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

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

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

**Ayes 28; Nays 17**

**AYES**

Alexander Anderson Campbell

Cromer Elliott Fair

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, L.* Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Williams

**Total--28**

**NAYS**

Bright Bryant Campsen

Cleary Coleman Courson

Davis Grooms *Martin, S.*

Massey McConnell Mulvaney

Rose Ryberg Shoopman

Thomas Verdin

**Total--17**

Having failed to receive the necessary two-thirds vote, the veto of the Governor was sustained, and a message was sent to the House accordingly.

The vote on veto 45 was subsequently reconsidered and veto 45 was overridden.

Senator L. MARTIN asked unanimous consent to make a motion to take up veto 28 for immediate consideration.

There was no objection.

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 99 to 20:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 28 Part IB; Section 65.3; Page 405; Department of Labor, Licensing and Regulation; POLA – 110%, Other Funds.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 28 Part IB; Section 65.3; Page 405; Department of Labor, Licensing and Regulation; POLA – 110%, Other Funds.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

Senator L. MARTIN spoke on the veto.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Campsen Coleman Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Williams

**Total--30**

**NAYS**

Bright Bryant Cleary

Courson Davis Grooms

*Martin, S.* Massey Mulvaney

Rose Ryberg Shoopman

Thomas Verdin

**Total--14**

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

**Motion to Reconsider Adopted on Veto 45**

Having voted on the prevailing side, Senator COLEMAN moved to reconsider the vote whereby veto 45 was sustained.

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

**Ayes 30; Nays 13**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

*Martin, S.* Massey Mulvaney

Rose Ryberg Shoopman

Verdin

**Total--13**

The motion to reconsider the vote whereby veto 45 was sustained was adopted.

**ACTING PRESIDENT PRESIDES**

At 7:11 P.M., Senator L. MARTIN assumed the Chair.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 45 Part IB; Section 90.19; Page 480-481; Statewide Revenue; Nonrecurring Revenue.**

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

Senator MASSEY argued in favor of sustaining the Governor’s veto.

Senator S. MARTIN moved to carry over the veto.

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

**Ayes 7; Nays 35**

**AYES**

Bright Bryant Davis

Grooms *Martin, S.* Mulvaney

Verdin

**Total--7**

**NAYS**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Elliott

Fair Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

Massey Matthews McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Williams

**Total--35**

The Senate refused to carry over the veto.

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

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

**Ayes 31; Nays 12**

**AYES**

Alexander Anderson Campbell

Campsen Coleman Courson

Cromer Elliott Fair

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, L.* Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Williams

**Total--31**

**NAYS**

Bright Bryant Cleary

Davis Grooms *Martin, S.*

Massey Mulvaney Rose

Ryberg Shoopman Verdin

**Total--12**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 79 to 37:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 29 Part IB; Section 65.14; Page 406; Department of Labor, Licensing and Regulation; Transfer to General Fund.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 29 Part IB; Section 65.14; Page 406; Department of Labor, Licensing and Regulation; Transfer to General Fund.**

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

Senator DAVIS argued in favor of sustaining the Governor’s veto.

**PRESIDENT PRESIDES**

At 7:42 P.M., the PRESIDENT assumed the Chair.

A roll call vote was ordered.

Senator L. MARTIN, with unanimous consent, was granted leave to address brief remarks to the Senate.

Senator LEATHERMAN, with unanimous consent, was granted leave to address brief remarks to the Senate.

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

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

**Ayes 30; Nays 14**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L.* Matthews McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Williams

**Total--30**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

*Martin, S.* Massey Mulvaney

Rose Ryberg Shoopman

Thomas Verdin

**Total--14**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 109 to 10:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 46 Part IB; Section 90.13; Page 477; Statewide Revenue; Health and Human Services FMAP Funding; Item X; MUSC Transplant Services; $100,000.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 46 Part IB; Section 90.13; Page 477; Statewide Revenue; Health and Human Services FMAP Funding; Item X; MUSC Transplant Services; $100,000.**

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

Senator CLEARY explained the veto.

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

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

**Ayes 37; Nays 8**

**AYES**

Alexander Anderson Campbell

Campsen Coleman Courson

Cromer Elliott Fair

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, L. Martin, S.*

Massey Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Shoopman Thomas Verdin

Williams

**Total--37**

**NAYS**

Bright Bryant Cleary

Davis Grooms Mulvaney

Rose Ryberg

**Total--8**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 109 to 9:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 47 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item BB; MUSC Rural Dentist Program; $250,000.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 47 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item BB; MUSC Rural Dentist Program; $250,000.**

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

Senator CLEARY explained the veto.

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

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

**Ayes 39; Nays 6**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Elliott

Fair Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, L.*

*Martin, S.* Massey Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Rose

Scott Setzler Shoopman

Thomas Verdin Williams

**Total--39**

**NAYS**

Bright Bryant Davis

Grooms Mulvaney Ryberg

**Total--6**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 96 to 20:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 48 Part IB; Proviso 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item R; Rural Hospital Equipment and Facilities; $2,000,000.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 48 Part IB; Proviso 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item R; Rural Hospital Equipment and Facilities; $2,000,000.**

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

Senator CLEARY explained the veto.

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

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

**Ayes 36; Nays 9**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Shoopman

Thomas Verdin Williams

**Total--36**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Mulvaney Rose Ryberg

**Total--9**

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

**Message from the House**

Columbia, S.C., May 20, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.49, H. 3560 by a vote of 99 to 16:

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 49 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item S; USC Rural Health Clinics; $3,000,000.**

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

**R. 49, H. 3560--GENERAL APPROPRIATIONS ACT**

**Veto 49 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item S; USC Rural Health Clinics; $3,000,000.**

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

Senator CLEARY explained the veto.

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

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

**Ayes 37; Nays 8**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, L. Martin, S.* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Scott Setzler

Shoopman Thomas Verdin

Williams

**Total--37**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Rose Ryberg

**Total--8**

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

Senator McCONNELL addressed the Senate.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3131 -- Reps. Toole, M.A. Pitts and Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑711 SO AS TO DESIGNATE THE “SUMMER DUCK” AS THE OFFICIAL STATE DUCK.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3483 -- Reps. White, M.A. Pitts, Toole, Willis, Barfield, Clemmons, Hardwick and Hearn: A JOINT RESOLUTION TO PROPOSE AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE DECLARATION OF RIGHTS UNDER THE STATE’S CONSTITUTION, BY ADDING SECTION 25 SO AS TO PROVIDE THAT HUNTING AND FISHING ARE VALUABLE PARTS OF THE STATE’S HERITAGE, IMPORTANT FOR CONSERVATION, AND A PROTECTED MEANS OF MANAGING NONTHREATENED WILDLIFE; TO PROVIDE THAT THE CITIZENS OF SOUTH CAROLINA SHALL HAVE THE RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE TRADITIONALLY PURSUED, SUBJECT TO LAWS AND REGULATIONS PROMOTING SOUND WILDLIFE CONSERVATION AND MANAGEMENT AS PRESCRIBED BY THE GENERAL ASSEMBLY; AND TO SPECIFY THAT THIS SECTION MUST NOT BE CONSTRUED TO ABROGATE ANY PRIVATE PROPERTY RIGHTS, EXISTING STATE LAWS OR REGULATIONS, OR THE STATE’S SOVEREIGNTY OVER ITS NATURAL RESOURCES.

and has ordered the Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3148 -- Reps. Clyburn, G.M. Smith, H.B. Brown, Branham, Ott, Agnew, R.L. Brown, Hayes, Battle, Miller, Weeks, J.R. Smith, D.C. Smith, Parks, Rice, Littlejohn, Hosey, Jefferson, Cobb‑Hunter, Howard, Cooper, Gunn, McLeod, T.R. Young, Kennedy, Vick, Edge, J.E. Smith, Harrell, A.D. Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen, Hodges, Knight and Funderburk: A BILL TO ENACT THE “FEDERAL EDUCATIONAL INFRASTRUCTURE TAX‑CREDIT BOND IMPLEMENTATION ACT”, INCLUDING PROVISIONS; TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-15-110 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THE STATE OF SOUTH CAROLINA SHALL ALLOCATE QUALIFIED SCHOOL CONSTRUCTION BONDS AUTHORIZED BY THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AMONG THE SCHOOL DISTRICTS OF THIS STATE SEEKING CAPITAL FOR SCHOOL CONSTRUCTION PROJECTS, AND TO PROVIDE FOR OTHER RELATED MATTERS IN REGARD TO QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS AUTHORIZED BY THE FEDERAL ACT; TO AMEND SECTION 11‑15‑460, AS AMENDED, RELATING TO THE INTEREST RATE ON REFUNDING BOND OBLIGATIONS OF POLITICAL SUBDIVISIONS, SO AS TO EXEMPT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS FROM THIS PROVISION; AND TO AMEND SECTION 11‑27‑50, AS AMENDED, RELATING TO THE EFFECT OF THE PROVISIONS OF ARTICLE X OF THE CONSTITUTION OF THIS STATE ON BONDS OF SCHOOL DISTRICTS, SO AS TO PROVIDE THAT QUALIFIED SCHOOL CONSTRUCTION BONDS AND QUALIFIED ZONE ACADEMY BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE AS DETERMINED BY THE GOVERNING BODY OF THE ISSUER.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3301 -- Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J.R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Battle, Bowers, Brady, G.A. Brown, H.B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Jefferson, Horne, Kirsh, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E.H. Pitts, M.A. Pitts, Scott, Simrill, Skelton, D.C. Smith, G.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire and Wylie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34‑39‑175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL‑TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34‑39‑270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34‑39‑130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34‑39‑180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 21, 2009

Mr. President and Senators:

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

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑23‑205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Reappointment, Dorchester County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Tera S. Richardson, 214 Eagle Ridge Road, Summerville, SC 29485

**MOTION ADOPTED**

On motion of Senator MULVANEY, with unanimous consent, the Senate stood adjourned in honor of the Buford High School Girls Softball Team who won the 1A State Championship last night.

**ADJOURNMENT**

At 8:31 P.M., on motion of Senator McCONNELL, the Senate adjourned pursuant to the provisions of H. 4000, the *Sine Die* Resolution.

\* \* \*