**Wednesday, May 12, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

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

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

At the close of Deuteronomy we read:

“Then Moses climbed Mount Nebo from the plains of Moab to the top of Pisgah, across from Jericho.” (Deuteronomy 34:1a)

Please, join me as we bow in prayer:

Gracious God, we are reminded that Moses himself never found complete fulfillment, experiencing as he did only partial success, prevented as he was from achieving all that he desired. With that in mind, dear Lord, we cannot help but wonder what will be the final judgment of the work of the Senate of South Carolina this year: worthy and significant accomplishments, or merely half-baked and lukewarm results? Holy God, continue to bless each Senator and every staff member. Lead them to use wisely and well all of the days which remain in this Legislative Session. May they experience success of the sort that only You can ordain. And to You be the glory, O Lord. Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Mark C. Sanford:

**Statewide Appointments**

Initial Appointment, South Carolina State Board of Cosmetology, with the term to commence March 20, 2007, and to expire March 20, 2011

Cosmetologist:

Cynthia T. Rodgers, 2731 Avalon Lane, Lancaster, SC 29720 *VICE* Michelle Furtick

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, South Carolina State Board of Financial Institutions, with the term to commence June 30, 2008, and to expire June 30, 2012

Credit Union:

Scott Conley, 301 Clearview Drive, Columbia, SC 29212 *VICE* A. E. “Rick” Hammond

Referred to the Committee on Labor, Commerce and Industry.

**Local Appointments**

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Orville G. Chase, 3511 Morgan River Drive, Beaufort, SC 29907

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Terry A. Finger, 25 McIntosh Road, Hilton Head, SC 29926

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Mark F. Fitzgibbons, 2807 Broome Lane, Beaufort, SC 29902

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Nancy Doherty Sadler, 130 Old Plantation Drive, Beaufort, SC 29907

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Darlene R. Smith, 56 Blacksmith Circle, Beaufort, SC 29903

Reappointment, Edgefield County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Brenda B. Carpenter, 225 McDaniel Drive, Trenton, SC 29847

Reappointment, Saluda County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

David Bruce Horne, 378 Butler Road, Saluda, SC 29138

**REGULATIONS WITHDRAWN AND RESUBMITTED**

The following was received:

Document No. 4075

Agency: Board of Cosmetology

Chapter: 35

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-60

SUBJECT: Requirements of Licensure in the Field of Cosmetology

Received by Lieutenant Governor January 12, 2010

Referred to Labor, Commerce and Industry Committee

Legislative Review Expiration May 12, 2010

Withdrawn and Resubmitted May 12, 2010

**Doctor of the Day**

Senator LARRY MARTIN introduced Dr. Boyce Tollison of Easley, S.C., Doctor of the Day.

**Leave of Absence**

At 2:05 P.M., Senator COURSON requested a leave of absence beginning at 5:00 P.M. and lasting until 11:00 A.M. in the morning.

**Leave of Absence**

At 3:55 P.M., Senator SHEHEEN requested a leave of absence beginning at 4:00 P.M. and lasting until 11:00 A.M. in the morning.

**CO-SPONSORS ADDED**

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

S. 202 Sen. Ford

S. 1378 Sen. Ford

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1435 -- Senator McConnell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO ARTICLE III, SECTION 9 OF THE CONSTITUTION OF THIS STATE AND SECTION 2-1-180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, JUNE 3, 2010, NOT LATER THAN 5:00 P.M., OR ANYTIME EARLIER, EACH HOUSE SHALL STAND ADJOURNED TO MEET IN STATEWIDE SESSION AT NOON ON TUESDAY, JUNE 15, 2010, AND CONTINUE IN SESSION TO NOT LATER THAN 5:00 P.M. ON THURSDAY, JUNE 17, 2010, FOR THE CONSIDERATION OF CERTAIN MATTERS, TO PROVIDE THAT WHEN EACH HOUSE ADJOURNS NOT LATER THAN 5:00 P.M. ON THURSDAY, JUNE 17, 2010, EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES UPON CERTAIN OCCURRENCES AND FOR THE CONSIDERATION OF SPECIFIED MATTERS, AND TO PROVIDE THAT UNLESS ADJOURNED EARLIER THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN NOON ON TUESDAY, JANUARY 11, 2011.

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Senator McCONNELL spoke on the Resolution.

On motion of Senator McCONNELL, with unanimous consent, the Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 1436 -- Senators Cleary, Elliott, Rankin and McGill: A SENATE RESOLUTION TO RECOGNIZE DOUGLAS P. WENDEL, CHAIR OF BUSINESS EDUCATION EXPECTATIONS; H. NEYLE WILSON, PRESIDENT OF HORRY-GEORGETOWN TECHNICAL COLLEGE; AND DR. GERRITA POSTLEWAIT, FORMER SUPERINTENDENT OF HORRY COUNTY SCHOOLS, FOR THEIR VISIONARY LEADERSHIP IN THE CREATION OF THE EARLY COLLEGE HIGH SCHOOL OF HORRY COUNTY.

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The Senate Resolution was adopted.

S. 1437 -- Rules Committee: A SENATE RESOLUTION TO AMEND RULE 16 OF THE SENATE, RELATING TO VOTES BY AYES AND NOES AND THE REQUIREMENT THAT SENATORS PRESENT MUST VOTE, TO PROVIDE THAT ON VOTES TAKEN "VIVA VOCE", THE VOTE OF ALL SENATORS WHO HAVE ANSWERED THE DAILY QUORUM CALL OR HAVE RECORDED THEIR PRESENCE WITH THE DESK SUBSEQUENT TO THE QUORUM CALL AND HAVE NOT BEEN GRANTED LEAVE BY THE SENATE SHALL BE RECORDED IN THE JOURNAL AS VOTING ON THE PREVAILING SIDE WITH THE RIGHT OF ANY SENATOR TO INFORM THE CLERK OF THE SENATE WITHIN THIRTY MINUTES OF ADJOURNMENT THAT HE DESIRES HIS VOTE TO BE RECORDED ON THE SIDE THAT DID NOT PREVAIL AND TO ALLOW A SENATOR WHO IS ABSENT FROM A VOTE AND NOT RECORDED BY THIS RULE AT THAT TIME TO BE LISTED IN THE JOURNAL IN A CATEGORY AS NOT PRESENT AND SET FORTH HOW HE WOULD HAVE VOTED HAD HE BEEN PRESENT; AND TO AMEND RULE 32A OF THE SENATE, RELATING TO THE ORDER OF BUSINESS, TO PROVIDE FOR A DAILY QUORUM CALL AFTER THE INTRODUCTION AND REFERENCE OF NEW BILLS AND RESOLUTIONS.

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Senator McCONNELL spoke on the Resolution.

The Senate Resolution was introduced and ordered placed on the Calendar without reference.

S. 1438 -- Senator Setzler: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THOSE WHO SERVE IN THE NURSING PROFESSION IN SOUTH CAROLINA, AND TO COMMEND THEIR SACRIFICE AND SKILL DURING NATIONAL NURSES WEEK.

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The Senate Resolution was adopted.

S. 1439 -- Senator Cromer: A SENATE RESOLUTION TO CONGRATULATE MR. TONY L. CHAPMAN UPON THE OCCASION OF HIS RETIREMENT FROM THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 1440 -- Senator Courson: A SENATE RESOLUTION TO HONOR AND CELEBRATE THE VETERANS OF THE BATTLE OF THE BULGE AT THE 2010 NATIONAL CONVENTION IN COLUMBIA, SOUTH CAROLINA, ON SEPTEMBER 1-6, 2010.

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The Senate Resolution was adopted.

S. 1441 -- Senators Rose, Verdin, Peeler, S. Martin, Davis, Mulvaney, Thomas, Courson, Bright, Bryant, Ryberg and Massey: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 12 OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO OFFICERS, RULES, AND PUNISHMENT AND EXPULSION OF MEMBERS OF EACH HOUSE OF THE GENERAL ASSEMBLY, TO PROVIDE THAT THE GENERAL ASSEMBLY MAY ESTABLISH BY PERMANENT LAW MATTERS WHICH REQUIRE THE RECORDING OF THE YEAS AND NAYES IN THE JOURNALS OF EACH HOUSE IN ADDITION TO THOSE MATTERS FOR WHICH THE RECORDING OF THE YEAS AND NAYES IS REQUIRED BY THIS CONSTITUTION.

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

S. 1442 -- Senator Cleary: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE KNIGHTS OF COLUMBUS, ST. MICHAELS COUNCIL NUMBER 8980 OF SURFSIDE BEACH AS THEY CELEBRATE THEIR TWENTY‑FIFTH ANNIVERSARY, AND TO ACKNOWLEDGE AND WELCOME THE MOST REVEREND ROBERT E. GUGLIELMONE, BISHOP OF CHARLESTON, AS THE HONOREE OF THEIR TWENTY‑FIFTH ANNIVERSARY CELEBRATION SCHEDULED FOR JUNE 13, 2010.

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The Senate Resolution was adopted.

S. 1443 -- Senator Campsen: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE CARL BECKMANN OF CHARLESTON COUNTY FOR HIS DEDICATED SERVICE AS MAYOR OF FOLLY BEACH AND HIS COMMITMENT TO THE CITIZENS OF THAT CITY, TO CONGRATULATE HIM ON HIS RETIREMENT, AND TO WISH HIM WELL IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

H. 4945 -- Reps. M. A. Pitts, Duncan and Willis: A BILL TO AMEND ACT 779 OF 1988, AS AMENDED, RELATING TO LAURENS COUNTY SCHOOL DISTRICTS 55 AND 56, SO AS TO REVISE AND REDEFINE THE SINGLE-MEMBER DISTRICTS FROM WHICH TRUSTEES ARE ELECTED; AND TO REDESIGNATE MAP NUMBERS ON WHICH THESE DISTRICTS ARE DELINEATED.

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

H. 4960 -- Reps. Edge, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO HONOR AND COMMEND COMMANDER BOBBY VICK STRICKLAND, SR., OF HORRY COUNTY, UPON THE OCCASION OF HIS RETIREMENT AS A LAW ENFORCEMENT OFFICER FOR THE CITY OF NORTH MYRTLE BEACH, AND TO WISH HIM MUCH SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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

H. 4961 -- Reps. Agnew, Gambrell, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND DR. RANDALL T. RUBLE OF ABBEVILLE COUNTY UPON THE OCCASION OF HIS RETIREMENT AS PRESIDENT OF ERSKINE COLLEGE AND THEOLOGICAL SEMINARY, AND TO WISH HIM CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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

H. 4965 -- Reps. G. M. Smith, Weeks, Harvin, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO HONOR AND REMEMBER THE SUPREME SACRIFICE MADE BY OFFICER FRANK ADDISON FLOYD OF THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES WHILE HE WAS CARRYING OUT HIS DUTIES AS A STATE GAME WARDEN, AND TO EXPRESS TO HIS FAMILY THE DEEPEST APPRECIATION OF A GRATEFUL STATE FOR HIS LIFE, SACRIFICE, AND SERVICE.

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

**Message from the House**

Columbia, S.C., May 12, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sent the following veto to the Senate:

(R193, H3584) -- Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J.R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E.H. Pitts, Rice, Skelton, D.C. Smith, G.M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J.E. Smith and Bales: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE‑HALF CENTS, TO PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA HOLLINGS CANCER CENTER FOR TOBACCO‑RELATED CANCER RESEARCH, THE SMOKING PREVENTION AND CESSATION TRUST FUND, AND THE MEDICAID RESERVE FUND, TO PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND TO DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO INCLUDE THE DEFINITION OF “CIGARETTE”; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH THE SMOKING PREVENTION AND CESSATION TRUST FUND AND THE MEDICAID RESERVE FUND, BOTH SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; AND BY ADDING SECTION 11‑49‑55 SO AS TO PROVIDE THAT IF FUNDS FROM THE SMOKING PREVENTION AND CESSATION TRUST FUND ARE AVAILABLE, AND NOT OTHERWISE COMMITTED, THE DEPARTMENT OF AGRICULTURE SHALL RECEIVE ONE MILLION DOLLARS ANNUALLY FOR FIVE YEARS FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE‑GROWN CROPS.

Respectfully submitted,

Speaker of the House

Received as Information

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**Message from the House**

Columbia, S.C., May 12, 2010

Mr. President and Senators:

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

S. 1030 -- Senators Hayes, Mulvaney, Coleman, Verdin, S. Martin, Bryant, O’Dell, Davis, Campsen and Pinckney: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑714 SO AS TO DESIGNATE THE MARSH TACKY AS THE OFFICIAL STATE HERITAGE HORSE OF SOUTH CAROLINA.

Respectfully submitted,

Speaker of the House

Received as Information

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

**HOUSE CONCURRENCES**

S. 1343 -- Senators Malloy, Knotts, Campsen and McConnell: A CONCURRENT RESOLUTION TO PROVIDE THAT THE STATE OF SOUTH CAROLINA OPPOSES THE FEDERAL MANDATE THAT A STATE ENACT A LAW TO REQUIRE THE REVOCATION, SUSPENSION, ISSUANCE, OR REINSTATEMENT DELAY FOR ALL PERSONS WHO ARE CONVICTED OF CONTROLLED SUBSTANCE OFFENSES; AND TO PROVIDE THAT THE STATE OF SOUTH CAROLINA SHALL OPT OUT OF THE FEDERAL MANDATE WITHOUT THE LOSS OF FEDERAL TRANSPORTATION FUNDS.

Returned with concurrence.

Received as information.

S. 1386 -- Senators Campsen, Land, McGill, Davis and Cromer: A CONCURRENT RESOLUTION TO MEMORIALIZE CONGRESS TO TAKE ANY MEASURE WITHIN ITS POWER TO MITIGATE OR OVERTURN ANY EXECUTIVE ORDER ISSUED TO IMPLEMENT RECOMMENDATIONS BY THE INTERAGENCY OCEAN POLICY TASK FORCE IF THESE RECOMMENDATIONS FAIL TO ENSURE AND PROMOTE RECREATIONAL FISHING AND ACCESS TO PUBLIC WATERS, AND IF THESE RECOMMENDATIONS FAIL TO INCLUDE RESPONSIBLY REGULATED RECREATIONAL BOATING AND FISHING AS NATIONAL PRIORITIES FOR OUR OCEANS, COASTS, AND LAKES.

Returned with concurrence.

Received as information.

S. 1393 -- Senators Knotts, Cromer, Setzler and Courson: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE WALKWAY ADJACENT TO THE PORTION OF SOUTH CAROLINA HIGHWAY 6 IN LEXINGTON COUNTY THAT CROSSES THE LAKE MURRAY DAM THE “JOHNNY W. JEFFCOAT WALKWAY”, AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS WALKWAY THAT CONTAIN THE WORDS “JOHNNY W. JEFFCOAT WALKWAY”.

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

H. 4885 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS OF REAL PROPERTY OWNED AND LEASED BY THE DEPARTMENT, DESIGNATED AS REGULATION DOCUMENT NUMBER 4110, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Senator CROMER explained the Joint Resolution.

**H. 4885--Recorded Vote**

Senator BRIGHT desired to be recorded as voting against the third reading of the Joint Resolution.

**HOUSE BILL RETURNED**

The following House Bill was read the third time and ordered returned to the House with amendments:

H. 3719 -- Reps. Clemmons, Weeks, Willis and Dillard: A BILL TO AMEND SECTION 23‑3‑240, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUBMISSION OF A MISSING PERSON REPORT TO THE MISSING PERSON INFORMATION CENTER, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON, MAY SUBMIT A MISSING PERSON REPORT; TO AMEND SECTION 23‑3‑250, RELATING TO THE DISSEMINATION OF MISSING PERSON REPORT DATA, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY; TO AMEND SECTION 23‑3‑270, RELATING TO THE DUTY OF A PERSON WHO SUBMITS A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY OR THE MISSING PERSON INFORMATION CENTER TO NOTIFY BOTH ENTITIES OF THE LOCATION OF AN INDIVIDUAL CONTAINED IN THE REPORT WHOSE LOCATION HAS BEEN DETERMINED, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON MAY SUBMIT A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY OR TO THE MISSING PERSON INFORMATION CENTER; AND BY ADDING SECTION 23‑3‑330 SO AS TO ESTABLISH A STATEWIDE SYSTEM FOR THE RAPID DISSEMINATION OF INFORMATION REGARDING A MISSING PERSON WHO IS BELIEVED TO BE SUFFERING FROM DEMENTIA OR OTHER COGNITIVE IMPAIRMENT.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 3358 -- Reps. Harrison, Weeks, Horne, Hutto and Whipper: A BILL TO AMEND SECTION 43‑35‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE OMNIBUS ADULT PROTECTION ACT, SO AS TO REVISE THE DEFINITIONS OF “INVESTIGATIVE ENTITY” AND “NEGLECT”; TO AMEND SECTION 43‑35‑40, AS AMENDED, RELATING TO REQUIREMENTS OF AN INVESTIGATIVE ENTITY UPON RECEIVING A REPORT OF ADULT ABUSE, SO AS TO FURTHER SPECIFY AND CLARIFY PROCEDURES FOR REPORTING CASES IN WHICH THERE IS A REASONABLE SUSPICION OF CRIMINAL CONDUCT; AND TO AMEND SECTION 43‑35‑85, AS AMENDED, RELATING TO CRIMINAL PENALTIES FOR FAILING TO REPORT ADULT ABUSE WHEN REQUIRED TO REPORT, SO AS TO DELETE PROVISIONS AUTHORIZING DISCIPLINARY ACTION WHEN A PERSON WHO HAS REASON TO BELIEVE THAT ABUSE OCCURRED FAILS TO REPORT AND TO ESTABLISH CRIMINAL PENALTIES IF A CAREGIVER, DUE TO RECKLESS DISREGARD FOR THE HEALTH OR SAFETY OF A VULNERABLE ADULT, NEGLECTS OR CAUSES GREAT BODILY INJURY OR DEATH TO A VULNERABLE ADULT.

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 (NBD\  
11966AC10), which was adopted:

Amend the bill, as and if amended, Section 43-35-85, by deleting subsections (I) and (J) on page 5, lines 12-26 and on line 27 by deleting /(K)/ and inserting /(I)/.

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.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 3800 -- Reps. Toole, Erickson, Brady, Bowen, Brantley, Parker, Allison, Cato, Crawford, Dillard, Duncan, Gullick, Gunn, Horne, Hosey, Jefferson, Littlejohn, Millwood, Mitchell, Pinson, Stringer, Willis, Wylie, A.D. Young, J.E. Smith, Clemmons, Hutto and Viers: A BILL TO AMEND SECTION 63‑7‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS REQUIRED TO REPORT ABUSE OR NEGLECT OF A CHILD, SO AS TO INCLUDE A SCHOOL ATTENDANCE OFFICER, SCHOOL ADMINISTRATOR, FOSTER PARENT, JUVENILE JUSTICE WORKER, AND GUARDIAN AD LITEM FOR A CHILD AMONG THE PEOPLE WHO MUST REPORT CERTAIN ALLEGATIONS OF CHILD ABUSE OR NEGLECT, AND TO ENCOURAGE OTHER PEOPLE TO REPORT THIS ABUSE.

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

**Motion Under Rule 26B**

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

There was no objection.

Senator HUTTO proposed the following amendment (JUD3800.003), which was adopted:

Amend the bill, as and if amended, page 1, in Section 63-7-310, as contained in SECTION 1, by striking lines 39-42 and inserting therein the following:

/ for processing films, computer technician, or a judge, must report in accordance with this section when in /

Amend the bill further, as and if amended, page 2, in Section 63-7-310 (C), as contained in SECTION 1, by striking lines 15-18 and inserting therein the following:

/ (C) Except as provided in subsection (A), ~~any~~ a person, including, but not limited to, a volunteer attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO 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.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 3964 -- Reps. Duncan, Ott, Vick, Loftis and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 21, TITLE 46 SO AS TO UPDATE AND CLARIFY SEED ARBITRATION PROCEDURES; TO AMEND ARTICLE 1, CHAPTER 21, TITLE 46, RELATING TO GENERAL PROVISIONS OF SEED AND PLANT CERTIFICATION, SO AS TO REPLACE OBSOLETE DEFINITIONS, TO REVISE ENFORCEMENT MECHANISMS, TO CLARIFY LICENSING PROCEDURES, AND TO PROVIDE EXEMPTIONS; TO AMEND ARTICLE 3, CHAPTER 21, TITLE 46, RELATING TO LABELS AND TAGS REGARDING SEEDS AND PLANTS, SO AS TO REVISE THE LABELING REQUIREMENTS FOR SEED PRODUCTS, AND TO IMPOSE ADDITIONAL PROHIBITIONS; TO AMEND ARTICLE 5, CHAPTER 21, TITLE 46, RELATING TO ANALYSES AND TESTS REGARDING SEEDS AND PLANTS, SO AS TO DELETE REDUNDANT PROVISIONS, TO PROVIDE THAT DEPARTMENT OF AGRICULTURE OFFICIALS SHALL HAVE ACCESS TO SEED RECORDS AND SAMPLES, TO PROVIDE THAT SEED RECORDS SHALL BE MAINTAINED FOR TWO YEARS, AND TO CLARIFY WHO IS ENTITLED TO FREE SEED TESTING AT THE STATE SEED LABORATORY; TO AMEND ARTICLE 7, CHAPTER 21, TITLE 46, RELATING TO WITHDRAWAL, CONFISCATION, AND SALE OF SEEDS REGARDING SEEDS AND PLANTS, SO AS TO INCREASE PENALTIES FOR VIOLATIONS FROM A MAXIMUM OF ONE HUNDRED DOLLARS FOR EACH VIOLATION TO ONE THOUSAND DOLLARS FOR EACH VIOLATION, TO CLARIFY THE ROLE OF THE ATTORNEY GENERAL IN PROSECUTING VIOLATIONS, AND TO PROVIDE FOR INJUNCTIVE RELIEF TO PREVENT VIOLATIONS; TO AMEND ARTICLE 9, CHAPTER 21, TITLE 46, RELATING TO SEED AND PLANT CERTIFICATION, SO AS TO CLARIFY CLEMSON UNIVERSITY’S SEED AND PLANT CERTIFICATION AUTHORITY; AND TO REPEAL ARTICLE 11, CHAPTER 21, TITLE 46 RELATING TO SEED IRISH POTATOES IN CHARLESTON COUNTY.

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

**Motion Under Rule 26B**

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

There was no objection.

Senator MALLOY proposed the following amendment (JUD3964.001), which was adopted:

Amend the bill, as and if amended, by striking page 2, lines 18-28 in their entirety, and inserting the following:

/ Section 46‑21‑1010. (A) When a buyer claims to have been damaged by the failure of seed for planting to produce or perform as represented by the label required to be attached to seed pursuant to Section 46‑21‑215, or by warranty, or as a result of negligence, as a prerequisite to the buyer’s right to maintain a legal action against the dealer or another seller of the seed, the buyer shall first submit the claim to arbitration as provided in Section 46‑21‑1010(C)(2). The applicable period of limitations with respect to the claim must be tolled until ten days after the filing of the report of arbitration with the Commissioner as provided in Section 46‑21‑1020. /

Amend the bill further, as and if amended, by striking page 3, lines 21-22 in their entirety and inserting the following:

/ (1) The report of arbitration is binding upon all parties who have agreed to binding arbitration in a contract governing the sale of the seed. /

Amend the bill further, as and if amended, by striking page 34, SECTION 8, line 14 in its entirety and inserting the following:

/ SECTION 8. This act takes effect upon approval by the Governor and applies to all claims or actions arising after that date./

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

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

**Ayes 43; Nays 1**

**AYES**

Alexander Anderson Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

**NAYS**

Bright

**Total--1**

There being no further amendments, the Bill was ordered returned to the House with amendments.

**THIRD READING BILLS**

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

S. 981 -- Senators Rose and Knotts: A BILL TO AMEND SECTION 63‑3‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS, SO AS TO PROVIDE THAT THE COURT MAY ORDER GRANDPARENT VISITATION IF THE COURT FINDS THAT THE CHILD’S PARENTS ARE DEPRIVING THE GRANDPARENT VISITATION WITH THE CHILD AND THAT THE PARENTS ARE UNFIT OR THAT THERE ARE COMPELLING CIRCUMSTANCES TO OVERCOME THE PRESUMPTION THAT THE PARENTAL DECISION IS IN THE CHILD’S BEST INTEREST.

S. 1422 -- Senators Setzler and Massey: A BILL TO AMEND ACT 503 OF 1982, RELATING TO THE AREA ADVISORY COUNCIL OF ADMINISTRATIVE AREA FOUR IN SALUDA COUNTY, AND TO REPEAL ACT 572 OF 1984, RELATING TO THE AREA ADVISORY COUNCIL OF ADMINISTRATIVE AREA FOUR IN SALUDA COUNTY.

**PRESIDENT *Pro Tempore* PRESIDES**

At 3:14 P.M., Senator McCONNELL assumed the Chair.

**SECOND READING BILLS**

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

H. 3735 -- Rep. Vick: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “ANN S. PERDUE INDEPENDENT AUTOPSY FAIRNESS ACT OF 2009”, BY ADDING SECTION 44‑43‑730 SO AS TO PROVIDE THAT IF A PERSON DIES IN A HOSPITAL, THE HOSPITAL SHALL OFFER IN WRITING TO THE PATIENT’S FAMILY THE RIGHT OF HAVING AN AUTOPSY PERFORMED; AND TO AMEND SECTION 17‑5‑530, RELATING TO CIRCUMSTANCES REQUIRING THE CORONER OR MEDICAL EXAMINER TO BE NOTIFIED OF CERTAIN DEATHS, SO AS TO REQUIRE SUCH NOTIFICATION WHEN A PERSON DIES IN A HEALTH CARE FACILITY WITHIN TWENTY FOUR HOURS OF ENTERING A HEALTH CARE FACILITY OR OF HAVING AN INVASIVE SURGICAL PROCEDURE PERFORMED.

Senator VERDIN explained the Bill.

H. 4446 -- Rep. Crawford: A BILL TO AMEND SECTION 44‑29‑210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MASS IMMUNIZATION PROJECTS APPROVED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE PARTICIPATION OF MEDICAL PERSONNEL IN THESE PROJECTS, SO AS TO PROVIDE THAT LICENSED NURSES, RATHER THAN REGISTERED NURSES, ARE INCLUDED IN THE PERSONNEL WHO MAY PARTICIPATE IN THESE PROJECTS AND WHO ARE EXEMPT FROM LIABILITY.

Senator VERDIN explained the Bill.

H. 4916 -- Reps. Lucas, Neilson and Williams: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED ON APRIL 26, 2010, BY THE STUDENTS OF DARLINGTON COUNTY SCHOOL DISTRICT WHEN THE SCHOOLS WERE CLOSED DUE TO A TORNADO IS EXEMPT FROM THE MAKE‑UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

Senator MALLOY explained the Joint Resolution.

H. 4828 -- Rep. Huggins: A BILL TO AMEND ACT 387 OF 1963, AS AMENDED, RELATING TO THE IRMO FIRE DISTRICT, SO AS TO AUTHORIZE THE BOARD OF FIRE CONTROL TO ADOPT RULES AND REGULATIONS TO ENSURE THAT A BUILDING WITHIN THE DISTRICT IS MAINTAINED PROPERLY AND DOES NOT PRESENT A FIRE OR SAFETY HAZARD; AND TO CONVEY TO A FIRE CHIEF OR HIS DESIGNEE THE SAME AUTHORITY THAT A PEACE OFFICER HAS TO ENFORCE REGULATIONS AND OTHER LAWS PROMULGATED OR ADOPTED BY THE DISTRICT.

**Motion Adopted**

At 3:26 P.M., on motion of Senator FAIR, with unanimous consent, Senator FAIR was granted leave to attend a meeting and was granted leave to vote from the balcony.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED READ THE SECOND TIME**

H. 4244 -- Rep. Limehouse: A BILL TO AMEND SECTION 59‑130‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLEGE OF CHARLESTON BOARD OF TRUSTEES, SO AS TO ADD AN ADDITIONAL TRUSTEE TO BE APPOINTED BY THE COLLEGE OF CHARLESTON ALUMNI ASSOCIATION BOARD OF DIRECTORS, TO SET HIS TERM, AND TO PROVIDE CRITERIA FOR HIS SELECTION.

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

Senator GROOMS proposed the following amendment (4244R002.LKG), which was adopted:

Amend the committee amendment, as and if amended, page [4244-1], by striking the committee amendment in its entirety and inserting:

// Amend the bill, as and if amended, page 1, by striking lines 25-42, and on page 2, by striking lines 1- 29 and inserting:

/ “Section 59‑130‑10. The board of trustees for the College of Charleston is composed of the Governor of the State or his designee, who is an ex officio of the board, and ~~sixteen~~ seventeen members, with fifteen of these members ~~to be~~ elected by the General Assembly ~~and~~, one member ~~to be~~ appointed from the State at large by the Governor, and one member appointed by Governor upon recommendation of the College of Charleston Alumni Association. The General Assembly shall elect and the Governor shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State.

Of the fifteen members to be elected, two members must be elected from each congressional district and the remaining three members must be elected by the General Assembly from the State at large.

The term of office of the at‑large trustee appointed by the Governor is effective upon certification to the Secretary of State and is coterminous with the term of the Governor appointing him. He shall serve after his term has expired until his successor is appointed and qualifies. The member appointed by the Governor upon recommendation of the College of Charleston Alumni Association shall serve for a term of four years, beginning on July 1, 2010, until his successor is appointed and qualifies. The member must be a South Carolina resident and hold an undergraduate or graduate degree from the College of Charleston.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively as follows: for the First Congressional District, seats one and two; for the Second Congressional District, seats three and four; for the Third Congressional District, seats five and six; for the Fourth Congressional District, seats seven and eight; for the Fifth Congressional District, seats nine and ten; for the Sixth Congressional District, seats eleven and twelve; for the at‑large positions elected by the General Assembly, seats thirteen, fourteen, and fifteen. The member appointed by the Governor shall occupy seat sixteen. The member appointed by the Governor upon recommendation of alumni association shall occupy seat seventeen.

~~Any~~ A person who, as of July 1, 1988, is serving as president of the State College Board of Trustees or is serving on the Planning Committee for the College of Charleston within the State College Board of Trustees has the option of serving as a trustee on the board of trustees for the College of Charleston for an appropriate two‑year term expiring June 30, 1990. ~~Such~~ This option must be exercised on the first day of the filing period. If two such members file for the same seat, the General Assembly shall elect the board member from those ~~so~~ filing./ //

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Education proposed the following amendment (4244R001.JEC), which was adopted:

Amend the bill, as and if amended, page 1, by striking lines 30-36 and inserting:

/ at large by the Governor, and one member to be elected by the College of Charleston Alumni Association Board of Directors. The General Assembly shall elect and the Governor and alumni association board shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

H. 3066 -- Reps. Ballentine, Haley, J.R. Smith, Hamilton, Wylie, Simrill, Huggins, E.H. Pitts, Cobb‑Hunter, Harrell, G.M. Smith, Gullick, J.E. Smith, Merrill, Phillips, Jennings, Owens, G.R. Smith, Daning, Rice, Knight, Funderburk, Harrison, Crawford, Kirsh, Bedingfield, Allison, Stringer, T.R. Young, Agnew, Gunn, Bingham, Toole, Millwood, Stavrinakis, Miller, Battle, Hutto, Erickson, Clemmons, Horne, Lucas, Bales, Whipper and R.L. Brown: A BILL TO AMEND SECTION 8‑13‑365, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTRONIC FILING OF CAMPAIGN DISCLOSURES AND REPORTS, SO AS TO MAKE IT APPLICABLE TO COUNTY, SCHOOL BOARD, AND MUNICIPAL ELECTIONS IN ADDITION TO STATEWIDE ELECTIONS; AND TO AMEND SECTION 8‑13‑1308, AS AMENDED, RELATING TO THE REQUIREMENT TO FILE CERTIFIED CAMPAIGN REPORTS BY CANDIDATES AND COMMITTEES, SO AS TO REQUIRE THAT THEY MUST BE FILED FORTY‑EIGHT HOURS AFTER THEIR RECEIPT STARTING AFTER THE FILING OF THE PRE-ELECTION REPORT.

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

The Committee on Judiciary proposed the following amendment (JUD3066.002), which was adopted:

Amend the bill, as and if amended, by striking SECTION 2, lines 5-33 on page 2.

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

The question then was the second reading of the Bill.

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

**Ayes 42; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Courson Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--42**

**NAYS**

**Total--0**

The Bill was read the second time, passed and ordered to a third reading.

**AMENDED, READ THE SECOND TIME**

H. 4542 -- Reps. Harrison, Weeks and McLeod: A BILL TO AMEND SECTION 8‑13‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, SO AS TO DELETE THE PROHIBITION OF THE RELEASE OF INFORMATION UNTIL FINAL DISPOSITION OF AN ETHICS INVESTIGATION AND REQUIRE THAT THE INFORMATION MAY NOT BE RELEASED UNTIL A FINDING OF PROBABLE CAUSE HAS BEEN MADE.

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

Senator KNOTTS proposed the following amendment (JUD4542.001), which was adopted:

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

/ SECTION 1. Section 8‑13‑320(10)(g) of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“(g) All investigations, inquiries, hearings, and accompanying documents must remain confidential until ~~final disposition of a matter~~ a finding of probable cause or dismissal unless the respondent waives the right to confidentiality. The willful release of confidential information is a misdemeanor, and any person releasing ~~such~~ confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.”

SECTION 2. Section 8-13-540 of the 1976 Code is amended to read:

“Section 8-13-540. Unless otherwise provided for by House or Senate rule, as appropriate, each ethics committee must conduct its investigation of a complaint filed pursuant to this chapter or Chapter 17 of Title 2 in accordance with this section.

(1) When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers. All investigations, inquiries, hearings, and accompanying documents must remain confidential until a finding of probable cause or dismissal, unless the respondent waives the right to confidentiality.

If after such preliminary investigation, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or

(b) convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. ~~All ethics committee investigations and records relating to the preliminary investigation are confidential.~~ No complaint shall be accepted which is filed later than four years after the alleged violation occurred.

(2) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be conducted in ~~executive~~ open session.

(3) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17 of Title 2, it shall:

(a) administer a public or private reprimand;

(b) determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;

(c) recommend expulsion of the member; and/or,

(d) in the case of an alleged criminal violation, refer the matter to the Attorney General for investigation. The ethics committee shall report its findings in writing to the Speaker of the House or President Pro Tempore of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(4) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.

(5) No ethics committee member may participate in any matter in which he is involved.

(6) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.”

SECTION 3. Section 8-13-1372 of the 1976 Code is amended to read:

“(A) The ~~State Ethics Commission~~ appropriate supervisory office, in its discretion, may determine that errors or omissions on campaign reports are inadvertent and unintentional and not an effort to violate a requirement of this chapter and may be handled as technical violations which are not subject to the provisions of this chapter pertaining to ethical violations. Technical violations must remain confidential unless requested to be made public by the candidate filing the report. In lieu of all other penalties, the ~~State Ethics Commission~~ appropriate supervisory office may assess a technical violations penalty not to exceed fifty dollars.

(B) A violation other than an inadvertent or unintentional violation must be ~~referred to~~ considered by the appropriate supervisory office for appropriate action.”

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

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

The amendment was adopted.

The question then was the second reading of the Bill.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Cromer Davis Elliott

Fair Grooms Hayes

Jackson Knotts Land

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Bill was read the second time, passed and ordered to a third reading.

**AMENDED, READ THE SECOND TIME**

H. 3536 -- Reps. J.E. Smith and McLeod: A BILL TO AMEND SECTION 17‑5‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS OF CORONERS, SO AS TO INCREASE THOSE QUALIFICATIONS BY REQUIRING THOSE PERSONS WITH HIGH SCHOOL DIPLOMAS TO ALSO HAVE AT LEAST SIX YEARS’ EXPERIENCE IN THE FIELD, BY REQUIRING THOSE PERSONS WITH A TWO YEAR ASSOCIATE DEGREE TO ALSO HAVE FOUR YEARS OF EXPERIENCE IN THE FIELD, AND BY REQUIRING THOSE PERSONS WITH A FOUR YEAR BACCALAUREATE DEGREE TO ALSO HAVE AT LEAST TWO YEARS OF EXPERIENCE IN THE FIELD; AND TO REQUIRE THAT A CANDIDATE FOR CORONER FILE A SWORN AFFIDAVIT WITH THE COUNTY EXECUTIVE COMMITTEE OF THE PERSON’S POLITICAL PARTY UNDER SPECIFIED TIME FRAMES, TO PROVIDE FOR THE FILING OF THE AFFIDAVIT BY PETITION CANDIDATES, AND TO DELINEATE THE INFORMATION THAT THE AFFIDAVIT MUST CONTAIN.

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

Senator LEVENTIS proposed the following amendment (JUD3536.006), which was adopted:

Amend the bill, as and if amended, page 2, by striking lines 9-27, and inserting:

/ (2) In addition to the requirements of subsection (A)(1), a coroner in this State shall have at least one of the following qualifications, the person shall:

(a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(c) have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(d) be a law enforcement officer, as defined by Section 23-23-10(E)(1), who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience;

(e) be a licensed private investigator with a minimum of two years of experience; or

(f) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner. /

Amend the bill further, as and if amended, page 3, by striking lines 13-15, and inserting:

/ (h) the date the person completed a recognized forensic science degree or certification program, or information regarding the person’s enrollment in a recognized forensic science degree or certification program, if applicable; and

(i) the number of years of experience the person has as a death investigator, certified law enforcement officer, or licensed private investigator, if applicable. /

Renumber sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

Senator MASSEY argued contra to the adoption of the amendment.

The amendment was adopted.

**Recorded Vote**

Senator MASSEY desired to be recorded as voting against the adoption of the amendment.

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

**Recorded Vote**

Senator BRIGHT desired to be recorded as voting against the second reading of the Bill.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

H. 4405 -- Reps. Edge, Cobb‑Hunter, Crawford, Harvin, Pinson, Alexander, Gunn, Hutto and Weeks: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑43‑70 SO AS TO DEFINE CERTAIN TERMS, AND TO PROVIDE FOR THE DISPENSING OF CERTAIN DRUGS OR DEVICES AT A FEDERALLY QUALIFIED HEALTH CENTER.

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

Senator VERDIN proposed the following amendment (4405R001.DV), which was adopted:

Amend the committee amendment, as and if amended, page [4405-3], by striking lines 5-6 and inserting:

/ (C) The Board of Pharmacy shall promulgate regulations needed to effectuate the purposes of this section.” /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

The Committee on Medical Affairs proposed the following amendment (NBD\12309AC10), which was adopted:

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

/SECTION 1. Chapter 43, Title 40 of the 1976 Code is amended by adding:

“Section 40‑43‑70. (A) For purposes of this section:

(1) ‘Board’ means the South Carolina Board of Pharmacy.

(2) ‘Federally qualified health center’ or ‘FQHC’ means an entity funded by the Bureau of Primary Health Care (BPHC) under Section 330 of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996.

(3) ‘Health center delivery site’ means a physical location where a licensed practitioner duly employed by or under contract with an FQHC provides primary and preventative health care services to patients of that FQHC. An FQHC may have multiple health center delivery sites.

(B) This section does not prevent a licensed practitioner, as defined in Section 40‑43‑30(45), from dispensing a drug or device for a patient of a FQHC if:

(1) a drug dispensed by the FQHC is properly labeled in accordance with state and federal law;

(2) the patient is given a choice of receiving the drug or device from the FQHC or from another provider;

(3) as it pertains to an FQHC without a retail pharmacy, the FQHC must obtain and maintain an FQHC permit as designated by this section; and

(a) monthly shall conduct and submit to the Board of Pharmacy self inspections and maintain written checklists that are readily available to the Board of Pharmacy for on‑site visits; and

(b) designate a pharmacist duly licensed by and in good standing with the Board of Pharmacy as a consultant pharmacist to be responsible for the duties stated in this section at the FQHC permit holder’s location. A consultant pharmacist shall sign a new or renewal application along with the FQHC permit holder and agree in writing to assume the responsibilities of a consultant pharmacist. The consultant pharmacist shall perform and maintain written quarterly inspections that are readily available. The FQHC permit holder and consultant pharmacist shall notify the board in writing within ten days of a change of consultant pharmacist. A designation of an individual as a consultant pharmacist or delegation of duties to a consultant pharmacist by a holder of a FQHC permit may not relieve the permit holder of the FQHC permit holder’s duties under state or federal laws or regulations;

(4) as it pertains to a health center delivery site established after January 1, 2011, by an FQHC without a retail pharmacy, as a condition of permitting by the board pursuant to item (3) of subsection (B), this FQHC must certify to the board that it made a good faith effort but was unable to reach an agreement with an existing retail pharmacy located within five miles of the FQHC health center delivery site pursuant to which the existing retail pharmacy would provide prescription drugs to all FQHC patients at the same cost, convenience, and efficacy provided by the proposed new FQHC health center delivery site;

(5) as it pertains to an FQHC with a permitted retail pharmacy:

(a) the FQHC’s retail pharmacy must be permitted pursuant to Section 40‑43‑83;

(b) the FQHC must obtain and maintain an FQHC permit for its affiliated health center delivery sites without an on‑site pharmacy; and

(i) those affiliated delivery sites will be subject to the inspection requirements outlined in item (3) of this subsection; and

(ii) the FQHC pharmacist may serve as the consultant pharmacist for the FQHC’s affiliated delivery sites.

(c) with prior approval of the Board of Pharmacy, the FQHC pharmacist may serve as the pharmacist in charge for more than one pharmacy at a time and need not be physically present in the pharmacy to serve as its pharmacist in charge.

(C) The Board of Pharmacy shall issue rules and promulgate regulations needed to effectuate the purposes of this section.”

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

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted.

Senator CROMER spoke on the Bill.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

H. 4508 -- Reps. Herbkersman, Lowe, Hutto, G.A. Brown and Horne: A BILL TO AMEND SECTION 40‑9‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHIROPRACTORS AND CHIROPRACTIC PRACTICE, SO AS TO ADD A DEFINITION OF A “PRECEPTORSHIP OR RESIDENCY TRAINING PROGRAM”; AND TO AMEND SECTION 40‑9‑20, RELATING TO LICENSES REQUIRED FOR PERSONS PRACTICING CHIROPRACTIC PROCEDURES, SO AS TO EXCLUDE STUDENTS PARTICIPATING IN A PRECEPTORSHIP OR RESIDENCY TRAINING PROGRAM UNDER SPECIFIED CONDITIONS, TO PERMIT CHARGES TO BE LEVIED FOR PROFESSIONAL SERVICE FOR WORK PERFORMED UNDER THESE PROGRAMS, AND DELETE THE EXCEPTION FOR SENIOR STUDENTS AT A CHIROPRACTIC COLLEGE CHARTERED BY THE STATE.

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

The Committee on Medical Affairs proposed the following amendment (NBD\12310AC10), which was adopted:

Amend the bill, as and if amended, by deleting Section 40-9-20 on page 2, and inserting:

/ “Section 40‑9‑20. (A) No person may practice chiropractic in this State without a license issued by the South Carolina Board of Chiropractic Examiners as provided in this chapter, except ~~that senior students of any chiropractic college chartered by the State~~ students participating in a preceptorship or residency training program may perform without a license chiropractic procedures under the direct supervision of a ~~chiropractor licensed in South Carolina on the college staff~~ chiropractic preceptor. These procedures and this supervision must be practiced within the confines of the appropriate chiropractic college or office of a licensed chiropractor. ~~However,~~

(B) No charges for professional service may be made to any patient or to his insurance company for any work performed on the patient by the ~~senior~~ students or by the licensed chiropractor on the college staff while supervising the ~~senior~~ students or by the licensed chiropractor in an office while supervising the students. However, the chiropractic college or the office of the licensed chiropractor may charge the patient for the actual costs and expenses it incurs for the use of its clinical property or facilities by the patient.

(C) ~~However,~~ This section does not apply to any chiropractic college which has failed to attain accredited status from the Council on Chiropractic Education or its successors or from the Commission on Accreditation of the Straight Chiropractic Academic Standards Association.”/

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted

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

**COMMITTEE AMENDMENT ADOPTED**

**AMENDMENT PROPOSED, OBJECTION**

H. 4005 -- Reps. Sellers, Bingham, Ott, A.D. Young and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑13‑1335 SO AS TO MAKE IT UNLAWFUL FOR AN INDIVIDUAL SEEKING ELECTION TO MEMBERSHIP ON THE GOVERNING BOARD OF A PUBLIC INSTITUTION OF HIGHER LEARNING FILLED BY A VOTE OF THE GENERAL ASSEMBLY TO MAKE OR OFFER TO MAKE A CONTRIBUTION TO A CANDIDATE FOR THE GENERAL ASSEMBLY OR HOST OR SPONSOR ANY FUNDRAISING EVENT FOR SUCH A CANDIDATE FROM THE TIME THE INDIVIDUAL FILES THE NOTICE OF INTENTION TO SEEK MEMBERSHIP ON THE BOARD THROUGH THE DATE THE OFFICE IS FILLED.

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

The Committee on Judiciary proposed the following amendment (JUD4005.002), which was adopted:

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

/ SECTION 1. Article 9, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8-13-915. A person running for an office that is filled by an election by the General Assembly pursuant to the provisions of Chapter 20, Title 2 shall not: (1) make or offer to make a contribution to a member of the General Assembly or a candidate for election to the General Assembly; nor (2) host or otherwise sponsor any fundraising event for a member of the General Assembly or a candidate for election to the General Assembly. This prohibition begins from the time the person files the notice with the joint screening committee pursuant to Section 2-20-20 through the date the office is filled by a vote of the General Assembly or until the candidate withdraws his name for consideration for the office.”

SECTION 2. Section 8-13-920 of the 1976 Code is amended to read:

“Section 8-13-920. A person running for an office elected by the General Assembly must file a report with the Chairman of the Senate Ethics Committee and the Chairman of the House of Representatives Ethics Committee of money in excess of one hundred dollars spent by him or in his behalf in seeking the office. The report must include the period beginning with the time he first announces his intent to seek the office. The report must not include travel expenses or room and board while campaigning. ~~Contributions made to members of the General Assembly during the period from announcement of intent to election date must be included.~~ The report must be updated quarterly with an additional report filed five days before the election and the final report filed thirty days after the election. Persons soliciting votes on behalf of candidates must submit expenses in excess of one hundred dollars to the candidate which must be included on the candidate's report. A copy of all reports received by the Senate Ethics Committee and the House of Representatives Ethics Committee must be forwarded to the State Ethics Commission within two business days of receipt.”

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

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

Senator BRIGHT proposed the following amendment (4005R001.LB):

Amend the bill, as and if amended, in Section 8‑13‑915, by adding a new sentence at the end to read:

/ During his term in office, an individual elected office that is filled by an election by the General Assembly pursuant to the provisions of Chapter 20, Title 2 shall not contribute to or host or otherwise sponsor any fundraising event for any member of the General Assembly or any candidate for election to the General Assembly.” /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

Senator BRIGHT objected to further consideration of the Bill.

**ADOPTED**

S. 1346 -- Senator Leatherman: A SENATE RESOLUTION TO DESIGNATE THE MONTH OF APRIL 2010 AS “DONATE LIFE MONTH” IN SOUTH CAROLINA AND TO ENCOURAGE ALL SOUTH CAROLINA CITIZENS TO RECOGNIZE THE IMPORTANCE OF ORGAN, TISSUE, AND EYE DONATION, TO SIGN UP ON THE SOUTH CAROLINA ORGAN AND TISSUE DONOR REGISTRY, AND TO DISCUSS ORGAN AND TISSUE DONATION WITH THEIR FAMILIES.

The Senate Resolution was adopted.

H. 4579 -- Rep. Bales: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERSECTION OF UNITED STATES HIGHWAYS 76 AND 378 WITH LOWER RICHLAND BOULEVARD IN RICHLAND COUNTY “BETTY AND SAM MCGREGOR INTERSECTION” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERSECTION THAT CONTAIN THE WORDS “BETTY AND SAM MCGREGOR INTERSECTION BETTY ‑ 2009 SOUTH CAROLINA AND NATIONAL MOTHER OF THE YEAR”.

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

**OBJECTION**

H. 3924 -- Reps. Harrison, Miller, Harrell, Clemmons and Weeks: A BILL TO AMEND SECTION 48‑34‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, SO AS TO REFERENCE OTHER SPECIFIC STATUTORY AND REGULATORY REQUIREMENTS; AND TO AMEND SECTION 48‑34‑50, RELATING TO LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, SO AS TO PROVIDE THAT NO PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE MAY BE HELD LIABLE FOR DAMAGES CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE IS PROVEN AND TO DEFINE GROSS NEGLIGENCE.

Senator MALLOY explained the Bill.

Senator JACKSON objected to further consideration of the Bill.

**CARRIED OVER**

H. 3975 -- Rep. G.M. Smith: A BILL TO AMEND SECTION 50‑9‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT CERTAIN PERSONS MUST SUCCESSFULLY COMPLETE A HUNTER’S EDUCATION PROGRAM BEFORE THEY ARE ELIGIBLE TO RECEIVE A SOUTH CAROLINA HUNTING LICENSE, SO AS TO PROVIDE THAT THIS REQUIREMENT DOES NOT APPLY TO ACTIVE OR RETIRED UNITED STATES ARMED SERVICES PERSONNEL WHO CAN DEMONSTRATE TO THE DEPARTMENT OF NATURAL RESOURCES THAT THEY RECEIVED WEAPONS TRAINING DURING THEIR MILITARY CAREER.

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

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

**MADE SPECIAL ORDER UNDER RULE 33B**

S. 1437 -- Rules Committee: A SENATE RESOLUTION TO AMEND RULE 16 OF THE SENATE, RELATING TO VOTES BY AYES AND NOES AND THE REQUIREMENT THAT SENATORS PRESENT MUST VOTE, TO PROVIDE THAT ON VOTES TAKEN “VIVA VOCE”, THE VOTE OF ALL SENATORS WHO HAVE ANSWERED THE DAILY QUORUM CALL OR HAVE RECORDED THEIR PRESENCE WITH THE DESK SUBSEQUENT TO THE QUORUM CALL AND HAVE NOT BEEN GRANTED LEAVE BY THE SENATE SHALL BE RECORDED IN THE JOURNAL AS VOTING ON THE PREVAILING SIDE WITH THE RIGHT OF ANY SENATOR TO INFORM THE CLERK OF THE SENATE WITHIN THIRTY MINUTES OF ADJOURNMENT THAT HE DESIRES HIS VOTE TO BE RECORDED ON THE SIDE THAT DID NOT PREVAIL AND TO ALLOW A SENATOR WHO IS ABSENT FROM A VOTE AND NOT RECORDED BY THIS RULE AT THAT TIME TO BE LISTED IN THE JOURNAL IN A CATEGORY AS NOT PRESENT AND SET FORTH HOW HE WOULD HAVE VOTED HAD HE BEEN PRESENT; AND TO AMEND RULE 32A OF THE SENATE, RELATING TO THE ORDER OF BUSINESS, TO PROVIDE FOR A DAILY QUORUM CALL AFTER THE INTRODUCTION AND REFERENCE OF NEW BILLS AND RESOLUTIONS.

On behalf of the Rules Committee, Senator LARRY MARTIN moved under Rule 33B to make the Bill a Special Order.

The Bill was made a Special Order under Rule 33B.

**MOTION ADOPTED**

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

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

**Message from the House**

Columbia, S.C., May 12, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it insists upon the amendments proposed by the House to:

H. 3418 -- Reps. Harrell, Simrill, Crawford, Huggins, Bedingfield, Merrill, G.R. Smith, Erickson, Ballentine, Brady, Chalk, Daning, Delleney, Frye, Gambrell, Hamilton, Harrison, Hearn, Herbkersman, Loftis, Long, Lucas, Nanney, Pinson, Rice, G.M. Smith, Spires, Stringer, Thompson, Viers, Willis, Wylie, T.R. Young, Clemmons, Owens, Parker, Toole, M.A. Pitts, Lowe, Bingham, Umphlett, Sandifer and Edge: A BILL RELATING TO REFORM OF THE SOUTH CAROLINA ELECTION LAWS BY ENACTING THE “SOUTH CAROLINA ELECTION REFORM ACT”; TO AMEND SECTION 7‑13‑710 OF THE 1976 CODE TO REQUIRE PHOTOGRAPH IDENTIFICATION TO VOTE, PERMITTING FOR PROVISIONAL BALLOTS IF THE IDENTIFICATION CANNOT BE PRODUCED AND PROVIDE AN EXCEPTION FOR A RELIGIOUS OBJECTION TO BEING PHOTOGRAPHED; TO AMEND SECTION 56‑1‑3350 TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE FREE IDENTIFICATION CARDS UPON REQUEST; TO AMEND SECTION 7‑13‑25 TO PROVIDE FOR AN EARLY VOTING PERIOD BEGINNING SIXTEEN DAYS BEFORE A STATEWIDE PRIMARY OR GENERAL ELECTION AND TO PROVIDE FOR THE HOURS AND EARLY VOTING LOCATION; TO AMEND SECTION 7‑3‑20(C) TO REQUIRE THE EXECUTIVE DIRECTOR OF THE STATE ELECTIONS COMMISSION TO MAINTAIN IN THE MASTER FILE A SEPARATE DESIGNATION FOR ABSENTEE AND EARLY VOTERS IN A GENERAL ELECTION; TO AMEND SECTION 7‑15‑30 TO ADD STATUTORY CITES REGARDING THE REQUEST OF AN ABSENTEE BALLOT; TO AMEND SECTION 7‑15‑470 TO PROVIDE FOR EARLY VOTING ON MACHINES DURING THE EARLY VOTING PERIOD ONLY AND DELETE THE REFERENCE TO ABSENTEE VOTING; TO AMEND SECTION 7‑1‑25 TO LIST FACTORS TO CONSIDER FOR DOMICILE; AND TO AMEND SECTION 7‑5‑230 TO REFERENCE REVISIONS TO SECTION 7‑1‑25.

asks for a Committee of Conference, and has appointed Reps. Clemmons, Cato and Mitchell to the committee on the part of the House.

Very respectfully,

Speaker of the House

Received as information.

**H. 3418--CONFERENCE COMMITTEE APPOINTED**

H. 3418 -- Reps. Harrell, Simrill, Crawford, Huggins, Bedingfield, Merrill, G.R. Smith, Erickson, Ballentine, Brady, Chalk, Daning, Delleney, Frye, Gambrell, Hamilton, Harrison, Hearn, Herbkersman, Loftis, Long, Lucas, Nanney, Pinson, Rice, G.M. Smith, Spires, Stringer, Thompson, Viers, Willis, Wylie, T.R. Young, Clemmons, Owens, Parker, Toole, M.A. Pitts, Lowe, Bingham, Umphlett, Sandifer and Edge: A BILL RELATING TO REFORM OF THE SOUTH CAROLINA ELECTION LAWS BY ENACTING THE “SOUTH CAROLINA ELECTION REFORM ACT”; TO AMEND SECTION 7‑13‑710 OF THE 1976 CODE TO REQUIRE PHOTOGRAPH IDENTIFICATION TO VOTE, PERMITTING FOR PROVISIONAL BALLOTS IF THE IDENTIFICATION CANNOT BE PRODUCED AND PROVIDE AN EXCEPTION FOR A RELIGIOUS OBJECTION TO BEING PHOTOGRAPHED; TO AMEND SECTION 56‑1‑3350 TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE FREE IDENTIFICATION CARDS UPON REQUEST; TO AMEND SECTION 7‑13‑25 TO PROVIDE FOR AN EARLY VOTING PERIOD BEGINNING SIXTEEN DAYS BEFORE A STATEWIDE PRIMARY OR GENERAL ELECTION AND TO PROVIDE FOR THE HOURS AND EARLY VOTING LOCATION; TO AMEND SECTION 7‑3‑20(C) TO REQUIRE THE EXECUTIVE DIRECTOR OF THE STATE ELECTIONS COMMISSION TO MAINTAIN IN THE MASTER FILE A SEPARATE DESIGNATION FOR ABSENTEE AND EARLY VOTERS IN A GENERAL ELECTION; TO AMEND SECTION 7‑15‑30 TO ADD STATUTORY CITES REGARDING THE REQUEST OF AN ABSENTEE BALLOT; TO AMEND SECTION 7‑15‑470 TO PROVIDE FOR EARLY VOTING ON MACHINES DURING THE EARLY VOTING PERIOD ONLY AND DELETE THE REFERENCE TO ABSENTEE VOTING; TO AMEND SECTION 7‑1‑25 TO LIST FACTORS TO CONSIDER FOR DOMICILE; AND TO AMEND SECTION 7‑5‑230 TO REFERENCE REVISIONS TO SECTION 7‑1‑25.

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

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

S. 391 -- Senators Ryberg, McConnell, Verdin, Bryant, Cleary, Campsen, Shoopman, Campbell, Rose, Davis, Bright, S. Martin and Sheheen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

The House returned the Bill with amendments.

The Senate proceeded to a consideration of the Bill, the question being concurrence in the House amendments.

**Amendment No. 1**

Senator O'DELL proposed the following Amendment No. 1 (391R083.WHO), which was tabled:

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

/ SECTION \_\_\_. Section 41‑31‑50 of the 1976 Code is amended to read:

“Section 41‑31‑50. Each employer eligible for a rate computation shall have his base rate determined in the following manner:

~~(1)~~ ~~If, on the computation date as of which an employer’s base rate is to be computed, as provided in Section 41‑31‑40, the total of all his contributions paid on his own behalf for all past periods exceeds the total benefits charged to his account for all the periods his contribution base rate for the period specified in Section 41‑31‑40 is, except for the provisions of Section 41‑31‑80, as follows:~~

~~(a)~~ ~~With respect to the calendar year 1973:~~

~~(i)~~ ~~two and thirty‑five hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(ii)~~ ~~two percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and sixty‑five hundredths percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and thirty hundredths percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(v)~~ ~~ninety‑five hundredths of one percent, if the excess equals or exceeds nine percent but is less than ten percent of his most recent annual payroll;~~

~~(vi)~~ ~~six‑tenths of one percent, if the excess equals or exceeds ten percent but is less than eleven percent of his most recent annual payroll;~~

~~(vii)~~ ~~twenty‑five hundredths of one percent, if the excess equals or exceeds eleven percent of his most recent annual payroll.~~

~~(b)~~ ~~With respect to calendar years 1974 through 1985:~~

~~(i)~~ ~~two and thirty‑five hundredths percent, if the excess equals or exceeds three percent but is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~two percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and sixty‑five hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and thirty hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~ninety‑five hundredths of one percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~six‑tenths of one percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~twenty‑five hundredths of one percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(c)~~ ~~With respect to any calendar year commencing with the calendar year 1986:~~

~~(i)~~ ~~two and twenty‑nine hundredths percent, if the excess equals or exceeds three percent but is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~one and ninety‑four hundredths percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and fifty‑nine hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and twenty‑four hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~eighty‑nine hundredths of one percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~fifty‑four hundredths of one percent if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~nineteen hundredths of one percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(d)~~ ~~With respect to any calendar year commencing with the calendar year 2000:~~

~~(i)~~ ~~two and sixty‑four hundredths percent, if the excess is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~two and twenty‑nine hundredths percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and ninety‑four hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and fifty‑nine hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~one and twenty‑four hundredths percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~eighty‑nine hundredths percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~fifty‑four hundredths percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(2)~~ ~~If, on the computation date as of which an employer’s base rate is to be computed, as provided in Section 41‑31‑40, the total of all his contributions paid on his own behalf for all past periods is less than the total benefits charged to his account for all the periods his contribution base rate for the period specified in Section 41‑31‑40 is, except for the provisions of Section 41‑31‑80, as follows:~~

~~(a)~~ ~~With respect to any calendar year prior to the calendar year 1985:~~

~~(i)~~ ~~three and five hundredths percent, if the deficit equals five percent but is less than ten percent of his most recent annual payroll;~~

~~(ii)~~ ~~three and forty hundredths percent, if the deficit equals ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and seventy‑five hundredths percent, if the deficit equals fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(iv)~~ ~~four and ten hundredths percent, if the deficit equals or exceeds twenty percent of his most recent annual payroll.~~

~~(b)~~ ~~With respect to the calendar year 1985:~~

~~(i)~~ ~~three and five hundredths percent, if the deficit equals five percent but is less than ten percent of his most recent annual payroll;~~

~~(ii)~~ ~~three and forty hundredths percent, if the deficit equals ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and seventy‑five hundredths percent, if the deficit equals fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(iv)~~ ~~four and ten hundredths percent, if the deficit equals twenty percent but is less than twenty‑five percent of his most recent annual payroll;~~

~~(v)~~ ~~four and forty‑five hundredths percent, if the deficit equals twenty‑five percent but is less than thirty percent of his most recent annual payroll;~~

~~(vi)~~ ~~four and eighty hundredths percent, if the deficit equals thirty percent but is less than thirty‑five percent of his most recent annual payroll;~~

~~(vii)~~ ~~five and fifteen hundredths percent, if the deficit equals thirty‑five percent but is less than forty percent of his most recent annual payroll;~~

~~(viii)~~ ~~five and forty hundredths percent, if the deficit equals or exceeds forty percent of his most recent annual payroll.~~

~~(c)~~ ~~With respect to any calendar year commencing with the calendar year 1986:~~

~~(i)~~ ~~two and sixty‑four hundredths percent, if the deficit is less than five percent of his most recent annual payroll;~~

~~(ii)~~ ~~two and ninety‑nine hundredths percent if the deficit equals or exceeds five percent but is less than ten percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and thirty‑four hundredths percent if the deficit equals or exceeds ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iv)~~ ~~three and sixty‑nine hundredths percent if the deficit equals or exceeds fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(v)~~ ~~four and four hundredths percent if the deficit equals or exceeds twenty percent but is less than twenty‑five percent of his most recent annual payroll;~~

~~(vi)~~ ~~four and thirty‑nine hundredths percent if the deficit equals or exceeds twenty‑five percent but is less than thirty percent of his most recent annual payroll;~~

~~(vii)~~ ~~four and seventy‑four hundredths percent if the deficit equals or exceeds thirty percent but is less than thirty‑five percent of his most recent annual payroll;~~

~~(viii)~~ ~~five and nine hundredths percent if the deficit equals or exceeds thirty‑five percent but is less than forty percent of his most recent annual payroll;~~

~~(ix)~~ ~~five and forty hundredths percent if the deficit equals or exceeds forty percent of his most recent annual payroll.~~

~~(3)~~ ~~In determining an employer’s contribution rate, contributions for the quarter immediately preceding the computation date are considered as paid before the computation date if they are paid by the employer on or before the end of the month following the quarter or within any period of grace allowed by the commission for payment of the quarter’s contribution.~~

~~(4)~~ ~~For calendar year 1986 and any subsequent calendar year, voluntary payments are not permitted for the purpose of obtaining a lower rate of required contributions.~~

(1)(a)(i) Annually the department shall calculate a contribution rate for each employer qualified for an experience rating. The contribution rate must correspond to rate calculated for the employer’s benefit ratio class.

(ii) To determine an employer’s benefit ratio rank, the department shall list all employers by increasing benefit ratios, from the lowest benefit ratio to the highest benefit ratio. The list must be divided into classes ranked one through twenty. Each class must contain approximately five percent of the total taxable wages, excluding reimbursable employment wage, paid in covered employment during the four completed calendar quarters immediately preceding the computation date. Each employer must be placed in the class that corresponds with the employer’s benefit ratio.

(iii) If an employer’s taxable wages qualify the employer for two separate classes, the employer shall be afforded the class assigned the lower contribution rate. Employers with identical benefit ratios shall be assigned to the same class.

(b) The estimated revenues necessary, as computed in Section 41‑35‑45(B)(1), must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one‑hundredth of one percent is the average required rate needed to pay benefits and achieve solvency targets.

(c) The rate for class twenty must be set such that the entire schedule raises the income required to pay benefits for the year, as well as the income necessary to move the trust fund toward the solvency target, subject to the structure defined in subitems (a) and (b) of this item. However, the rate for class twenty must be at least five and four‑tenths percent. For calendar year 2011, the rate for class one must not be lower than .9 percent. For each ensuing year, the director, when calculating the rate for class one, must take into consideration the solvency of the Unemployment Insurance Trust Fund and the funds necessary to cover claims from unemployed individuals from failed businesses.

(2)(a) If the calculated rate necessary for benefit rate class twenty exceeds five and four‑tenths percent, then the rate for each succeeding benefit rate class must be equal to ninety percent of the rate calculated for the preceding class.

(b)(i) If the computed rate necessary for class twenty is less than five and four‑tenths percent, then the rate for class twenty must be set at five and four‑tenths percent.

(ii) The contribution rate for rate classes nineteen through one must be set at a consistent percentage of the rate of the preceding class such that the entire schedule raises the income required to pay benefits for the year, as well as the income necessary to move the trust fund toward the solvency target, subject to the structure defined in item (1)(a) and (b) of this section.” /

Renumber sections to conform.

Amend title to conform.

Senator O'DELL explained the amendment.

Senator RYBERG argued contra to the adoption of the amendment.

**RECESS**

At 5:20 P.M., with Senator RYBERG retaining the floor, on motion of Senator LARRY MARTIN, with unanimous consent, the Senate receded from business subject to the Call of the Chair.

At 5:39 P.M., the Senate resumed.

Senator RYBERG resumed arguing contra to the adoption of the amendment.

Senator RYBERG moved to lay the amendment on the table.

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

**Ayes 31; Nays 10**

**AYES**

Alexander Bright Bryant

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Fair Grooms

Hutto Leatherman Leventis

Lourie Malloy Massey

McConnell McGill Mulvaney

Nicholson Peeler Rankin

Rose Ryberg Scott

Setzler Shoopman Verdin

Williams

**Total--31**

**NAYS**

Anderson Campbell Hayes

Jackson Knotts Land

*Martin, Larry* O’Dell Pinckney

Reese

**Total--10**

The amendment was laid on the table.

**Amendment No. P1-2A**

Senator SCOTT proposed the following Amendment P1-2A (SWB\  
8118CM10), which was adopted:

Amend the amendment, with the following document number 391RO85.WGR, as and if amended, Section 41‑27‑310, as contained in SECTION 2, by adding at the end:

/ This section must not be applied to individuals who were found qualified to receive unemployment benefits prior to enactment of this section. /

Renumber sections to conform.

Amend title to conform.

Senator SCOTT explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senators BRIGHT and BRYANT desired to be recorded as voting against the adoption of the amendment.

**Amendment No. 2A**

Senator RYBERG proposed the following Amendment No. 2A (391R085.WGR), which was adopted:

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

/ SECTION 1. Chapter 31, Title 41 of the 1976 Code is amended to read:

“CHAPTER 31.

~~EMPLOYMENT SECURITY~~ CONTRIBUTIONS AND PAYMENTS TO THE UNEMPLOYMENT TRUST FUND

~~IN LIEU THEREOF~~

ARTICLE 1.

RATES OF CONTRIBUTIONS

Section 41‑31‑5. As used in this chapter:

(1) ‘Benefit ratio’ means:

(a) for the period of January 1, 2011, through December 31, 2013, the number calculated by dividing the average of all benefits charged to an employer during the forty calendar quarters immediately preceding the calculation date by the employer’s average taxable payroll during the same period. If fewer than forty but more than four calendar quarters of data are available, the data from those available calendar quarters shall be used in the calculation. The benefit ratio must be calculated annually on July first to the sixth decimal place;

(b) from January 1, 2014, the number calculated by dividing the average of all benefits charged to an employer during the twelve calendar quarters immediately preceding the calculation date by the employer’s average taxable payroll during the same period. If fewer than twelve but more than four calendar quarters of data are available, the data from those available calendar quarters shall be used in the calculation. The benefit ratio must be calculated annually on July first to the sixth decimal place.

(2) ‘Department’ means the Department of Employment and Workforce.

(3) ‘Statewide average required rate’ means the amount of income projected to be needed by the unemployment insurance trust fund for the upcoming calendar year divided by the estimated taxable wages over the same period rounded to the sixth decimal place.

(4) ‘Statewide average interest surcharge’ means the amount of income projected to be needed to pay interest on outstanding federal advances during the upcoming calendar year divided by the estimated taxable wages for the upcoming calendar year.

Section 41‑31‑10. ~~(A)~~ Each employer shall pay contributions equal to five and four‑tenths percent of wages paid by him during each year except as may be otherwise provided in Chapters 27 through 41 of this title.

~~(B)~~ ~~For calendar year 2000 and subsequent years, employers subject to the payment of contributions are subject also to an adjustment over and above their base rate, if required by Section 41‑31‑80(2).~~

Section 41‑31‑20. (A) The ~~Commission~~ department shall maintain a separate account for each employer and shall credit the account of each with all the contributions paid on his behalf, but nothing in Chapters 27 through 41 of this title shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the fund either on his behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged, in the amounts provided in Chapters 27 through 41 of this title, against the accounts of his most recent employer. No employer shall be deemed as the most recent employer for the purpose of this section unless the eligible person to whom benefits are paid ~~shall have~~ earned wages in the employ of the employer equal to at least eight times the weekly benefit amount of the eligible claimant.

(B) Any two or more qualified employers in the same or a related trade, occupation, profession, or enterprise, or having a common financial interest may apply to the ~~Commission~~ department to establish a joint account or to merge their several individual accounts in a joint account. The ~~Commission~~ department shall promulgate regulations for the establishment, maintenance, and dissolution of joint accounts. A joint account shall be maintained as if it constituted a single employer’s account.

(C) The ~~Commission~~ department shall ~~by general rules prescribe~~ promulgate regulations concerning the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment at the same time. ~~Provided, however,~~ However, in the event benefits paid to an individual are based on wages paid by one or more employers who were liable for payments in lieu of contributions and on wages paid by one or more employers who were liable for payment of contributions, the amount in benefits ~~which shall be~~ charged to the account of the most recent employer shall not exceed the amount of benefits which would have been paid solely by reason of the base period wages paid by employers who were liable for payment of contributions.

(D) Nothing in this article shall be construed to limit benefits payable pursuant to Chapter 35 of this title.

Section 41‑31‑30. The ~~Commission~~ department shall ~~for each calendar year~~ annually classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts ~~with a view~~ to ~~fixing such~~ set contribution rates ~~as will~~ that reflect ~~such~~ the employer’s experience. The ~~Commission~~ department shall determine the contribution rate of each employer in accordance with the requirements of Sections 41‑31‑20 to 41‑31‑80.

Section 41‑31‑40. Each employer’s base rate for the twelve months commencing January first of any calendar year is determined in accordance with Section 41‑31‑50 on the basis of his record up to July first of the preceding calendar year, but no employer’s base rate is less than ~~two and sixty‑four hundredths percent~~ the rate applicable for rate class thirteen until there have been twelve consecutive months of coverage after first becoming liable for contributions under Chapters 27 through 41 of this title. Each employer who completes twelve consecutive calendar months of coverage after first becoming liable for contributions ~~under the chapters~~ during the current calendar year shall have a base rate computed on the basis of his record up through the next occurring June thirtieth, with that base rate being effective for the next calendar year beginning in January.

Section 41‑31‑45. (A) For the purposes of this section:

(1) ‘Average high cost multiple’ means the number of years the department could pay unemployment compensation, based upon the statewide reserve ratio, if the department paid the compensation at a rate equivalent to the average benefit cost rate in the three calendar years during the previous twenty calendar years, or the last three recessions, in which the benefit cost rates were the highest.

(2) ‘Benefit cost rate’ means the rate determined by dividing the unemployment compensation benefits paid during a calendar year by the total covered wages in the state during that year. The calculation of the benefit cost rate may not include the wages and unemployment compensation paid by employers covered under Section 3309 of the Internal Revenue Code of 1986.

(3) ‘Income needed to pay benefits’ means the estimate of benefit payable in a given calendar year less the estimate of interest to be earned by the unemployment insurance trust fund for that calendar year.

(4) ‘Statewide reserve ratio’ means the ratio determined by dividing the balance in the trust fund reserve as of June thirtieth by the total covered wages for the previous twelve months in the State as of June thirtieth. The calculation of the statewide reserve ratio may not include the wages and unemployment compensation paid by employers covered under Section 3309 of the Internal Revenue Code of 1986.

(5) ‘Fund adequacy target’ means an average high‑cost multiple of one.

(6) ‘Trust fund reserve’ excludes distributions from the federal government pursuant to 42 U.S.C. 1103, commonly referred to as the Reed Act.

(B) For each calendar year during the state Unemployment Insurance Trust Fund is in debt status, the department must estimate the amount of income necessary to pay benefits for that year, the amount of income necessary to avoid automatic FUTA credit reductions, and an amount of income necessary to repay all outstanding federal loans within five years. Additional estimates of interest costs shall be determined concurrently.

(1) Estimates of the revenue needed to pay benefits will be based on Congressional Budget Office projections for the subsequent calendar year’s total unemployment rate. This total unemployment rate will be adjusted for South Carolina based on the historic relationship between the unemployment rate in South Carolina and the national unemployment rate calculated from 1980 to present.

(2) The historic relationship, calculated from 1980 to present, between the total unemployment rate and the insured unemployment rate in South Carolina will be used to adjust the projected total unemployment rate to the rate of insured unemployment.

(3) Estimates of forecasted benefits be based upon the prior three year average of the annual number of weeks compensated multiplied by an estimate of the average weekly benefit for the next year.

(4) Estimates of amounts to pay to avoid FUTA credit reductions and amount of repayments on the loan will be projected through consultation with officials at the US Department of Labor.

(C) After the fund returns to solvency, the department must promulgate regulations concerning the income needed to pay benefits in each year and return the trust fund to an adequate level as defined in 41‑35‑45(5).

Section 41‑31‑50. Each employer eligible for a rate computation shall have his base rate determined in the following manner:

~~(1)~~ ~~If, on the computation date as of which an employer’s base rate is to be computed, as provided in Section 41‑31‑40, the total of all his contributions paid on his own behalf for all past periods exceeds the total benefits charged to his account for all the periods his contribution base rate for the period specified in Section 41‑31‑40 is, except for the provisions of Section 41‑31‑80, as follows:~~

~~(a)~~ ~~With respect to the calendar year 1973:~~

~~(i)~~ ~~two and thirty‑five hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(ii)~~ ~~two percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and sixty‑five hundredths percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and thirty hundredths percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(v)~~ ~~ninety‑five hundredths of one percent, if the excess equals or exceeds nine percent but is less than ten percent of his most recent annual payroll;~~

~~(vi)~~ ~~six‑tenths of one percent, if the excess equals or exceeds ten percent but is less than eleven percent of his most recent annual payroll;~~

~~(vii)~~ ~~twenty‑five hundredths of one percent, if the excess equals or exceeds eleven percent of his most recent annual payroll.~~

~~(b)~~ ~~With respect to calendar years 1974 through 1985:~~

~~(i)~~ ~~two and thirty‑five hundredths percent, if the excess equals or exceeds three percent but is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~two percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and sixty‑five hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and thirty hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~ninety‑five hundredths of one percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~six‑tenths of one percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~twenty‑five hundredths of one percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(c)~~ ~~With respect to any calendar year commencing with the calendar year 1986:~~

~~(i)~~ ~~two and twenty‑nine hundredths percent, if the excess equals or exceeds three percent but is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~one and ninety‑four hundredths percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and fifty‑nine hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and twenty‑four hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~eighty‑nine hundredths of one percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~fifty‑four hundredths of one percent if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~nineteen hundredths of one percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(d)~~ ~~With respect to any calendar year commencing with the calendar year 2000:~~

~~(i)~~ ~~two and sixty‑four hundredths percent, if the excess is less than four percent of his most recent annual payroll;~~

~~(ii)~~ ~~two and twenty‑nine hundredths percent, if the excess equals or exceeds four percent but is less than five percent of his most recent annual payroll;~~

~~(iii)~~ ~~one and ninety‑four hundredths percent, if the excess equals or exceeds five percent but is less than six percent of his most recent annual payroll;~~

~~(iv)~~ ~~one and fifty‑nine hundredths percent, if the excess equals or exceeds six percent but is less than seven percent of his most recent annual payroll;~~

~~(v)~~ ~~one and twenty‑four hundredths percent, if the excess equals or exceeds seven percent but is less than eight percent of his most recent annual payroll;~~

~~(vi)~~ ~~eighty‑nine hundredths percent, if the excess equals or exceeds eight percent but is less than nine percent of his most recent annual payroll;~~

~~(vii)~~ ~~fifty‑four hundredths percent, if the excess equals or exceeds nine percent of his most recent annual payroll.~~

~~(2)~~ ~~If, on the computation date as of which an employer’s base rate is to be computed, as provided in Section 41‑31‑40, the total of all his contributions paid on his own behalf for all past periods is less than the total benefits charged to his account for all the periods his contribution base rate for the period specified in Section 41‑31‑40 is, except for the provisions of Section 41‑31‑80, as follows:~~

~~(a)~~ ~~With respect to any calendar year prior to the calendar year 1985:~~

~~(i)~~ ~~three and five hundredths percent, if the deficit equals five percent but is less than ten percent of his most recent annual payroll;~~

~~(ii)~~ ~~three and forty hundredths percent, if the deficit equals ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and seventy‑five hundredths percent, if the deficit equals fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(iv)~~ ~~four and ten hundredths percent, if the deficit equals or exceeds twenty percent of his most recent annual payroll.~~

~~(b)~~ ~~With respect to the calendar year 1985:~~

~~(i)~~ ~~three and five hundredths percent, if the deficit equals five percent but is less than ten percent of his most recent annual payroll;~~

~~(ii)~~ ~~three and forty hundredths percent, if the deficit equals ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and seventy‑five hundredths percent, if the deficit equals fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(iv)~~ ~~four and ten hundredths percent, if the deficit equals twenty percent but is less than twenty‑five percent of his most recent annual payroll;~~

~~(v)~~ ~~four and forty‑five hundredths percent, if the deficit equals twenty‑five percent but is less than thirty percent of his most recent annual payroll;~~

~~(vi)~~ ~~four and eighty hundredths percent, if the deficit equals thirty percent but is less than thirty‑five percent of his most recent annual payroll;~~

~~(vii)~~ ~~five and fifteen hundredths percent, if the deficit equals thirty‑five percent but is less than forty percent of his most recent annual payroll;~~

~~(viii)~~ ~~five and forty hundredths percent, if the deficit equals or exceeds forty percent of his most recent annual payroll.~~

~~(c)~~ ~~With respect to any calendar year commencing with the calendar year 1986:~~

~~(i)~~ ~~two and sixty‑four hundredths percent, if the deficit is less than five percent of his most recent annual payroll;~~

~~(ii)~~ ~~two and ninety‑nine hundredths percent if the deficit equals or exceeds five percent but is less than ten percent of his most recent annual payroll;~~

~~(iii)~~ ~~three and thirty‑four hundredths percent if the deficit equals or exceeds ten percent but is less than fifteen percent of his most recent annual payroll;~~

~~(iv)~~ ~~three and sixty‑nine hundredths percent if the deficit equals or exceeds fifteen percent but is less than twenty percent of his most recent annual payroll;~~

~~(v)~~ ~~four and four hundredths percent if the deficit equals or exceeds twenty percent but is less than twenty‑five percent of his most recent annual payroll;~~

~~(vi)~~ ~~four and thirty‑nine hundredths percent if the deficit equals or exceeds twenty‑five percent but is less than thirty percent of his most recent annual payroll;~~

~~(vii)~~ ~~four and seventy‑four hundredths percent if the deficit equals or exceeds thirty percent but is less than thirty‑five percent of his most recent annual payroll;~~

~~(viii)~~ ~~five and nine hundredths percent if the deficit equals or exceeds thirty‑five percent but is less than forty percent of his most recent annual payroll;~~

~~(ix)~~ ~~five and forty hundredths percent if the deficit equals or exceeds forty percent of his most recent annual payroll.~~

~~(3)~~ ~~In determining an employer’s contribution rate, contributions for the quarter immediately preceding the computation date are considered as paid before the computation date if they are paid by the employer on or before the end of the month following the quarter or within any period of grace allowed by the commission for payment of the quarter’s contribution.~~

~~(4)~~ ~~For calendar year 1986 and any subsequent calendar year, voluntary payments are not permitted for the purpose of obtaining a lower rate of required contributions.~~

(1)(a)(i) Annually the department must calculate a contribution rate for each employer qualified for an experience rating. The contribution rate must correspond to rate calculated for the employer’s benefit ratio class.

(ii) To determine an employer’s benefit ratio rank, the department must list all employers by increasing benefit ratios, from the lowest benefit ratio to the highest benefit ratio. The list must be divided into classes ranked one through twenty. Each class must contain approximately five percent of the total taxable wages, excluding reimbursable employment wage, paid in covered employment during the four completed calendar quarters immediately preceding the computation date. Each employer must be placed in the class that corresponds with the employer’s benefit ratio.

(iii) If an employer’s taxable wages qualify the employer for two separate classes, the employer shall be afforded the class assigned the lower contribution rate. Employers with identical benefit ratios shall be assigned to the same class.

(b) The income needed to pay benefits for the calendar year plus any applicable income needed to reach the solvency target must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one‑hundredth of one percent is the average required rate needed to pay benefits and achieve solvency targets.

(c) The rate for class twenty will be set such that the entire schedule raises the income required to pay benefits for the year, as well as the income necessary to move the trust fund toward the solvency target, subject to the structure provided in this chapter. However, the rate for class twenty must be a least five and four‑tenths percent.

(2)(a) If the calculated rate necessary for benefit rate class twenty exceeds five and four‑tenths percent, then the rate for each succeeding benefit rate class shall be equal to ninety percent of the rate calculated for the preceding class, except that rate class twelve shall be set at one‑fourth the rate calculated for class twenty, provided that the rate for class one shall be zero.

(b)(i) If the computed rate necessary for class twenty is less than five and four‑tenths percent, then the rate for class twenty shall be set at five and four‑tenths percent.

(ii) The rate for rate class twelve shall be calculated by multiplying the average tax rate computed in subsection (A)(1)(b) by twenty, subtracting five and four‑tenths percent, and dividing by nineteen.

(iii) The contribution rate for rate classes eleven through one shall be equal to ninety percent of the rate for the preceding class, provided that the rate for class one shall be zero.

(iv) The contribution rate for class thirteen shall be equal to one hundred twenty percent of the rate calculated for rate class twelve.

(v) The contribution rate for rate class nineteen shall be set at an amount that allows for average contributions, beginning with class eighteen and ending with class fourteen, that are equal to ninety percent of the preceding class.

Section 41‑31‑55. (A) In any calendar year in which the state Unemployment Insurance trust fund is insolvent, the state shall impose additional surcharges on all employers to pay interest on the outstanding debt. The estimated amount of interest to be paid in the upcoming year will be divided by the estimated taxable payroll for the calendar year. The result rounded to the next higher one hundredth of one percent is the statewide average surcharge.

(B) The rate for class twenty will be set so that the entire schedule raises the income required to pay interest surcharges for the year, subject to the structure defined in subsection (A). The rate for each succeeding benefit rate class shall be equal to ninety percent of the rate calculated for the preceding class, except that the rate class twelve shall be set at one fourth the rate calculated for rate class twenty.

Section 41‑31‑60. ~~(1)~~(A) If on the computation date upon which an employer’s base rate is to be computed as provided in Section 41‑31‑40 there is a delinquent report, a base rate of two and sixty‑four hundredths percent must be assigned for the period to which the computation applies. If the base rate for the prior year or the computed base rate for the computation period is greater than two and sixty‑four hundredths percent, the higher rate must be assigned until the next computation date.

~~(2)~~(B) No employer is permitted to pay his unemployment compensation tax at a reduced base rate for any quarter when a tax execution issued in accordance with Section 41‑31‑390 with respect to delinquent unemployment compensation tax for a previous quarter is unpaid and outstanding against the employer. If on the computation date upon which an employer’s base rate is computed as provided in Section 41‑31‑40 there is an outstanding tax execution, a base rate of two and sixty‑four hundredths percent must be assigned for the period to which the computation applies. If the base rate for the prior year or the computed base rate for the computation period is greater than two and sixty‑four hundredths percent, the highest base rate must be assigned until the next computation date or until such time as any outstanding tax execution has been paid.

Section 41‑31‑70. If the ~~Commission~~ department finds that an employer ceased to render employment solely due to the closing of the business because of the entrance of one or more of the owners, officers, partners, or the majority stockholders into the armed forces of the United States, or any of its allies, or of the United Nations after January 1, 1951, such employer’s account shall not be terminated; and, if the business is resumed and employment rendered within two years after the discharge or release from active duty in the armed forces of ~~such~~ the person or persons, the employer’s experience shall be deemed to have been continuous throughout ~~such~~ that period. The ~~reserve~~ benefit ratio of ~~any such~~ the employer shall be the ~~total contributions paid by such employer minus all benefits~~ amount calculated pursuant to Section 41-31-5, including benefits paid to any individual during the period ~~such~~ the employer was in the armed forces, ~~charged against such employer’s account,~~ divided by his average annual payroll for the most recent year during the whole of which ~~such~~ the employer has been in business and has rendered employment. This provision shall not be construed to authorize cash refunds and any adjustments required hereunder shall be only by credit certificate.

~~Section 41‑31‑80.~~ ~~A statewide reserve ratio must be computed once each year by adding to the total unemployment compensation fund on June thirtieth all contributions and interest received on or before July thirty‑first and dividing the result so obtained by the sum of the total wages reported by contributing employers on their contribution reports received by the commission during the twelve‑month period ending September thirtieth of the current year. Any amount credited to the state’s account under Section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, is excluded from the unemployment fund balance in computing the statewide reserve ratio. Any amount due and payable as a payment in lieu of contributions by a nonprofit organization as provided in Section 41‑31‑630, the State of South Carolina, or the federal government must be added to the total unemployment compensation fund for the purposes of the computations required by this section.~~

~~(1)~~ ~~For the base rate computations made for years prior to the calendar year 2000, when the statewide reserve ratio computed during any calendar year equals or exceeds three and one‑half percent, contribution rates applicable to the following calendar year are computed in accordance with Sections 41‑31‑40 and 41‑31‑50. When the statewide reserve ratio computed during any calendar year is less than three and one‑half percent, all contribution rates applicable to the following calendar year are increased over those computed in accordance with Sections 41‑31‑40 and 41‑31‑50 as follows:~~

~~(a)~~ ~~thirty‑five hundredths of one percent, if the statewide reserve ratio equals or exceeds three percent but is less than three and one‑half percent;~~

~~(b)~~ ~~seven‑tenths of one percent, if the statewide reserve ratio equals or exceeds two and one‑half percent but is less than three percent; and~~

~~(c)~~ ~~one and five hundredths percent, if the statewide reserve ratio is less than two and one‑half percent.~~

~~This section does not apply to any employer whose contribution rate is more than two and sixty‑four hundredths percent, and no employer’s rate shall exceed two and sixty‑four hundredths percent by reason of the application of this section.~~

~~(2)~~ ~~For the base rate computations made for years commencing with calendar year 2000, when the statewide reserve ratio computed during any calendar year is less than two percent, all contribution base rates as computed in accordance with Sections 41‑31‑40 and 41‑31‑50 are adjusted as follows:~~

~~(a)~~ ~~one‑tenth percent, if the statewide reserve ratio is less than two percent but not less than one and nine‑tenths percent;~~

~~(b)~~ ~~two‑tenths percent, if the statewide reserve ratio is less than one and nine‑tenths percent but not less than one and eight‑tenths percent;~~

~~(c)~~ ~~three‑tenths percent, if the statewide reserve ratio is less than one and eight‑tenths percent but not less than one and seven‑tenths percent;~~

~~(d)~~ ~~four‑tenths percent, if the statewide reserve ratio is less than one and seven‑tenths percent but not less than one and six‑tenths percent;~~

~~(e)~~ ~~five‑tenths percent, if the statewide reserve ratio is less than one and six‑tenths percent but not less than one and five‑tenths percent;~~

~~(f)~~ ~~six‑tenths percent, if the statewide reserve ratio is less than one and five‑tenths percent but not less than one and four‑tenths percent;~~

~~(g)~~ ~~seven‑tenths percent, if the statewide reserve ratio is less than one and four‑tenths percent.~~

Section 41‑31‑90. In the event of a change of name by a corporation, without any change of ownership interest ~~therein~~, the ~~Commission~~ department may provide that the experience rating of the old corporation be continued by the new corporation.

Section 41‑31‑100. Any person or other legal entity who acquires by purchase, merger, consolidation, devise, inheritance or other means substantially all of the business of any employer and continues ~~such~~ the acquired business, shall be deemed to be a successor to the predecessor from whom ~~such~~ the business was acquired for the purpose of this article and, if not already an employer prior to ~~such~~ the acquisition, shall become an employer on the date of ~~such~~ the acquisition and shall succeed to the employment benefit experience record of the predecessor. The ~~Commission~~ department shall prescribe by regulation the notice to be given of ~~such~~ the acquisition. For the purposes of Chapters 27 through 41 of this title the term ‘substantially all’ ~~shall be deemed to mean~~ means ninety‑five percent or more of the business as determined by the ~~Commission~~ department in a particular case.

Section 41‑31‑110. (A) Whenever any person or other legal entity has in any manner succeeded to or has acquired substantially all or a distinct and severable portion of the business of another, as provided in Sections 41‑31‑100 and 41‑31‑120, the base rates of contributions are computed as follows:

~~(a)~~(1) If the successor is not already an employer at the time of the acquisition, the base rate of contributions applicable to the predecessor employer with respect to the period immediately preceding the date of acquisition, if there is only one predecessor employer, shall apply to the successor employer for the remainder of the calendar year.

~~(b)~~(2) If the successor is not already an employer at the time of the acquisition and there is more than one transferring employer with a different base rate, the successor employer is assigned the base rate of that transferring employer who has the highest base rate ~~with the base rate being applicable for the remainder of the year~~.

~~(c)~~(3) If the successor is already an employer at the time of the acquisition, the base rate of contributions applicable at the time of the acquisition to the successor employer shall continue to be applicable ~~for the remainder of the year~~ base rate.

(B) For the purposes of items ~~(a)~~ (1), ~~(b)~~ (2), and ~~(c)~~ (3) in subsection (A), the base rate as assigned continues in effect for the remainder of the calendar year and until the time the combined employment benefit experience record meets the requirements as provided in Section 41‑31‑40.

Section 41‑31‑120. In the event that any person acquires by purchase, merger, consolidation, devise, inheritance or otherwise, a distinct, severable, identifiable and segregable part of the business of an employer and continues ~~such an~~ the acquired part of the business of the predecessor, the successor shall succeed to that portion of the employment benefit experience record of the predecessor which is attributable solely to the portion of the business which was acquired, except that ~~such~~ a succession to the ~~reserve account~~ benefit experience attributable to an identifiable portion of the business of the predecessor shall not occur unless the successor is an employer at the time of the acquisition or becomes an employer within the quarter in which the succession occurs~~.~~; ~~Provided~~ provided, ~~however,~~ that no partial transfer of any employment benefit experience record shall be made unless a request is entered ~~therefor~~ by both the predecessor and the successor employer. The ~~Commission~~ department shall prescribe by regulation a period within which notification of ~~such~~ the acquisition shall be given and the method by which the experience to be transferred shall be computed.

Section 41‑31‑125. (A) Notwithstanding the provisions of Sections 41‑31‑100 and 41‑31‑120, an employing unit must be assigned all or a portion of the employment benefit record of an existing employing unit when there is an acquisition or change in the form or organization of an existing business enterprise, or severable portion ~~thereof~~ of an existing business enterprise, and there is a continuity of control of the business enterprise. The employing unit must be assigned the same rate as the predecessor, or the predecessor who has the highest base rate if there is more than one predecessor employing unit with different base rates.

(1) For purposes of this section control of the business enterprise may occur by means of ownership of the organization conducting the business enterprise, ownership of assets necessary to conduct the business enterprise, security arrangements or lease arrangements covering assets necessary to conduct the business enterprise, including workers, or a contract when the ownership, stated arrangements, or contract provide for or allow direction of the internal affairs or conduct of the business enterprise.

(2) For purposes of this section continuity of control exists if one or more persons, entities, or other organizations controlling the business enterprise remain in control of the business enterprise after an acquisition or change in form or there is a transfer to persons within the first degree of kinship to the transferors. Evidence of continuity of control includes, but is not limited to, changes of an individual proprietorship to a corporation, partnership, limited liability company, association, or estate; a partnership to an individual proprietorship, corporation, limited liability company, association, estate, or the addition, deletion, or change of partners; a limited liability company to an individual proprietorship, partnership, corporation, association, estate, or to another limited liability company; a corporation to an individual proprietorship, partnership, limited liability company, association, estate, or to another corporation or from any form to another form.

(B) An employing unit must not be assigned any portion of the employment benefit record of an existing employing unit upon the acquisition of that established business or of an identifiable and segregable part ~~thereof~~ that established business if:

(1) the acquiring person was not otherwise an employer at the time of the acquisition;

(2) the person has no substantial commonality of interest, including ownership or management, in the business acquired; and

(3) the ~~commission~~ department finds that the person acquired the business or an identifiable and segregable part ~~thereof~~ of the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(C) If the experience rating account of the predecessor employer contains a debit balance, defined as an excess of total benefits charged over total contributions paid, the experience rating account of the predecessor employer ~~in any event~~ must be transferred to the successor employer in accordance with the provisions of Section 41‑31‑140.

(D)(1) An employing unit that knowingly attempts to violate the provisions of this section must be assessed a penalty in an amount equal to the greater of one thousand dollars or ten percent of the tax determined by the ~~commission~~ department to be due for each report that is submitted in violation of this section. For the purposes of this section, the terms ‘knowingly’ or ‘knowing’ mean having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition in this section. This penalty may be recovered in the manner provided in Article 3 of this chapter for the collection of other penalties. Officers and directors of the enterprise comprising the employing unit are individually liable for the penalties assessed pursuant to this ~~paragraph~~ subsection.

(2) A contribution tax return preparer who violates this section or provides advice to an employing unit that results in a knowing violation of the provisions of this section is liable ~~to~~ for a penalty of not less than one thousand dollars nor more than ten thousand dollars for each report submitted in violation of this section. This penalty may be recovered by the ~~commission~~ department in an appropriate civil action in any court of competent jurisdiction.

(3) As used in this section, a ‘contribution tax return preparer’ is a person who prepares for compensation, or who employs one or more persons to prepare for compensation, any contribution and wage report or report of change in the status of an employing unit required by this chapter or any claim for credit for a tax imposed by this chapter. For purposes of this definition, the completion of a substantial portion of a report is treated as the preparation of the entire report. The term does not include a person merely because the person furnishes typing, reproducing, or other mechanical assistance, prepares a report of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed, prepares as a fiduciary a report for any person, or represents a taxpayer in a hearing regarding an issue arising under this chapter.

(E) The ~~commission~~ department shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

Section 41‑31‑130. Nothing in Sections 41‑31‑110 and 41‑31‑120 shall be construed to authorize or require the refund of any sums lawfully paid into the unemployment compensation trust fund or to ~~use otherwise any of such~~ authorize or require sums ~~except~~ lawfully paid into the unemployment compensation trust fund for any purpose other than to pay unemployment compensation benefits. But the ~~Commission~~ department may make the necessary adjustments in conformity with the provisions of this law by deductions of future contribution payments as though such payments or assessments had been made erroneously by any person coming within the provisions of said sections.

Section 41‑31‑140. (A) For the purposes of this section, ‘debit balance’ means the excess of total benefits charged over total contributions made.

(B) No transfer of experience rating accounts, in whole or in part, is permitted under the provisions of Sections 41‑31‑100 to 41‑31‑130 unless all unemployment compensation taxes based on wages paid by the transferring employer prior to the date of the transfer are paid by the transferring employer when due or assumed by the acquiring employer within sixty days from the date he is notified by the ~~commission~~ department that the transfer cannot be allowed because of unpaid unemployment compensation taxes. If the experience rating account of the predecessor employer contains a debit balance ~~(excess of total benefits charged over total contributions paid)~~, the experience rating account of the predecessor employer in any event must be transferred to the successor employer in accordance with the provisions of Sections 41‑31‑100 and 41‑31‑120.

Section 41‑31‑150. In the payment of any contributions or ~~employment security~~ any departmental administrative contingency assessment a fractional part of a cent must be disregarded unless it amounts to one‑half cent or more, in which case it must be increased ~~to~~ by one cent.

Section 41‑31‑160. The ~~commission~~ department shall not require contribution and wage reports more frequently than quarterly. Effective with the quarter ending March 31, 2003, every employer with two hundred fifty or more employees and every individual or organization that, as an agent, reports wages on a total of two hundred fifty or more employees on behalf of one or more subject employers, and effective with the quarter ending March 31, 2005, every employer with one hundred or more employees and every individual or organization that, as an agent, reports wages on a total of one hundred or more employees on behalf of one or more subject employers, shall file that portion of the ‘Employer Quarterly Contribution and Wage Reports’ containing the employee’s social security number, name, and total wages on magnetic tapes, diskettes, or electronically, in a format approved by the ~~commission~~ department. The ~~commission~~ department may waive the requirement to file using magnetic media if hardship is shown. In determining whether a hardship has been shown, the ~~commission~~ department shall take into account, among other relevant factors, the ability of the taxpayer to comply with the filing requirement at a reasonable cost.

Section 41‑31‑170. The ~~Commission~~ department shall report annually to any employer the status of his account showing his ~~reserve balance at the beginning of the period, total contributions he has made and~~ total charges against it for benefits paid during the annual period~~,~~ and his ~~reserve balance at the end of such period~~ benefit ratio as calculated pursuant to Section 41-31-5, as applicable. No employer may contest any charge against his account or the status of his account unless he makes protest within thirty days after such report has been mailed by the ~~Commission~~ department.

ARTICLE 3.

PAYMENT AND COLLECTION OF CONTRIBUTIONS

Section 41‑31‑310. Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to Chapters 27 through 41 of this title with respect to wages for employment. ~~Such contributions~~ Contributions shall become due and be paid by each employer to the ~~Commission~~ department for the fund in accordance with ~~such~~ regulations promulgated by ~~as~~ the ~~Commission~~ department ~~may prescribe~~ and shall not be deducted, in whole or in part, from the wages of ~~individuals in such~~ the employer’s ~~employ~~ employees. ~~Provided, however,~~ However, no determination and assessment of contributions, interest, or penalties shall be made, and no action for the collection of contributions, interest, and penalties shall be instituted more than four years after the last day of the month immediately following the calendar quarter for which ~~such~~ the contributions, interest, or penalties were payable. ~~Provided, further, that this proviso shall~~ This limitation period contained in this section does not apply to ~~any employer if the Commission finds that the employer~~ employers that willfully ~~failed~~ fail to ~~report, when required to do so by the provisions of this law or the rules and regulations of the Commission, or has~~ timely file a contribution report with the department, that knowingly ~~made a~~ make false ~~statement~~ statements to the department in a contribution report, or ~~has~~ that intentionally ~~failed~~ fail to disclose a material fact to the department concerning a contribution report.

Section 41‑31‑320. As soon as practicable after a contribution report is filed, the ~~Commission~~ department shall examine it and compute the contribution due. If the amount ~~so~~ computed ~~shall be~~ is greater than the amount ~~theretofore~~ previously paid, the ~~excess~~ difference shall be paid to the ~~Commission~~ department within ten days after notice of the amount ~~shall be~~ is mailed by the ~~Commission~~ department.

Section 41‑31‑330. (A) If the ~~Commission~~ department finds that an additional contribution is due, that the report was made in good faith, ~~and~~ that the understatement of the contribution is not deliberate, then no penalty shall be added because of ~~such~~ the understatement~~,~~. ~~but~~ However, the amount of the deficiency shall bear interest at the rate of one per cent for each month or fraction ~~thereof~~ of a month that it remains unpaid.

(B) If the ~~Commission~~ department finds that the understatement is due to negligence on the part of the employer, but without intent to defraud, there shall be added to the amount of the deficiency, in addition to interest calculated in the manner provided in subsection (A), a ten per cent ~~thereof~~ penalty.

(C) If the ~~Commission~~ department finds that the understatement is false or fraudulent, with intent to evade the payment of the contribution due, there shall be added to the amount of the deficiency, in addition to interest calculated in the manner provided in subsection (A), a one hundred per cent ~~thereof~~ penalty.

Section 41‑31‑340. ~~If any~~ The department must give notice to an employing unit ~~which~~ that has failed to make reports ~~as~~ required ~~under~~ pursuant to Chapters 27 through 41 of this title, or has filed incorrect or insufficient reports. ~~and has been notified by the Commission of its failure and~~ If the employing unit refuses or neglects to file a proper report within fifteen days after ~~such~~ notice has been mailed to it ~~to file a proper report~~, the ~~Commission~~ department shall determine the amount of the wages payable for employment by ~~such~~ the employing unit for the period for which the report is required. The determination must be based upon the department’s ~~according to its~~ best information and belief. ~~and shall thereupon~~ The department must then determine the amount of contribution due, if any, computing it at double the rate which would otherwise apply. ~~The Commission in such a case~~ The department may allow further time, not to exceed an additional fifteen days, for ~~the~~ filing ~~of~~ the proper report after notice is mailed.

Section 41‑31‑350. ~~If any~~ An employer that fails to file ~~any~~ a report ~~as required of him under~~ concerning wages or contributions pursuant to Chapters 27 through 41 of this title ~~with respect to wages or contributions~~ within fifteen days from the date upon which the ~~Commission has~~ department mailed ~~to him~~ a demand for the report, the ~~Commission~~ department shall assess ~~upon~~ the employer a penalty of ten percent of the contributions due but no less than twenty‑five nor more than one thousand dollars ~~which is~~ in addition to the contributions payable with respect to the report.

Section 41‑31‑360. (A) If, not later than four years after the date on which any contributions or interest or employment security administrative contingency assessments became due, an employer who has paid the contributions or interest or employment security administrative contingency assessments shall make application for an adjustment in connection with subsequent contribution or employment security administrative contingency assessments payments or for a refund because the adjustment cannot be made and the ~~commission~~ department shall determine that the contributions or interest or employment security administrative contingency assessments or any portion was erroneously collected, the ~~commission~~ department shall make an adjustment, without interest, in connection with subsequent contribution or employment security administrative contingency assessments payments by him or, if the adjustment cannot be made, shall refund the amount from the fund. For like cause and within the same period an adjustment or refund may be made on the ~~commission’s~~ department’s own initiative.

(B) A refund or adjustment must be made in any case where the ~~commission~~ department finds that contributions or interest or employment security administrative contingency assessments were erroneously paid by an employing unit to this State upon wages earned by individuals in employment in another state. The refund or adjustment must be made upon satisfactory proof to the ~~commission~~ department that the payment of the contributions or interest or employment security administrative contingency assessments has been made to the other state.

Section 41‑31‑370. ~~(1)~~(A) Contributions unpaid on the date on which they are due and payable, as prescribed by the ~~Commission~~ department, shall bear interest at the rate of one percent for each month or fraction ~~thereof~~ for which they remain unpaid but contributions as have accrued prior to the establishment of an employer’s liability shall bear interest at the rate of one half of one percent a month or fraction ~~thereof~~ of a month, to the date on which liability is established, unless it is found by the ~~Commission~~ department that the delay in the establishment of liability resulted from willful negligence of the employer, and shall bear interest at the rate of one percent a month or fraction ~~thereof~~ for which they remain unpaid thereafter.

~~(2)~~(B) If any employer’s amount of contributions which ~~is~~ are due and payable, as prescribed by the ~~Commission~~ department, ~~is~~ are unpaid ten days following the date on which an assessment or debit memorandum ~~has been~~ was issued ~~therefor~~, a penalty of ten percent of the amount of contributions due and payable, not to exceed one thousand dollars, must be paid in addition to any other interest or penalty which may be applicable.

~~(3)~~(C) The ~~Commission~~ department may, for good cause, extend the time for the filing of reports and the payment of contributions. Any person to whom the extension is granted shall pay in addition to the contribution due, interest ~~thereon~~ at the rate of one percent per month or fraction ~~thereof~~ of a month from the due date of the contribution to the date of payment.

Section 41‑31‑380. The contributions, interest, penalties, ~~employment security~~ departmental administrative contingency assessments, and costs prescribed in this chapter are considered taxes owing the State by the persons against whom they are charged, and are a lien upon the real property or chattels of the person by whom the contributions are due, only after the warrant described in Section 41‑31‑390 is indexed as prescribed in Section 41‑31‑400.

Section 41‑31‑390. (A) If an employer defaults in any payment of contributions, interest, penalties, or ~~employment security~~ departmental administrative contingency assessments, the ~~commission~~ department shall notify the employer of the amount of contributions, interest, penalties, or ~~employment security~~ departmental administrative contingency assessments due. If the amount is not paid within ten days after notice to the employer, the ~~commission~~ department shall issue a warrant of execution, directed to its authorized representative, commanding the representative to levy upon and sell the real and personal property of the employer found within that county for the payment of the amount, with interest, the cost of executing the warrant, and any reasonable costs incurred in collecting these amounts, to return the warrant to the ~~commission~~ department and to pay it the money collected.

(B) The ~~commission~~ department may contract with a collection agency or the Department of Revenue for the purpose of collecting delinquent payments of contributions, interest, penalties, ~~employment security~~ departmental administrative contingency assessments, and any other reasonable costs authorized by subsection (A).

(C) The ~~commission~~ department shall promulgate regulations to ~~effectuate~~ carry out the provisions of this section.

Section 41‑31‑400. (A) The ~~commission~~ department, or its authorized representative, shall file a copy of the execution with the clerk of court of the county or counties of the State in which the employer does business ~~a copy of the execution, and thereupon the~~ The clerk of court shall enter in his abstract of judgments the name of the employer ~~mentioned~~ identified in the warrant and in the proper columns the amount of the contributions, interest, penalties, and ~~employment security~~ departmental administrative contingency assessments and costs for which the warrant is issued along with ~~and~~ the date and hour when the copy is filed. ~~and~~ The clerk of court shall also index the warrant upon the index of judgments. The ~~commission~~ department, or its authorized representative, shall proceed upon the warrant in all respects and with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record and is entitled to the same fees for service in executing the warrant to be collected in the same manner.

(B) The powers now or hereafter conferred upon the Department of Revenue by Title 12 for the collection of unpaid income taxes are incorporated ~~herein~~ by reference and are conferred upon the ~~commission~~ department and its authorized representative for the collection of unpaid contributions, interest, penalties, and ~~employment security~~ departmental administrative assessments and costs, mutatis mutandis.

(C) The ~~commission~~ department shall promulgate regulations to ~~effectuate~~ carry out the provisions of this section.

Section 41‑31‑410. Any clerk of court or register of deeds, as the case may be, or county treasurer shall be entitled to the fees provided in Section 14‑19‑100 for filing, ~~and~~ enrolling, and satisfying a tax warrant or execution issued by the ~~Commission~~ department.

Section 41‑31‑420. ~~In the event of any~~ Subsequent to any distribution of ~~any~~ an employer’s assets pursuant to ~~an order of any~~ a court ~~under the laws of this State~~ order, including any receivership, assignment for the benefits of creditors, adjudicated insolvency, composition or similar proceeding, contributions then or thereafter due shall be paid in full on the same basis as all other tax claims but on a parity with claims for wages of not more than two hundred fifty dollars to each claimant earned within six months of the commencement of the proceeding. ~~In the event of an~~ Subsequent to an employer’s adjudication in bankruptcy or judicially confirmed extension proposal or composition under the Federal Bankruptcy Act, contributions then or thereafter due shall be entitled to such priority as is provided in that act.

ARTICLE 5.

FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS

Section 41‑31‑600. For the purposes of this article, ‘nonprofit organization’ means an organization, or group of organizations, described in Section 501(c)(3) of the United States Internal Revenue Code that is exempt from income taxes under Section 501(a) of the that code.

Section 41‑31‑610. Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this article. ~~For the purpose of this section and Section 41‑31‑670, a ‘nonprofit organization’ is an organization (or group of organizations) described in Section 501 (c) (3) of the U.S. Internal Revenue Code which is exempt from income tax under Section 501 (a) of such Code.~~

Section 41‑31‑620. Any nonprofit organization which, pursuant to item (6) of Section 41‑27‑210, is, or becomes, subject to Chapters 27 through 41 of this title after December 31, 1971, shall pay contributions under provisions of Section 41‑31‑10 unless it elects, in accordance with this section, to pay the ~~Commission~~ department for the unemployment fund an amount equal to the amount of regular benefits and one‑half the extended benefits paid for any reason, including but not limited to payments made as a result of a determination, or payments erroneously or incorrectly paid, or paid as a result of a determination of eligibility or partial eligibility which is subsequently reversed for any reason, if the payments or any portion of the payments were made as a result of wages earned in the employ of the nonprofit organization. After January 1, 1979, the State or any political subdivision or any instrumentality of the political subdivision as defined in subitem (b) of item (2) of Section 41‑27‑230 is required to reimburse the amount of regular benefits and all extended benefits paid for any reason, including but not limited to payments made as a result of a determination, or payments erroneously or incorrectly paid, or paid as a result of a determination of eligibility or partial eligibility which is subsequently reversed for any reason, if the payments or any portion of the payments were made as a result of wages earned in its employ during the effective period of the elections.

(1) Any nonprofit organization which is, or becomes, subject to Chapters 27 through 41 of this title on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972, provided, it files with the ~~Commission~~ department a written notice of its election within the thirty‑day period immediately following that date.

(2) Any nonprofit organization which becomes subject to Chapters 27 through 41 of this title after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with the date on which the subjectivity begins by filing a written notice of its election with the ~~Commission~~ department not later than thirty days immediately following the date of the determination of the subjectivity.

(3) Any nonprofit organization which makes an election in accordance with item (1) or item (2) of this section will continue to be liable for payments in lieu of contributions until it files with the ~~Commission~~ department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which the termination is first effective.

(4) Any nonprofit organization which has been paying contributions under Chapters 27 through 41 of this title for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the ~~Commission~~ department not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. The election is not terminable by the organization for that and the next calendar year.

(5) The ~~Commission~~ department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(6) The ~~Commission~~ department, in accordance with the regulations as may be prescribed, shall notify each nonprofit organization of any determination made with respect to its status as an employer and of the effective date of any election which it makes and of any termination of the election. The determinations are subject to reconsideration, appeal, and review in accordance with the provisions of item (5) of Section 41‑31‑630.

Section 41‑31‑630. Payments in lieu of contributions shall be made in accordance with the provisions of ~~paragraphs~~ subsections (1) and (2) of this section.

(1) At the end of each calendar quarter the ~~Commission~~ department shall bill each non‑profit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one‑half of the amount of extended benefits paid during such quarter, and effective January 1, 1979, with respect to the State or any political subdivision or any instrumentality thereof as defined in Section 41‑27‑230(2)(b) the full amount of regular and extended benefits attributable to services performed in its employ.

(2) Each non‑profit organization that has elected payment of benefits in lieu of contributions shall further elect for the same period to make such payments in accord with one of the following two methods:

(a) payment of any bill rendered under ~~paragraph~~ subsection (1) of this section in accordance with ~~paragraph~~ subsection (3) of this section; or

(b) payment of two per cent of the quarterly taxable payroll of the non‑profit organization to the ~~Commission~~ department within thirty days after the close of each such calendar quarter. The ~~Commission~~ department shall apply such funds to the payment of bills rendered to the non‑profit organization under ~~paragraph~~ subsection (1) of this section. At the end of each calendar year, the ~~Commission~~ department shall determine whether the total of payments for such year made by the non‑profit organization is less than, or in excess of, the total amount of regular benefits plus one‑half of the amount of extended benefits paid to individuals during such calendar year, and effective January 1, 1979, with respect to the State or any political subdivision or any instrumentality thereof as defined in Section 41‑27‑230(2)(b) the full amount of all regular and extended benefits paid to individuals during such calendar year based on wages attributable to service in its employment. Each non‑profit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with ~~paragraph~~ subsection (3) of this section. If the total payments exceed the amount so determined for the calendar year, all or a part of the excess may, at the discretion of the ~~Commission~~ department, be refunded from the fund or retained in the fund as part of the payments which may be required for the next calendar year.

(3) Payment of any bill rendered under either ~~paragraph~~ subsection (2)(a) or ~~paragraph~~ subsection (2)(b) of this section shall be made not later than thirty days after such bill is mailed to the last known address of the nonprofit organization or is otherwise delivered to it, unless there has been an application for review and redetermination in accordance with ~~paragraph~~ subsection (5) of this section.

(4) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(5) The amount due specified in any bill from the ~~commission~~ department shall be conclusive on the organization unless, not later than fifteen days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the ~~commission~~ department setting forth the grounds for the application. After affording the organization a reasonable opportunity for a fair hearing consonant with the provisions of Section 41‑35‑720, the ~~commission~~ department shall by its decision make findings of fact and conclusion of law and upon the basis thereof affirm, modify, or reverse its original ruling with respect to the amount originally specified in the bill. Within fifteen days after the date upon which the decision is issued the organization may procure judicial review of the decision by commencing an action in the court of common pleas in any county in which the organization has a place of business against the ~~commission~~ department for the review of its decision. In such action a petition, which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the ~~commission~~ department or upon a person as the ~~commission~~ department shall designate. With its answer the ~~commission~~ department shall certify and file with the court all evidence and a transcript of all testimony taken in the matter together with its findings of fact and decision therein. In any judicial proceeding under this section the decision of the court shall be based upon the evidence introduced and the testimony received at the hearing before the ~~commission~~ department. An appeal may be taken from the decision of the court of common pleas in the manner provided by the South Carolina Appellate Court Rules. A petition for judicial review shall act as a supersedeas or stay of any action by the ~~commission~~ department directed toward the collection of the amount involved in the controversy or the imposition of any penalty or forfeiture by reason of the nonpayment thereof.

(6) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to Section 41‑31‑370, apply to past due contributions.

(7) All of the provisions of Section 41‑31‑360, applicable to the adjustment or refund of contributions and interest paid or collected, and not inconsistent with the provisions of this section, shall be applicable to payments in lieu of contributions and interest erroneously paid by a nonprofit organization.

(8) All of the remedies, powers and means available to the ~~Commission~~ department under the provisions of Sections 41‑31‑380, 41‑31‑390, 41‑31‑400, 41‑31‑410, and 41‑31‑420 to enforce the payment of contributions, interest, penalties and costs are applicable to the enforcement of payments in lieu of contributions and interest due under the provisions of this section, and for the purposes of this item the term ‘contributions’ which appears in any such sections means ‘payment in lieu of contributions’ in all particulars.

(9) In the event any governmental entity which is a covered employer under the terms of this chapter and Article 5 of Chapter 35 becomes delinquent in payments due under this chapter and Article 5 of Chapter 35, upon due notice, and upon certification of the delinquency by the ~~South Carolina Employment Security Commission~~ department to the State Treasurer or any other department or agency of the State holding funds that may be payable to the delinquent governmental entity, the amount of such delinquency shall be deducted from any such funds in the hands of the State Treasurer or other department or agency and paid to the ~~South Carolina Employment Security Commission~~ department in satisfaction of such delinquency. This remedy shall be in addition to any other collection remedies in this chapter and Article 5 of Chapter 35 or otherwise provided by law.

Section 41‑31‑640. The ~~Commission~~ department in its discretion may adopt regulations requiring any nonprofit organization or group of organizations described in Section 41‑31‑660(3) which does not possess title to real property and improvements valued in excess of two million dollars to post a surety bond, money deposit, securities, or other security as the ~~Commission~~ department may require to insure the payments in lieu of the contributions required under such election.

(1) The amount of the surety bond, money deposit, securities, or other security required by this ~~paragraph~~ subsection shall bear such relationship as the ~~Commission~~ department shall determine to the organization’s total wages paid for employment as defined in Section 41‑27‑380 for the four calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the surety bond, cash deposit, securities, or other security shall be as determined by the ~~Commission~~ department.

(2) Any bond deposited under this ~~paragraph~~ subsection shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the ~~Commission~~ department, at such times as the ~~Commission~~ department may prescribe, but not less frequently than at two‑year intervals as long as the organization continues to be liable for payments in lieu of contributions. The ~~Commission~~ department shall require adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in Section 41‑31‑630(6), shall render the surety liable on such bond to the extent of the bond, as though the surety was such organization.

(3) Any deposit of money in accordance with this ~~paragraph~~ subsection shall be retained by the ~~Commission~~ department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The ~~Commission~~ department may deduct from the money deposited under this ~~paragraph~~ subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in Section 41‑31‑630(6). The ~~Commission~~ department shall require the organization within fifteen days following any deduction from a money deposit under the provisions of this ~~subparagraph~~ subsection to deposit sufficient additional money to make whole the organization’s deposit at the prior level. The ~~Commission~~ department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, it determines that an adjustment is necessary, it shall require the organization to make additional deposit within fifteen days of written notice of its determination or shall return to the organization such portion of the deposit as it no longer considers necessary, whichever action is appropriate.

Section 41‑31‑650. If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided under this section, the ~~Commission~~ department may terminate such organization’s election to make payments in lieu of contributions and such termination shall continue for not less than two calendar years beginning with the quarter in which such termination becomes effective; provided, that the ~~Commission~~ department may extend for good cause the applicable filing, deposit or adjustment period by not more than thirty days.

Section 41‑31‑660. Each employer that is liable for payment in lieu of contributions shall pay the ~~Commission~~ department for the fund an amount equal to the amount of regular benefits and one half the extended benefits paid that are attributable to service in the employ of such employer except that after January 1, 1979, the State or any political subdivision or any instrumentality thereof as defined in Section 41‑27‑230(2)(b) shall be required to reimburse the full amount of regular and extended benefits attributable to service in its employment. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of ~~subparagraph~~ subsection (1) or (2).

(1) If the benefits paid to an individual are based both on base period wages paid by one or more employers that are liable for contributions and on base period wages paid by one or more employers that are liable for payments in lieu of contributions, the amount payable by each employer that is liable for payments in lieu of contributions shall bear the same ratio to the sum of the amounts payable by such employers as the total base period wages paid to the individual by each employer that is liable for payments in lieu of contributions bear to the total base period wages paid to the individual by all such employers.

(2) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employer.

(3) Two or more employers that have been liable for payments in lieu of contributions, in accordance with the provisions of Section 41‑31‑620 may file a joint application to the ~~Commission~~ department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group’s agent for the purpose of this section. Upon its approval of the application, the ~~Commission~~ department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group’s representative of the effective date of the account. Such account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the ~~Commission~~ department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The ~~Commission~~ department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this ~~paragraph~~ subsection, for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this ~~paragraph~~ subsection by members of the group and the time and manner of such payments.

Section 41‑31‑670. ~~(1)~~(A) Any nonprofit organization that prior to January 1, 1969, paid contributions required by Section 41‑31‑10 and, pursuant to Section 41‑31‑620, elects within thirty days after January 1, 1972, to make payments in lieu of contributions, is not required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by the organization to individuals for weeks of unemployment which begin on or after the effective date of the election until the total amount of the benefits equals the amount of the positive balance in the experience rating account of the organization.

~~(2)~~(B) Any nonprofit organization which has elected to become liable for payments in lieu of contributions under the provisions of Sections 41‑31‑620 and 41‑31‑630 and thereafter terminates the election shall become an employer liable for the payments of contributions upon the effective date of the termination but no such employer’s base rate thereafter may be less than two and sixty‑four hundredths percent until there have been twenty‑four consecutive calendar months of coverage after so becoming liable for the payment of contributions. If the employer has been an employer liable for the payment of contributions prior to election to become liable for payments in lieu of contributions, the balance in the experience rating account of the employer as of the termination date of the election to become liable for payments in lieu of contributions is transferred to the new experience rating account then established for the employer.

ARTICLE 7.

FINANCING BENEFITS PAID TO EMPLOYEES OF GOVERNMENTAL ENTITIES

Section 41‑31‑810. Benefits paid to employees of a governmental entity as provided for by Sections 41‑27‑210(5), 41‑27‑230(2), and 41‑35‑10, shall be financed to the same extent, in similar manner, and by like procedure as is set out in Article 5 of this chapter with respect to the financing of benefits paid to employees of nonprofit organizations, except that the provisions of Section 41‑31‑640 shall not be applicable thereto, and except that for the purposes of Section 41‑31‑670 no governmental entity as defined in Section 41‑27‑230(2) may use any credit balance in its experience rating account for payment, credit, set off, or reduction of reimbursement of any amount of regular or extended benefits attributable to service in its employment.

Section 41‑31‑820. (A) Unemployment Compensation premiums collected from state agencies will be deposited into a separate account and used to pay Unemployment Compensation benefits to eligible employees of the State. Premiums will be based on experience ratings provided by private consultants and the Budget and Control Board. The Unemployment Compensation Funds’ contribution level must be reviewed no less than biennially to ensure that premiums are commensurate with the cost of operating the Unemployment Compensation Fund. All interest earned on this account must be retained by the Unemployment Compensation Fund and used to offset costs.

(B) Notwithstanding the amounts annually appropriated as ‘Unemployment Compensation Insurance’ to cover unemployment benefit claims paid to employees of the State Government who are entitled under federal law, the State Treasurer and the Comptroller General, are hereby authorized and directed to pay from the general fund of the State to the ~~South Carolina Employment Security Commission such~~ department funds ~~as are~~ necessary to cover actual benefit claims paid during the current fiscal year which exceed the amounts paid in for this purpose by the various agencies, departments, and institutions subject to unemployment compensation claims. The ~~Employment Security Commission~~ department must certify quarterly to the Budget and Control Board the state’s liability for such benefit claims actually paid to claimants who were employees of the State of South Carolina and entitled under federal law. The amount so certified must be remitted to the ~~Employment Security Commission~~ department.

ARTICLE 9.

PAYMENT AND COLLECTION OF ~~EMPLOYMENT SECURITY~~ DEPARTMENTAL ADMINISTRATIVE CONTINGENCY ASSESSMENTS

Section 41‑31‑910. ~~Employment security~~ Departmental administrative contingency assessments must accrue and become payable by each employer who is subject to the assessments as defined in Section 41‑27‑410 for each calendar year in which he is subject to Chapters 27 through 41 of this title with respect to wages for employment. The assessments are due and payable by each subject employer to the ~~commission~~ department for the ~~employment security~~ departmental administrative contingency fund and are not deductible, in whole or in part, from the wages of individuals in the employer’s employ. No determination and assessments may be instituted more than four years after the last day of the month immediately following the calendar quarter for which the assessments were payable. ~~This proviso~~ The limitation period contained in this section does not apply to ~~any~~ an employer ~~if the commission finds that the employer~~ that willfully ~~failed~~ fails to ~~report when required to do so by the provisions of~~ file a departmental contingency assessment report pursuant to this section or ~~the rules of the commission~~ pursuant to regulations promulgated by the department, or has knowingly made a false statement or has intentionally failed to disclose a material fact on a departmental contingency assessment report.

Section 41‑31‑920. ~~Employment security~~ Departmental administrative contingency assessments must be reported on the employer’s quarterly contribution report according to the same rules as the ~~commission~~ department may prescribe for contributions.

Section 41‑31‑930. If any employer’s amount of ~~employment security~~ departmental administrative contingency assessment which is due and payable, as prescribed by the ~~commission~~ department, is unpaid ten days following the date on which an assessment or debit memorandum has been issued ~~therefor~~, a penalty of ten dollars may be assessed.”

SECTION 2. Section 41‑27‑310 of the 1976 Code is amended to read:

“Section 41‑27‑310. An ‘insured worker’ is an individual who has been paid wages in his base period for insured work equal to or exceeding one and one‑half times the total of his wages paid in the quarter of such base period in which his wages for insured work were highest; provided, however, that no individual shall qualify as an insured worker unless he has been paid at least ~~nine hundred~~ four thousand four hundred fifty five dollars in his base period for insured work and ~~five hundred forty~~ one thousand ninety‑two dollars in that quarter of his base period in which such wages were highest.”

SECTION 3. Section 41‑27‑380(2) of the 1976 Code is amended to read:

“(2) For the purpose of Chapter 31, Article 1, of this title, ‘wages’ does not include that part of remuneration which, after remuneration equal to ~~seven~~ ten thousand dollars for the period of January 1, 2011, through December 31, 2011, twelve thousand dollars for the period of January 1, 2012, through December 31, 2014, and fourteen thousand dollars from January 1, 2015 has been paid in a calendar year to an individual by an employer or his predecessor or with respect to employment during any calendar year, is paid to the individual by the employer during the calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection, employment includes service constituting employment under any unemployment compensation law of another state.”

SECTION 4. Section 41‑35‑40 of the 1976 Code is amended to read:

“Section 41‑35‑40. An insured worker’s weekly benefit amount is fifty percent of his weekly average wage, as defined in Section 41‑27‑140, and the weekly benefit amount, if not a multiple of one dollar, must be computed to the next lower multiple of one dollar. However, no insured worker’s weekly benefit amount may be less than ~~twenty~~ forty‑two dollars nor greater than sixty‑six and two‑thirds percent of the statewide average weekly wage most recently computed before the beginning of the individual’s benefit year.”

SECTION 5. Article 7, Chapter 27, Title 41 of the 1976 Code, as added by Act 146 of 2010, is amended by adding:

“Section 41‑27‑760. (A) No candidate for or person intending to become a candidate for the Department of Workforce Appellate Panel may seek, directly or indirectly, the pledge of a member of the General Assembly’s vote or contact, directly or indirectly, a member of the General Assembly or the review committee regarding screening for the Department of Workforce Appellate Panel, until the qualifications of all candidates for that office have been determined by the Department of Workforce Review Committee, and the review committee has formally released its report as to the qualifications of all candidates for the office to the General Assembly. For purposes of this section, ‘indirectly seeking a pledge’ means the candidate, or someone acting on behalf of or at the request of the candidate, requests a person to contact a member of the General Assembly on behalf of the candidate before the review committee has formally released its report as to the qualifications of all candidates to the General Assembly. The prohibitions of this section do not extend to an announcement of candidacy by the candidate or statement by the candidate detailing the candidate’s qualifications.

(B)(1) No member of the General Assembly may pledge or offer his pledge his vote for a candidate until the qualifications of all candidates for the Department of Workforce Appellate Panel have been determined by the Department of Workforce Review Committee, and the review committee has formally released its report as to the qualifications of all candidates to the General Assembly. The formal release of the report of qualifications must occur no earlier than forty‑eight hours after the names of all candidates found qualified by the review committee have been initially released to members of the General Assembly.

(2) No member of the review committee may pledge or offer his pledge to find a candidate qualified prior to the review committee’s determination of qualifications.

(C) No member of the General Assembly may trade anything of value, including pledges to vote for legislation or for other candidates, in exchange for another member’s pledge to vote for a candidate for the Department of Workforce Appellate Panel.

(D)(1) Violations of this section may be considered by the Department of Workforce Review Committee when it considers the candidate’s qualifications.

(2) Violations of this section by members of the General Assembly must be reported by the review committee to the House or Senate Ethics Committee, as may be applicable.

(3) Violations of this section by incumbent appellate panelists seeking reelection must be reported by the Department of Workforce and the Department of Workforce Appellate Panel to the State Ethics Commission. A violation of this section is a misdemeanor and, upon conviction, the violator must be fined not more than one thousand dollars or imprisoned not more than ninety days, or both. Cases tried under this section may not be transferred from general sessions court pursuant to Section 22‑3‑545.”

SECTION 6. Section 41‑29‑40 of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“Section 41‑29‑40. There are created under the department two coordinate divisions, the South Carolina State Employment Service Division ~~created pursuant to Section 41‑5‑10~~, and a division to be known as the Unemployment Compensation Division. Each division must be administered by a full‑time salaried director, who is subject to the supervision and direction of the department. The department may appoint, fix the compensation of, and prescribe the duties of the directors of these divisions. ~~These appointments must be made on a nonpartisan merit basis in accordance with the provisions of Section 41‑29‑90.~~ The director of each division shall be responsible to the department for the administration of his respective division and has the power and authority as vested in him by the department.”

SECTION 7. Article 5, Chapter 27, Title 41 of the 1976 Code is amended by adding:

“Section 41‑27‑525. If the majority of the weeks of work in an individual’s base period includes part‑time work, the individual shall not be denied unemployment benefits under any provisions of this act relating to availability for work, active search for work, or failure to accept work, solely because the individual is seeking only part‑time work. The phrase ‘seeking only part‑time work’, as used in this subsection, means the individual claiming unemployment benefits is available for a number of hours per week that are comparable to the individual’s part‑time work experience in the base period.”

SECTION 8. Section 41‑27‑150, as last amended by an act bearing ratification number 159 of 2010, is further amended to read:

“Section 41‑27‑150. (A) Except as provided in subsection (B), ‘base period’ means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year. However, in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the department pursuant to the provisions of Section 41‑29‑140(2), the base period is that applicable provided by the law of the paying state.

(B)(1) ‘Alternate base period’ means for benefits years effective after May 31, 2010, if an individual does not have sufficient wages in the base period defined in subsection (A) to qualify for benefits, his base period must be the four calendar quarters completed most recently before the individual’s benefit year if this period qualifies him for benefits, provided these quarters were not previously used to establish a prior valid benefit year.

(2) If the wage information for an individual’s most recently completed calendar quarter is not available to the department from regular quarterly reports of systematically accessible wage information, the department promptly must contact the individual’s employer to establish such wage information. The director shall establish rules necessary to implement this subsection.

(C) Wages that fall within the base period, if claims established under this section, must not be available for use in qualifying for a subsequent benefit year.”

SECTION 9. Section 41‑29‑300, as added by Act 146 of 2010, is amended by adding an appropriately lettered new subsection to read:

“( ) Notwithstanding another provision of law, it shall be mandatory for a member of the Department of Workforce Appellate Panel to retire not later than the end of the fiscal year in which he reaches his seventy‑second birthday.”

SECTION 10. Section 41‑35‑125 of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“Section 41‑35‑125. (A)(1) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse and:

~~(1)~~(a) reasonably fears future domestic abuse at or en route to the workplace;

~~(2)~~(b) needs to relocate to avoid future domestic abuse; or

~~(3)~~(c) reasonably believes that leaving work is necessary for his safety or the safety of his family.

~~(B)~~(2) When determining if an individual has experienced domestic abuse for the purpose of receiving unemployment compensation, the department must require him to provide documentation of domestic abuse including, but not limited to, police or court records or other documentation of abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the individual has sought assistance.

~~(C)~~(3) Documentation or evidence of domestic abuse acquired by the department pursuant to this section must be kept confidential unless consent for disclosure is given, in writing, by the individual.

(B)(1) For the purposes of this subsection:

(a) ‘Immediate family member’ means a claimant’s spouse, parents, or minor children.

(b) ‘Illness’ means a verified disability that necessitates the care of the disabled person for a period of time that exceeds the amount of time the employer will provide paid or unpaid leave. Disability, includes, but is not limited to mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities.

(c) ‘Compelling family circumstances’ means:

(i) that a claimant was separated from employment with the employer because of the illness or disability of the claimant and, based upon available information, the department finds that it was medically necessary for the claimant to stop working or change occupations;

(ii) the claimant was separated from work due to the illness or disability of an immediate family member; and

(iii) the claimant’s spouse was transferred or employed in another city or state, the family is required to move to the location of that job, the location is outside the commuting distance of the claimants previous employment, and the claimant separates from employment in order to move to the new location with his spouse.

(2) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual was separated from employment due to compelling family circumstances.”

SECTION 11. This act takes effect January 1, 2011. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator RYBERG moved that the amendment be adopted.

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

**Ayes 39; Nays 1**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Mulvaney Nicholson Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Shoopman Williams

**Total--39**

**NAYS**

Anderson

**Total--1**

The amendment was adopted.

The Bill was ordered returned to the House of Representatives with amendments.

**CONCURRENCE**

S. 372 -- Senators Hayes and Ford: A BILL TO AMEND SECTION 62‑2‑207, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DETERMINATION OF AN ELECTIVE SHARE OF A SPOUSE, SO AS TO CLARIFY THAT AN INTEREST AS A BENEFICIARY IN A TESTAMENTARY TRUST OR IN PROPERTY PASSING TO AN INTER VIVOS TRUST THROUGH THE DECEDENT’S WILL IS A BENEFICIAL INTEREST CHARGEABLE TO THE ELECTIVE SHARE; AND TO AMEND SECTION 62‑7‑401, AS AMENDED, RELATING TO CREATION OF A TRUST, SO AS TO PROVIDE FOR THE INCLUSION OF A SURVIVING SPOUSE’S BENEFICIAL INTERESTS IN TRUST PROPERTY IN CALCULATING THE ELECTIVE SHARE.

The House returned the Bill with amendments.

The Senate proceeded to a consideration of the Bill, the question being the concurrence in the House amendments.

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

**Ayes 42; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Mulvaney Nicholson

O’Dell Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Shoopman Verdin Williams

**Total--42**

**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.

**CONCURRENCE**

S. 728 -- Senators Hayes, Fair and Ford: A BILL TO AMEND SECTION 12‑65‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENTITLEMENT TO TAX CREDITS UNDER THE TEXTILES COMMUNITIES REVITALIZATION ACT, SO AS TO FURTHER PROVIDE FOR THE APPLICABILITY OF SPECIFIC REQUIREMENTS FOR TEXTILE MILL SITES ACQUIRED BEFORE AND AFTER 2007, TO REVISE THE ALLOWABLE AMOUNT OF THE CREDITS IN CERTAIN INSTANCES, TO PROVIDE THAT THE TAX CREDITS ALLOWED INCLUDE CREDITS AGAINST INSURANCE PREMIUM TAXES, TO MAKE A TECHNICAL CORRECTION, AND TO FURTHER PROVIDE FOR THE MANNER IN WHICH THESE CREDITS ARE VESTED IN A TAXPAYER AND MAY BE ALLOCATED TO PARTNERS OR MEMBERS; BY ADDING SECTION 12‑65‑50 SO AS TO PROVIDE TRANSITION RULES APPLICABLE TO SPECIFIC MILL SITES; AND BY ADDING SECTION 12‑65‑60 SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY CERTIFICATION PROCESS.

The House returned the Bill with amendments.

The Senate proceeded to a consideration of the Bill, the question being the concurrence in the House amendments.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Mulvaney Nicholson

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Shoopman

Verdin Williams

**Total--41**

**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.

**LOCAL APPOINTMENTS**

**Confirmations**

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Darlene R. Smith, 56 Blacksmith Circle, Beaufort, SC 29903

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Mark F. Fitzgibbons, 2807 Broome Lane, Beaufort, SC 29902

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Terry A. Finger, 25 McIntosh Road, Hilton Head, SC 29926

Reappointment, Saluda County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

David Bruce Horne, 378 Butler Road, Saluda, SC 29138

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Orville G. Chase, 3511 Morgan River Drive, Beaufort, SC 29907

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Nancy Doherty Sadler, 130 Old Plantation Drive, Beaufort, SC 29907

Reappointment, Edgefield County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Brenda B. Carpenter, 225 McDaniel Drive, Trenton, SC 29847

**MOTION ADOPTED**

On motion of Senators LEVENTIS and KNOTTS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Maria Siokos Papajohn of Columbia, S.C.  Mrs. Papajohn was an active member of her church.  She was devoted in her fund-raising efforts for the many charities she held dear to her heart.  In addition to being a loving wife and mother, she was also a very proud Yiayai who deeply loved her family.  Mrs. Papajohn will be missed by her family and by all of the people whose lives she touched over the years.  Her love of life and legacy will live on through her children and grandchildren, for which we are all grateful.

and

**MOTION ADOPTED**

On motion of Senator NICHOLSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Alvin Rucker of Greenwood, S.C. Mr. Rucker, a community leader, was a retired high school teacher with over 30 years of teaching experience.

**ADJOURNMENT**

At 6:12 P.M., on motion of Senator LARRY MARTIN, the Senate adjourned to meet tomorrow at 11:00 A.M.

**Recorded Vote**

Senators BRYANT, BRIGHT, SHOOPMAN and MULVANEY desired to be recorded as voting against the motion to adjourn.

\* \* \*