**Thursday, September 8, 2022**

**(Statewide Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

 The Senate assembled at 10:00 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:

Proverbs 16:16

 As we are reminded in Proverbs: “How much better to get wisdom than gold, to choose understanding rather then silver.”

 Good friends, let us once again bow in prayer: O loving God, the very gifts of wisdom and understanding are each so incredibly precious and valuable -- and consequently so critically important. From the very beginning of time each of these qualities has possessed a power to make a difference around the globe. And they have indeed done so. Therefore, O Lord, today we call upon You to bestow new portions of these gifts of profound wisdom and compassionate understanding to each Senator and every staff member serving here in this place. For truly, especially in this day and time, the women, men and children of South Carolina deserve nothing less than the greatest and most loving guidance and care these leaders can grant them. May it be so, O God. May it be so. In Your name we humbly pray. Amen.

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

**Call of the Senate**

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

Adams Alexander Bennett

Campsen Cash Corbin

Cromer Davis Gambrell

Garrett Gustafson Harpootlian

Hembree Hutto *Johnson, Kevin*

*Johnson, Michael* Kimbrell Kimpson

Malloy Martin Massey

Matthews Peeler Reichenbach

Rice Sabb Scott

Shealy Stephens Turner

Verdin Williams Young

 A quorum being present, the Senate resumed.

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Henry Dargan McMaster:

**Local Appointment**

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2020, and to expire April 30, 2024

Erin Moon McKinney, 15084 Beacon Ridge Drive, Seneca, SC 29678-1368 *VICE* Michael Todd Simmons

**Leave of Absence**

 On motion of Senator YOUNG, at 10:44 A.M., Senator TALLEY was granted a leave of absence until 12:30 P.M.

**Leave of Absence**

 On motion of Senator M. JOHNSON, at 11:12 A.M., Senator FANNING was granted a leave of until 12:25 P.M.

**Leave of Absence**

 On motion of Senator FANNING, at 12:30 P.M., Senator McLEOD was granted a leave of absence for today.

**Leave of Absence**

 On motion of Senator Talley, at 4:54 P.M., Senator RANKIN was granted a leave of until 10:00 A.M. Friday, September 9, 2022.

**Leave of Absence**

 On motion of Senator TURNER, at 7:52 P.M., Senator TALLEY was granted a leave of absence until 9:00 P.M.

**Expression of Personal Interest**

 Senator MALLOY rose for an Expression of Personal Interest.

**Expression of Personal Interest**

 Senator STEPHENS rose for an Expression of Personal Interest.

**Remarks by Senator STEPHENS**

Good morning, Mr. PRESIDENT and colleagues. Again, I thank the citizens of District 39 for affording me the opportunity to represent them in this Body. As mentioned in my installation speech to this Body back in 2021, I do not take this position lightly, and I am not here for personal gains or political gamesmanship. We are all here to carry out the duties of which our oath of office prescribed.

The past couple of months, well the entire Senate Session since January, I must say truly have been an enlightening and soul searching event that puts to test my super-ego that operates as a moral conscience and the ego, the realistic part, that mediate between the desires of the id and the super-ego. After hearing the presentation of my colleagues yesterday and into the evening, I witnessed a very true passion for what my colleagues believe in -- that will enhance the life living of the citizens of South Carolina for many generations to come.

I came into this Body with the energy, and I thought the intellect to change South Carolina just by my being present in this law-making body. I cannot just vote on an issue without doing myself due diligence. I have come to respect the opinions of others and be open to other points of view which prompts me to think of the generational effects of this legislation. I said to my colleagues that we need to continue constructive dialogue so that we pass legislation that guarantees the goal for which it was proposed.

 There is a song I came to love in the 1970’s, Senator MATTHEWS. It was by the O’Jays, “Give the People What They Want.” Truly, give the people what they want. I have been all over the Nation and everybody wants the same thing. It is a unanimous decision -- they are ready for a change. It is about time for things to get better. People want the truth, the truth and no more lies. People want freedom, justice and equality. I want it for you, and I want it for me. People want better education. People need understanding. People need equality. People need freedom.

 Article 7 of the South Carolina Human Life Protection Act beyond the shadow of a doubt gives me heartburn in its present form. There were some good amendments proposed yesterday. Was it truly what the majority of the people wanted? I will say not. People want the choice and the right to do with their bodies as we men may never understand. Because we hold these truths to be self-evident that we are all created equal and endorsed by our creator with certain unalienable rights that among these are life, liberty and happiness.

 In my closing, I ask the question, “If passed would this State be forcing a woman to undergo a life-threatening unsafe abortion, threatening her right to life?” These unsafe abortions are responsible for the death of 47,000 women per the World Health Organization. The incidents of unsafe abortions are closely associated with high maternal mortality rates. Therefore, laws that force women to resort to unsafe procedures infringe upon a woman's right to life.

 I ask you my colleagues -- let us not hastily pass something that we know people do not want. Thank you, Mr. PRESIDENT, and thank you, fellow colleagues.

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

**Expression of Personal Interest**

 Senator HARPOOTLIAN rose for an Expression of Personal Interest.

**Expression of Personal Interest**

 Senator CASH rose for an Expression of Personal Interest.

**Remarks by Senator CASH**

 We debated a lot of issues in this Chamber. Most of the issues we debate in here are very political in nature -- how we're going to spend the state's money, how we're going to change laws, about labor and relations and all kinds of political stuff. That's the majority -- vast majority of what we do. Occasionally, much less occasionally, we take up constitutional issues. We start talking about the Second Amendment that's the first thing that comes to my mind, you know, it's something that is not centered on politics of nickels and dimes. It's centered on the Constitution. Speaking on that, it centers on the Constitution. Very rarely do we take up issues that are just squarely moral in nature. That's what we have before us. It is an issue that's squarely moral in nature. Does it have constitutional ramifications? Of course it does. It has political ramifications. Everybody likes to look at polls. It's primarily a moral issue. Where do we go for guidance on moral issues? Some people say you cannot legislate morality. If you can't legislate morality, let's remove all the laws about theft, fraud, burglary -- all those things that touch on morality that supposedly we cannot legislate. Let's just get rid of them and see what kind of a society we have then. Laws about killing because killing is a moral issue. So, I believe there are issues where there are simply moral absolutes and this is one of them. I talk about it, and I think about it from that perspective until someone can convince me otherwise.

 I want to read to you very briefly from Psalm 19. “The law of the Lord is perfect, restoring the soul: the testimony of the Lord is sure, making wise the simple. The precepts of the Lord are right, rejoicing in the heart: the commandment of the Lord is pure enlightening the eyes. The fear of the Lord is clean enduring forever. The judgments of the Lord are true. They are righteous altogether. They are more desirable than gold, yes, the much fine gold, sweeter also than honey. The drippings of the honeycomb. Moreover, by them thy servant is warned: in keeping them there is great reward. Who can discern his errors? Equip me of hidden faults. Keep back thy servant from presumptuous sins. Let them not rule over me and I shall be blameless and acquitted great transgression. Let the words of my mouth, and meditation of my heart, be acceptable in thy sight, Oh, Lord, my rock and my redeemer.” We are frail. We are frail creatures in our understanding and our attempts -- something that is so contentious but of course, we do have to attempt. We do have to try to right the law that addresses the situation. My starting point in this debate is simply quite honestly the sixth commandment. Thy shall not murder. Intentional taking the life of an innocent person is a very simple definition of murder that I will stand by. I believe it's a moral absolute. It's not up for debate and it's not up for vote. Not up for the majority will of this legislature or public referendum. It's a moral absolute. I believe that when we get into the business of legislating which innocence can be killed, we're not going to have legal protection from society. And we're going to set the parameters by voting on what the conditions are and how many weeks and so on and so forth. I do believe we have ventured in the area of presumptuousness. Ventured into the area of facing this child with anomalies that are incapable of life according to somebody's opinion. I presume that we know best, and that child can be intentionally killed. We presume in the hard cases that lie before us which we have discussed and apparently are going to discuss a lot more. We presume there has to be this state sanctioned allowance for the killing of a child conceived through no fault of its own through an act of rape and incest. You know if I were to stand up and read you the stories of people like Ethel Waters, whose mother was raped at knifepoint when she was 12 or 13 and gave birth to Ethel Waters at the age of 13 -- I could go on and on about children who should have been deformed by their hereditary genetics. People that would be missing from this world if they had not been born and made their contributions. So, I’m going to continue that effort to try to provide legal protection for all the innocents. I would call upon those who believe in the sanctity of human life -- all humans are created equal in the image of God -- to join me in that effort. Thank you, I appreciate your attention.

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

**Expression of Personal Interest**

 Senator GUSTAFSON rose for an Expression of Personal Interest.

**Expression of Personal Interest**

 Senator K. JOHNSON rose for an Expression of Personal Interest.

**Remarks by Senator KEVIN JOHNSON**

Thank you, Mr. PRESIDENT and members of the Senate. As we have been debating this Bill in full Session, I have been relatively quiet. I’ve been quiet mainly because I agree with Senator HUTTO as he has emphasized very emphatically, even in our committee meetings, that this is just a bad Bill.

I don’t think my vote on any of these amendments is going to change how I feel. I have said time and time again that I don’t consider myself to be for abortion or against abortion. I consider myself pro-choice. I consider abortion as a very serious issue that puts a lot of stress on mothers, regardless of which side of the category they fall on and I just don’t know if I feel comfortable telling a woman under that circumstance what she should or should not do.

I believe in choice, and we have choice, but we only offer choice to one side of the equation. What I believe in is choice for both sides. If you are in that position and want to have the baby, that’s your choice and if you don’t want to, that’s also your choice. A woman can decide and make that choice with consultation from people that will help her. I just know that I am not going to tell a woman what she can and cannot do in those situations.

I keep hearing pro-life, and I go back to my friend Senator McLEOD, and she says, “You know a lot of people who say they are pro-life, are not pro-life, they are pro-birth” and I tend to believe that because if I am pro-life, I would have a problem with so many assault weapons being in the hands of bad people. Now, I do believe in the right for citizens to bear arms but if I am pro-life I have a problem with all these assault rifles -- it’s a known fact that people have them because they are weapons intended to kill a lot of people, very quickly. If I am pro-life, I am in favor of the change in the minimum wage, because we just can’t live off $7.25 an hour. If I am “pro-life”, I am in favor of Medicaid expansion, which I have filed a Bill about every year for the past several years and it can’t even get a hearing. Pro-life is funding head start and early childhood education and all these things that are going to allow these children and their families to have life -- which I think the Bible says something about “having it more abundantly.”

I keep hearing people ask what gives government officials or legislators the right to take even one innocent life. That’s a good point. Sometimes I wonder what gives us the right as government officials and as a legislature to tell a woman what to do with her body. What gives us that right? The thing that gets me -- I heard a while ago while being in the business of legislating, “Which innocent life can be killed?” So, I’ll end with this, if I am pro-life, I’m against the death penalty. As I sit here being very quiet, I remember back in 2021 a Bill came before us to add a firing squad as another method of capital punishment, and I looked at the list of people who voted for it, and all of the people who are pro-life voted for that. I know some might say, “Well you know these people committed heinous crimes, and they deserve the death penalty,” and I would agree with that to the extent that research and statistics show without a doubt there have been people that have been put to death under the death penalty who were later found to be innocent. There have also been people who were on death row, about to be put to death, but because of new technology with DNA and other things, they were found to be innocent.

So, when I go back to the question from my friend, Senator CASH, I appreciate his resolve on this issue of "What gives the government the right to legislate the killing of innocent people?" I look back and see that he and others voted to kill people as capital punishment, although we know that there are other options to punish people. We also know from brief research that innocent people, and that’s what we're talking about here --- innocent people -- have been killed under the death penalty. So, if you go back and look at the vote on that Bill, the vote failed, with one exception -- as far as adding the firing squad which tells me you believe in the death penalty. It failed with one exception along party lines and then a few months later, when it went to the House and they made some changes, it came back over here and the changes that were made in the House were concurred with along party lines. So, I have a problem reconciling being pro-life when you vote to kill people who may be innocent in one instance and then you talk about being pro-life as it relates to abortion.

 On motion of Senator STEPHENS, with unanimous consent, the remarks of Senator K. JOHNSON were ordered would be printed in the Journal.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

 The following was introduced:

 S. 1385 -- Senators Massey, Adams, Alexander, Allen, Bennett, Campsen, Cash, Climer, Corbin, Cromer, Davis, Fanning, Gambrell, Garrett, Goldfinch, Grooms, Gustafson, Harpootlian, Hembree, Hutto, Jackson, K. Johnson, M. Johnson, Kimbrell, Kimpson, Loftis, Malloy, Martin, Matthews, McElveen, McLeod, Peeler, Rankin, Reichenbach, Rice, Sabb, Scott, Senn, Setzler, Shealy, Stephens, Talley, Turner, Verdin, Williams and Young: A SENATE RESOLUTION TO COMMEND REAGAN CHASE KELLEY FOR HIS FIVE YEARS OF DEDICATED SERVICE TO THE SOUTH CAROLINA SENATE AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN THE YEARS AHEAD.

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 The Senate Resolution was adopted.

**Appointment Reported**

 Senator RANKIN from the Committee on Judiciary submitted a favorable report on:

**Statewide Appointment**

Initial Appointment, Ethics Commission, with the term to commence March 31, 2022, and to expire April 1, 2027

Senate - Minority:

Bryant Caldwell, 1221 Main Street, Suite 1600, Columbia, SC 29201 *VICE* Donald Gist

 Received as information.

**Motion Adopted**

 On motion of Senator MARTIN, the Senate agreed to go into Executive Session prior to adjournment.

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

**AMENDED, READ THE THIRD TIME**

**HOUSE BILL RETURNED**

 H. 5399 -- Reps. Lucas, G.M. Smith, McCravy, T. Moore, White, Ligon, Long, Gilliam, Chumley, Burns, Hardee, Bailey, J.E. Johnson, B. Newton, Hewitt, Bustos, Jordan, M.M. Smith, Davis, Hyde, Hixon, West, Hiott, Jones, Caskey, Fry, Thayer, Pope, Forrest, Oremus, Trantham, Bennett, McGarry, Felder, Allison, D.C. Moss, Brittain, Nutt, Haddon, Huggins, G.R. Smith, Magnuson, May, Wooten, B. Cox, Yow, Murphy, Crawford, Bryant and Robbins: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑41‑05 SO AS TO PROHIBIT ABORTIONS IN THE STATE OF SOUTH CAROLINA.

 The Senate proceeded to a consideration of the Bill.

 Senators DAVIS and GUSTAFSON proposed the following amendment (5399R034.SP.TD), which was carried over:

 Amend the bill, as and if amended, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

 /( ) A physician who performs or induces an abortion in a hospital pursuant to the circumstances relevant to preserving the life of the mother as prescribed in this section shall be immune from civil action or criminal prosecution regarding medical procedures and treatments administered to the pregnant woman if those medical procedures or treatments are provided for under this section and are consistent with current standard of care for the physician’s specialty under the circumstances provided for in this section. Immunity from civil or criminal liability provided in this subsection also extends to any nurse, technician or other person who participates in such medical procedure or treatment with the physician. /

 Renumber sections to conform.

 Amend title to conform.

 Senator DAVIS explained the amendment.

 On motion of Senator DAVIS, the amendment was carried over.

 Senator KIMBRELL proposed the following amendment (5399R024.SP.JK), which was withdrawn:

 Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

 /(\_\_)(1) Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if the pregnancy is the result of rape or incest, and the probable post‑fertilization age of the fetus is fewer than six weeks.

 (2) Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if there exists a fetal anomaly. ‘Fetal anomaly’ means that, in reasonable medical judgment, the unborn human being has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life‑preserving treatment, would be incompatible with sustaining life after birth.

 (3) A physician who performs or induces an abortion on a pregnant woman based on the exceptions in subsection (1) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty‑four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman's medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest. The name of the minor victim shall remain sealed unless otherwise ordered by a court. /

 Renumber sections to conform.

 Amend title to conform.

 On motion of Senator KIMBRELL, with unanimous consent, the amendment was withdrawn.

 Senator MALLOY proposed the following amendment (5399R014.KMM.GM), which was withdrawn:

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

 /A JOINT RESOLUTION

 TO PROPOSE AN AMENDMENT TO ARTICLE I OF THE SC CONSTITUTION, RELATING TO THE DECLARATION OF RIGHTS, BY ADDING SECTION 26 TO PROVIDE THAT THERE IS NO STATE CONSTITUTIONAL RIGHT TO AN ABORTION IN SOUTH CAROLINA BUT THE GENERAL ASSEMBLY MAY ENACT LAWS ALLOWING FOR AN ABORTION UNDER CERTAIN ENUMERATED CIRCUMSTANCES.

 Be it enacted by the General Assembly of the State of South Carolina

 SECTION 1. It is proposed that Article I of the Constitution of this State is amended by adding a new section to read:

 “Section 26. (A) The General Assembly shall enact no law permitting the termination of the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill the unborn child of a woman known to be pregnant; or to intentionally prematurely terminate the pregnancy of a woman known to be pregnant, with an intention other than to increase the probability of a live birth or of preserving the life or health of the child after live birth. In the context of this section, a pregnancy begins at conception which is that point in time when a fertilized ovum implants in the endometrium of a woman.

 (B) Notwithstanding the forgoing provisions of this section, the General Assembly may enact a law that would otherwise violate this section if the pregnancy to be terminated was the result of rape or incest; the termination of the pregnancy is necessary to preserve the life of the mother; or there exists a medical a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining post-fertilization age to avert her death or for which the delay necessary to determine post-fertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

 (C) The General Assembly may enact laws necessary to enforce this section.”

 SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

 “Must Article I of the Constitution of this State, relating to the Declaration of Rights, be amended by adding Section 26 to provide that there is no state constitutional right an abortion provided that the General Assembly may enact exceptions for rape, incest, and the life or health of the mother?

 Yes p

 No p

 Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 On motion of Senator MALLOY, with unanimous consent, the amendment was withdrawn.

 Senators RANKIN, MALLOY, TALLEY, DAVIS, SENN, SHEALY, JACKSON, SETZLER, McELVEEN, GUSTAFSON and SETZLER proposed the following amendment (JUD5399.001), which was ruled out of order:

 Amend the bill, as and if amended, by striking the bill in its entirety and inserting therein the following:

 / A JOINT RESOLUTION

 PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO DECLARATION OF RIGHTS, BY ADDING SECTION 26, TO RECOGNIZE THAT SECTIONS 3 AND 10 OF ARTICLE I PROVIDE FOR A RIGHT OF BODILY INTEGRITY AND AUTONOMY THAT INCLUDES A LIMITED RIGHT TO ABORTION AND TO AUTHORIZE THE GENERAL ASSEMBLY TO PROVIDE BY LAW FOR THE REGULATION OF ABORTION, INCLUDING WHEN A CLINICALLY DIAGNOSABLE PREGNANCY MAY BE TERMINATED AND WHETHER STATE FUNDING MAY BE USED TO TERMINATE A CLINICALLY DIAGNOSABLE PREGNANCY.

 Be it enacted by the General Assembly of the State of South Carolina:

 SECTION 1. It is proposed that Article I of the Constitution of this State be amended by adding:

 “Section 26. The provisions of Section 3 and Section 10 of this article provide for a right of bodily integrity and autonomy that includes a limited right to abortion. The General Assembly shall provide by law for regulation of abortion in this state, including when a clinically diagnosable pregnancy may be terminated and whether state funding may be used to terminate a clinically diagnosable pregnancy.”

 SECTION 2. Notwithstanding any statutory provision of law to the contrary, the proposed amendment must be submitted to the qualified electors at the next general election for representatives in 2022. Ballots must be provided at the various voting precincts with the following words printed on the ballot:

 “Must Article I of the Constitution of this State be amended by adding Section 26 so as to provide for a right of bodily integrity and autonomy that includes a limited right to abortion and to authorize the General Assembly to provide by law for regulation of abortion in this state, including when a clinically diagnosable pregnancy may be terminated and whether state funding may be used to terminate a clinically diagnosable pregnancy.

 Yes p

 No p

 Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator RANKIN explained the amendment.

**Point of Order**

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

Senator RANKIN spoke against the Point of Order.

 Senator MALLOY spoke against the Point of Order.

 Senator MASSEY spoke in favor of the Point of Order.

 Senator MALLOY spoke on the Point of Order.

 Senator RANKIN spoke on the Point of Order.

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Motion Under Rule 15A Failed**

    At 12:25 P.M., pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, that the Clerk be prohibited from receiving further amendments after one hour from the adoption of this motion, and debate on the pending amendments be limited to 10 minutes for proponents and 10 minutes for opponents, then debate on the main question be limited to 20 minutes for proponents and 20 minutes for opponents.

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

**Ayes 13; Nays 30**

**AYES**

Adams Alexander Cash

Climer Corbin Gambrell

Garrett Hembree Kimbrell

Loftis Martin Reichenbach

Rice

**Total--13**

**NAYS**

Allen Bennett Campsen

Cromer Davis Fanning

Goldfinch Gustafson Harpootlian

Hutto Jackson *Johnson, Kevin*

*Johnson, Michael* Kimpson Malloy

Massey Matthews McElveen

Peeler Rankin Sabb

Scott Senn Setzler

Shealy Stephens Turner

Verdin Williams Young

**Total--30**

    Having failed to receive the necessary vote, the motion under Rule 15A failed.

**Statement by Senator GROOMS**

 Due to an immediate family member’s urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted “aye.”

**Motion Under Rule 15A Failed**

    At 12:33 P.M., Pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, and debate on the pending amendments be limited to 10 minutes for proponents and 10 minutes for opponents.

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

**Ayes 12; Nays 31**

**AYES**

Adams Alexander Cash

Climer Corbin Gambrell

Garrett Loftis Martin

Reichenbach Rice Verdin

**Total--12**

**NAYS**

Allen Bennett Campsen

Cromer Davis Fanning

Goldfinch Gustafson Harpootlian

Hembree Hutto Jackson

*Johnson, Kevin Johnson, Michael* Kimbrell

Kimpson Malloy Massey

Matthews McElveen Peeler

Rankin Sabb Scott

Senn Setzler Shealy

Stephens Turner Williams

Young

**Total--31**

    Having failed to receive the necessary vote, the motion under Rule 15A failed.

**Statement by Senator GROOMS**

 Due to an immediate family member’s urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted “aye.”

**RECESS**

 At 12:39 P.M., on motion of Senator MASSEY, the Senate receded from business until 1:10 P.M.

 At 2:25 P.M., the Senate resumed.

 Senators MALLOY and JACKSON proposed the following amendment (5399R013.KMM.GM), which was tabled:

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

 / SECTION \_\_. A. Article 1, Chapter 6, Title 44 of the 1976 Code is amended by adding:

 “Section 44‑6‑120. A pregnant woman whose income is at or below one hundred thirty‑eight percent the federal poverty level is eligible for Medicaid as provided for in the ‘Patient Protection and Affordable Care Act’ (P.L. No. 111‑148), and amendments to that act. A pregnant woman who is eligible for Medicaid pursuant to this act shall remain eligible for Medicaid after the birth of her child until that child reaches the age of majority as long as the woman’s income level does not exceed one hundred thirty-eight percent of the federal poverty level during that time.”

 B. This SECTION is effective January 1, 2023. /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 The question being the adoption of the amendment.

 Senator MASSEY moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Davis

Gambrell Garrett Goldfinch

Grooms Gustafson Hembree

*Johnson, Michael* Kimbrell Loftis

Martin Massey Peeler

Rankin Reichenbach Rice

Senn Talley Turner

Verdin Young

**Total—29**

**NAYS**

Allen Fanning Harpootlian

Hutto Jackson *Johnson, Kevin*

Kimpson Malloy Matthews

McElveen Sabb Scott

Setzler Stephens Williams

**Total--15**

 The amendment was laid on the table.

 Senator KIMPSON proposed the following amendment (5399R037.SP.MEK), which was tabled:

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

 /SECTION 1. Article 5, Chapter 41, Title 44 of the 1976 Code is amended by adding:

 “Section 44-41-415. It is unlawful to impose any undue burden on a woman’s right to obtain a lawful abortion.”

 SECTION 2. Section 44-41-20 and Article 5, Chapter 41, Title 44 of the 1976 Code are repealed.

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

 Renumber sections to conform.

 Amend title to conform.

 Senator KIMPSON explained the amendment.

 Senator CASH spoke on the amendment.

 Senator CASH moved to lay the amendment on the table.

 The amendment was laid on the table.

 Senator MASSEY proposed the following amendment (5399R030.SP.ASM), which was withdrawn:

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

 / SECTION 1. This act may be cited and shall be known as the “South Carolina Human Life Protection Act”.

 SECTION 2. Chapter 41, Title 44 of the 1976 Code is amended by adding:

 “Article 7

 South Carolina Human Life Protection Act

 Section 44‑41‑810. For purposes of this article:

 (1) ‘Abortion’ means the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn human being.

 (2) ‘Conception’ means the fecundation of the ovum by the spermatozoa.

 (3) ‘Contraceptive’ means a drug, device, or chemical administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive drug, device, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

 (4) ‘Fetal anomaly’ means that, in reasonable medical judgment, the unborn human being has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life‑preserving treatment, would be incompatible with sustaining life after birth.

 (5) ‘Physician’ means a person licensed to practice medicine in this State.

 (6) ‘Pregnancy’ means the condition of a woman carrying a fetus or embryo within her body as the result of conception.

 (7) ‘Probable gestational age’ means the age of an unborn human being as calculated from the first day of the last menstrual cycle of a pregnant woman.

 (8) ‘Rape’ has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.

 (9) ‘Reasonable medical judgment’ means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

 (10) ‘Selective reduction’ means a procedure associated with assistive reproductive technologies that stops the development of one or more unborn human beings in utero.

 (11) ‘Unborn human being’ means an individual organism of the species homo sapiens from conception until live birth.

 Section 44-41-820. (A) It is unlawful to knowingly administer to, prescribe for, or distribute to any woman known to be pregnant any medicine, drug, or other substance with the specific intent of causing an abortion.

 (B) It is unlawful to knowingly use or employ any instrument, device, means, or procedure upon a woman known to be pregnant with the specific intent of causing an abortion.

 (C)(1) A person who violates subsection (A) or (B) is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

 (2) Any person who uses force or the threat of force to intentionally injure or intimidate any person, for the purpose of coercing an abortion in violation of subsection (A) or (B) is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

 (3) Any person who is not a physician licensed in this State, who prescribes any means of abortion as defined in this article, for the purpose of facilitating an abortion inside the borders of this State, violates this section, is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

 Section 44-41-830. (A) Section 44‑41‑820 does not apply to a physician who performs or induces an abortion if the physician determines according to reasonable medical judgment that a medical emergency exists that prevents compliance with the section.

 (B) A physician who performs or induces an abortion on a pregnant woman based on the exception in subsection (A) shall make written notations in the pregnant woman's medical records of the following:

 (1) the physician's belief that a medical emergency necessitating the abortion existed; and

 (2) the medical rationale to support the physician's conclusion that the pregnant woman's medical condition necessitated the immediate abortion of her pregnancy to avert her death.

 (C) For at least seven years from the date the notations are made, the physician shall maintain in his own records a copy of the notations.

 Section 44-41-840. (A) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if:

 (1) the pregnancy is the result of rape, and the probable post‑fertilization age of the fetus is fewer than twelve weeks;

 (2) the pregnancy is the result of incest, and the probable post‑fertilization age of the fetus is fewer than twelve weeks;

 (3) the physician is acting in accordance with Section 44‑41‑850; or

 (4) there exists a fetal anomaly, as defined in Section 44‑41‑810(4).

 (B) A physician who performs or induces an abortion on a pregnant woman based on the exception in either subsection (A)(1) or (2) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty‑four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman's medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest.

 Section 44-41-850. (A) Section 44‑41‑820 does not apply to a physician who performs a medical procedure that, by reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent the serious risk of a substantial and irreversible impairment of a major bodily function of the pregnant woman.

 (B) A physician who performs a medical procedure as described in subsection (A) shall declare, in a written document, that the medical procedure was necessary, by reasonable medical judgment, to prevent the death of the pregnant woman or to prevent the serious risk of a substantial and irreversible physical impairment of a major bodily function of the pregnant woman. In the document, the physician shall specify the pregnant woman's medical condition that the medical procedure was asserted to address and the medical rationale for the physician's conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent the serious risk of a substantial and irreversible impairment of a major bodily function of the pregnant woman.

 (C) A physician who performs a medical procedure as described in subsection (A) shall place the written document required by subsection (B) in the pregnant woman's medical records. For at least seven years from the date the document is created, the physician shall maintain a copy of the document in his own records.

 Section 44-41-860. (A) Medical treatment provided to the pregnant woman by a physician which results in the accidental or unintentional injury to or the death of her unborn human being is not a violation of Section 44‑41‑820.

 (B) It is not a violation of Section 44‑41‑820, and nothing in this article may be construed to prohibit the use, sale, prescription, or administration of a contraceptive measure, drug, chemical, or device if the contraceptive measure, drug, chemical, or device is used, sold, prescribed, or administered in accordance with manufacturer instructions and is not used, sold, prescribed, or administered to cause or induce an abortion of an unborn human being.

 (C) It is not a violation of Section 44-41-820, and nothing in this article shall be construed to provide assisted reproductive technology procedures including, but not limited to, in vitro fertilization, accepted as standard of care by the reproductive medical community. No part of the assisted reproductive procedures considered the normal standard constitute an abortion procedure. However, the practice of selective reduction, shall constitute an abortion in violation of Section 44-41-820 except, when necessary, in reasonable medical judgment, to prevent a substantial risk of death for another fetus, or the substantial and irreversible physical impairment of a major bodily function of another fetus.

 (D)(1) It is not a violation of Section 44‑41‑820, and nothing in this article may be construed to prohibit the use, sale, prescription, or insertion of an intrauterine device if the intrauterine device is used, sold, inserted, or prescribed within the reasonable medical judgment of a physician and is not used, sold, prescribed, or administered to cause or induce an abortion of an unborn human being.

 (2) It is not a violation of Section 44-41-820, and nothing in this article may be construed to prohibit the use, sale, prescription, or administration of an emergency contraceptive drug designed to be taken within five days of unprotected sex and used according to the manufacturer’s instructions. For purposes of this item, an emergency contraceptive drug does not include mifepristone or misoprostol.

 Section 44-41-870. (A) In addition to whatever remedies are available under the common or statutory law of this State, failure to comply with the requirements of this article shall provide the basis for a civil action as described in this section.

 (B) Any pregnant woman upon whom an abortion has been performed, induced, or coerced in violation of this article may maintain an action against the person or persons who violated this article for actual and punitive damages. In addition to all other damages, and separate and distinct from all other damages, each plaintiff is entitled to statutory damages of ten thousand dollars for each violation of this article to be imposed on each defendant of each such violation.

 (C) A separate and distinct cause of action for injunctive relief against any person or persons who have violated this article may be maintained by:

 (1) the woman upon whom an abortion was performed or induced in violation of this article;

 (2) the parent or guardian of the pregnant woman if the woman had not attained the age of eighteen years at the time of the abortion or has died as a result of the abortion;

 (3) a solicitor or prosecuting attorney with proper jurisdiction; or

 (4) the Attorney General.

 The injunction prevents the person or persons who violated the article from further violation of this article in this State.

 (D) If judgment is rendered in favor of the plaintiff in an action described in this section, the court also shall render judgment for reasonable costs and attorney’s fees in favor of the plaintiff against the defendant.

 (E) No damages, costs, or attorney’s fees may be assessed against the woman upon whom an abortion was performed or induced.

 (F) In no case may civil damages be awarded to any plaintiff if the pregnancy resulted from the plaintiff’s criminal conduct.

 (G) A civil cause of action under this section must be brought within three years from the date of the abortion and is not subject to the limitations and requirements of Chapter 79, Title 15.

 Section 44‑41‑880. A pregnant woman on whom an abortion is performed or induced in violation of this article may not be criminally prosecuted for violating any of the provisions of this article or for attempting to commit, conspiring to commit, or acting complicitly in committing a violation of any of the provisions of the article and is not subject to a civil or criminal penalty based on the abortion being performed or induced in violation of any of the provisions of this article.

 Section 44‑41‑890. In addition to any other penalties imposed by law, a physician or any other professionally licensed person who intentionally, knowingly, or recklessly violates the prohibition in Section 44‑41‑820 commits an act of unprofessional conduct and the person’s license to practice in the State of South Carolina immediately shall be revoked by the State Board of Medical Examiners for South Carolina, after due process according to the rules and procedures of the State Board of Medical Examiners. A complaint may be originated by any person or sua sponte. In addition, the State Board of Medical Examiners may assess costs of the investigation, fines, and other disciplinary actions it may deem appropriate.

 Section 44‑41‑900. In every civil or criminal proceeding or action brought under this article, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or induced shall be preserved from public disclosure if the woman does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the woman’s anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel, and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or induced, anyone, other than a public official, who brings an action pursuant to Section 44‑41‑820 shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

 Section 44-41-910. If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

 Section 44-41-920. The President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives have an unconditional right to intervene on behalf of their respective bodies in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges the constitutionality of this act. In a federal court action that challenges the constitutionality of this act the Legislature may seek to intervene, to file an amicus brief, or to present arguments in accordance with federal rules of procedure. Intervention by the Legislature pursuant to this provision does not limit the duty of the Attorney General to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided. In any action in which the Legislature intervenes or participates, the Senate and the House of Representatives shall function independently from each other in the representation of their respective clients.”

 SECTION 3. Article 3, Chapter 17, Title 63 of the 1976 Code is amended by adding:

 “Section 63-17-325. A biological father of a child has a duty to pay the mother of the child the following financial obligations beginning with the date of conception:

 (1) child support payment obligations in an amount determined pursuant to Section 63-17-470;

 (2) fifty percent of the mother’s pregnancy expenses.

 (a) Any portion of a mother’s pregnancy expenses paid by the mother or the biological father reduces that parent’s fifty percent obligation regardless of when the mother or biological father pays the pregnancy expenses.

 (b) Pregnancy expenses must include fifty percent of the mother’s insurance premiums that are not paid by her employer or governmental program beginning from the date of conception and before the pregnancy ends, unless otherwise ordered by the court.

 (c) Item (2) does not apply if a court apportions pregnancy expenses as part of an award of child support in item (1).

 (B) In the case of a mother who becomes pregnant as a result of rape or incest, the biological father, in addition to the duties imposed by subsection (A), also is responsible for the full cost of any expenses incurred by the mother for mental health counseling arising out of the rape or incest.

 (C) The duties imposed by this section accrue at the time of conception and must be applied retroactively when paternity is contested and medical evidence establishes the paternity of the child. Interest accrues on any retroactive obligations beginning with conception until either the obligations are brought current or paid in full whichever happens first. The rate of interest must be calculated based on the applicable interest rate for money decrees and judgments in this State established annually by the South Carolina Supreme Court.”

 SECTION 4. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

 “Section 12-6-3810. There is allowed as a deduction in computing South Carolina taxable income of an individual, a South Carolina unborn human being dependent exemption equal to three thousand dollars for each eligible unborn dependent of the taxpayer, who is unborn at some point during the income tax year and has reached a probable gestational age of at least six weeks.”

 SECTION 5. A. The Public Employee Benefit Authority and the State Health Plan shall cover prescribed contraceptives for dependents under the same terms and conditions that the plan provides contraceptive coverage for employees and spouses. The State Health Plan shall not apply patient cost sharing provisions to covered contraceptives.

 B. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

 “Section 38-71-146. All individual and group health insurance and health maintenance organization policies in this State shall include coverage for contraceptives. For purposes of this section, ‘contraceptive’ means any drug, device, or medication to prevent pregnancy. A contraceptive may prevent ovulation, fertilization, or implantation in the uterus. A contraceptive does not include any drug, device, or medication used with the intent of terminating a pregnancy of a woman known to be pregnant. This section does not apply if an individual or entity asserts a sincerely held religious belief regarding the use of contraception.”

 SECTION 6. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

 “Section 44-41-90. (A) No funds appropriated by the State for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except as provided in Sections 44‑41‑830, 44-41-840, and 44‑41‑850.

 (B) No funds appropriated or authorized by the State may be used by any political subdivision of the State to purchase fetal tissue obtained from an abortion or fetal remains, nor may any political subdivision of the State accept donated fetal remains.

 (C) No state funds may, directly or indirectly, be utilized by Planned Parenthood for abortions, abortion services or procedures, or administrative functions related to abortions.”

 SECTION 7.A. Section 44-41-710 of the 1976 Code is amended to read:

 Section 44-41-710. ~~This article must not be construed to repeal, by implication or otherwise, Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion. An abortion that complies with this article but violates the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law must be considered unlawful as provided in such provision. An abortion that complies with the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion but violates this article must be considered unlawful as provided in this article.~~ If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

 B. Section 44-41-480 of the 1976 Code is amended to read:

 Section 44-41-480. ~~This article must not be construed to repeal, by implication or otherwise, Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion. An abortion that complies with this article but violates the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law must be considered unlawful as provided in such provision. An abortion that complies with the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion but violates this article must be considered unlawful as provided in this article.~~ If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order of injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

 C. Section 44-41-20 of the 1976 Code is repealed.

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

 Renumber sections to conform.

 Amend title to conform.

 Senator MASSEY explained the amendment.

 The question being the adoption of the amendment.

 Senator MATTHEWS moved to lay the amendment on the table.

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

**Ayes 20; Nays 24**

**AYES**

Allen Davis Fanning

Gustafson Harpootlian Hembree

Hutto Jackson *Johnson, Kevin*

Kimpson Malloy Matthews

McElveen Sabb Scott

Senn Setzler Shealy

Stephens Williams

**Total—20**

**NAYS**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Gambrell

Garrett Goldfinch Grooms

*Johnson, Michael* Kimbrell Loftis

Martin Massey Peeler

Reichenbach Rice Talley

Turner Verdin Young

**Total--24**

 The Senate refused to table the amendment.

 Senator DAVIS spoke on the amendment.

**Motion Under Rule 15A Failed**

    At 5:18 P.M., Pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, that the Clerk be prohibited from receiving any further amendments 10 minutes after the adoption of this motion, and debate on the pending amendments be limited to 5 minutes for proponents and 5 minutes for opponents and then debate on the main question be limited to 10 minutes for proponents and 10 minutes for opponents.

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

**Ayes 24; Nays 20**

**AYES**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Gambrell

Garrett Goldfinch Grooms

*Johnson, Michael* Kimbrell Loftis

Martin Massey Peeler

Reichenbach Rice Talley

Turner Verdin Young

**Total--24**

**NAYS**

Allen Davis Fanning

Gustafson Harpootlian Hembree

Hutto Jackson *Johnson, Kevin*

Kimpson Malloy Matthews

McElveen Sabb Scott

Senn Setzler Shealy

Stephens Williams

**Total--20**

    Having failed to receive the necessary vote, the motion under Rule 15A failed.

**RECESS**

 At 5:20 P.M., on motion of Senator MASSEY, with Senator DAVIS retaining the floor, the Senate receded from business not to exceed 10 minutes.

 At 6:11 P.M., the Senate resumed.

 On motion of Senator DAVIS, with unanimous consent, the amendment was carried over.

 Senators MALLOY and JACKSON proposed the following amendment (5399R013.KMM.GM), which was tabled:

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

 / SECTION \_\_. A. Article 1, Chapter 6, Title 44 of the 1976 Code is amended by adding:

 “Section 44‑6‑120. A pregnant woman whose income is at or below one hundred thirty‑eight percent the federal poverty level is eligible for Medicaid as provided for in the ‘Patient Protection and Affordable Care Act’ (P.L. No. 111‑148), and amendments to that act. A pregnant woman who is eligible for Medicaid pursuant to this act shall remain eligible for Medicaid after the birth of her child until that child reaches the age of majority as long as the woman’s income level does not exceed one hundred thirty-eight percent of the federal poverty level during that time.”

 B. This SECTION is effective January 1, 2023. /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 The question being the adoption of the amendment.

 Senator MASSEY moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Davis

Gambrell Garrett Goldfinch

Grooms Gustafson Hembree

*Johnson, Michael* Kimbrell Loftis

Martin Massey Peeler

Rankin Reichenbach Rice

Senn Talley Turner

Verdin Young

**Total--29**

**NAYS**

Allen Fanning Harpootlian

Hutto Jackson *Johnson, Kevin*

Kimpson Malloy Matthews

McElveen Sabb Scott

Setzler Stephens Williams

**Total--15**

 The amendment was laid on the table.

 Senator KIMPSON proposed the following amendment (5399R037.SP.MEK), which was tabled:

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

 /SECTION 1. Article 5, Chapter 41, Title 44 of the 1976 Code is amended by adding:

 “Section 44-41-415. It is unlawful to impose any undue burden on a woman’s right to obtain a lawful abortion.”

 SECTION 2. Section 44-41-20 and Article 5, Chapter 41, Title 44 of the 1976 Code are repealed.

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

 Renumber sections to conform.

 Amend title to conform.

 Senator KIMPSON explained the amendment.

 Senator CASH spoke on the amendment.

 Senator CASH moved to lay the amendment on the table.

 The amendment was laid on the table.

 Senators MASSEY and HEMBREE proposed the following amendment (5399R038.SP.ASM), which was adopted:

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

 /SECTION 1. Section 44-41-710 of the 1976 Code is amended to read:

 “Section 44-41-710. ~~This article must not be construed to repeal, by implication or otherwise, Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion. An abortion that complies with this article but violates the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law must be considered unlawful as provided in such provision. An abortion that complies with the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion but violates this article must be considered unlawful as provided in this article.~~ If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.”

 B. Section 44-41-480 of the 1976 Code is amended to read:

 “Section 44-41-480. ~~This article must not be construed to repeal, by implication or otherwise, Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion. An abortion that complies with this article but violates the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law must be considered unlawful as provided in such provision. An abortion that complies with the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion but violates this article must be considered unlawful as provided in this article.~~ If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order of injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.”

 C. Section 44-41-20 of the 1976 Code is repealed.

 D. Section 44-41-70(b) of the 1976 Code is amended to read:

 “(b) The department shall promulgate and enforce regulations for the licensing and certification of facilities other than hospitals as defined in Section 44‑41‑10(d) wherein abortions are to be performed ~~as provided for in Section 44‑41‑20(a) and (b)~~.”

 SECTION 2. Section 44-41-680 of the 1976 Code is amended to read:

 “Section 44-41-680. (A) Except as provided in subsection (B), no person shall perform, induce, or attempt to perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the human fetus the pregnant woman is carrying and whose fetal heartbeat has been detected in accordance with Section 44‑41‑630.

 (B) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after a fetal heartbeat has been detected in accordance with Section 44‑41‑630 only if:

 (1) the pregnancy is the result of rape defined in Section 44-41-610, and is in the first trimester of pregnancy ~~the probable post‑fertilization age of the fetus is fewer than twenty weeks~~;

 (2) the pregnancy is the result of incest, and is in the first trimester of pregnancy ~~the probable post‑fertilization age of the fetus is fewer than twenty weeks~~;

 (3) the physician is acting in accordance with Section 44‑41‑690; or

 (4) there exists a fetal anomaly, as defined in Section 44-41-610 ~~44‑41‑430~~, provided that the fetal anomaly has been confirmed by two physicians specializing in obstetrics or the area of medicine in which the anomaly is diagnosed.

 (C)(1) A physician who performs or induces an abortion on a pregnant woman based on the exception in either subsection (B)(1) or (2) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty‑four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman's medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest.

 (2) The physician shall preserve a DNA sample from the fetal remains and notify the sheriff in the county in which the abortion was performed. The sheriff shall transmit the sample into evidence within ninety days of the notification. The sample shall be held as evidence as provided by the Preservation of Evidence Act beginning with Section 17-28-300.

 (D) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.”

 SECTION 3. Section 44-41-610 of the 1976 Code is amended by adding appropriately numbered new items to read:

 “( ) ‘Fetal anomaly’ means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life‑preserving treatment, would be incompatible with sustaining life after birth.

 ( ) ‘Rape’ has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.”

 SECTION 4. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

 “Section 44-41-90. (A) No funds appropriated by the State for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except as provided in Sections 44‑41‑830, 44-41-840, and 44‑41‑850.

 (B) No funds appropriated or authorized by the State may be used by any political subdivision of the State to purchase fetal tissue obtained from an abortion or fetal remains, nor may any political subdivision of the State accept donated fetal remains.

 (C) No state funds may, directly or indirectly, be utilized by Planned Parenthood for abortions, abortion services or procedures, or administrative functions related to abortions.”

 SECTION 5. This act takes effect upon approval by the Governor. /

 Renumber sections to conform.

 Amend title to conform.

 Senator MASSEY explained the amendment.

**Point of Order**

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

 Senator MASSEY spoke against the Point of Order.

 Senator SENN spoke in favor of the Point of Order.

 The PRESIDENT overruled the Point of Order.

 Senator MASSEY continued speaking on the amendment.

 The amendment was adopted.

**Statement by Senator MALLOY**

 One of the most egregious flaws of H. 5399 is its treatment of those who have endured sexual violence. Today, the Body has approved of a requirement that law enforcement must be notified about a survivor’s private healthcare decision made in the aftermath of a life-shattering violation of her person. Further, the Senate added a requirement that a DNA sample be taken after the fact and maintained under the guise of potential prosecution. I write to express my specific disagreement and disgust at those mandates.

 Taking away a survivor’s decision whether or not to report criminal sexual conduct takes away agency and presumes that law enforcement contact will be a positive step toward healing. Recounting a violent assault results in further traumatization and without support can lead to diminishing prospects for a full emotional, mental, and physical recovery. This Bill contains no such dedicated supports for survivors -- only a passing reference to requiring the perpetrator to pay for counseling, a toothless threat to be sure. Survivors who choose not to report have significant reasons for doing so, including fear of retaliation and prosecutors in numerous states have used laws designed to reach attackers of pregnant women as a basis for proceeding against the woman herself. All of these complex considerations must now be compressed into just a few short weeks because the Senate reduced the timely opportunity for survivors to heal and reflect, to talk with their doctors, families, and faith leaders, and to access healthcare. Today we have demonstrated disregard and disrespect for the gravity of these tragic events and related decision-making.

 Further, the requirement in the legislation for the collection of DNA samples is nonsensical at best and blatantly illegal at worst. Our code and federal law contain directive protocols for the maintenance of victims’ privacy, for the handling of evidence, for the appropriate medical response to criminal sexual conduct and sexual abuse of a child, and for keeping health information private. Clearly, none of those statutory schemes were consulted in advance of inserting this ill-considered amendment.

 In summary today, the Senate subordinated survivors of sexual assault to the coercive powers of the State. I most vehemently disagree and commit to continuing to work to restore full bodily autonomy to all women of South Carolina.

 Senator DAVIS proposed the following amendment (5399R034.SP.TD), which was tabled:

 Amend the bill, as and if amended, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

 /( ) A physician who performs or induces an abortion in a hospital pursuant to the circumstances relevant to preserving the life of the mother as prescribed in this section shall be immune from civil action or criminal prosecution regarding medical procedures and treatments administered to the pregnant woman if those medical procedures or treatments are provided for under this section and are consistent with current standard of care for the physician’s specialty under the circumstances provided for in this section. Immunity from civil or criminal liability provided in this subsection also extends to any nurse, technician or other person who participates in such medical procedure or treatment with the physician. /

 Renumber sections to conform.

 Amend title to conform.

 Senator DAVIS spoke on the amendment.

 On motion of Senator DAVIS, the amendment was laid on the table.

 Senator GUSTAFSON proposed the following amendment (5399R041.SP.PG), which was tabled:

 Amend the bill, as and if amended, by striking Section 44-41-680(B) and inserting:

 /(B) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after a fetal heartbeat has been detected in accordance with Section 44‑41‑630 only if:

 (1) the pregnancy is the result of rape defined in Section 44-41-610, and is in the first trimester of pregnancy ~~the probable post‑fertilization age of the fetus is fewer than twenty weeks~~;

 (2) the pregnancy is the result of incest, and is in the first trimester of pregnancy ~~the probable post‑fertilization age of the fetus is fewer than twenty weeks~~;

 (3) the physician is acting in accordance with Section 44‑41‑690; or

 (4) there exists a fetal anomaly, as defined in Section 44-41-610 ~~44‑41‑430~~. /

 Renumber sections to conform.

 Amend title to conform.

 Senator GUSTAFSON explained the amendment.

 The question being the adoption of the amendment.

 Senator CASH moved to lay the amendment on the table.

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

**Ayes 26; Nays 17**

**AYES**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Davis

Gambrell Garrett Goldfinch

Grooms Hembree *Johnson, Michael*

Kimbrell Loftis Martin

Massey Peeler Reichenbach

Rice Turner Verdin

Williams Young

**Total--26**

**NAYS**

Allen Fanning Gustafson

Harpootlian Hutto Jackson

*Johnson, Kevin* Kimpson Malloy

Matthews McElveen Sabb

Scott Senn Setzler

Shealy Stephens

**Total--17**

 The amendment was laid on the table.

 Senator HUTTO spoke on the Bill.

 **Remarks by Senator HUTTO**

 Members this has been a long process, and I will try not to prolong it, as others may also want to speak. However, I cannot let this pass without speaking to the women of South Carolina.

 When you wake up a few days from now, and you do not have the rights that you used to have, I want you to remember those who spoke up on your behalf. You saw Republican women and Democratic women come to this podium. They spoke for you, they poured their hearts out for you, and they tried for you. You saw Democratic men do the same thing.

 When your rights get taken away, it was Republican men in South Carolina who took your rights away.

 Senator SENN spoke on the Bill.

**Remarks by Senator SENN**

 I agree with the minority leader, Senator HUTTO. I think we ladies have suffered a setback or we are about to suffer a setback at the hands of a lot of white males in here. We are going to live to fight another day. In reality, the white males feel like they have lost too because what did they get? We have been here for two days and two nights, and we are back basically to the same Bill that was passed a year ago and that the Supreme Court has already taken off the table, at least temporarily. But, because the Supreme Court has already indicated that they are going to look at it, I do believe we are going to live to fight another day and here’s to hoping, ladies. Thank you.

 Senator KIMPSON spoke on the Bill.

**Remarks by Senator KIMPSON**

 I rise to echo the comments that many of my Democratic colleagues made tonight. This is a bad Bill. It’s a bad Bill and what we saw for much of this debate was Republicans fighting for the soul of their party. During the debate that is what we saw from the Republicans while the Democrats for the most part remained silent. It was not our choice to be here nor at the Medical Affairs Subcommittee meeting, but we have an obligation to the citizens of South Carolina to engage in vigorous debate. As I said in the subcommittee meeting and as I said at the well this morning -- there is no exception in this Bill. Despite the efforts of my good friend Senator DAVIS, there is no exception that could have ever made this Bill better.

 This is a sad day for the women in South Carolina. This is a day when my little daughter -- who you saw with me this morning -- will arguably have less rights than her grandmother. We are turning the clock backwards. This morning, someone characterized this issue as being before us in the November elections. People in this State will decide who they vote for on the ballot -- do women or should women have the right to decide what to do with their own bodies? I think Senator HEMBREE will remember when in 2014 I proposed that athletes -- student athletes -- should have the right to sign their own name on merchandise that is based on their athletic pursuits. That’s a property right. Why should any college or university not allow the athlete to sign his or her own name on merchandise or pictures and not receive compensation for it? In my view, that is a property right. I can think of no fundamental right more important than a woman to choose to do with her own body what she wishes to do.

 This is 2022, and I am so disappointed at where we are on this issue. There are many amendments to be taken up on this Bill. I thought we had an opportunity to send a strong message post Dobbs that we were going to be different -- that we were going to actually be truly pro-life. Pro-life is not a phrase that the extreme right can co-op. I am pro-life and for me, pro-life means recognizing the right of a woman to make her own personal healthcare decisions. We have got a lot of work to do. I hope that next year will be different or this year in November will be different. I know this was painful for a number of my colleagues on this side of the aisle but we’re going to find out if the other side of the aisle is right on this one. I can tell you right now there are a lot of mothers and their supporters in the lobby, and they are going to hold us accountable.

 As I offer this amendment, I believe I am pro-life, and I also go to church. I grew up in a church -- about five miles down the road from here, Saint John Baptist Church. My pastor was Reverend Roscoe C. Wilson. Reverend Wilson taught us that Jesus loves all the little children, all the children in the world. He also taught us about the golden rule -- treat others as you would want to be treated. I have a scripture, Matthew 7:12, “In everything you do, do to others as you would have them do to you” -- this is the law from the prophets. I think all of us will agree that we would like to make the decisions on our own bodies. We go to church, and we are pro-life -- that is the context in which I offer this amendment. United States Senator Cory Booker artfully said, “Before you speak to me about your religion, first show it to me in how you treat other people. Before you tell me how much you love your God, you have to show me how much you love all of his little children. Before you preach to me about your faith and passion, teach me through your compassion of your neighbors. In the end I am not as interested in what you have to tell or sell but rather how you choose to give and live.” We just had a vote. I didn’t read the entire amendment but what I heard Senator MALLOY say is that we have poverty in the State of South Carolina. Let’s fix it. We want to expand Medicaid. We are pro-life, and you can’t get any more pro-life than the amendment offered by Senator MALLOY. Time and time again, we reject pro-life amendments like expanding Medicaid. To my amendment, my friends -- and I am under no illusion that it will pass -- but it makes me feel good to talk about it. I want to take the law in South Carolina to where it was before the Dobbs decision. I read Dobbs, and I know it overrules Roe. I think this Body has an opportunity to send a message to the world. Why can’t we be first in doing something right?

 I would like to gut this entire Bill from the House. I don’t know why we spend so much time debating things from the House. We have been here two days. Let me back up a minute before I read my amendment. I am on the Senate Medical Affairs Committee. I was called away from my job for a Medical Affairs Subcommittee hearing. We are the Committee on Medical Affairs. The name in and of itself would lead you to believe that you are going to hear medical testimony. The doctors were very clear. The doctors did testify -- and I appreciate Senator VERDIN for allowing the doctors to testify -- unlike what I heard happened in the House committee. I think that my fellow committee members would agree that most of the doctors who testified were against this Bill. We had preacher after preacher quote scripture and tell us how to live our lives in support of this Bill. There were a few preachers who were against this Bill but for the most part we had preachers lecturing us about medical testimony. Let me just take a moment to let you know that there are a lot of mainstream religious organizations against this Bill -- United Methodist Women, Presbyterian Church USA, Episcopal Church, Evangelical Lutheran Church, Cooperative Baptist Fellowship, United Church of Christ -- and there are more. These groups are saying to listen to the medical professionals, but the Medical Affairs Committee voted the Bill out of committee, and we disregarded the medical experts. I am no doctor -- I’ve gotten pretty humble -- I was going to say I was a great lawyer, but I’ve been listening to this debate, and I’m a good lawyer -- but we’ve got some great lawyers in this Body. I have watched the vigorous banter -- back and forth between able advocates. I was touched, and it was hard for me to sit there silently -- Senator HUTTO said not to unite the Republicans -- keep your mouth shut. I listened to the debate the whole day. I hate to get in the way of a good Republican fight but in good conscious I could not keep my seat -- women deserve the right to choose in the State of South Carolina, and we are sending the wrong message if we pass this Bill. I get that there are exceptions, and there were exceptions offered but if you notice not many of the exceptions were offered by the female members of this body. In fact, I don’t believe any of the amendments were offered by our female colleagues. As I understand the medical testimony, this is a very difficult and sensitive issue. In my view, the exceptions while well intentioned -- they are only things that would make us feel good about being here. And I don’t mean anything against those offering these amendments because I believe the members offering these amendments did so in good will. That’s why I abstained from voting on the exceptions because if you total all the exceptions, you are really talking about a small percentage of women who would fall in those categories. In my view, this is a bad Bill and there is no way of excepting out of this problem. As I said in the committee, “You can put lipstick on a pig but it is still a pig.”

 Let’s move quickly to the amendment -- it would send a strong message, and I’m going to ask for a vote. I don’t think this amendment has been offered. I want to offer it to make the record clear that I took to the podium, and I fought for women’s right to choose. That is what I said I was going to do and that is what I was elected to do. I don’t know if you recall but in 2018, I stood at this podium for about eight hours, and we talked about this issue. A number of us talked about this issue -- we stayed here until around 2 A.M. This was my message then, and this is my message today -- this amendment says it is unlawful to impose any undue burden on a woman’s right to obtain a lawful abortion. That is a good amendment.

 In closing, I just want to read a quote from the Casey decision that was really the law of the land for a long time. Casey was after Roe. I’m going to read these two good quotes. The first from the Casey decision, “A proper focus of constitutional inquiry is the group for whom the law is a restriction.” That means we should ask the women. They are the ones who will live with this decision. Many of us live with it too when we counsel our spouses or children. Justice Blackman said, “At the same time the viability standard takes account of the undeniable fact that as the fetus evolves into post-natal form, and it loses its dependence on the uterine environment the state’s interest in the fetus’ potential human life and in fostering a regard for human life in general becomes compelling.” That’s really what this amendment is about. Before you speak to me about your religion, show it to me in how you treat other people. Before you tell me how much you love your God, show me how much you love all of God’s children -- Medicaid expansion, health care, poverty. Before you preach to me about your passion for your faith, teach me about it through your compassion for your neighbors. Mr. PRESIDENT, I move for adoption.

 Senator K. JOHNSON spoke on the Bill.

**Remarks by Senator KEVIN JOHNSON**

Thank you, Mr. PRESIDENT and members of the Senate. As we have been debating this Bill in full Session, I have been relatively quiet. I’ve been quiet mainly because I agree with Senator HUTTO as he has emphasized very emphatically, even in our committee meetings, that this is just a bad Bill.

I don’t think my vote on any of these amendments is going to change how I feel. I have said time and time again that I don’t consider myself to be for abortion or against abortion. I consider myself pro-choice. I consider abortion as a very serious issue that puts a lot of stress on mothers, regardless of which side of the category they fall on and I just don’t know if I feel comfortable telling a woman under that circumstance what she should or should not do.

I believe in choice, and we have choice, but we only offer choice to one side of the equation. What I believe in is choice for both sides. If you are in that position and want to have the baby, that’s your choice and if you don’t want to, that’s also your choice. A woman can decide and make that choice with consultation from people that will help her. I just know that I am not going to tell a woman what she can and cannot do in those situations.

I keep hearing pro-life, and I go back to my friend Senator McLEOD, and she says, “You know a lot of people who say they are pro-life, are not pro-life, they are pro-birth” and I tend to believe that because if I am pro-life, I would have a problem with so many assault weapons being in the hands of bad people. Now, I do believe in the right for citizens to bear arms but if I am pro-life, I have a problem with all these assault rifles -- it’s a known fact that people have them because they are weapons intended to kill a lot of people, very quickly. If I am pro-life, I am in favor of the change in the minimum wage, because we just can’t live off $7.25 an hour. If I am “pro-life”, I am in favor of Medicaid expansion, which I have filed a Bill about every year for the past several years and it can’t even get a hearing. Pro-life is funding head start and early childhood education and all these things that are going to allow these children and their families to have life -- which I think the Bible says something about “having it more abundantly.”

I keep hearing people ask what gives government officials or legislators the right to take even one innocent life. That’s a good point. Sometimes I wonder what gives us the right as government officials and as a legislature to tell a woman what to do with her body. What gives us that right? The thing that gets me -- I heard a while ago while being in the business of legislating, “Which innocent life can be killed?” So, I’ll end with this, if I am pro-life, I’m against the death penalty. As I sit here being very quiet, I remember back in 2021 a Bill came before us to add a firing squad as another method of capital punishment, and I looked at the list of people who voted for it, and all of the people who are pro-life voted for that. I know some might say, “Well you know these people committed heinous crimes, and they deserve the death penalty,” and I would agree with that to the extent that research and statistics show without a doubt there have been people that have been put to death under the death penalty who were later found to be innocent. There have also been people who were on death row, about to be put to death, but because of new technology with DNA and other things, they were found to be innocent.

So, when I go back to the question from my friend, Senator CASH, I appreciate his resolve on this issue of "What gives the government the right to legislate the killing of innocent people?" I look back and see that he and others voted to kill people as capital punishment, although we know that there are other options to punish people. We also know from brief research that innocent people, and that’s what we're talking about here --- innocent people -- have been killed under the death penalty. So, if you go back and look at the vote on that Bill, the vote failed, with one exception -- as far as adding the firing squad which tells me you believe in the death penalty. It failed with one exception along party lines and then a few months later, when it went to the House and they made some changes, it came back over here and the changes that were made in the House were concurred with along party lines. So, I have a problem reconciling being pro-life when you vote to kill people who may be innocent in one instance and then you talk about being pro-life as it relates to abortion.

 Senator JACKSON spoke on the Bill.

**Remarks by Senator JACKSON**

 Thank you, Mr. PRESIDENT. I will be brief, in fact, this is my first time speaking in the past two days and I had some amendments that I decided to pull it down, but I just want to share with you very briefly before we go what my concern is.

 Over the last year, I have been studying rather intently about religious fanaticism. I have really been concerned as a pastor about religious fanaticism and I've been studying about when religious fanaticism meets power hungry people who put the pursuit of power above everything else. One of the books that many of us have read is *How the Mighty Have Fallen* but I had the privilege of being in Rome over the last month or so and visited the Vatican and other places. In my study of this passionate personal issue, just for me, because I have always been concerned about where we are going as a society. I'm a pastor. I'm a minister. I withdrew from law school to go to seminary school. No one in here I suspect reads the Bible more than I do. You may read it as much but seven days a week I’m working throughout Holy Scripture. What I found out is that when you get to a point where the laws of your State and your government are based on your religious belief, and not on what is best for the entire Nation -- the entire country of all of the people -- you are treading on very dangerous territory.

And I rise at the last hour, last minute, the last day of this debate to say to my colleagues, who are as passionate as I am about their faith, you should be very, very careful. There is no society in the history of the world that has ever survived -- a mentor scholar of mine said this. Think about this Senator CAMPSEN, “There is no society in the history of this world who has ever survived the convergence of religious fanaticism with the absolute pursuit of power without any moral integrity. It has always been the downfall to our society.”

 Lastly, I will leave you with this, and you've heard me say this from this well before. If you have not ever watched *The Handmaid's Tale*, I encourage you to do that. New episodes will come out in the next couple of weeks because here's what it is. *The Handmaid's Tale* is about a bunch of men who decide they know what's best for all people and they pass laws, and they change society without any regard to the people whose lives they are impacting. I will say to us that we need to be very, very careful because over the last couple days as I’ve sat here silently doing my own study, I really became saddened because it reminds me how closely we are becoming to the fictional area called Gilead in “*The Handmaid's Tale*.” We can do better; I hope one day we will. Thank you.

 Senator MATTHEWS spoke on the Bill.

**Remarks by Senator MATTHEWS**

 I’m glad that my colleague brought up *The Handmaid’s Tale*. I brought that up in earlier in the committee meeting. It’s about a dystopian society and some of what I’ve heard in the arguments from this Chamber seems to be a little eerily close to what happens in *The Handmaid’s Tale*. If you can just follow a little bit, because I hear a lot of griping about people wanting to go home -- even though we are talking about something that is so critical to our way of life.

 In *The Handmaid’s Tale* there is one scene where you have these two women who are journalists. They are at work, about to have their coffee, and all of a sudden, their boss, the Editor of the newspaper, is shaking and they do not know why. They do not know what’s going on because he looks like he’s afraid to talk to them. He lines all of the staff up and said, “In 10 minutes, all of you women need to get your belongings. We have boxes ready for you. Get your belongings.” What?… Why? He can’t explain to them why they no longer have a job. They are upset. They do not know what has happened. Why? There are police officers at the door to escort them out. They leave out of their jobs -- this is also happening at schools -- but the scene concentrates on the two journalists who were very good at their jobs. They are escorted out of the building where the women have to go on one side of the street and men go another way. These women then go to try to get a cup of coffee -- to get a bus ticket using their debit card. They immediately find out that they no longer have property rights.

 Because of this decision that they no longer have property rights, guess what happens? Their debit cards -- their assets are suspended in any woman’s name. If you are a woman and you own something, it can go to your husband or some other male, but you have nothing. Then the scene changes where these educated women and women with means -- it’s all women who could give birth, all fertile women -- they are trying to get out of the country.

 There is another scene where there are three men in a vehicle. I believe they are called commanders. They are elected officials and they’re talking about the Bible. Coincidentally, there are different versions of the Bible, King James commissioned one which tends to be in some theologians’ opinion a different, more conservative interpretation. In that vehicle, were these people who ruled Gilead, they are explaining how they can use women as chattel. By the end of this series that I looked at -- guess what -- they figured it out. They used the Bible to have ceremonies to use these women to continue to increase their own wealth, to make their new Gilead devoid of women with power, and devoid of women with assets. The women either become a wife to the commander or they become a baby carrier for the commander. They lose their rights. They cannot be taught to read. They can only serve in the way that the commanders want them to. So, I suggest that you look at that.

 And I want to say this -- I got a little backlash from my own people on my side of the aisle yesterday and last night. Because you know what? We, each of us, all 46 of us had to run hard to become Senators and we said we were going to represent the people of South Carolina, our constituents. This issue is one of the most critical issues we have faced and when they wanted to just stop last night, I did not want to. Because I wanted -- if you wanted this, this bad -- you should have been willing to stay here to fight for the women of South Carolina. Even as I stand up here today, you have some who are jumping up saying, “Oh, we’re still talking about it?” Well, we need to talk about it some more. We need to come here and have our daughters, granddaughters, and sisters in mind. This is important! And yes, I respect that we have differences of opinions, but we need to be willing to come here to work to seriously flesh out a lot of these issues.

 I wanted to stand up to speak, when there was a comment about HIPAA read from a police blog or a police manual. I know that everyone in here who is a lawyer knows that there’s *Schmerber* (*Schmerber v. California, 384 U.S. 757 (1966)*) and what was said was incorrect. But no, we have some throughout this Chamber who don’t want to fully investigate and further these Bills. We have to, yes! When I kept asking about immunity for girls who have to give these reports, Senator MASSEY kept saying -- he just nebulously kept referring back to the other statute. Do you know why? Because the statute specifically says, generally, any woman who does anything to procure an abortion -- she can get up to two years. But no, did we hear that? You know why we didn’t hear it? Because we didn’t want to sit down and study for the benefit of all of South Carolina.

 I don’t know what else to say. I told you when I came here that I think people of South Carolina needed to decide this, the men and the women. You did an injustice to the women of South Carolina. You did an injustice to the legacy of this State and what we should stand for -- freedom -- freedom to do with what *we* want to protect *our* bodies.

 On motion of Senator FANNING, with unanimous consent, the remarks of Senators HUTTO, SENN, KIMPSON, K. JOHNSON, JACKSON and MATTHEWS when reduced to writing and made available to the Desk, would be printed in the Journal.

 The question then being the third reading of the Bill.

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

**Ayes 27; Nays 16**

**AYES**

Adams Alexander Bennett

Campsen Cash Climer

Corbin Cromer Davis

Gambrell Garrett Goldfinch

Grooms Gustafson Hembree

*Johnson, Michael* Kimbrell Loftis

Martin Massey Peeler

Reichenbach Rice Turner

Verdin Williams Young

**Total—27**

**NAYS**

Allen Fanning Harpootlian

Hutto Jackson *Johnson, Kevin*

Kimpson Malloy Matthews

McElveen Sabb Scott

Senn Setzler Shealy

Stephens

**Total--16**

 There being no further amendments, the Bill, as amended, was read the third time and ordered returned to the House.

**Statement by Senator MALLOY**

 Today’s continued debate on H. 5399 again engendered discussions of the most private and at times tragic circumstances in the lives of South Carolinians. When discussing situations of rape, incest, and fatal conditions arising during pregnancy, we must be judicious and respectful. I write separately a second time to commit my position to the record.

 During the debate, there were additional amendments offered that were meant to mitigate the wrongs in the Bill that would threaten the lives of girls, women, and anyone able to be pregnant. I voted ‘present’ or abstained from the votes on these amendments as is permitted under the Rules of the Senate. While some of these amendments were worthy of consideration and potential improvements to the public policy of our state, at the core of this debate was a Bill flawed in its premise. H. 5399 does nothing to enrich the lives of living, breathing South Carolinians -- citizens who need healthcare, housing, education, infrastructure and jobs. The Bill presumes to insert state government into intimate and personal conversations between women and their families and doctors.

 To reflect the respect I have for those placed directly in harm’s way as a result of the Bill, I did not vote on those certain amendments during this second and final day of debate.

**Statement by Senator KIMPSON**

 You can’t put lipstick on a pig. It’s still a pig. Exceptions do not make abortion restrictions less harmful. We, as lawmakers, should not be in a position to decide who gets an abortion and who does not get an abortion.

**STATEWIDE APPOINTMENT**

**Confirmation**

Having received a favorable report from the Judiciary Committee, the following appointment was confirmed in open session:

Initial Appointment, Ethics Commission, with the term to commence March 31, 2022, and to expire April 1, 2027

Senate - Minority:

Bryant Caldwell, 1221 Main Street, Suite 1600, Columbia, SC 29201 *VICE* Donald Gist

On motion of Senator RANKIN, the question was confirmation of Bryant Caldwell.

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

**Ayes 36; Nays 0; Abstain 2**

**AYES**

Adams Alexander Allen

Bennett Campsen Cash

Climer Corbin Cromer

Davis Gambrell Garrett

Goldfinch Gustafson Harpootlian

Hembree *Johnson, Kevin Johnson, Michael*

Kimbrell Kimpson Martin

Massey Matthews McElveen

Peeler Reichenbach Rice

Sabb Scott Senn

Setzler Shealy Stephens

Turner Verdin Williams

**Total--36**

**NAYS**

**Total—0**

**ABSTAIN**

Rankin Young

**Total--2**

The appointment of Bryant Caldwell was confirmed.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2020, and to expire April 30, 2024

Erin Moon McKinney, 15084 Beacon Ridge Drive, Seneca, SC 29678-1368 *VICE* Michael Todd Simmons

**Motion Adopted**

 On motion of Senator MASSEY, the Senate agreed to stand adjourned.

**MOTION ADOPTED**

 On motion of Senator ALEXANDER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Lowell William Ross of Seneca, S.C. Lowell was an active member of the Episcopal Church of the Ascension and served as a lay reader and a member of the vestry. He was a graduate of Walhalla High School and the University of South Carolina. Lowell then served in the U.S. Air Force before graduating from the University of South Carolina Law School. He retired after practicing law for 56 years. Lowell served in the South Carolina Legislature as a member of the House Judiciary Committee. He also served as chairman of the South Carolina Board of Commissioners on Grievances and Discipline, was a member of the S.C. Bar Board Foundation and the Seneca Sertoma Club. Lowell was passionate about helping others and loved his community and State. He was an avid reader and photographer who enjoyed hiking, traveling, cooking and spending time with his family. Lowell was a loving husband, devoted father and doting grandfather who will be dearly missed.

and

**MOTION ADOPTED**

 On motion of Senator STEPHENS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Willie B. Owens, Sr. of Orangeburg, S.C. Willie graduated from South Carolina State College and The Citadel. He had an extensive background in education including work at Voorhees College, Claflin University and was principal of Bamberg-Ehrhardt High School. He was a devoted public servant who served on County Council for Orangeburg County District 7. Willie was a member of McBranch Baptist Church where he faithfully served. Willie was a loving husband, devoted father and doting grandfather who will be dearly missed.

**ADJOURNMENT**

 At 8:24 P.M., on motion of Senator MASSEY, the Senate adjourned under the provisions of S. 1325, the *Sine Die* Resolution.

\* \* \*