**Wednesday, March 16, 2011**

**(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:

God proclaims to his people:

 “I will look on you with favor and make you fruitful… and I will keep my covenant with you.” (Leviticus 26:9)

 Let us pray:

 God Almighty, may it always be that the leaders who serve You in this Body are willing to be obedient to Your teachings, that they seek continually to honor You through what they say and do. We know full well that blessings come to those who do Your will. So grant to every Senator and each staff member the determination to bring about the very best for all of the people of South Carolina, making choices that will benefit our State through the decades ahead. And as ever, O Lord, to You be the glory.

Amen.

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

**Motion Adopted**

 On motion of Senator HAYES, with unanimous consent, Senators SETZLER, MATTHEWS, CROMER and HAYES were granted leave to attend a Senate Finance subcommittee meeting and be granted leave to vote from the balcony.

**Point of Quorum**

 At 11:21 A.M., Senator SHANE MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Fair

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

Peeler Rankin Rose

Scott Setzler Sheheen

Shoopman Thomas

 A quorum being present, the Senate resumed.

**Recorded Presence**

 Senators KNOTTS and ELLIOTT recorded their presence subsequent to the Call of the Senate.

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Nikki Randhawa Haley:

**Statewide Appointments**

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2005, and to expire May 19, 2012

3rd Congressional District:

 Kristofer Clark, 2310 Earls Bridge Road, Easley, SC 29640 *VICE* G. Dial DuBose

Referred to the Committee on Judiciary.

Reappointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2006, and to expire May 19, 2013

6th Congressional District:

John Calhoun Land IV, P. O. Box 138, Manning, SC 29102

Referred to the Committee on Judiciary.

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2009, and to expire May 19, 2016

5th Congressional District:

 James R. Sanders, Jr., 227 Hidden Acres Drive, Gaffney, SC 29341 *VICE* Rev. James Sanders (deceased)

Referred to the Committee on Judiciary.

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2009, and to expire May 19, 2016

Horry County:

 David F. Singleton, 3997 Larkhill Drive, Myrtle Beach, SC 29577 *VICE* Dr. John Molnar

Referred to the Committee on Judiciary.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2009, and to expire June 30, 2013

At-Large:

 Allen Amsler, 118 Harbra Court, Lexington, SC 29072 *VICE* Paul C. Aughtry III

Referred to the Committee on Medical Affairs.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2009, and to expire June 30, 2013

4th Congressional District:

 L. Clarence Batts, Jr., 105 Rockport Way, Pacolet, SC 29372 *VICE* Dr. M. David Mitchell

Referred to the Committee on Medical Affairs.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2007, and to expire June 30, 2011

6th Congressional District:

 John O. Hutto, Sr., 1025 Moss Street, Orangeburg, SC 29115 *VICE* Dr. Coleman Buckhouse

Referred to the Committee on Medical Affairs.

Reappointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2011, and to expire June 30, 2015

6th Congressional District:

John O. Hutto, Sr., 1025 Moss Street, Orangeburg, SC 29115

Referred to the Committee on Medical Affairs.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2009, and to expire June 30, 2013

5th Congressional District:

 Ann B. Kirol, 1265 Rittenhouse Lane, Rock Hill, SC 29732 *VICE* Glenn McCall

Referred to the Committee on Medical Affairs.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2007, and to expire June 30, 2011

1st Congressional District:

 Mark Lutz, 60 On the Harbor Drive, Mt. Pleasant, SC 29464 *VICE* Edwin Cooper III (resigned)

Referred to the Committee on Medical Affairs.

Reappointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2011, and to expire June 30, 2015

1st Congressional District:

Mark Lutz, 60 On the Harbor Drive, Mt. Pleasant, SC 29464

Referred to the Committee on Medical Affairs.

Initial Appointment, Board of the South Carolina Department of Health and Environmental Control, with the term to commence June 30, 2009, and to expire June 30, 2013

2nd Congressional District:

 Robert Kenyon Wells, 120 Morning Shore Court, Lexington, SC 29072 *VICE* Henry Scott

Referred to the Committee on Medical Affairs.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

At-Large:

 Cary L. Chastain, 180 Mary Ellen Drive, Charleston, SC 29403 *VICE* Michael G. McShane

Referred to the Committee on Fish, Game and Forestry.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

2nd Congressional District:

 Michael E. Hutchins, 617 Two Notch Road, Lexington, SC 29073 *VICE* Michael Cambell

Referred to the Committee on Fish, Game and Forestry.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

5th Congressional District:

 Randy Lowe, 1111 W. Carolina Ave., Hartsville, SC 29550 *VICE* Frank Murray, Jr.

Referred to the Committee on Fish, Game and Forestry.

Reappointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

1st Congressional District:

Caroline Rhodes, 7 Guerard Road, Charleston, SC 29407

Referred to the Committee on Fish, Game and Forestry.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

3rd Congressional District:

 Larry L. Yonce, 1302 Calhoun Street, Johnston, SC 29832 *VICE* Stephen Davis

Referred to the Committee on Fish, Game and Forestry.

Initial Appointment, South Carolina Aeronautics Commission, with term coterminous with Governor

At-Large:

 Delphin Gantt, 136 Inverness Drive, Lexington, SC 29072 *VICE* Gregg Malphus

Referred to the Committee on Transportation.

Initial Appointment, South Carolina Commission on Disabilities and Special Needs, with the term to commence June 30, 2011, and to expire June 30, 2015

At-Large:

 Katherine Davis, 520 Oakbrook Drive, Columbia, SC 29223 *VICE* Kelly Floyd

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina Commission on Disabilities and Special Needs, with the term to commence June 30, 2010, and to expire June 30, 2014

5th Congressional District:

 Freddie L. Lynn, 409 Hawthorne Drive, Hartsville, SC 29550 *VICE* Dr. Otis Speight

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina Commission on Disabilities and Special Needs, with the term to commence June 30, 2009, and to expire June 30, 2013

3rd Congressional District:

 Christine Sharp, 2404 E. North Avenue, Anderson, SC 29625 *VICE* Susan Lait (resigned)

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina Commission on Disabilities and Special Needs, with the term to commence June 30, 2010, and to expire June 30, 2014

6th Congressional District:

 Harvey Shiver, 1482 Poultry Lane, Eastover, SC 29044 *VICE* William R. Harrell

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina Department of Transportation Commission, with term coterminous with Governor

At-Large:

 Grover Clifton Parker, 168 Pilgram Point Drive, Lexington, SC 29072 *VICE* Ken R. Willingham

Referred to the Committee on Transportation.

Initial Appointment, South Carolina State Board of Pharmacy, with term coterminous with Governor

At-Large:

 Rebecca E. Long, 159 South Bull Street, Columbia, SC 29205 *VICE* David Banks

Referred to the Committee on Medical Affairs.

Reappointment, South Carolina State Board of Pharmacy, with term coterminous with Governor

Lay Member:

Leo Richardson, 241 King Charles Road, Columbia, SC 29209

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2010, and to expire July 1, 2012

Public University Representative:

 Natasha M. Hanna, 874 Denali Drive, Conway, SC 29526 *VICE* Kenneth Jackson

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2008, and to expire July 1, 2012

At-Large:

 D. Jermaine Husser, 8075 Old Hazelwood Drive, North Charleston, SC 29406 *VICE* Cynthia Mosteller

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2008, and to expire July 1, 2012

At-Large:

 Elizabeth Jackson, 102 Tadpole Court, Lexington, SC 29072 *VICE* Dr. Douglas Forbes

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2010, and to expire July 1, 2012

Research Institutions:

 Leah B. Moody, 840 Brunswick Drive, Rock Hill, SC 29730 *VICE* Dr. Charles Thomas, Jr.

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2010, and to expire July 1, 2012

Technical School:

 Charles Munns, 123 Trippi Lane, Aiken, SC 29803 *VICE* Mr. J. Neal Workman, Jr.

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence June 30, 2010, and to expire June 30, 2014

Private College Presidents:

 Rodney A. Smolla, 1209 Roe Ford Road, Greenville, SC 29617 *VICE* Dr. Mitchell Zais (resigned)

Referred to the Committee on Education.

**Local Appointments**

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

Samuel Franklin Adams, 105 Meadow Lake Drive, Inman, SC 29349

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

Nancy Atkins, 4461 Cannons Campground Road, Spartanburg, SC 29307

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

Daniel R. Burns, 1645 Caldwell Road, Campobello, SC 29322

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

Jimmy Henson, 161 Brewster Street, Pacolet Mill, SC 29373

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

David Turner, 106 Miller Road, Roebuck, SC 29376

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

James H. West II, 147 Shady Lane, Wellford, SC 29385

Initial Appointment, Sumter County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

 Fred H. Gordon, Jr., 3435 Kel Sam Drive, Dalzell, SC 29040 *VICE* Daisey Moore

**Doctor of the Day**

 Senator COURSON introduced Dr. Tommy Rowland of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

 At 11:00 A.M., Senator KNOTTS requested a leave of absence until 11:50 A.M.

**Leave of Absence**

 On motion of Senator BRYANT, at 11:00 A.M., Senator RYBERG was granted a leave of absence until 1:00 P.M.

**CO-SPONSOR ADDED**

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

S. 288 Sen. Knotts

S. 633 Sens. Knotts and Ford

**INTRODUCTION OF BILLS AND RESOLUTIONS**

 The following were introduced:

 S. 698 -- Senator Rose: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-11-245 SO AS TO REQUIRE THE OFFICE OF ECONOMIC RESEARCH TO REVIEW EACH EARMARK AND RESTRICTED SUBFUND ACCOUNT, TO PROVIDE FOR THE SCOPE OF THE REVIEW, AND TO REQUIRE EACH STATE AGENCY TO REMIT TO THE GENERAL FUND OF THIS STATE THE BALANCE OF EACH EARMARKED AND SUBFUND CARRY-FORWARD ACCOUNT IN EXCESS OF TWENTY FIVE PERCENT OF THE PREVIOUS YEAR’S EXPENDITURES FROM EACH SUBFUND ACCOUNT.

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

 S. 699 -- Senator McConnell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-1-70, SO AS TO ENACT PROVISIONS REQUIRING THAT ON OR AFTER JULY 1, 2012, A PERSON EMPLOYED AS A COMMUNITY ASSOCIATION MANAGER MUST HAVE COMPLETED CERTAIN CERTIFICATION PROGRAMS OR HAVE A VALID LICENSE ISSUED BY ANOTHER JURISDICTION THAT IS EQUIVALENT TO THIS STATE’S CERTIFICATION REQUIREMENTS, AND MUST COMPLY WITH ALL CONTINUING EDUCATION AND OTHER REQUIREMENTS TO MAINTAIN THE CERTIFICATION OR DESIGNATION AND TO PROVIDE FOR CERTAIN EXCEPTIONS TO THESE QUALIFICATIONS.

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

 S. 700 -- Senators Jackson, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A SENATE RESOLUTION TO CELEBRATE THE OCCASION OF THE TWO HUNDRED AND TWENTY-FIFTH ANNIVERSARY OF THE FOUNDING OF THE CITY OF COLUMBIA, AND TO CONGRATULATE AND COMMEND MAYOR STEVE BENJAMIN, THE CITY COUNCIL MEMBERS, AND THE CITIZENS OF COLUMBIA FOR TWO AND A QUARTER CENTURIES OF DISPLAYING THE CHARM AND STRENGTH OF SOUTH CAROLINA’S CAPITAL CITY.

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 The Senate Resolution was adopted.

 S. 701 -- Senators Setzler and Lourie: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR ED BARNES OF LEXINGTON COUNTY, AND TO CONGRATULATE HIM UPON THE OCCASION OF HIS INDUCTION INTO THE NATIONAL BARBER HALL OF FAME.

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

 H. 3700 -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THIS OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

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

 H. 3701 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2010-2011.

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

 H. 3935 -- Reps. J. E. Smith, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Harrison, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO CONGRATULATE THE 1-118 COMBINED ARMS BATTALION OF THE SOUTH CAROLINA ARMY NATIONAL GUARD UPON THE SUCCESSFUL COMPLETION OF OPERATION FRIENDSHIP II, CARRIED OUT IN SAUDI ARABIA FEBRUARY 16 - MARCH 4, 2011.

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

 H. 3942 -- Rep. McEachern: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR THE KEENAN HIGH SCHOOL BOYS BASKETBALL TEAM FOR GARNERING STATE CHAMPIONSHIP LAURELS IN TWO CONSECUTIVE YEARS, AND TO CONGRATULATE THE TEAM AND THEIR COACHES FOR THEIR CONTINUED SUCCESS.

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

 H. 3943 -- Reps. Owens, Atwater, Bikas, Bowen, Branham, R. L. Brown, Daning, Govan, Mitchell, J. M. Neal, Norman, Patrick, Taylor, Thayer and Whitmire: A CONCURRENT RESOLUTION TO CONGRATULATE SOUTH CAROLINA’S 2011 DISTRICT TEACHERS OF THE YEAR ON BEING SELECTED TO REPRESENT THEIR RESPECTIVE SCHOOL DISTRICTS, AND TO EXPRESS APPRECIATION FOR THEIR DEDICATED SERVICE TO CHILDREN AND WISH THEM CONTINUED SUCCESS IN THE FUTURE.

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

**HOUSE CONCURRENCES**

 S. 688 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND EXPRESS DEEP APPRECIATION TO THE INDEPENDENT COLLEGES AND UNIVERSITIES IN SOUTH CAROLINA DURING “INDEPENDENT COLLEGE AND UNIVERSITY WEEK” OF APRIL 4 ‑ 8, 2011, AND ON “INDEPENDENT COLLEGE AND UNIVERSITY DAY” ON APRIL 6, 2011, FOR THEIR OUTSTANDING CONTRIBUTIONS IN EDUCATING THE YOUTH OF OUR STATE AND NATION.

 Returned with concurrence.

 Received as information.

 S. 697 -- Senator Lourie: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE SPRING VALLEY HIGH SCHOOL GIRLS BASKETBALL TEAM FOR CAPTURING THE 2011 CLASS AAAA STATE CHAMPIONSHIP TITLE, AND TO HONOR THE TEAM’S EXCEPTIONAL PLAYERS, COACH, AND STAFF.

 Returned with concurrence.

 Received as information.

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

**READ THE SECOND TIME**

 H. 3790 -- Rep. Sellers: A BILL TO CREATE THE BAMBERG COUNTY WATER AND SEWER AUTHORITY; TO PROVIDE FOR ITS DUTIES, RESPONSIBILITIES, AND POWERS; AND TO PROVIDE FOR THE APPOINTMENT AND TERMS OF THE AUTHORITY’S MEMBERS.

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

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

**Ayes 1; Nays 0**

**AYES**

Hutto

**Total--1**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

 H. 3806 -- Reps. Toole, Bingham, Quinn, Frye, Huggins, Atwater, Spires, McLeod, Ballentine and Ott: A JOINT RESOLUTION TO PROVIDE A PROPERTY TAX CREDIT FOR PROPERTY TAX YEAR 2011 FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY SITUATED IN LEXINGTON COUNTY SCHOOL DISTRICT NOS. 1 AND 4 AS THE SOLE REMEDY FOR REFUNDING OVERPAYMENTS OF PROPERTY TAX ON SUCH PROPERTY FOR PROPERTY TAX YEARS 2007 AND 2008 AS A RESULT OF THE OPINION OF THE SOUTH CAROLINA SUPREME COURT IN THE CASE OF *BERKELEY COUNTY SCHOOL DISTRICT ET AL. V. SOUTH CAROLINA DEPARTMENT OF REVENUE*, AND TO PROVIDE FOR THE CALCULATION OF THE CREDIT AND OTHER REFUNDS RESULTING FROM THE CASE, AND TO PROVIDE THOSE ELIGIBLE TO RECEIVE THE CREDIT.

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

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

**Ayes 3; Nays 0**

**AYES**

Courson Cromer Setzler

**Total--3**

**NAYS**

**Total--0**

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

**OBJECTION**

 Senator THOMAS objected to the uncontested Bills on the Statewide Calendar.

**THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

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

**THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.**

**COMMITTEE AMENDMENT ADOPTED, AS AMENDED**

**READ THE SECOND TIME**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

 H. 3004 -- Reps. Ballentine, Norman, Viers, Lucas, Simrill, Huggins, G.M. Smith, G.R. Smith, Loftis, Bedingfield, Hamilton, Stringer, Nanney, Lowe, Young, Willis, Bowen, D.C. Moss, Agnew, Pope, Daning, Thayer, Harrison, Allison, Taylor, Ryan, McCoy, Hixon, Bingham, Long, Whipper, R.L. Brown, Atwater, Henderson, Horne and Harrell: A BILL TO ENACT THE “SPENDING ACCOUNTABILITY ACT OF 2011”; AND TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑7‑125 SO AS TO REQUIRE CERTAIN BILLS AND JOINT RESOLUTIONS TO RECEIVE A RECORDED ROLL CALL VOTE AT VARIOUS STAGES OF THEIR PASSAGE BY THE HOUSE OF REPRESENTATIVES AND THE SENATE.

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

**Amendment No. P5**

 Senator HUTTO proposed the following amendment (JUD3004.015), which was tabled:

 Amend the committee amendment, as and if amended, by striking in its entirety subsection (C) in Section 2-7-125 as contained in SECTION 2 and inserting therein the following:

 / (C) A bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when:

 (1) the pending question is adoption of a conference or free conference report;

 (2) the pending question is the passage of a bill or joint resolution on second reading;

 (3) either the House of Representatives or the Senate agrees to the other body’s amendment;

 (4) any amendment is proposed to any bill or joint resolution;

 (5) any vote is taken in a joint assembly, and that vote is recorded as passing only if it receives a majority vote of the House of Representatives and a majority vote of the Senate; or

 (6) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator HUTTO explained the amendment.

 Senator ROSE argued contra to the adoption of the amendment.

**PRESIDENT *Pro Tempore* PRESIDES**

 At 12:10 P.M., Senator McCONNELL assumed the Chair.

 Senator ROSE argued contra to the adoption of the amendment.

 Senator LARRY MARTIN argued contra to the adoption of the amendment.

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

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

**Ayes 34; Nays 5**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Elliott Fair Grooms

Hayes Knotts Land

Leatherman Lourie *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O’Dell

Peeler Pinckney Rose

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--34**

**NAYS**

Ford Leventis Malloy

McConnell Reese

**Total--5**

 The amendment was laid on the table.

**Statement by Senator GROOMS**

 While I support the public policy ambitions of Amendment P5, I voted to table it because I do not believe this Bill is the proper place to insert this new matter. Questions regarding Joint Assemblies should be considered in separate legislation.

**Objection**

 At 12:48 P.M., Senator KNOTTS asked unanimous consent to make a motion that the Senate stand in recess not to exceed fifteen minutes.

 Senator SHANE MARTIN objected.

 At 12:48 P.M., Senator KNOTTS moved that the Senate stand in recess not to exceed fifteen minutes.

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

**Ayes 35; Nays 3**

**AYES**

Alexander Bryant Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Fair Ford

Grooms Hayes Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Massey Matthews McConnell

McGill Nicholson O’Dell

Peeler Pinckney Rose

Scott Setzler Sheheen

Shoopman Williams

**Total--35**

**NAYS**

Bright *Martin, Shane* Reese

**Total--3**

 At 12:53 p.m., the Senate stood in recess for fifteen minutes.

 At 1:22 P.M., the Senate reconvened.

**PRESIDENT PRESIDES**

 At 1:22 P.M., the PRESIDENT assumed the Chair.

**Amendment No. P6**

 Senator HUTTO proposed the following amendment (JUD3004.016), which was tabled:

 Amend the committee amendment, as and if amended, by striking in its entirety subsection (C) in Section 2-7-125 as contained in SECTION 2 and inserting therein the following:

 / (C) A bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when:

 (1) the pending question is adoption of a conference or free conference report;

 (2) the pending question is the passage of a bill or joint resolution on second reading;

 (3) either the House of Representatives or the Senate agrees to the other body’s amendment;

 (4) any amendment is proposed to any bill or joint resolution;

 (5) any vote is taken in a joint assembly, and that vote is recorded as passing only if it receives a majority vote determined by weighted voting of the House of Representatives and the Senate; or

 (6) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator HUTTO explained the amendment.

 Senator LARRY MARTIN spoke on the amendment.

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

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

**Ayes 35; Nays 3**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Elliott Grooms Hayes

Knotts Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--35**

**NAYS**

Anderson Hutto Leventis

**Total--3**

 The amendment was laid on the table.

**Amendment No. P7**

 Senators SHEHEEN and KNOTTS proposed the following amendment (3004R004.VAS), which was tabled:

 Amend the committee amendment, as and if amended, page [3004‑2], by striking line 10 and inserting:

 / question is the passage of a bill on third reading.

 (D) A member of the General Assembly who directly or indirectly finances, maintains, or controls a noncandidate committee as defined in Section 8‑13‑1300 must have a unique notation placed next to the member’s name in every recorded roll call vote placed in the journal of the member’s House and an explanation must be placed in the journal immediately following the recorded roll call vote explaining that the unique notation indicates that the member directly or indirectly finances, maintains, or controls a noncandidate committee as defined in Section 8‑13‑1300.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHEHEEN explained the amendment.

**Point of Order**

 Senator LARRY MARTIN raised a Point of Order that the amendment was out of order inasmuch as it was not germane to the Bill.

 Senator SHEHEEN spoke on the Point of Order.

 Senator KNOTTS spoke on the Point of Order.

 The PRESIDENT overruled the Point of Order.

**Motion Adopted**

 On motion of Senator McGILL, with unanimous consent, Senators GROOMS, ANDERSON and McGILL were granted leave to attend a Natural Resources subcommittee meeting of the Senate Finance Committee and be granted leave to vote from the balcony.

 Senator KNOTTS spoke on the amendment.

 Senator LARRY MARTIN argued contra to the adoption of the amendment.

 Senator LOURIE spoke on the amendment.

 Senator JACKSON argued in favor of the adoption of the amendment.

**Remarks by Senator JACKSON**

 I haven’t really been up here much this year, but I’m reminded what my mentor, Senator MATTHEWS, told me. He said, “The longer you serve in the Senate, the more you learn how to say less and listen more.” So, I haven’t felt the need to get up too often. When you speak behind a podium three and four times a week during your other job, you run away from it when you are here. At times, however, I feel compelled to express a little different perspective because I heard this line of questioning as it relates to the Senator from Richland.

 I have been for this Bill from the beginning. In fact, I’m a co-sponsor of your amendment and so there’s no questioning that I’m for transparency. I’ve said it all along from the beginning that I’m for this Bill. However, I must say that I’m also for this amendment. And I’m for this amendment not because I want to kill this Bill but because I believe that it is the right thing to do.

 And I was sitting there wondering, “When did we as a Senate allow the House to intimidate us not to do what is the right thing?” And if you are really for transparency, then you will take a look at this amendment. There is nothing, in my opinion, that is more deplorable than some of these leadership facts and what they do. And it really concerns me how we can be for transparency. And I am.

 I preface my remarks by giving you background to know that I’m a co-sponsor to Senator LARRY MARTIN’S amendment. But for me to sit here and not vote for this amendment because I’m afraid that the House will not accept it, then I need to just relinquish my position as a state Senator and just go home. If I’m afraid of what the House is going to do -- let me remind you of a conversation I had with Lawrence Gressette. When I first ran for the Senate, in fact, I ran to replace the Senator from Richland, Senator LOURIE’s father, the great ISADORE LOURIE. In meeting with Lawrence Gressette -- who most of you know is the son of former Senator MARION GRESSETTE, Senator from Charleston -- I went to SCANA, to his CEO’s office and sat down. He looked me in the eyes and he said, “You are a young, young, young man.” He said, “I have one piece of advice for you -- always be courageous; always do the right thing; and remember you are a state Senator -- not a Senator from Richland County.” At that time I represented Calhoun County. He said, “You have to represent the whole State.” So, everything that I’ve tried to do -- although it may be beneficial to my Senate District 21 -- I’m hearing Lawrence Gressette’s remarks in the back of my mind saying, “Is it good for South Carolina?” If it’s not good for South Carolina, then I can’t vote for it. It may be good for me personally, it maybe good for my district; but if it is not good for South Carolina, I can’t support it. In fact, Senator from Charleston, I find myself oftentimes in trouble, Senator from Pickens, with some of my closest friends because of the speech I made on this floor when we were debating the Confederate flag. We were debating the Confederate flag and I made this speech and I said here, Senator from Lexington, that, “I love the NAACP. I love my district. However, I love the State of South Carolina more than I love the NAACP.” And my friends -- some of them really took me to task as a matter of fact.

 There are those who are cold with me today because of that statement, and they said, “How can you say that you love South Carolina more than you love the NAACP? How can you say that?” And, I reminded them that when I was elected, I was not elected to represent solely the NAACP, or the Urban League, or my church or anything else. I was elected to do what was best for South Carolina. And I think if all of us want to do what’s best for South Carolina, we will move this item along, because this is probably the only shot that we’re going to have to really debate this issue. And, if you vote in favor of this, you are not voting for transparency as relates to leadership PACs. If you’re concerned that this is the poison pill and that this is the amendment that would doom this Bill, then we need to check our own courage and say, “Isn’t it our job to vote and do what’s right?” Not to look down the road to see if a House member, who, by the way, has gone on a 10-day vacation, will agree with what we are doing.

 Now there are Republicans with the leadership PACs and there are Democrats with the leadership PACs. I think they all need to be very transparent. I think that we need to at a minimum make them disclose what they’re doing and who they’re doing it with. And you know what? If at the end of the day, Senator from Newberry, someone says, “It costs too much to have this leadership PACs” and I have to go through too many hoops, then I would do away with my leadership PACs.

 And, I do think in the end South Carolina wins. Because nobody is being influenced with money that is not being filtered through the eyes of transparency. If you’re for transparency, you really have to be for it. You really have to be for this amendment. Now if you vote to table this amendment, I will be so discouraged in some of the people that I really looked up to in this debate. Because you see, contrary to what the critics said about all of you, I really believe that you’re doing this because you believe in it. Not because it is the politically correct thing to do, or you are doing it because a group wants you to do it, or the Governor wants you to do it, or anybody in here. You’re doing it because it is the right thing to do. If it’s the right thing to do, then let’s do the right thing and vote for this amendment. Otherwise, that whole argument about us being state Senators with courage can be thrown out of the window, and God bless MARION GRESSETTE’s soul because I am sure he is looking down, looking at this body and saying, “What kind of body did I leave here, who is not willing to stand up and make strong, courageous stands, regardless of the consequences.”

 Thank you.

Senator SETZLER: Senator, take it three steps further. What if we put an asterisk by the names of people who have the leadership PACs. And then put two asterisks by the people who receive money from the leadership PACs. What would that do?

Senator JACKSON: Senator, listen. I am for total transparency. I am for that and I’ll give you an example. In every aspect of my political life and in what I do as a living, I have friends of mine who are ministers of mega congregations all across the country and as you may be aware, there are ways that people in my profession can somehow protect some of their income by creating what are called “ministry groups” similar to leadership PACs. You don’t have to get paid by your church, or you can get paid through the ministry, and you don’t have to report that because you don’t have to report anything to the IRS. You can put your home in it. You can put your car in it. So, I have friends of mine in Dallas, Texas, and others and they’ve passed the congregation with 20,000 members or more. And they look at me and say, “You are crazy man. You can get a W-2 if you want to protect what you make. This is how you can do it and it is legal.” But I said, “Is it ethical? Is it moral?” It may be legal, but is it moral? And yes, it means that I’ve got to pay a higher tax rate. At the end of the day, I’m for transparency, and that is why I was for this Bill and I think what you are saying is absolutely right.

Senator SETZLER: But if you do what I said, by putting an asterisk by the people who have a tax and two asterisks by the people who receive money from the tax, wouldn’t that also show the impact that a tax may have with a person’s voting history?

Senator JACKSON: I would agree with you totally on anything that creates more transparency that we should do it. I commend the PRESIDENT because it is germane. We were talking about transparency, and anything that creates more transparency we should do, if we’re for this Bill.

Senator KNOTTS: Senator, did you hear the discussion on how much money a business could contribute or a person could contribute to a PAC of $3500?

Senator JACKSON: I think I did hear you reference that, yes.

Senator KNOTTS: Ok, are you aware that that’s not just $3500 during an election cycle? It is $3500 annually. So that’s four times $3500 in an election cycle for the Senate.

Senator JACKSON: I was not aware of it. I mean, I have never been a fan of those PACs.

Senator KNOTTS: But that is the law.

Senator JACKSON: Sure, that is the law, yes.

Senator KNOTTS: Ok, so a business out there would have to consider contributing $3500 every year to these leadership PACs. I’ve been asked to contribute to other PACs.

Senator JACKSON: I would agree.

Senator KNOTTS: Would that sound right?

Senator JACKSON: Yes, that sounds right.

Senator KNOTTS: That’s an awful big advantage over a leadership PAC and a PAC there for an employee’s PAC -- say the Southern Belle PAC where employees contribute $10 or $15 a year, something of that nature.

Senator JACKSON: Absolutely, and Senator we know that these businesses are any -- and I’m not hard on businesses. I’m a business person. I’ve owned a business for over 20 plus years. But we know when the business donates to a cause, they do expect something. And I hear people say that they want a good government that’s favorable to them. And that’s reasonable. All I’m saying is -- let’s make it transparent. Let us put it in the light of day so that everyone can see who gave and who received.

Senator KNOTTS: And would you agree the amendment points out that the Republican or the Democratic caucuses of the House or the Senate are not exempted from this because I feel the community out there needs to have a way to come and talk to the group that’s not in it for one reason, and is a caucus.

Senator JACKSON: Right.

Senator KNOTTS: And then the caucus discusses issues in their caucus without the threat of whether they are going to contribute to a campaign or something.

Senator JACKSON: That’s true, Senator, and here’s what my position has always been -- that you are not tainted by who gives you money; you are tainted by what you do as a result of that. You can take money from people all day long and still vote against their interests. If you vote, you’re conscientious -- if you vote to do what you think is the right thing to do. I don’t think anybody in here says, “Ok, we’re going to outlaw them on that. We will make them accountable. We will make the process more transparent.” And, at the end of the day, that is what we have been talking about for the last week -- transparency.

Senator SETZLER: There maybe another way to go at this.

Senator JACKSON: All right.

Senator SETZLER: This only puts asterisks by the names if they have a PAC, right?

Senator JACKSON: I think so, yes.

Senator SETZLER: And the Senator from Kershaw has introduced a Bill to abolish PACs by any member of the General Assembly, any Constitutional officer, the Governor, the Lt. Governor, correct?

Senator JACKSON: Yes.

Senator SETZLER: Did you know that the Bill number is S. 633. Did you know that?

Senator JACKSON: No, I did not.

Senator SETZLER: Had you thought about while you have the podium asking unanimous consent to recall S. 633 from Senate Judiciary, asking for second reading today, 3rd reading tomorrow and sending it to the House? Then pass this Bill and send the message with this Bill to not send it back until you send us S. 633. Maybe, there’s a way to get both.

Senator JACKSON: Well, I may not do that.

Senator SETZLER: Totally abolish and not just put an asterisk on it.

Senator JACKSON: Senator, you have been here a lot longer than I and you are a lot smarter than I am. There may be some of us who are not for abolishing the PAC, but making it more transparent. Once again, I would say, I’m not sure I’m for making it illegal. All I’m saying is let us make it even more transparent so that more people can see who they are, who’s giving the money as you vote on an issue, then you just identify that. I have a PAC and I voted on this particular issue. Now, I can’t imagine the House doing away with a transparency Bill because of this one amendment. If they do that, then Senators we can all go home with a clear conscience. We can look all of our constituents in the eyes and say we voted not just for transparency, but we voted for a greater degree of transparency. I would venture to say that there are not too many Tea Party members who would not be for this amendment. Because, if they are who I think they are and true to their cause, then they are for transparency. They don’t have this great love for government or this great love for how the House members are being able to funnel money to whoever they want without it being very transparent. And so most people I know whether they are Tea Party members or Coffee Party members or anything else are for transparency. That is why I am for this Bill.

 And I said to my Democratic friends early that I’m for transparency because it’s the right thing to do. I’m also for this amendment because it is the right thing to do. I think the wrong thing to do would be to table this amendment because you are scared of what this amendment would do to the overall Bill. That’s a lack of courage in my opinion. I don’t believe that there are members of the body who do not have courage.

Senator ROSE: Senator, is it true that there is already a public record showing who has a leadership PAC?

Senator JACKSON: Senator, I’m not sure if I can answer that for you. I mean I didn’t come up here to defend leadership PACs. I came to make my position known particularly when I heard the Senator from Pickens, who I respect very much and is a great friend of mine said that, “Perhaps the other Senator from Richland wasn’t for this Bill from the beginning. I just wanted to add a different perspective.

Senator ROSE: Senator, you know the reason I want to know that. I want to know if this amendment will publicize for the first time who has a leadership PAC and or if passing this amendment is just redundant, with just restating what’s already in the public record. Do you know anybody that knows the answer to that?

Senator JACKSON: Well Senator, I can tell you this -- if we did not pass amendments and Bills that were redundant we would get out of here in two months. With no disrespect to you, I remember I served here the last time you served. And you are known for the volume of Bills that you have introduced in this body and I’m sure somewhere in the hundreds of Bills that you may have introduced there may have been a little redundancy somewhere in some of those Bills. So that’s a reason not to pass this amendment.

Senator ROSE: Well, Senator, did you know that some of us just have to try harder?

Senator JACKSON: Ha ha. Absolutely. That’s why I like you so much.

Senator SHEHEEN: Do you know the answer that I think I know to the Senator’s question -- which is did you know that right now certain legislators are not listing themselves as the head of the leadership PAC? And that this amendment has been drawn in such a way that whether or not they list themselves, if they are the ones who have control and influence over it, they will be breaking the law if their name is not placed in a recorded notation to get around or to get right at what the Senator from Dorchester is saying -- which is that the public record does not currently adequately reflect who controls leadership PACs. And this amendment will go a long way doing what Justice Brandeis said once which was allowing -- and this is a paraphrase -- the best disinfectant there is to do its job. So that’s the goal here.

Senator ROSE: Could you please, Senator from Richland, clarify to the Senator of Kershaw, “Is it a public record or is it not a public record who has a leadership PAC?”

Senator JACKSON: Senator, let me give you an example. Last week we debated an Immigration Bill. I said, “I think it was 2008.” I said, “This is like the movie, Groundhog Day, because I thought we had already debated immigration.” Someone said, “It’s never a bad thing to make a good thing better.” That’s what they told me last week. “It is never a bad thing to make a good thing better.” And my answer to you is that it is never a bad thing to make a good thing better and if you believe that, then you will vote for this amendment.

Senator O’DELL: Did you know my mother used to say that, “Too much of something is too much.” So, I’m genuinely trying to determine here what causes more harm than good. Are we better off, Senator, passing this amendment, sending it over to the House and having the whole thing die? Or are we better off not passing the amendment, sending it over and having what we got passed?

Senator JACKSON: Well, Senator, that’s why we have conference committees. Because I have seen them operate before. The Senator from Charleston is a very good negotiator, usually, and you know history backs me up on this when we were at impasses between the House and the Senate, I think we’ve come out pretty good on that. I think most of the time, the Senate feels very comfortable on how we have come out during conference committees and if you have faith in our conferees and in the leadership of this body, I would not allow that to be the reason to table this amendment.

 Thank you, Mr. PRESIDENT

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

 Senator MALLOY spoke on the amendment.

**Remarks by Senator MALLOY**

 What is interesting is the fact that we asked for transparency. We know what transparency is over here and we respect the House of Representatives whenever they speak, but I rise now to give you what I believe is basically the ultimate in the transparency issue. When we were in committee, we were talking about transparency and the Judiciary Committee voted overwhelmingly to add amendments and Resolutions to voting on roll call. If you really want transparency, then this is transparency. This amendment gives you a roll call vote on every amendment. In fact, the amendment that we have adopted so far was an amendment that didn’t require a roll call vote, even under its own substantive language. But if this is passed, it will. What it actually did was take language that we had in amendments out of the Bill we had brought forth from the Judiciary Committee with the enabling legislation along with an amendment which we thought was most appropriate. Why is it critical? I heard a great discussion yesterday during Senator CAMPSEN’s time of talking. We were talking about the rights of citizens to end up knowing what a roll call vote was. Someone called it a fundamental right.

 What I want to talk about briefly is that if it’s a fundamental right for a person to know what happens over here, then you cannot stand aside and not support this amendment -- because liberty is what lies at the core of our Constitutional system. We are talking about a fundamental right. We are fortunate in this country that we have more rights in our society than probably within any other society. All rights are considered equal when looking at the higharchy of those values of liberty -- that’s what emerges. What we call in America the most important -- that’s what we call our fundamental rights and they can be defined in a lot of ways. They are essential to liberty. That’s what some courts have said and if you look at particular rights that fall under the definition of fundamental rights, they vary over time. But this has been described as a fundamental right and I’ll give you some examples. One is the right to speech. You don’t get a chance to yell “fire” in a crowded theatre, but speech is one of those fundamental rights. If you start expanding the fundamental rights, then as the courts have emerged, we have matters that relate to privacy and those issues. Those that make the argument of fundamental rights are citizens that urge us to have a roll call vote. I just urge you to be careful. Because if it goes into the matters of privacy, then that’s what they call the courts -- they have expanded it. For all of you that supported the issue yesterday to talk about whether it is a fundamental right or not, then I would urge you at this point in time to make sure you vote for this amendment.

 What this amendment does is set the policy of this body. It’s set in the amendment. It’s set in the process. Someone asked, “Do we have to vote every time we change a comma or a colon? Do we need a roll call vote?” Yes, we do, because it changes the context of the sentence and, therefore, it would change the amendment. And that’s the right that we have. The Senator from Spartanburg had a motion early on that we recess for lunch. It took us five minutes to have a roll call vote. That’s his right. He only wanted 15 minutes for lunch. That’s his right. Does he want the public to know who wanted to go to lunch or not? Yes, he asked for it. So we want transparency and if he wanted to see who was going to vote with him or who wanted to go and wanted the public to know it, then he got a chance to see that. This is the ultimate in transparency.

 So I ask you, if you really want transparency, then this is transparency. We have a lot of discussion saying, “Oh, this is a poison pill; this hurts the Bill.” This is part of our process. It’s part of what we are going to end up doing. If we are going to have amendments that make sense, then we need to end up supporting this one because it carries out the full intent of transparency so we can be open -- so that the public knows exactly what we are doing. I put this amendment before you. I know that the Senator from Lexington wanted to be heard as well. This is a matter that’s just the start. It’s just the beginning. What we have done now is that we’re setting us up and whatever we send to the House of Representatives from now on in this statutory language -- you can watch out what they send back.

 I’ll quote my good friend from Cherokee, “It’s a good idea to have roll call votes. All of this sounds like a good idea when we left home.” The question is whether it’s a good idea once you get here and why are we actually still doing and supporting an issue that we can already do? And so what my amendment does is to make it more stringent than what we already have. It’s more stringent than what the Senate already does. We’re putting teeth in it. We’re giving the folks more. We’re giving them full transparency on every amendment and every Resolution. So if you vote for this amendment, you’re going to be sending it out to the public saying we are for full transparency. If you say, “Will the other Bill need to stand alone,” I just remind you that this amendment is more stringent than the statutory amendment the Senator from Pickens put up as a perfecting amendment at the beginning of this process. This is more stringent. This gives you a roll call on every amendment and every Resolution.

 With that, I move for the adoption of the amendment.

 Thank you.

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

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

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

**Ayes 25; Nays 18**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Fair Grooms Hayes

Land *Martin, Larry Martin, Shane*

McGill O’Dell Peeler

Rose Ryberg Setzler

Shoopman Thomas Verdin

Williams

**Total--25**

**NAYS**

Anderson Coleman Elliott

Ford Hutto Jackson

Knotts Leventis Lourie

Malloy Matthews McConnell

Nicholson Pinckney Rankin

Reese Scott Sheheen

**Total--18**

 The amendment was laid on the table.

**Amendment No. P8**

 Senator MALLOY proposed the following amendment (JUD3004.013), which was tabled:

 Amend the committee amendment, as and if amended, by striking in its entirety subsection (C) in Section 2-7-125 as contained in SECTION 2 and inserting therein the following:

 / (C) A bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when:

 (1) the pending question is adoption of a conference or free conference report;

 (2) the pending question is the passage of a bill or joint resolution on second reading;

 (3) either the House of Representatives or the Senate agrees to the other body’s amendment;

 (4) any amendment is proposed to any bill or joint resolution; or

 (5) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 Senator KNOTTS argued in favor of the adoption of the amendment.

**S. 633--Recalled**

 S. 633 -- Senators Sheheen, Knotts and Ford: A BILL TO AMEND CHAPTER 13, TITLE 8 OF THE 1976 CODE BY ADDING SECTION 8‑13‑1339 TO PROHIBIT A POLITICAL ACTION COMMITTEE ORGANIZED BY OR ON BEHALF OF CERTAIN STATEWIDE OFFICIALS; AND TO AMEND SECTION 8‑13‑1340 TO DELETE REFERENCES TO A COMMITTEE ORGANIZED DIRECTLY OR INDIRECTLY ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A CANDIDATE OR PUBLIC OFFICIAL.

 With Senator KNOTTS retaining the floor, Senator McCONNELL asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

 There was no objection.

 S. 633 was recalled from the Committee on Judiciary and ordered placed on the Calendar for consideration tomorrow.

 Senator KNOTTS resumed arguing in favor of the adoption of Amendment No. P8 to H. 3004.

**Objection**

 Senator GROOMS asked unanimous consent to make a motion for a Leave of Absence beginning at 5:00 P.M. until 8:00 A.M.

 Senator SHEHEEN objected.

 Senator KNOTTS resumed arguing in favor of the adoption of Amendment No. P8.

 Senator LARRY MARTIN argued contra to the adoption of the amendment.

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

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

**Ayes 24; Nays 15**

**AYES**

Alexander Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Hayes Land *Martin, Larry*

*Martin, Shane* Massey McGill

Nicholson O’Dell Peeler

Rose Ryberg Setzler

Shoopman Thomas Williams

**Total--24**

**NAYS**

Bright Bryant Ford

Grooms Hutto Knotts

Leventis Malloy McConnell

Pinckney Rankin Reese

Scott Sheheen Verdin

**Total--15**

 Amendment No. P8 was laid on the table.

**Motion Under Rule 15A Adopted**

 At 4:06 P.M., Senator LARRY MARTIN moved under the provisions of Rule 15A to vote on the entire matter of H. 3004.

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

**Ayes 23; Nays 20**

**AYES**

Alexander Bright Bryant

Cleary Courson Cromer

Davis Fair Grooms

Hayes Jackson Leatherman

*Martin, Larry Martin, Shane* Massey

McGill O’Dell Peeler

Rose Ryberg Shoopman

Thomas Williams

**Total--23**

**NAYS**

Campbell Campsen Coleman

Elliott Ford Hutto

Knotts Land Leventis

Malloy Matthews McConnell

Nicholson Pinckney Rankin

Reese Scott Setzler

Sheheen Verdin

**Total--20**

 Having received the necessary vote, the motion under Rule 15A was adopted, with proponents and opponents having ten minutes each for discussion, totaling 20 minutes.

**Parliamentary Inquiry**

 Senator SETZLER made a Parliamentary Inquiry as to whether or not a majority vote of the Senate or 24 votes would be needed to adopt the motion under Rule 15A.

 The PRESIDENT stated that there are currently only 45 members of the Senate; therefore, 23 members constitute a majority of the membership.

**Expression of Personal Interest**

 Senator LEVENTIS rose for an Expression of Personal Interest.

**Amendment No. P9**

 Senator GROOMS proposed the following amendment (3004R005.LKG), which was not adopted:

 Amend the committee amendment, as and if amended, page [3004‑2], by striking lines 8 - 10 and inserting:

 / resolution;

 (5) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading; or

 (6) any question debated for at least three minutes.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator GROOMS explained the amendment.

 Senator LARRY MARTIN argued contra to the adoption of the amendment.

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

**Ayes 12; Nays 31**

**AYES**

Campbell Elliott Ford

Grooms Leventis Malloy

Matthews McConnell Pinckney

Reese Sheheen Verdin

**Total--12**

**NAYS**

Alexander Bright Bryant

Campsen Cleary Coleman

Courson Cromer Davis

Fair Hayes Hutto

Jackson Knotts Land

Leatherman *Martin, Larry Martin, Shane*

Massey McGill Nicholson

O’Dell Peeler Rankin

Rose Ryberg Scott

Setzler Shoopman Thomas

Williams

**Total--31**

 The amendment was not adopted.

**Amendment No. P10**

 Senators MALLOY and SHEHEEN proposed the following amendment (3004R008.GM), which was not adopted:

 Amend the committee amendment, as and if amended, page [3004‑2], by striking line 10 and inserting:

 / question is the passage of a bill on third reading.

 (D) A member of the General Assembly who directly or indirectly finances, maintains, or controls a noncandidate committee as defined in Section 8‑13‑1300 must have a unique notation placed next to the member’s name in every recorded roll call vote taken in a joint assembly that is placed in the journal of each house and an explanation must be placed in the journal immediately following the recorded roll call vote explaining that the unique notation indicates that the member directly or indirectly finances, maintains, or controls a noncandidate committee as defined in Section 8‑13‑1300.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 Senator LARRY MARTIN argued contra to the adoption of the amendment.

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

**Ayes 20; Nays 23**

**AYES**

Campsen Coleman Elliott

Ford Grooms Hutto

Jackson Knotts Leventis

Malloy Matthews McConnell

Nicholson O’Dell Pinckney

Rankin Reese Scott

Sheheen Verdin

**Total--20**

**NAYS**

Alexander Bright Bryant

Campbell Cleary Courson

Cromer Davis Fair

Hayes Land Leatherman

*Martin, Larry Martin, Shane* Massey

McGill Peeler Rose

Ryberg Setzler Shoopman

Thomas Williams

**Total--23**

 The amendment was not adopted.

**Amendment No. P3**

 Senators KNOTTS and SHEHEEN proposed the following amendment (JUD3004.008), which was ruled out of order:

 Amend the committee amendment, as and if amended, page [3004‑2], by striking line 10, in Section 2‑7‑125, as contained in SECTION 2, and inserting therein the following:

 / question is the passage of a bill on third reading.

 (D) A member may participate in a recorded roll call vote in all cases except when the member may have a personal or pecuniary interest. For purposes of this section, a pecuniary interest shall exist when a member has a political action committee and the political action committee has received contributions from individuals or businesses that have a financial interest in the matter for which the recorded roll call vote is being taken. If a member has a pecuniary interest, the member must prepare a written statement describing the nature of his potential conflict of interest with respect to the action or decision, and the member shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from any recorded roll call votes. A political action committee does not include an individual candidate’s committee or a legislative caucus committee.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHEHEEN explained the amendment.

**Point of Order**

 Senator LARRY MARTIN raised a Point of Order that the amendment was out of order inasmuch as it was not germane to the Bill.

 Senator KNOTTS spoke on the Point of Order.

 Senator SHOOPMAN spoke on the Point of Order.

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Amendment No. P4**

 Senators KNOTTS and SHEHEEN proposed the following amendment (JUD3004.007), which was ruled out of order:

 Amend the committee amendment, as and if amended, page [3004‑2], by striking line 10, in Section 2‑7‑125, as contained in SECTION 2, and inserting therein the following:

 / question is the passage of a bill on third reading.

 (D) If a politial action committee is organized by or on behalf of a member of the General Assembly, that member of the General Assembly is prohibited from participating in a recorded roll call vote. A political action committee does not include an individual candidate’s committee or a legislative caucus committee.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHEHEEN explained the amendment.

**Point of Order**

 Senator SHOOPMAN raised a Point of Order that the amendment was out of order inasmuch as it was not germane to the Bill.

 Senator KNOTTS spoke on the Point of Order.

 Senator LARRY MARTIN spoke on the Point of Order.

 Senator LEVENTIS spoke on the Point of Order.

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Appeal of the Ruling by the PRESIDENT Withdrawn**

 Senator KNOTTS appealed the Ruling by the PRESIDENT.

**PRESIDENT *Pro Tempore* PRESIDES**

 At 4:59 P.M., Senator McCONNELL assumed the Chair.

 The question then was “Shall the Ruling of the PRESIDENT be overridden?”

 Senator KNOTTS spoke on the motion.

 Senator SHEHEEN argued contra to the motion.

 Senator KNOTTS asked unanimous consent to make a motion to withdraw the motion to appeal.

 There was no objection and the motion to appeal was withdrawn.

**PRESIDENT PRESIDES**

 At 5:19 P.M., the PRESIDENT assumed the Chair.

 The question then was the adoption of the committee amendment, as perfected.

 The Committee on Judiciary proposed the following amendment (JUD3004.005), which was adopted:

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

 / SECTION 1. This act may be cited as the “Spending Accountability Act of 2011”.

 SECTION 2. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

 “Section 2‑7‑125. (A) For purposes of this section, a ‘recorded roll call vote’ means a vote recorded in the journals of the respective houses of the General Assembly, which must be by yeas and nays and recorded by name.

 (B) The Annual General Appropriations Bill must be considered section by section on second reading, and must receive a recorded roll call vote by the House of Representatives and the Senate when the pending question is the adoption of an individual section.

 (C) A bill or joint resolution must receive a recorded roll call vote by the House of Representatives and the Senate when:

 (1) the pending question is adoption of a conference or free conference report;

 (2) the pending question is the passage of a bill or joint resolution on second reading;

 (3) either the House of Representatives or the Senate agrees to the other body’s amendment;

 (4) any amendment is proposed to any bill or joint resolution; or

 (5) a bill or joint resolution is amended and the pending question is the passage of a bill on third reading.”

 SECTION 3. This act takes effect upon ratification of an amendment to Article III, Section 12 of the Constitution of this State, which authorizes the provisions of this act. /

 Renumber sections to conform.

 Amend title to conform.

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

**Ayes 34; Nays 8**

**AYES**

Alexander Bright Bryant

Campbell Cleary Coleman

Courson Cromer Davis

Fair Ford Hayes

Jackson Land Leatherman

Leventis Lourie *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O’Dell

Peeler Rankin Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Williams

**Total--34**

**NAYS**

Campsen Grooms Hutto

Knotts Malloy McConnell

Reese Verdin

**Total--8**

 The committee amendment was adopted.

 The question then was the second reading of the Bill.

 Senator McCONNELL spoke on the Bill.

 Senator LARRY MARTIN spoke on the Bill.

 Senator CAMPSEN spoke on the Bill.

**Remarks by Senator CAMPSEN**

 Thank you, Mr. PRESIDENT.

 The other Senator from Charleston, Senator McConnell, indicated that today is Liberty Day. However he did not indicate what Liberty Day is all about. Liberty Day is a celebration of James Madison’s birthday, March the 16th. Madison was known as the Father of the Constitution. He was born March 16, 1751. He was a lawyer, a state legislator from Virginia, and an author of the Virginia Plan that established legislative representation by population. Madison was instrumental in passing the Bill of Rights and in having the Separation of Powers Doctrine incorporated into the federal Constitution.

 It is ironic to me that today - on Liberty Day - a day in which we celebrate James Madison and his great contribution to legal thought with the Separation of Powers Doctrine, we are so clearly violating the very doctrine we celebrate.

 The concept underlying the separation of powers doctrine is as simple as it is brilliant. You take political power and diffuse it among two different levels of government - federal and state. You further divide that power between the executive, legislative and judicial branches at each of the two levels of government. You then keep these branches separate, co-equal and independent of one another. The result is that by diffusing political power in this manner - two different levels of government, and three different branches at each level - a dynamic is set in motion in which the two levels and the three separate branches of government will continually jockey and joust for political dominance. This assures dominance is obtained by none, and prevents any one person or branch of government from consolidating political power.

 This separation of powers is the vanguard of liberty and limited government because it uses political ambition to keep political ambition in check. In fact, the separation of powers doctrine is so central to our constitutional form of limited government that it can reasonably be said it is the primary factor that distinguishes us from a dictatorship or monarchy, where political power is concentrated in one individual or branch. It’s that important.

 In *Federalist Paper 51* Madison said the founders structured our government around the separation of powers doctrine because, “Ambition must be made to counteract ambition.” In other words, by creating separate, co-equal and independent branches, the founders set in motion a perpetual dynamic whereby each branch’s political ambition would be checked, balanced and constrained the political ambition of the other two. In essence, the founder’s thwarted the consolidation of political power by harnessing political ambition and using it against itself. The ambition of each branch is kept in check by the ambition of the other two. It is brilliant in both its design and its effect.

 An essential component of the separation of powers doctrine is that each branch must control its own internal affairs. Madison said this independence of the branches was “the greatest of all devices to preserve liberty” in the separation of powers doctrine that they devised.

 Our State Constitution embodies this same independence between the branches. That is why the Supreme Court across the street administers the courts, how? According to Article V, Section 4 of the Constitution, it administers the courts by rules. And these rules are issued unilaterally by the Court without interference from the legislative or executive branches. The courts are not administered by statute because that would enable the General Assembly and the Governor to interfere with the judicial branch’s inner workings via legislation and veto. To maintain the judicial branch’s independence the Constitution vests the Supreme Court with the power to administer its rule. The Court is in charge of the inner workings of its branch, and the other branches of government are to stay out of its business. In fact, we have seen this separation and independence in play in recent years when pass legislation that violates the Courts authority over the judicial branch. We recently passed legislation regarding the qualifications for an expert witness in medical malpractice suits, and what did the Supreme Court do with that? It issued an order indicating the statute violated Article V, Section 4, and it would not abide by it. And they were right. The Court acted in a similar fashion on legislation recently passed regarding *guardian ad litems*. The Court was right in both of these cases. They were defending the independence of the judicial branch, and preserving the separation of powers doctrine in the process. The Court was right because the constitutional separation of powers doctrine gives them control over their internal proceedings.

 Similarly, the separation of powers doctrine prohibits us from passing legislation that interferes with the Governor’s exercise of her executive authority. For example, we can’t pass legislation that would require the Governor to comply with criteria established by the General Assembly in determining whether to veto a bill or sign it into law. That would be interfering with the Governor’s executive authority, in violation of Article IV, Section 1 of our Constitution.

 When it comes to the legislative branch, the Constitution gives each chamber control over its internal proceedings. Article III, Section 12 says, “each house shall . . . determine its rules of procedure.” That means the House determines its procedures by rule, and the Senate determines its procedures by rule. And there is no option. The Constitution uses the imperative “shall”. By passing this legislation, we violate that constitutional provision. When we establish roll call voting procedures by statute, we necessarily implicate the other two branches in our internal procedures because the governor can veto the bill, and the court can interpret its meaning. This violates Article III, Section 12 which mandates that each legislative chamber unilaterally establish its procedures by rule.

 If fact, this brings up a point I intended to make previously. The separation of powers doctrine also calls for the two legislative chambers to be independent of one another - just like the three branches. In *Federalist 51* Madison concluded that because the legislative branch was the most powerful, it should be divided into two chambers that are as independent and separate as they possibly can be. Madison said, “In a republican government the legislative authority necessarily predominates. The remedy for this is to divide the legislature into different branches and to render them by different modes of election and,” -- listen to this -- “different principals of actions, as little connected with each other as the nature of their common functions will admit.” That is why we have two legislative chambers, each with their own set of rules that have evolved and developed over time, and that are subsequently very different from one another.

 We have already found some difficulty -- even on the limited issue of recorded votes -- with trying to meld procedures in the House with procedures in the Senate into a single statute that works for both chambers. That difficulty is evidenced by an inconsistency between the roll call provisions in this bill, and the roll call procedures in our Rules. It is very likely that inconsistency is going to result in litigation because there will come a time, when this inconsistency arises, that the presiding officer is going to have to rule on whether the statute or rule controls. When that happens, the proceedings in this body will be subject to litigation - because of this bill. When that happens, I predict the Supreme Court will vindicate my position and hold that Senate Rules trump the roll call voting statute. How can a rule trump a statute you may ask. The rule trumps the statute because Article III, Section 12 of the Constitution says so - that’s why. And the Constitution says so because it is an application of the separation of powers doctrine.

 In passing this we are going to be drawn into an ongoing struggle with the House, the executive branch, and even the judicial branch when the inevitable litigation arises, over which procedural provisions control. And why stop at roll call voting? Why not put other issues that are in our Rules - such as cloture or germaneness- into statute as well?

 We have spent a lot of time on this issue in the last couple of years. This is exactly what Madison tried to prevent by establishing independence among the branches. We have spent time and been diverted from doing other things that we ought to be focused on because we have had the other branches, and the other legislative chamber, weighing in our own internal procedures. Even this debate has weakened us by diverting time and resources away from other pressing matters.

 And let me be clear, my position on this bill flows not from a desire to protect Senate independence for the Senate’s sake, or the sake of its members. It is actually about protecting a structure of government that is one of the most brilliant legal concepts that the mind of man has ever conceived -- a structure of government comprised of three co-equal and independent branches that serve as a check and balance on one another. That, gentleman, is what the founders relied on more than anything else to preserve liberty and to limit government. And that is what we are meddling with. That is what we are weakening.

 A football analogy may be appropriate for those whose eyes glaze over when we debate the nuances of constitutional law. Who won the Super Bowl? The Green Bay Packers won. However, if the Pittsburgh Steelers could veto a play called by the Packers, or change their formations, or dictate their practice schedule prior to the Super Bowl -- who do you think would have won the game? The Steelers would, of course. The Steelers would have won because their ability to affect the Packers internal affairs weakens the Packers and strengthens the Steelers.

 When it comes to the structure of government, the same principle applies. The founders wanted the three branches of government to be equally powerful so that each may block the political ascendency of the others. To serve this function, the branches must independent - just as the Steelers and Packers must be independent if they are to remain viable contenders. If you let one branch meddle in the affairs of the others, you are going to weaken that branch and diminish its effectiveness as a check and balance on the other branches.

 I would like to clarify one other point. I do not think roll call voting is unconstitutional. I think it can be done constitutionally. In fact it already has been accomplished constitutionally - by Rule. I even authored the first proposed Rule change in the Senate to require roll call voting last year. We have subsequently adopted a similar Rule, which brings up one of the most bizarre aspects of this whole debate. We don’t even need this bill because our current Senate Rules on roll call voting largely mirror this bill. This bill will not increase the number of roll call votes we take one iota, because our Rules already require roll call votes on matters addressed by this bill.

 I also believe roll call voting requirements can also be imposed by statute, but only after a constitutional amendment authorizing such statute is enacted. In addition to the Rule change we have adopted, I have authored a constitutional amendment and enabling legislation to impose a roll call voting requirement by statute in a constitutional fashion, which means after the Constitution is amended to authorize such a statute.

 So no one can say I am against roll call voting. However I am for imposing roll call voting the right way - the constitutional way. I am compelled to do it the constitutional way because of the oath I took when I was sworn into office. You will find it in Article 3, Section 26 of the Constitution. I swore to uphold, preserve, protect and defend the Constitution of the United States and of this State. I am compelled to vote against this legislation in fulfillment of that oath.

 I will conclude with one final thought. The separation of powers doctrine lies at the heart of many of the other issues on the Governor’s report card. I am the primary author of three of the 12 items on the report card - the Department of Administration bill, the constitutional amendment requiring the Lt. Governor and Governor to run on the same ticket, and the constitutional amendment providing that the Secretary of Education shall be appointed by the Governor. I have supported those consistently for years. I even drafted the first Department of Administration bill when I was Co-Chairman of Governor Sanford’s Transition Team. I support these for the same reason I am opposing this bill now. I believe in the Separation of Powers Doctrine, wherever it is found and regardless of the branch of government it affects. I want the Governor to have the power the executive branch is supposed to have. That’s why I am the author of three of the Governor’s report card items that consolidate executive power with the chief executive. But I want the legislature to have the power it’s suppose to have as well. I want this not because I covet legislative power, but because it is necessary to assure the three branches check and balance one another as the separation of powers - that vanguard of liberty and limited government - calls for.

 On this day, Liberty Day, we appropriately honor Madison and his contribution to liberty and limited government through giving us the separation of powers doctrine. It is regrettable that on the very day that we honor him, we violate the principles that he stood for in passing this bill.

 Thank you.

 On motion of Senators ALEXANDER and ROSE, with unanimous consent, the remarks of Senator CAMPSEN were ordered printed in the Journal.

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

**Ayes 35; Nays 7**

**AYES**

Alexander Bright Bryant

Campbell Cleary Coleman

Courson Cromer Davis

Elliott Fair Hayes

Jackson Knotts Land

Leatherman Leventis Lourie

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O’Dell Peeler Rankin

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Williams

**Total--35**

**NAYS**

Campsen Grooms Hutto

Malloy McConnell Reese

Verdin

**Total--7**

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

**Statement by Senator PINCKNEY**

 Had I been in the Chamber at the time the vote was taken, I would have voted against the second reading of the Bill.

**Statement by Senators McCONNELL, KNOTTS, MALLOY GROOMS, FORD, CAMPSEN, VERDIN, HUTTO and REESE**

 Today, we witness the Constitution of South Carolina subject to an attempt at amendment by statute in order for Senators to act quickly rather than in accordance with the Constitution in order to tilt in a favorable public way to the political trade winds that are blowing. This issue could have been handled constitutionally by an empowering amendment to the Constitution and enabling language to the statute to make it effective with the adoption of the constitutional amendment. This route was ignored and a statute passed which is directly in conflict with our S.C. Constitution. Let me explain.

 The power to make rules of procedure for each House was specifically delegated in limited power to each House but not to the General Assembly. The framers in their dedication to separation of powers did not want one house telling the other what rules it should have and also did not want another branch of government involved in the internal operations of the other. Thus, no power was granted to the General Assembly to pass rules of procedure by statute. There was a reason. Statutes would have one house involving itself in the rules of procedure of the other and the executive branch would be involved by veto in the question also. While rules of procedure would be almost entirely off limits to judicial review, statutes are subject to court review, interpretation, and injunctions. Compliance with the statutory rules and the interpretation of whether there is compliance in roll call procedure could be in the courts. Likewise, presiding officials of each house could be involved in interpreting statutes and you have a new constitutional problem on separation of powers. It is this type of problem the framers apparently tried to avoid.

 In response to the desire for more on the record voting, the Senate amended its rules to require more roll call voting than the statute before us. The Senate has on the record voting now so nothing but legal and constitutional issues change from the action today. This Bill is clearly in conflict with the Constitution.

 It is in violation with Article III of the Constitution. The language there has been there in one form or the other for over 150 years or more. Despite this we have members who say that we can abandon the language of the framers or interpret the Constitution in a way that recognizes things not stated in words. This is a liberal approach to interpreting the Constitution. This approach puts the S.C. Senate on a slippery slope and by precedent takes us down the road to eroding separation of powers and the plain meaning of the Constitution. When the Senate looks outside the Constitution to give a convenient interpretation to the result it wants, it has looked beyond the Constitution and has abandoned its plain meaning. The reality is that though the framers have given us the words, the Senate has given us a new meaning, not its true plain meaning. We lose our Constitution when we are governed by popular will rather than principled adherence to the procedures for amendment laid out in it.

 Those few of us who stood today did so for the plain actual meaning of the Constitution. It was not the politically popular thing to do. None of us gain any grand popular approval for the position we took. But we can leave here today sure in our mind that we stood firm to our oath to uphold the Constitution. That is our first duty, to look out for it and not ourselves. We know that what the Senate did today, it has already done on roll call votes. The big difference is that it was done illegally.

**Statement by Senator GROOMS**

 Political expediency and personal convenience dictated that I should have voted “aye”. However, personal conviction demanded otherwise.  Changes to roll call voting procedures could have been done in a manner consistent with our Constitution but, unfortunately, the majority decided convenience was preferable to conviction.

**Statement by Senator THOMAS**

 I reject the notion that adopting statutory language to assure roll call voting violates the Constitution. Already, the Senate adopted roll call voting by rule which Governor Haley insisted upon. But, she also called on the legislature to adopt a statute on roll call voting to make transparency more secure. The opponents of this statutory approach object that the S.C. Constitution says that each legislative body has a right to make its own procedural rules. These opponents to the statutory approach wrongly assume that a statutory adoption of a rule of procedure is not valid. Usually the Senate Rules are newly adopted at the beginning of a four-year cycle as Senators resume a four-year term. However, that tradition is not a Constitutional mandate. Nothing in the Constitution would disallow a statute to impose a rule. And, on an issue so critical as roll call transparency, the adoption of a statute is perfectly reasonable and, by necessity, a statute must go through multiple readings by the Senate body to become law. In short, the adoption of a rule change by statute is Constitutionally valid because the Senate body has control over its statutory decisions relative to the contents of any Bill. If the House tried to change the Senate adopted rule, then the Senate would merely have to nonconcur and this would send the Bill to Conference. Again, the Senate would have total control of its own rules of procedure.

**Statement by Senator ROSE**

 I voted for second reading on H. 3004 because I think requiring roll call voting by statute is good public policy and that requiring roll call votes by statute as a consistent supplement to Senate rules does not violate the S.C. Constitution. I voted against each amendment to H. 3004 today because the effect, if not the intent, of those amendments was to sabotage the Bill with “poison pills” that could result in either no Bill being passed by the House and Senate or in what ultimately was passed being unconstitutional. I would vote for some of the amendments in a different context.

**READ THE SECOND TIME**

 S. 633 -- Senators Sheheen, Knotts and Ford: A BILL TO AMEND CHAPTER 13, TITLE 8 OF THE 1976 CODE BY ADDING SECTION 8‑13‑1339 TO PROHIBIT A POLITICAL ACTION COMMITTEE ORGANIZED BY OR ON BEHALF OF CERTAIN STATEWIDE OFFICIALS; AND TO AMEND SECTION 8‑13‑1340 TO DELETE REFERENCES TO A COMMITTEE ORGANIZED DIRECTLY OR INDIRECTLY ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A CANDIDATE OR PUBLIC OFFICIAL.

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

 There was no objection.

 Senator McCONNELL moved that the Bill be given a second reading.

 Senator McCONNELL explained the Bill.

 A roll call vote had been ordered.

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

**Ayes 32; Nays 8**

**AYES**

Alexander Campbell Campsen

Cleary Coleman Courson

Davis Elliott Hayes

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Massey

McConnell McGill Nicholson

O’Dell Peeler Rankin

Reese Rose Scott

Setzler Sheheen Shoopman

Thomas Williams

**Total--32**

**NAYS**

Bright Bryant Cromer

Fair Grooms *Martin, Shane*

Ryberg Verdin

**Total--8**

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

 At 5:58 P.M., Senator McCONNELL moved that the Senate stand adjourned.

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

**Ayes 27; Nays 12**

**AYES**

Campbell Campsen Coleman

Elliott Fair Hayes

Jackson Knotts Land

Leatherman Leventis Lourie

*Martin, Larry* Massey McConnell

McGill Nicholson O’Dell

Peeler Reese Rose

Scott Setzler Sheheen

Thomas Verdin Williams

**Total--27**

**NAYS**

Alexander Bright Bryant

Cleary Courson Cromer

Davis Grooms Malloy

*Martin, Shane* Ryberg Shoopman

**Total--12**

 At 6:02 P.M., the Senate stood adjourned.

**LOCAL APPOINTMENTS**

**Confirmations**

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

Initial Appointment, Sumter County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

 Fred H. Gordon, Jr., 3435 Kel Sam Drive, Dalzell, SC 29040 *VICE* Daisey Moore

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

Nancy Atkins, 4461 Cannons Campground Road, Spartanburg, SC 29307

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

David Turner, 106 Miller Road, Roebuck, SC 29376

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

Daniel R. Burns, 1645 Caldwell Road, Campobello, SC 29322

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

James H. West II, 147 Shady Lane, Wellford, SC 29385

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

Jimmy Henson, 161 Brewster Street, Pacolet Mill, SC 29373

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

Samuel Franklin Adams, 105 Meadow Lake Drive, Inman, SC 29349

**ADJOURNMENT**

 At 6:02 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

\* \* \*