**Tuesday, March 23, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 12:00 Noon, 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:

We always can turn to that most familiar of Psalms:

“The Lord is my shepherd, I shall not want. …thy rod and thy staff, they comfort me.” (Psalm 23:1 and 4c)

Let us pray:

Dear Lord, as always, in our times of despair and hopelessness, we find comfort in turning to You and celebrating Your presence with us. Continue, O God, to bless the members of this Senate as well as all of their staff members. May they together find encouragement in Your love and in Your guidance. Also, be with all of our troops, Lord, wherever these dedicated and brave women and men serve. May all of us experience the comforting love and the abiding presence of the Loving Shepherd, in whose name we humbly pray.

Amen.

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

**Doctor of the Day**

Senator O'DELL introduced Dr. Gary Goforth of Greenwood, S.C., Doctor of the Day.

**Expression of Personal Interest**

Senator FAIR rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

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

S. 903 Sen. Cleary

S. 1030 Sen. O’Dell

S. 1278 Sen. Grooms

S. 1299 Sen. Jackson

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1301 -- Senator Elliott: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND KYLE SPIVEY, ASSOCIATE DESIGNER OF EXTREME MAKEOVER: HOME EDITION, FOR HIS PART IN THE SHOW'S RECENT OUTSTANDING HOME MAKEOVER IN HORRY COUNTY.

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The Senate Resolution was adopted.

S. 1302 -- Senator Ryberg: A SENATE RESOLUTION TO JOIN THE AIKEN COMMUNITY IN HONORING MRS. IDELLA BODIE FOR HER SERVICE TO THE YOUNG READERS OF SOUTH CAROLINA.

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The Senate Resolution was adopted.

S. 1303 -- Senator Fair: A BILL TO AMEND SECTION 42-7-65, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AVERAGE WEEKLY WAGE DESIGNATED FOR CERTAIN CATEGORIES OF EMPLOYEES, SO AS TO ESTABLISH THE AVERAGE WEEKLY WAGE FOR AN INMATE WHO WORKS IN A FEDERALLY APPROVED PRISON INDUSTRIES ENHANCEMENT CERTIFICATION PROGRAM.

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

S. 1304 -- Senator Sheheen: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR BETTY HORTON SLADE OF KERSHAW COUNTY, UPON THE OCCASION OF HER RETIREMENT AFTER TWENTY-EIGHT YEARS OF DEDICATED SERVICE AS CAMDEN CITY CLERK, AND TO WISH HER SUCCESS IN ALL HER FUTURE ENDEAVORS.

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

S. 1305 -- Senator Rose: A BILL TO AMEND CHAPTER 1, TITLE 55 OF THE 1976 CODE, BY ADDING SECTION 55-1-85 TO PROVIDE THAT STATE AGENCIES MANAGING AIRCRAFT SHALL KEEP RECORDS OF EACH FLIGHT, TO PROVIDE THE INFORMATION TO BE RECORDED, TO PROVIDE THAT THE RECORDS SHALL MADE BE AVAILABLE ONLINE BY THE DIVISION OF AERONAUTICS, AND TO PROVIDE EXCEPTIONS.

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Senator ROSE spoke on the Bill.

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

**REPORTS OF STANDING COMMITTEES**

Senator PEELER from the Committee on Medical Affairs submitted a favorable with amendment report on:

S. 965 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 40‑47‑760 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE ACUPUNCTURE ACT OF SOUTH CAROLINA, TO ADD PHYSICIANS TRAINED TO PERFORM ACUPUNCTURE TO THE LIST OF EXEMPTIONS.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable report on:

H. 4531 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO AIR POLLUTION CONTROL REGULATIONS AND STANDARDS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4070, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable with amendment report on:

H. 4575 -- Rep. D.C. Moss: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 5 IN YORK COUNTY FROM ITS INTERSECTION WITH UNITED STATES HIGHWAY 321 TO THE YORK‑CHEROKEE COUNTY LINE THE “REPRESENTATIVE ARTHUR LINDSAY BLACK MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “REPRESENTATIVE ARTHUR LINDSAY BLACK MEMORIAL HIGHWAY”.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable report on:

H. 4656 -- Reps. Stringer, 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, 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, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A CONCURRENT RESOLUTION TO DECLARE WEDNESDAY, MARCH 17, 2010, HEMOPHILIA AWARENESS DAY IN SOUTH CAROLINA IN ORDER TO EDUCATE CITIZENS ABOUT THE EFFECTS OF HEMOPHILIA.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable report on:

H. 4692 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO AIR POLLUTION CONTROL REGULATIONS AND STANDARDS; DEFINITIONS AND GENERAL REQUIREMENTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4085, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable report on:

H. 4693 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO HAZARDOUS WASTE MANAGEMENT REGULATIONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4080, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Ordered for consideration tomorrow.

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

**ORDERED ENROLLED FOR RATIFICATION**

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

H. 4340 -- Reps. Whitmire and Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN OCONEE COUNTY AS THE FALLING WATERS SCENIC BYWAY, AND TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE.

H. 4530 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS FOR SPECIES OR SUBSPECIES OF NON-GAME WILDLIFE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4069, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**H. 4530--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**HOUSE BILL RETURNED**

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

H. 4444 -- Rep. Umphlett: A BILL TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS FOR ESTUARINE AND SALTWATER FINFISH, INCLUDING WEAKFISH CYNOSCION, SO AS TO PROVIDE THAT A PERSON ONLY MAY TAKE OR POSSESS ONE, RATHER THAN TEN, SUCH WEAKFISH IN ANY ONE DAY.

**H. 4444--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**THIRD READING BILLS**

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

S. 336 -- Senators Grooms, Bright, L. Martin, S. Martin, Fair, Verdin and Thomas: A BILL TO AMEND ARTICLE 23, CHAPTER 5, TITLE 56 OF THE 1976 CODE, RELATING TO REGULATING TRAFFIC ON HIGHWAYS, BY ADDING SECTION 56‑5‑3010 TO ESTABLISH THE CRIME OF CAUSING DEATH BY VEHICLE WHILE DRIVING ILLEGALLY; AND BY ADDING SECTION 56‑5‑3020 TO ESTABLISH THE CRIME OF CAUSING GREAT BODILY HARM BY VEHICLE WHILE DRIVING ILLEGALLY AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS.

**S. 336--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 1167 -- Senators L. Martin, Bryant, Bright, Cromer, Rose, S. Martin, Campsen and Alexander: A BILL TO REPEAL CHAPTER 29, TITLE 23 OF THE 1976 CODE, RELATING TO THE SUBVERSIVE ACTIVITIES REGISTRATION ACT.

**S. 1167--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**SECOND READING BILLS**

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

S. 812 -- Senators S. Martin, Shoopman, Grooms, Bryant, Bright, Davis and Rose: A BILL TO PROVIDE THAT THE PARENT OR LEGAL GUARDIAN OF A STUDENT RESIDING IN SPARTANBURG OR UNION COUNTY AND ATTENDING SCHOOL IN SPARTANBURG OR UNION COUNTY AS A NON-RESIDENT MUST ARRANGE FOR THE STUDENT TO ATTEND A SCHOOL IN THE COUNTY RATHER THAN THE SCHOOL AUTHORITIES IN THE CHILD’S COUNTY OF RESIDENCE; AND TO PROVIDE THAT THE SCHOOL BOARD OF TRUSTEES FOR THE SCHOOL DISTRICT IN WHICH A CHILD IN SPARTANBURG OR UNION COUNTY RESIDES MAY NOT PREVENT A STUDENT FROM TRANSFERRING TO ANOTHER SCHOOL DISTRICT IN SPARTANBURG OR UNION COUNTY IF THE RECEIVING SCHOOL DISTRICT APPROVES THE TRANSFER.

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

There was no objection.

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

On motion of Senator SHANE MARTIN, the Bill was read the second time and ordered placed on the Third Reading Calendar.

H. 4698 -- Rep. J.R. Smith: A BILL TO AMEND SECTION 7‑7‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO REVISE AND RENAME CERTAIN PRECINCTS AND REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

**AMENDED, READ THE SECOND TIME**

S. 1261 -- Senator Cromer: A BILL TO AMEND ARTICLE 5, CHAPTER 3, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CUTTING OF TIMBER ON LANDS HELD BY THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO MAKE TECHNICAL CORRECTIONS; TO DELETE OBSOLETE REFERENCES; TO REQUIRE THE DEPARTMENT TO COORDINATE THE CUTTING AND SALE OF SUCH TIMBER WITH THE STATE FORESTER, RATHER THAN TO SUBMIT THE MATTER TO THE STATE FORESTER FOR APPROVAL; TO PROVIDE THAT LAND OWNED BY THE DEPARTMENT THAT WAS PREVIOUSLY USED FOR AGRICULTURE OR MANAGED FOREST LAND MUST BE MANAGED TO PROVIDE OPTIMUM FISH AND WILDLIFE HABITAT AND TIMBER PRODUCTION; TO REVISE PROCEDURES FOR ADVERTISING FOR BIDS ON THE TIMBER; TO PROVIDE PROCEDURES FOR THE HARVEST AND SALE OF TIMBER IF AN EMERGENCY OR NATURAL DISASTER OCCURS NECESSITATING IMMEDIATE HARVESTING OF TIMBER; TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT, RATHER THAN THE BOARD, TO EXECUTE DEEDS AND CONTRACTS REQUIRED IN CARRYING OUT THIS ARTICLE; AND TO PROVIDE THAT, UNLESS OTHERWISE PROVIDED FOR, THE PROCEEDS OF THESE TIMBER SALES MUST CONTINUE TO BE CREDITED TO THE FISH AND WILDLIFE PROTECTION FUND.

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

Senator CROMER proposed the following amendment (1261R002.REC), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 13 and inserting:

/ be cut or sold unless the board ~~decides~~ votes that the cutting and sale of /

Amend the bill, as and if amended, page 3, by striking Section 50-3-525 found on lines 5 - 11 and inserting:

/ Section 50‑3‑525. If an ecological or silviculture emergency or a natural disaster occurs that necessitates the immediate harvest of timber, upon the approval of the State Forester the department may immediately negotiate contracts for the harvest and sale of the timber. Ecological or silviculture emergencies include, but are not limited to, insect, fungal, or disease infestations, or fires. /

Renumber sections to conform.

Amend title to conform.

Senator CROMER explained the amendment.

The amendment was adopted.

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

**COMMITTED TO THE COMMITTEE ON JUDICIARY**

S. 1299 -- Senator Scott: A BILL TO AMEND SECTION 5‑7‑200, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GROUNDS FOR FORFEITURE OF THE OFFICE OF MAYOR OR COUNCILMAN AND THE FILLING OF A VACANCY IN EITHER OFFICE, SO AS TO PROVIDE AN ADDITIONAL PERIOD OF TIME THAT MAY BE UTILIZED TO FILL A VACANCY IN EITHER OFFICE.

Senator SCOTT asked unanimous consent to commit the Bill to the Committee on Judiciary.

There was no objection and the Bill was committed to the Committee on Judiciary.

**CARRIED OVER**

S. 1014 -- Senators Jackson, Rose and Ford: A BILL TO AMEND SECTION 33‑31‑1402, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISSOLUTION OF NONPROFIT CORPORATIONS BY DIRECTORS, MEMBERS, AND THIRD PERSONS, SO AS TO PROVIDE THAT BEFORE THE SECRETARY OF STATE MAY ACCEPT FOR FILING ARTICLES OF DISSOLUTION OF AN EXISTING NONPROFIT RELIGIOUS OR CHARITABLE ORGANIZATION EXECUTED BY A PERSON AUTHORIZED BY THIS SECTION TO TAKE SUCH ACTION, THE SECRETARY OF STATE SHALL REQUIRE THIS PERSON TO ATTACH AN AFFIDAVIT TO THE FILING WHERE THE PERSON UNDER OATH SUBJECT TO A PENALTY OF PERJURY CERTIFIES THAT HE HOLDS THE REQUISITE AUTHORITY TO TAKE SUCH ACTION.

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

H. 3720 -- Rep. Clemmons: A BILL TO AMEND SECTION 15‑9‑720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT‑REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT’S DESCRIPTION IN THE MASTER DEED.

Senator LARRY MARTIN explained the Bill.

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

H. 4015 -- Rep. Barfield: A BILL TO AMEND SECTION 50‑5‑1540, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NET PLACEMENTS, SO AS TO REDUCE THE MINIMUM DISTANCE REQUIRED BETWEEN NETS ON THE LITTLE PEE DEE RIVER FROM SIX HUNDRED FEET TO SEVENTY‑FIVE FEET.

Senator CROMER explained the Bill.

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

S. 348 -- Senators Fair, Sheheen, S. Martin, Lourie, Shoopman, Knotts and Rose: A BILL TO AMEND SECTION 16‑3‑95, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFLICTION OF GREAT BODILY INJURY UPON A CHILD, SO AS TO PROVIDE A MINIMUM TERM OF IMPRISONMENT OF TWO YEARS FOR A PERSON WHO IS CONVICTED OF THIS OFFENSE AND WHO IS REGISTERED WITH OR LICENSED BY THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO CHILDCARE FACILITIES LICENSURE REQUIREMENTS; TO PROVIDE THAT NO PORTION OF THE SENTENCE MAY BE SUSPENDED; AND BY ADDING SECTION 63‑13‑825 SO AS TO REQUIRE FAMILY CHILDCARE OPERATORS AND CAREGIVERS ANNUALLY TO COMPLETE A MINIMUM OF TWO HOURS OF TRAINING APPROVED BY THE DEPARTMENT OF SOCIAL SERVICES.

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

**OBJECTION**

S. 642 -- Senators Alexander and Ford: A BILL TO AMEND ARTICLE 31, CHAPTER 5, TITLE 56, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑3890 TO PROVIDE THAT A PERSON UNDER THE AGE OF EIGHTEEN MAY NOT OPERATE A MOTOR VEHICLE WHILE USING A CELL PHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE AND TO PROVIDE FOR PENALTIES AND EXCEPTIONS.

Senator MALLOY objected to further consideration of the Bill.

H. 4198 -- Reps. Erickson, Brady, Cobb‑Hunter, Horne, Allison, Hutto, Herbkersman, G.M. Smith, Bales, Harrison, Gunn, Long, T.R. Young, Toole and Clemmons: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑57‑115 SO AS TO PROVIDE THAT IT IS UNFAIR DISCRIMINATION FOR AN INSURER TO DENY, REFUSE TO ISSUE OR RENEW, CANCEL, RESTRICT OR EXCLUDE COVERAGE, DENY A CLAIM OR LIMIT PAYMENTS, OR ADD A PREMIUM DIFFERENTIAL TO A POLICY OR CERTIFICATE OF COVERAGE ON THE BASIS THAT AN APPLICANT OR INSURED HAS BEEN OR IS PERCEIVED TO HAVE BEEN ABUSED OR MAY BE A SUBJECT OF ABUSE AND TO PROVIDE PENALTIES, INCLUDING FINES UP TO TWO HUNDRED THOUSAND DOLLARS.

Senator MALLOY argued contra to second reading of the Bill.

Senator MALLOY objected to further consideration of the Bill.

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

**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 BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**CONCURRENCE**

S. 191 -- Senators McConnell, Malloy, Campsen, Sheheen, Rose, Campbell and Knotts: A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, SO AS TO PROVIDE LAW ENFORCEMENT OFFICERS WITH THE STATUTORY AUTHORITY TO REDUCE RECIDIVISM RATES, APPREHEND CRIMINALS AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES BY AUTHORIZING WARRANTLESS SEARCHES AND SEIZURES OF PROBATIONERS AND PAROLEES; TO AMEND SECTION 20‑7‑8305, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF JUVENILE PAROLE, SO AS TO PROVIDE THAT BEFORE A JUVENILE MAY BE CONDITIONALLY RELEASED, THE JUVENILE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 20‑7‑8320, RELATING TO CONDITIONAL RELEASE, SO AS TO PROVIDE THAT THE JUVENILE MUST BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑19‑110, RELATING TO THE PROCEDURE FOR CONDITIONAL RELEASE OF YOUTHFUL OFFENDERS, SO AS TO PROVIDE THAT BEFORE A YOUTHFUL OFFENDER MAY BE CONDITIONALLY RELEASED, THE YOUTHFUL OFFENDER MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑710, RELATING TO THE GUIDELINES, ELIGIBILITY CRITERIA, AND IMPLEMENTATION OF A SUPERVISED FURLOUGH PROGRAM, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑720, RELATING TO INMATES WHO MAY BE PLACED WITHIN CERTAIN PROGRAMS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑1330, RELATING TO A COURT INMATE’S AGREEMENT TO TERMS AND CONDITIONS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑21‑410, RELATING TO THE COURT BEING AUTHORIZED TO SUSPEND IMPOSITION OF SENTENCE FOR PROBATION AFTER CONVICTION, SO AS TO PROVIDE THAT BEFORE A DEFENDANT MAY BE PLACED ON PROBATION, THE DEFENDANT MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑430, RELATING TO THE CONDITIONS OF PROBATION, SO AS TO PROVIDE THAT THE CONDITIONS IMPOSED MUST INCLUDE THE REQUIREMENT THAT THE PROBATIONER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑560, RELATING TO COMMUNITY SUPERVISION PROGRAMS, SO AS TO PROVIDE THAT THE CONDITIONS OF PARTICIPATION MUST INCLUDE THE REQUIREMENT THAT THE OFFENDER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑640, RELATING TO THE CIRCUMSTANCES WARRANTING PAROLE, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO SEARCH AND SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; AND TO AMEND SECTION 24‑21‑645, RELATING TO THE ORDER AUTHORIZING PAROLE, SO AS TO PROVIDE THAT THE CONDITIONS OF PAROLE MUST INCLUDE THE REQUIREMENT THAT THE PAROLEE MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE.

The House returned the Bill with amendments.

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

**Statement by Senator PINCKNEY**

While I appreciate the great need for enhancing law enforcement’s abilities to address and reduce the rates of recidivism in this State, I am bound to uphold the constitutional rights of all citizens of South Carolina. The basis of my objection to S.191 is not rooted in protecting the rights of individuals who are on probation, parole or any other type of supervised release from incarceration. I am aware that statutes from other states have been challenged and upheld under the Constitution of the United States of America and that these cases have made clear the diminished expectations of privacy held by individuals on supervised release and the effect this has on the protections granted under the Constitution related to search and seizures. My concerns and objections to S.191 are based on the rights of law-abiding citizens of South Carolina to be free from unreasonable seizures.

Under our Constitution, a law enforcement officer is not allowed to stop a citizen and force interaction unless the officer has cause to believe the citizen is engaged in criminal activity. This Bill authorizes law enforcement officers to stop and search individuals who are on supervised release, and requires the “law enforcement officer seeking to conduct the search or seizure [to] verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on parole or probation or that the individual is currently subject to the provisions of his conditional release.” This is intended to ensure that only individuals who are on supervised release are subjected to a search. However, this clause, and the Bill, in whole, fails to offer protections to ensure that citizens who are not on supervised release are not stopped, even if the stop is of short duration and lasts no longer than is required to verify whether the individual is on supervised release. I have searched for any way possible to amend this Bill to ensure individuals who are not on supervised release experience no interference with their constitutional rights. I have been unable to find any changes to facilitate this goal. Therefore, my oath to uphold the Constitution requires that I oppose this Bill.

**MOTION ADOPTED**

On motion of Senator LOURIE, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Guy Matthews Tarrant, Jr. of Columbia, S.C., beloved husband of our friend, Shelvie Belser Tarrant. Mr. Tarrant was Vice-President of Southern Building Corp. and later founded Lafaye-Tarrant Construction Co., Inc.

**ADJOURNMENT**

At 12:45 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 2:00 P.M.

**Recorded Vote**

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

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