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2024 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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Columbia, S.C. 29211

ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

HENRY D. MCMASTER, Governor; PAMELA S. EVETTE, Lieutenant Governor; THOMAS C. ALEXANDER, President of the Senate; G. MURRELL SMITH, JR., Speaker of the House of Representatives; THOMAS E. POPE, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.

PART I

GENERAL AND PERMANENT LAWS

No. 103

(R104, H3690)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "ESG PENSION PROTECTION ACT" BY AMENDING SECTION 9-16-10, RELATING TO RETIREMENT SYSTEM FUNDS DEFINITIONS, SO AS TO ADD A DEFINITION OF "PECUNIARY FACTOR"; BY AMENDING SECTION 9-16-30, RELATING TO DELEGATION OF FUNCTIONS BY THE COMMISSION, SO AS TO PROVIDE THAT PROXY VOTING DECISIONS MUST BE BASED ON PECUNIARY FACTORS; BY AMENDING SECTION 9-16-50, RELATING TO INVESTMENT AND MANAGEMENT CONSIDERATIONS BY TRUSTEES, SO AS TO PROVIDE THAT THE COMMISSION MAY ONLY CONSIDER PECUNIARY FACTORS IN MAKING CERTAIN INVESTMENT DECISIONS; BY AMENDING SECTION 9-16-320, RELATING TO ANNUAL INVESTMENT PLANS, SO AS TO REQUIRE CERTAIN MEETINGS; BY AMENDING SECTION 9-16-330, RELATING TO STATEMENT OF ACTUARIAL ASSUMPTIONS AND INVESTMENT OBJECTIVES, SO AS TO REQUIRE CERTAIN CERTIFICATIONS; AND BY ADDING SECTION 9-16-110 SO AS TO PROVIDE THAT THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE CERTAIN PROVISIONS.

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

Citation

SECTION 1. This act may be cited as the "ESG Pension Protection Act".

"Pecuniary factor" definition

SECTION 2. Section 9-16-10 of the S.C. Code is amended by adding:

(10) "Pecuniary factor" means a factor that a prudent person in a like capacity would reasonably believe has a material effect or impact on the financial risk or return on an investment, including factors material to assessing an investment manager's operational capability, based on an

appropriate investment horizon consistent with a retirement system's investment objectives and funding policy. The term excludes "nonpecuniary factors" which is any factor or consideration that is collateral to or not reasonably likely to effect or impact the financial risk and return of the investment and include, but are not limited to, the promotion, furtherance, or achievement of environmental, social, or political goals, objectives, or outcomes.

Shareholder proxy votes

SECTION 3. Section 9-16-30(G) of the S.C. Code is amended to read:

(G)(1) The commission shall cast shareholder proxy votes that are in keeping with its fiduciary duties that are consistent with the best interest of the trust fund, based on pecuniary factors, and most likely to maximize shareholder value over an appropriate investment horizon consistent with a retirement system's investment objectives and funding policy. Any commission engagement with a company regarding the exercise of shareholder proxy votes or the proposal of a proxy question must be based solely on pecuniary factors and for the sole purpose of maximizing shareholder value, except that the commission may engage with a company to express opposition to the proposal of or the merits of a proxy question that does not have a pecuniary impact.

(2) To the extent that it is economically practicable, the commission must retain the authority to exercise shareholder proxy rights for shares that are owned directly or indirectly on behalf of a system. The commission may retain a proxy firm or advisory service to assist the commission in exercising shareholder proxy rights, but only if the proxy advisor has a practice of and commits in writing to follow proxy guidelines that are consistent with the requirements of item (1).

(3)The commission only may allocate capital to a public equity investment strategy if the manager of the investment strategy has a practice of and commits in writing to meet the requirements of item (1) and Section 9-16-50(A)(5), unless it is not economically practicable for the commission to do so, or it is necessary for the commission to avoid the concentration of assets with any one or more investment managers. For any public equity investment strategy for which the manager does not have a practice of and does not commit in writing to meet the requirements of item (1), the commission must include a summary of the terms, fees, and performance of the investment in the commission's annual investment report and publish the summary in a conspicuous location on the commission's website.

Pecuniary factors consideration

SECTION 4. Section 9-16-50 of the S.C. Code is amended to read:

Section 9-16-50. (A) In investing and managing assets of a retirement system pursuant to Section 9-16-40, the commission:

(1) shall consider among other circumstances:

(a) general economic conditions;

(b) the possible effect of inflation or deflation;

(c) the role that each investment or course of action plays within the overall portfolio of the retirement system;

(d) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(e) the adequacy of funding for the plan based on reasonable actuarial factors;

(2) shall diversify the investments of the retirement system unless the commission reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(3) shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system;

(4) may invest in any kind of property or type of investment consistent with this chapter and Section 9-1-1310;

(5) only shall consider pecuniary factors in making an investment decision or when allocating capital to an investment strategy.

(B) The commission shall adopt a statement of investment objectives and policies for the retirement system. The statement must include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority, an explicit statement that all investment decisions must be based only on the consideration of pecuniary factors, and information on the types of reports to be used to evaluate investment performance. At least annually, the commission shall review the statement and change or reaffirm it. The relevant portion of this statement may constitute parts of the annual investment plan required pursuant to Section 9-16-330.

Annual meeting

SECTION 5. Section 9-16-320 of the S.C. Code is amended by adding:

(H) The commission shall meet no less than annually to review compliance with Section 9-16-30(G) regarding the exercise of

shareholder proxy rights. The commission must review a report that summarizes the votes cast by or on the commission's behalf or at the commission's direction. The report must include a vote caption, the commission's vote, the recommendation of company management, and the recommendation of any proxy advisor retained by the commission. The report required by this subsection must be posted in a conspicuous location on the commission's website.

Closing documentation

SECTION 6. Section 9-16-330 (A) and (B) of the S.C. Code is amended to read:

(A) The commission shall provide the chief executive officer and the chief investment officer with a statement of general investment objectives. The commission also shall provide the chief executive officer and the chief investment officer with a statement of actuarial assumptions developed by the system's actuary and approved by the board. The commission shall review the statement of general investment objectives annually for the purpose of affirming or changing it and advise the chief executive officer and the chief investment officer of its actions. The retirement system shall provide the commission, its chief executive officer, and chief investment officer that data or other information needed to prepare the annual investment plan.

(B)(1) Notwithstanding Section 9-16-30(A), the commission's statement of general investment objectives may include a delegation to the chief investment officer of the final authority to invest an amount not to exceed:

(a) two percent of the total value of portfolio assets for each investment, if the investment is in assets that are publicly tradeable and the investment provides for liquidity in ninety days or less; or

(b) one percent of the total value of portfolio assets for each investment, if the investment is in assets that are not publicly tradeable or the investment's liquidity provision is greater than ninety days.

(2) Any final authority delegated to the chief investment officer pursuant to this subsection must be exercised subject to the oversight of the chief executive officer. The closing documentation of an investment made pursuant to this delegation must include the chief executive officer's certification that the investment conforms to the amount and the extent of the delegation. The closing documentation of any investment also must include the chief executive officer's certification that the decision to make the investment is based on pecuniary factors

and is not being made to promote, further, or achieve any nonpecuniary goal, objective, or outcome. Any authority exercised pursuant to this section must be exercised in a manner consistent with the limitations imposed by this section and investments may not be divided into smaller amounts in order to avoid these limitations. The commission must be notified of an investment made pursuant to any delegated authority within three business days of the investment's closing and the investment must be reviewed with the commission at its next regularly scheduled meeting. The commission may amend, suspend, or revoke the delegation of the final authority to invest at any time and may place stricter limits on any delegated authority than those provided in this subsection.

Enforcement

SECTION 7. Article 1, Chapter 16, Title 9 of the S.C. Code is amended by adding:

Section 9-16-110. The Attorney General may bring an action in a court of competent jurisdiction to enforce this chapter.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 104

(R105, H3782)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-12-300, RELATING TO DEFINITIONS, SO AS TO AMEND THE DEFINITION OF "CABLE SERVICE" AND "VIDEO SERVICE"; AND BY AMENDING SECTION 58-9-2200, RELATING TO DEFINITIONS, SO AS TO AMEND THE DEFINITION OF "RETAIL TELECOMMUNICATIONS SERVICE".

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

Definitions

SECTION 1. Section 58-12-300(1), (6)(h), and (10) of the S.C. Code is amended to read:

(1)(a) "Cable service" is defined as set forth in 47 U.S.C. Section 522(6).

(b) For purposes of Chapter 12, Title 58 only, "cable service" does not include any video programming accessed via a service that enables end users to access content, information, electronic mail, or other services offered over the Internet, including streaming video content, regardless of the provider of the Internet access services.

(h) any revenues from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law including, without limitation, revenues received from telecommunications services, information services, Internet access services, streaming services, directory or Internet advertising revenue (including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising). Where the sale of any such noncable or nonvideo service is bundled with the sale of any cable or video service or services and sold for a single nonitemized price, the term "gross revenues" shall include only those revenues that are attributable to cable or video services based on the provider's books and records, such revenues to be allocated in a manner consistent with Generally Accepted Accounting Principles;

(10)(a) "Video service" means video programming services provided by a video service provider through wireline facilities located at least in part in the public rights of way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d), any video programming provided via a cable service, or any video programming accessed via a service that enables end users to access content, information, electronic mail, or other services offered over the Internet, including streaming video content, regardless of the provider of the Internet access services.

(b) For purposes of Chapter 12, Title 58 only, "video service" also means video programming services provided by a video service provider through wireline facilities located at least in part in the public rights of way without regard to delivery technology, including Internet protocol technology, and does not include any direct-to-home satellite services as defined in 47 U.S.C. Section 303(v).

Definitions

SECTION 2. Section 58-9-2200(2) of the S.C. Code is amended to read:

(2) "Retail telecommunications service" includes telecommunications services as defined in item (1) of this section but shall not include:

(a) telecommunications services which are used as a component part of a telecommunications service, are integrated into a telecommunications service, or are otherwise resold by another provider to the ultimate retail purchaser who originates or terminates the end-to-end communication including, but not limited to, the following:

(i) carrier access charges;

(ii) right of access charges;

(iii) interconnection charges paid by the providers of mobile telecommunications services or other telecommunications services;

(iv) charges paid by cable service providers for the transmission by another telecommunications provider of video or other programming;

(v) charges for the sale of unbundled network elements;

(vi) charges for the use of intercompany facilities; and

(vii) charges for services provided by shared, not-for-profit public safety radio systems approved by the FCC;

(b) information and data services including the storage of data or information for subsequent retrieval, the retrieval of data or information, or the processing, or reception and processing, of data or information

intended to change its form or content;

(c) cable or video services that are subject to franchise fees;

(d) satellite television broadcast services;

(e) video programming accessed via a service that enables end users to access content, information, electronic mail, or other services offered over the Internet, including streaming video content, regardless of the provider of the Internet access services; provided, however, that this exception does not include Voice over Internet Protocol service. This item (e) only applies to Article 20, Chapter 9, Title 58 of the South Carolina Code of Laws.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 105

(R106, H3799)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DECLARE THE FIRST MONDAY OF MARCH OF EACH YEAR AS "WATER PROFESSIONALS DAY".

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

Water Professionals Day

SECTION 1. Chapter 3, Title 53 of the S.C. Code is amended by adding:

Section 53-3-270. The first Monday of March of each year is designated as "Water Professionals Day" in South Carolina.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 106

(R107, H3872)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-150-145 SO AS TO EXEMPT CERTAIN PERSONALLY IDENTIFIABLE INFORMATION CONCERNING LOTTERY CLAIMS FROM NONCONSENSUAL DISCLOSURE OR RELEASE UNDER THE FREEDOM OF INFORMATION ACT, TO PROVIDE THE LOTTERY COMMISSION MAY DISCLOSE CERTAIN INFORMATION CONCERNING LOTTERY CLAIMS WITHOUT CONSENT, AND TO PROVIDE AN EXCEPTION FOR PARTICIPANTS IN CERTAIN PROMOTIONS; AND BY AMENDING SECTION 30-4-40, RELATING TO MATTERS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, SO AS TO MAKE A CONFORMING CHANGE.

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

Personally identifiable information exempt from nonconsensual disclosure

SECTION 1. Chapter 150, Title 59 of the S.C. Code is amended by adding:

Section 59-150-145. (A) The following information concerning a lottery prize winner is exempt from disclosure under the Freedom of Information Act (FOIA) and may not be disclosed by the commission in response to a FOIA request without express written consent initiated

from the winner and unsolicited from any party listed in subsection (C):

(1) the name, address, telephone numbers, birth date, and social security number of the winner; and

(2) copies of any forms of identification provided by the winner to the commission.

(B) Absent consent of the winner as provided in subsection (A), the only information concerning a lottery prize claim that the commission may release pursuant to a FOIA request is the date of the claim and draw, game played, prize amount, retailer location where the winning ticket was sold, and name of the town where the winner resided at the time of the claim.

(C) The commission, its contractors, or other governmental entities with whom winner information is shared may not release the information listed in subsection (A) to a third party with the exception of disclosure of information for legitimate government purposes or as specifically provided by law.

(D) In accordance with the rules of certain promotions designated by the commission, implied consent to the disclosure of name and likeness may be required, in addition to information listed in subsection (B), as a condition of entry in the promotion.

(E) Nothing in this section prohibits a lottery prize winner to authorize and consent to limited disclosure of their likeness and/or hometown for the sole purpose of lottery marketing purposes.

(F) The provisions of this section apply notwithstanding the provisions of Section 59-150-30(A), Section 59-150-240(A), or another provision of law.

Freedom of Information Act, conforming changes

SECTION 2. Section 30-4-40 of the S.C. Code is amended by adding:

(e) A public body only may disclose information concerning lottery prize claims as provided in Section 59-150-145.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 107

(R108, H3960)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-1-686 SO AS TO DESIGNATE THE SOUTH CAROLINA POULTRY FESTIVAL IN LEXINGTON COUNTY AS THE OFFICIAL STATE POULTRY FESTIVAL.

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

South Carolina Poultry Festival

SECTION 1. Article 9, Chapter 1, Title 1 of the S.C. Code is amended by adding:

Section 1-1-686. The South Carolina Poultry Festival in Lexington County is designated as the official State Poultry Festival.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 108

(R109, H3977)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 38-55-730 SO AS TO ALLOW INSURERS TO POST AN INSURANCE POLICY OR ENDORSEMENT ON THEIR WEBSITE IF CERTAIN CONDITIONS ARE MET.

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

Posting an insurance policy or endorsement by electronic means

SECTION 1. Article 7, Chapter 55, Title 38 of the S.C. Code is amended by adding:

Section 38-55-730. Notwithstanding another provision of this section, if a standard property and casualty insurance policy or endorsement does not contain personally identifiable information, an insurer may mail, deliver, or post the policy or endorsement on the insurer's website. If the insurer elects to post an insurance policy or endorsement on the insurer's website in lieu of mailing or delivering the document to the insured, the insurer must comply with the following conditions:

(1) The policy and endorsement must be accessible as long as the policy or endorsement is in force.

(2) After the policy expires, the insurer must maintain and archive the policy and endorsement for five years after the expiration of the policy and shall make the documents available to the party upon request.

(3) The insurer must post the policy and endorsement in a manner that allows the insured to print and save the policy and endorsement using a program or application that is widely available on the Internet and free to use.

(4) The insurer provides the following information in, or simultaneous with, each declarations page provided at the time of issuance of the initial policy and any renewals of that policy:

(a) a description of the exact policy and endorsement form purchased by the insured;

(b) a method by which the insured may obtain, upon request and without charge, a paper copy of the policy; and

(c) the Internet address where the insured's policy and endorsement is posted.

(5) The insurer provides notice, in the format preferred by the insured, of any changes to the form or endorsement, the insured's right to obtain, upon request without charge, a paper copy of a form, and the Internet address where the form and endorsement is posted.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 109

(R110, H4120)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 23-3-80 SO AS TO CREATE THE "ILLEGAL IMMIGRATION ENFORCEMENT UNIT" WITHIN THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, TO PROVIDE FOR ITS ADMINISTRATION AND DUTIES, AND TO REQUIRE IT TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY; AND BY REPEALING SECTION 23-6-60 AND CHAPTER 30 OF TITLE 8 RELATING TO THE CREATION OF THE ILLEGAL IMMIGRATION ENFORCEMENT UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND THE RECORDING AND REPORTING OF IMMIGRATION LAW VIOLATIONS.

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

Illegal Immigration Enforcement Unit

SECTION 1. Article 1, Chapter 3, Title 23 of the S.C. Code is amended by adding:

Section 23-3-80. (A) There is created an “Illegal Immigration Enforcement Unit” within the South Carolina Law Enforcement Division (SLED). The purpose of the Illegal Immigration Enforcement Unit is to enforce immigration laws as authorized pursuant to federal laws and the laws of this State.

(B) The Illegal Immigration Enforcement Unit is under the administrative direction of the Chief of SLED. SLED shall designate such agents and other personnel that the chief deems necessary and proper to enforce the immigration laws as authorized pursuant to federal laws and the laws of this State and to administer and oversee the operations of the Illegal Immigration Enforcement Unit.

(C) Notwithstanding any other provision of law, the Illegal Immigration Enforcement Unit must be funded annually by a specific appropriation to the Illegal Immigration Enforcement Unit in the state general appropriations act, separate and distinct from SLED’s other appropriations.

(D) To the extent possible SLED shall negotiate the terms of a memorandum of agreement with the United States Immigration and Customs Enforcement Agency pursuant to Section 287(g) of the federal Immigration and Nationality Act as soon as possible after the effective date of this act.

(E) Nothing in this section may be construed to prevent other law enforcement agencies of the State and political subdivisions of the State, including local law enforcement agencies, from enforcing immigration laws as authorized pursuant to federal laws and the laws of this State.

(F) SLED shall develop an illegal immigration enforcement training program and shall make this training program available to all local law enforcement agencies to assist any local law enforcement agency wishing to utilize the training program in the proper implementation, management, and enforcement of applicable immigration laws.

Repeal

SECTION 2. Section 23-6-60 of the S.C. Code is repealed.

Repeal

SECTION 3. Chapter 30, Title 8 of the S.C. Code is repealed.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 110

(R111, H4352)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DESIGNATE THE MONTH OF MARCH OF EACH YEAR AS "MIDDLE LEVEL EDUCATION MONTH".

Whereas, middle school, also known as intermediate school or junior high school, is an important time in a student's educational development. Students develop more critical thinking skills and begin to choose electives based on their personal interests; and

Whereas, the middle school creates a positive environment for adolescents to develop socially, emotionally, psychologically, and academically; and

Whereas, middle school students are on a journey to discover their identities as individuals. Guidance through communication is key, when dealing with young adults; and

Whereas, the essential role that middle school education plays in the formative years of adolescents is contributed to the dedication and hard work of the middle school educators, administrators, and support personnel; and

Whereas, middle school educators, parents, and guardians must provide students with proper orientation and supervision, ensuring all students will be college and career ready; and

Whereas, middle school eighth-grade level is a critical year because testing at this grade level provides statistics of a student's ability to succeed; and

Whereas, parents are less involved than they are in elementary school giving students more freedom and independence but also more responsibility. Students in middle school experience a more rigorous course load and can take advanced classes in subjects in which they excel; and

Whereas, middle school is a significant time in every student's educational journey and deserves to be recognized for its importance. Now, therefore,

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

Middle Level Education Month

SECTION 1. Chapter 3, Title 53 of the S.C. Code is amended by adding:

Section 53-3-270. The month of March of each year is designated as "Middle Level Education Month" to recognize the importance of middle level education for students.

Time effective

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

Ratified the 30th day of January, 2024

Approved the 5th day of February, 2024

No. 111

(R121, H3594)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA CONSTITUTIONAL CARRY/SECOND AMENDMENT PRESERVATION ACT OF 2024" BY AMENDING SECTION 10-11-320, RELATING TO CARRYING OR DISCHARGING FIREARMS AND EXCEPTIONS FOR CONCEALABLE WEAPONS PERMIT HOLDERS, SO AS TO DELETE A PROVISION THAT MAKES THIS SECTION INAPPLICABLE TO PERSONS WHO POSSESS CONCEALABLE WEAPONS PERMITS AND TO PROVIDE THIS SECTION DOES NOT APPLY TO PERSONS WHO POSSESS FIREARMS; BY AMENDING SECTION 16-23-20, RELATING TO UNLAWFUL CARRYING OF HANDGUNS, SO AS TO REVISE THE PLACES WHERE AND CIRCUMSTANCES UPON WHICH HANDGUNS AND FIREARMS MAY BE CARRIED, AND PERSONS WHO MAY CARRY HANDGUNS AND FIREARMS; BY AMENDING SECTION 16-23-50, RELATING TO CERTAIN PENALTIES, DISPOSITION OF FINES, AND FORFEITURE AND DISPOSITION OF HANDGUNS, SO AS TO PROVIDE GRADUATED PENALTIES FOR VIOLATIONS OF THIS SECTION; BY AMENDING SECTION 16-23-55, RELATING TO PROCEDURES FOR RETURNING FOUND HANDGUNS, SO AS TO DELETE THE PROVISION RELATING TO FILING APPLICATIONS TO OBTAIN FOUND HANDGUNS, AND PROVIDE CIRCUMSTANCES THAT ALLOW LAW ENFORCEMENT AGENCIES TO MAINTAIN POSSESSION OR DISPOSE OF FOUND HANDGUNS; BY AMENDING SECTION 16-23-420, RELATING TO POSSESSION OF FIREARMS ON SCHOOL PROPERTY, SO AS TO DELETE THE PROVISION THAT EXEMPTS PERSONS WHO POSSESS CONCEALED WEAPON PERMITS FROM THIS PROVISION, AND TO DELETE THE TERM "WEAPON" AND REPLACE IT WITH THE TERM "FIREARM"; BY AMENDING SECTION 16-23-430, RELATING TO CARRYING WEAPONS ON SCHOOL PROPERTY, SO AS TO DELETE THE PROVISION THAT EXEMPTS PERSONS WHO POSSESS CONCEALED WEAPON PERMITS FROM THIS PROVISION; BY AMENDING SECTION 16-23-465, RELATING TO THE ADDITIONAL PENALTIES FOR

UNLAWFULLY CARRYING PISTOLS OR FIREARMS ONTO PREMISES OF BUSINESSES SELLING ALCOHOLIC LIQUOR, BEER, OR WINE FOR ON-PREMISES CONSUMPTION, SO AS TO PROVIDE THIS PROVISION DOES NOT APPLY TO CERTAIN OFFENSES THAT PROHIBIT PERSONS FROM CARRYING CERTAIN DEADLY WEAPONS, TO PROVIDE THIS PROVISION APPLIES TO PERSONS WHO KNOWINGLY CARRY CERTAIN FIREARMS, TO DELETE THE PROVISION THAT EXEMPTS PERSONS WHO POSSESS CONCEALED WEAPON PERMITS FROM THE PROVISIONS OF THIS SECTION, AND TO PROVIDE PERSONS LAWFULLY CARRYING FIREARMS WHO DO NOT CONSUME ALCOHOLIC BEVERAGES ARE EXEMPT FROM THE PROVISIONS OF THIS SECTION; BY AMENDING SECTION 23-31-215, RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO DELETE THE PROVISIONS REQUIRING PERMIT HOLDERS TO CARRY PERMITS WHILE CARRYING WEAPONS AND IDENTIFYING THEMSELVES AS PERMIT HOLDERS TO LAW ENFORCEMENT OFFICERS, TO PROVIDE PERSONS MUST REPORT THE LOSS OR THEFT OF A FIREARM TO A LAW ENFORCEMENT AGENCY, TO REVISE THE REQUIREMENTS TO REPORT THE LOSSES OF PERMITS TO SLED, TO REVISE THE PREMISES UPON WHICH PERMIT HOLDERS MUST NOT CARRY WEAPONS, TO PROVIDE ADDITIONAL PENALTIES FOR CERTAIN VIOLATIONS, TO REVISE THE PROVISION THAT PROVIDES EXEMPTIONS TO CARRYING PERMITS, TO DELETE THE PROVISION RELATING TO PENALTIES FOR CARRYING EXPIRED PERMITS, TO PROVIDE SLED SHALL OFFER A CONCEALED WEAPON PERMIT TRAINING COURSE, AND TO PROVIDE PERSONS AT LEAST EIGHTEEN YEARS OLD MAY OBTAIN PERMITS; BY AMENDING SECTION 23-31-220, RELATING TO THE RIGHT TO ALLOW OR PERMIT CONCEALED WEAPONS UPON PREMISES AND THE POSTING OF SIGNS PROHIBITING THE CARRYING OF WEAPONS, SO AS TO MAKE TECHNICAL CHANGES, THAT PERSONS MUST KNOWINGLY VIOLATE THE PROVISIONS OF THIS SECTION TO BE CHARGED WITH A VIOLATION, AND TO PROVIDE THIS SECTION DOES NOT LIMIT PERSONS FROM CARRYING CERTAIN WEAPONS IN STATE PARKS; BY AMENDING SECTION 23-31-232, RELATING TO CARRYING

CONCEALABLE WEAPONS ON PREMISES OF CERTAIN SCHOOLS LEASED BY CHURCHES, SO AS TO PROVIDE APPROPRIATE CHURCH OFFICIALS OR GOVERNING BODIES MAY ALLOW ANY PERSON TO CARRY A CONCEALABLE WEAPON ON THE LEASED PREMISES; BY AMENDING SECTION 23-31-235, RELATING TO CONCEALABLE WEAPON SIGN REQUIREMENTS, SO AS TO PROVIDE THE SIGNS MUST BE POSTED AT LOCATIONS WHERE THE CARRYING OF CONCEALABLE WEAPONS IS PROHIBITED; BY AMENDING SECTION 23-31-600, RELATING TO RETIRED PERSONNEL, IDENTIFICATION CARDS, AND QUALIFICATIONS FOR CARRYING CONCEALED WEAPONS, SO AS TO MAKE A TECHNICAL CHANGE; BY AMENDING SECTION 51-3-145, RELATING TO UNLAWFUL ACTS COMMITTED AT STATE PARKS, SO AS TO PROVIDE PERSONS MAY POSSESS OR CARRY CONCEALABLE WEAPONS IN STATE PARKS; BY REPEALING SECTIONS 16-23-460, 23-31-225, AND 23-31-230 RELATING TO THE CARRYING OF WEAPONS BY INDIVIDUALS ON THEIR PERSON, INTO RESIDENCES OR DWELLINGS, OR BETWEEN A MOTOR VEHICLE AND A RENTED ACCOMMODATION; BY AMENDING SECTION 16-23-500, RELATING TO UNLAWFUL POSSESSION OF FIREARMS BY PERSONS CONVICTED OF VIOLENT OFFENSES, THE CONFISCATION OF CERTAIN WEAPONS, AND THE RETURN OF FIREARMS TO INNOCENT OWNERS, SO AS TO REVISE THE LIST OF CRIMES SUBJECT TO THIS PROVISION AND THE PENALTIES ASSOCIATED WITH VIOLATIONS, AND TO DEFINE THE TERM "CRIME PUNISHABLE BY A MAXIMUM TERM OF IMPRISONMENT OF MORE THAN ONE YEAR"; BY AMENDING SECTION 22-5-910, RELATING TO THE EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO PROVIDE FOR THE EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN UNLAWFUL POSSESSIONS OF FIREARMS OR WEAPONS OFFENSES, AND TO MAKE A TECHNICAL CHANGE; BY AMENDING SECTION 23-31-240, RELATING TO PERSONS ALLOWED TO CARRY CONCEALABLE WEAPONS ANYWHERE IN THIS STATE, SO AS TO ADD ADDITIONAL PERSONS TO THIS LIST WITH CERTAIN EXCEPTIONS; BY ADDING SECTION 23-31-245 SO AS TO PROVIDE CIRCUMSTANCES WHEN LAW ENFORCEMENT OFFICERS MAY SEARCH, DETAIN, OR

ARREST PERSONS OPENLY CARRYING WEAPONS; BY ADDING SECTION 17-1-65 SO AS TO PROVIDE PERSONS MAY APPLY FOR EXPUNGEMENTS OF CONVICTIONS FOR UNLAWFUL POSSESSION OF HANDGUNS UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 16-23-495 SO AS TO PROVIDE PENALTIES FOR PERSONS CONVICTED OF COMMITTING OR ATTEMPTING TO COMMIT CERTAIN CRIMES INVOLVING CONCEALABLE WEAPONS, TO PROVIDE SLED SHALL DEVELOP AND DISTRIBUTE A DOCUMENT THAT INFORMS GUN PURCHASERS THAT THEY MAY OBTAIN CONCEALED WEAPON PERMITS, CARRY THEIR WEAPONS WITHOUT A PERMIT, AND CERTAIN PENALTIES IMPOSED FOR CRIMES INVOLVING CONCEALABLE WEAPONS, TO PROVIDE SLED MUST INFORM THE PUBLIC THE STATE PROVIDES A PROCESS FOR GUN OWNERS TO OBTAIN CONCEALED WEAPON PERMITS AND ALLOWS GUN OWNERS TO CARRY THEIR WEAPONS WITHOUT PERMITS; AND TO PROVIDE NO PROVISION OF THIS ACT SHOULD BE CONSTRUED TO DISCOURAGE GUN OWNERSHIP OR GUN SAFETY TRAINING, BUT TO ENCOURAGE GUN OWNERS TO RECEIVE GUN SAFETY TRAINING.

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

South Carolina Constitutional Carry, Second Amendment Preservation Act of 2024

SECTION 1. This act may be cited as the "South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024".

Firearms

SECTION 2. Section 10-11-320(B) of the S.C. Code is amended to read:

(B) This section does not apply to a person who possesses firearms and is authorized to park on the capitol grounds or in the parking garage below the capitol grounds. The firearm must remain locked in the person's vehicle while on or below the capitol grounds and must be stored in a place in the vehicle that is not readily accessible to any person upon entry to or below the capitol grounds.

Concealed weapon permits

SECTION 3. Section 16-23-20 of the S.C. Code is amended to read:

Section 16-23-20. (A) It is unlawful, whether or not the person has a concealed weapon permit, for anyone to carry about the person any handgun, whether concealed or not, unless otherwise specifically authorized by law into a:

(1) law enforcement, correctional, or detention facility;

(2) courthouse, courtroom, or other publicly owned building, whether owned by the State, a county, a municipality, or other political subdivision, where court is held and during the time that court is in session;

(3) polling place on election days;

(4) office of or business meeting of the governing body of a county, public school district, municipality, or special purpose district;

(5) school or college athletic event not related to firearms;

(6) daycare facility or preschool facility;

(7) place where the carrying of firearms is prohibited by federal law;

(8) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body;

(9) hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed, unless expressly authorized by the appropriate entity;

(10) residence or dwelling place of another person without the express permission of the owner or person in legal control or possession of the residence or dwelling place, as appropriate; or

(11) place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises in compliance with Section 23-31-235. A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.

(B) The provisions of subsection (A) do not apply to:

(1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor's constables, law enforcement officers or other authorized personnel of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law

enforcement officers;

(2) employees of a law enforcement facility, correctional facility, detention facility, or courthouse while in the course of employment and where the employment requires the possession of a firearm;

(3) members of the Armed Forces of the United States, the National Guard, organized reserves, or the State Militia when on duty;

(4) subject to the limitations of Section 23-31-600(D), persons who meet the definition of "qualified retired law enforcement officer" contained in Section 23-31-600; or

(5) a person carrying as authorized by Section 23-31-240.

(C) Nothing contained in this section may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-30, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, and 51-3-145, or the ability for a person to obtain a concealed weapon permit as provided for in Section 23-31-215.

(D) Notwithstanding any provision in this section, a person who is not otherwise prohibited by law from carrying a firearm may lawfully store a firearm anywhere in a vehicle whether occupied or unoccupied.

Penalties

SECTION 4. Section 16-23-50(A)(2) of the S.C. Code is amended to read:

(2) A person violating the provisions of Section 16-23-20 is guilty of:

(1) a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, for a first offense;

(2) a misdemeanor and, upon conviction, must be imprisoned not more than three years for a second offense; or

(3) a felony and, upon conviction, must be imprisoned not more than five years for a third or subsequent offense.

Handguns

SECTION 5. Section 16-23-55(C) and (D) of the S.C. Code is amended to read:

(C) After the ninety days have elapsed from publication of the first advertisement, and upon request of the individual who found and turned over the handgun, the agency shall return the handgun to this person if the individual pays all advertising and other costs incidental to returning

the handgun.

(D) Notwithstanding subsection (C), the agency shall not return a handgun to the individual who found and turned it in if that individual is prohibited under state or federal law from possessing or receiving a handgun. The agency may dispose of any handgun that is not reclaimed or returned under this section by sale in accordance with Sections 27-21-20 and 27-21-22.

Firearms

SECTION 6. Section 16-23-420 of the S.C. Code is amended to read:

Section 16-23-420. (A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, do not apply to when the firearm remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a firearm in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms “premises” and “property” do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution,

which are open full time to public vehicular traffic.

(F) This section does not apply to a person when upon any premises, property, or building that is part of an interstate highway rest area facility.

Weapons

SECTION 7. Section 16-23-430 of the S.C. Code is amended to read:

Section 16-23-430. (A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

(B) This section does not apply when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

Firearms

SECTION 8. Section 16-23-465 of the S.C. Code is amended to read:

Section 16-23-465. (A) In addition to the penalties provided for by Sections 16-11-330, 16-11-620, 23-31-220, and Article 1, Chapter 23, Title 16, a person convicted of knowingly carrying a firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23 must have his concealed weapon permit revoked for a period of five years.

(B)(1) This section does not apply to a person otherwise lawfully carrying a firearm who does not consume alcoholic liquor, beer, or wine while carrying the concealable weapon on the business' premises. A person who violates this item may be charged with a violation of subsection (A).

(2) A property owner, holder of a lease interest, or operator of a business may prohibit the carrying of concealable weapons into the business by posting a "NO CONCEALABLE WEAPONS ALLOWED" sign in compliance with Section 23-31-235. A person who carries a concealable weapon into a business with a sign posted in compliance with Section 23-31-235 may be charged with a violation of subsection (A).

(3) A property owner, holder of a lease interest, or operator of a business may request that a person carrying a concealable weapon leave the business' premises, or any portion of the premises, or request that a person carrying a concealable weapon remove the concealable weapon from the business' premises, or any portion of the premises. A person carrying a concealable weapon who refuses to leave a business' premises or portion of the premises when requested or refuses to remove the concealable weapon from a business' premises or portion of the premises when requested may be charged with a violation of subsection (A).

Concealed weapon permits

SECTION 9. Section 23-31-215(K), (M), (O), and (U) of the S.C. Code is amended to read:

(K) A permit holder must report the loss or theft of a permit identification card to SLED headquarters within forty-eight hours of the time the permit holder knew or reasonably should have known of the loss or theft. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

An owner or other person who is lawfully in possession of a firearm, rifle, or shotgun in this State who suffers the loss or theft of such weapon shall report, within ten days of discovery, the loss or theft of each weapon to the appropriate local law enforcement agency, whether local police department or county sheriff's office, which would have appropriate jurisdiction where the weapon is located. In addition, the facts and circumstances of the loss or theft also must be reported to the appropriate law enforcement agency to which the report is made.

(M) A permit issued pursuant to this section does not authorize a permit holder to carry a concealable weapon into any place listed in Section 16-23-20(A) except as permitted by law.

Except as provided in Section 16-23-20(A)(11), a person who wilfully violates a provision of this subsection may be charged with a violation of Section 16-23-20 and in addition to the penalties provided in Section 16-23-20, at the discretion of the court, may have his permit revoked for up to five years.

Nothing contained in this subsection may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, and 51-3-145.

(O)(1) A permit issued pursuant to this article is not required for a person:

(a) carrying a self-defense device generally considered to be nonlethal including the substance commonly referred to as "pepper gas"; or

(b) carrying a concealable weapon in a manner not prohibited by law.

(2) The availability of a permit to carry a concealable weapon under this section must not be construed to prohibit the permitless transport or carrying of a firearm in a vehicle or on or about one's person, whether openly or concealed, loaded or unloaded, in a manner not prohibited by law.

Handguns

SECTION 10. Section 23-31-220 of the S.C. Code is amended to read:

Section 23-31-220. (A) Nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon:

(1) the right of a public or private employer to prohibit a person who is otherwise not prohibited by law from possessing a handgun from carrying a concealable weapon, whether concealed or openly carried, upon the premises of the business or workplace or while using any machinery, vehicle, or equipment owned or operated by the business; or

(2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon, whether concealed or openly carried, upon his premises.

(B) The posting by the employer, owner, or person in legal possession or control of a sign stating "NO CONCEALABLE WEAPONS ALLOWED" shall constitute notice to a person that the employer,

owner, or person in legal possession or control requests that concealable weapons, whether concealed or openly carried, not be brought upon the premises or into the workplace. A person who knowingly brings a concealable weapon, whether concealed or openly carried, onto the premises or workplace in violation of the provisions of this paragraph may be charged with a violation of Section 16-11-620. In addition to the penalties provided in Section 16-11-620, a person convicted of a second or subsequent violation of the provisions of this subsection must have his permit revoked for a period of one year. The prohibition contained in this section does not apply to persons specified in Section 16-23-20(B)(1).

(C) In addition to the provisions of subsection (B), a public or private employer or the owner of a business may post a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business.

(D) This section must not be construed to limit an individual from carrying a concealable weapon pursuant to Section 51-3-145(G).

Concealable weapons

SECTION 11. Section 23-31-232(A) of the S.C. Code is amended to read:

(A) Notwithstanding any other provision of law, upon express permission given by the appropriate church official or governing body, any person may carry a concealable weapon, whether concealed or openly carried, on the leased premises of an elementary or secondary school if a church leases the school premises or areas within the school for church services or official church activities.

(1) The provisions contained in this section apply:

(a) only during those times that the church has the use and enjoyment of the school property pursuant to its lease with the school; and

(b) only to the areas of the school within the lease agreement, any related parking areas, or any reasonable ingress or egress between these areas.

(2) A school district may request that a church utilizing school property for its services disclose and notify the school district if persons are, or may be, carrying concealed weapons on the school property.

(3) The provisions of this section do not apply during any time students are present as a result of a curricular or extracurricular

school-sponsored activity that is taking place on the school property.

Signs

SECTION 12. Section 23-31-235(B) of the S.C. Code is amended to read:

(B) All signs must be posted at each entrance into a building where carrying of a concealable weapon is prohibited and must be:

(1) clearly visible from outside the building;

(2) eight inches wide by twelve inches tall in size;

(3) contain the words "NO CONCEALABLE WEAPONS ALLOWED" in black one-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;

(4) contain a black silhouette of a handgun inside a circle seven inches in diameter with a diagonal line that runs from the lower left to the upper right at a forty-five-degree angle from the horizontal;

(5) a diameter of a circle; and

(6) placed not less than forty inches and not more than sixty inches from the bottom of the building's entrance door.

Concealed weapons

SECTION 13. Section 23-31-600(D) of the S.C. Code is amended to read:

(D) The restrictions contained in Section 23-31-220 are applicable to a person carrying a concealed weapon pursuant to this section. Carrying a concealed weapon into the residence or dwelling place of another person is prohibited without the expressed permission of the owner or person in legal control or possession of the premises, as appropriate.

Concealable weapons

SECTION 14. Section 51-3-145(G) of the S.C. Code is amended to read:

(G) Possessing any firearm, airgun, explosive, or firework except by duly authorized park personnel, law enforcement officers, or persons using areas specifically designated by the department for use of firearms, airguns, fireworks, or explosives. Licensed hunters may have firearms in their possession during hunting seasons provided that such firearms are unloaded and carried in a case or the trunk of a vehicle except that in

designated game management areas where hunting is permitted, licensed hunters may use firearms for hunting in the manner authorized by law. This subsection shall not apply to a person in possession or carrying a concealable weapon, as defined in Section 23-31-210(5).

Repeal

SECTION 15. Sections 16-23-460, 23-31-225, and 23-31-230 of the S.C. Code are repealed.

Penalties

SECTION 16. Section 16-23-500 of the S.C. Code is amended to read:

Section 16-23-500. (A) Except as provided in subsection (F), it is unlawful for a person who has been convicted of a crime punishable by a maximum term of imprisonment of more than one year to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction:

(1) for a first offense, must be imprisoned not more than five years;

(2) for a second offense, must be imprisoned for a mandatory minimum of five years, but not more than twenty years; and

(3) for a third or subsequent offense, must be imprisoned for a mandatory minimum of ten years, but not more than thirty years.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The court with jurisdiction over an offense, punishable by imprisonment for more than one year, as provided in subsection (A), shall make a specific finding on the record that the offense is subject to the provisions of this section. A judge's failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection.

(E) A second or subsequent offense for the purpose of this section means any conviction pursuant to Section 16-23-500(A).

(F) For the purpose of this section, "crime punishable by a maximum term of imprisonment of more than one year" does not include:

(1) any offense in this State or another jurisdiction pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;

(2) any offense classified by the laws of this State or another jurisdiction as a misdemeanor and punishable by a term of imprisonment of five years or less; or

(3) any crime for which the conviction has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

Expungement

SECTION 17. Section 22-5-910 of the S.C. Code is amended to read:

Section 22-5-910. (A) Following a conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, or a first offense for unlawful possession of a firearm or weapon carrying a penalty of not more than one year or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to an offense involving the operation of a motor vehicle.

(B) Following a conviction for domestic violence in the third degree pursuant to Section 16-25-20(D), or Section 16-25-20(B)(1) as it existed before June 4, 2015, the defendant after five years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant.

(C) If the defendant has had no other conviction, including out-of-state convictions, during the three-year period as provided in subsection (A), or during the five-year period as provided in subsection (B), the circuit court may issue an order expunging the records including any associated bench warrant.

(D) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(E) As used in this section, “conviction” includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail. For the purpose of this section, any number of offenses listed pursuant to subsection (A), for which the individual received sentences at a single sentencing proceeding that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

(F) No person may have the person’s record expunged under this

section if the person has pending criminal charges of any kind unless the charges have been pending for more than five years; however, this five-year time period is tolled for any time the defendant has been under a bench warrant for failure to appear. No person may have the person's records expunged under this section more than once. A person may have the person's record expunged even though the conviction occurred before the effective date of this section.

Concealable weapons

SECTION 18. Section 23-31-240 of the S.C. Code is amended to read:

Section 23-31-240. (A) Notwithstanding any other provision contained in this article, the following persons who possess a valid permit pursuant to this article may carry a concealable weapon anywhere within this State:

(1) active Supreme Court justices;
(2) active judges of the court of appeals;
(3) active circuit court judges;
(4) active family court judges;
(5) active masters-in-equity;
(6) active probate court judges;
(7) active magistrates;
(8) active municipal court judges;
(9) active federal judges;
(10) active administrative law judges;
(11) active solicitors and assistant solicitors;
(12) active workers' compensation commissioners;
(13) the Attorney General and assistant attorneys general;
(14) active county clerks of court; and
(15) active public defenders and assistant public defenders.

(B) Notwithstanding the provisions of subsection (A), public defenders and assistant public defenders may not carry a concealable weapon into a local or state correctional facility.

Openly carrying a weapon

SECTION 19. Article 4, Chapter 31, Title 23 of the S.C. Code is amended by adding:

Section 23-31-245. A person openly carrying a weapon in accordance with this article does not give a law enforcement officer reasonable

suspicion or probable cause to search, detain, or arrest the person. This article does not prevent a law enforcement officer from searching, detaining, or arresting a person when he has a particularized and objective basis for suspecting the particular person stopped of criminal activity. A person merely carrying a weapon in accordance with this article is not sufficient to justify a search, detention, or arrest.

Expungement

SECTION 20. Chapter 1, Title 17 of the S.C. Code is amended by adding:

Section 17-1-65. A person may apply for an expungement of one conviction for unlawful possession of a handgun as provided in Section 16-23-20, if the conviction occurred prior to the enactment of the S.C. Constitutional Carry/Second Amendment Preservation Act of 2024. An application under this section must be made within five years of the enactment of this section.

Permit training course

SECTION 21. Section 23-31-215 of the S.C. Code is amended by adding:

(V)(1) The State Law Enforcement Division shall provide a statewide concealed weapon permit training course that satisfies the proof of training requirement for the issuance of a concealed weapon permit. SLED may not charge participants a fee of any kind for the concealed weapon permit training course provided for in this subsection. SLED may contract with private certified concealed weapon permit training class instructors or local law enforcement to provide the course or SLED itself may provide the course.

(2) The training course must be offered in every county in South Carolina at least twice per month. If demand exceeds the capacity of the training course in any county, SLED shall provide additional classes until there exists a sufficient number of classes offered at least twice a month to meet the demand for training in each respective county. If SLED is unable to contract with a certified concealed weapon permit training class instructor or local law enforcement in any county, SLED must conduct the training class for that county.

(3) This program does not prohibit any certified concealed weapon permit training class instructors from providing their own training

classes and charging participants a fee.

Concealable weapon offense

SECTION 22. Chapter 23, Title 16 of the S.C. Code is amended by adding:

Section 16-23-495. (A) A person convicted of committing or attempting to commit a crime involving a concealable weapon, as defined by Section 23-31-210(5), in violation of an offense listed in Chapter 23, Title 16, or a violation of Section 10-11-320, must be imprisoned not to exceed three years. A term of imprisonment imposed for violating this section must be served consecutively to any term of imprisonment imposed for the underlying offense, and may not exceed the actual sentence imposed for the underlying offense.

(B) This section does not apply to a person with a valid permit to carry a concealable weapon issued pursuant to Article 4, Chapter 31, Title 23, provided that the permit was valid at the time the crime was committed.

(C) The additional punishment may not be imposed unless the indictment alleged as a separate count that the person was in possession of a concealable weapon without a valid concealed weapon permit during the commission of the crime and conviction was had upon this count in the indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time indicted and convicted of the underlying crime.

(D) The State Law Enforcement Division shall develop a document and distribute it to retailers that are federally licensed to engage in the business of dealing in or selling firearms in South Carolina. Such retailers shall provide the document to gun purchasers in South Carolina to inform them that South Carolina law provides a process for gun owners to obtain a concealed weapon permit and allows law-abiding gun owners to carry their weapons without a permit. The document must inform gun purchasers that if a gun owner commits a crime involving a concealable weapon, and the owner does not have a valid concealed weapon permit, then there may be an additional criminal penalty for the underlying offense.

(E) The State Law Enforcement Division must conduct a regular, statewide marketing campaign to inform South Carolinians that South Carolina law provides a process for gun owners to obtain a concealed weapon permit and allows law-abiding gun owners to carry their weapons without a permit. The campaign must inform gun purchasers that if a gun owner commits a crime involving a concealable weapon,

and the owner does not have a valid concealed weapon permit, then there may be an additional criminal penalty for the underlying offense.

Concealed weapon permits

SECTION 23. Section 23-31-215(A) of the S.C. Code is amended to read:

(A) Notwithstanding any other provision of law, except subject to subsection (B), SLED must issue a permit, which is no larger than three and one-half inches by three inches in size, to carry a concealable weapon to a resident or qualified nonresident who is at least eighteen years of age and who is not prohibited by state law from possessing the weapon upon submission of:

(1) a completed application signed by the person;

(2) a photocopy of a driver's license or photographic identification card;

(3) proof of residence or if the person is a qualified nonresident, proof of ownership of real property in this State;

(4) proof of actual or corrected vision rated at within six months of the date of application or, in the case of a person licensed to operate a motor vehicle in this State, presentation of a valid driver's license;

(5) proof of training; and

(6) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Chief of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant.

Gun ownership

SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon.

Savings

SECTION 25. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 26. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 27. This act takes effect upon approval by the Governor.

Ratified the 7th day of March, 2024

Approved the 7th day of March, 2024

No. 112

(R112, S245)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-17-170 SO AS TO PROHIBIT PERSONS WITH CERTAIN CRIMINAL CONVICTIONS FROM SERVING AS PUBLIC SCHOOL BOOSTER CLUB FINANCIAL OFFICERS, TO PROVIDE SUCH BOOSTER CLUBS ANNUALLY SHALL REGISTER WITH THE SCHOOL DISTRICT BOARD OR CHARTER SCHOOL AUTHORIZER OF ITS SCHOOL, AND TO PROVIDED RELATED POWERS AND DUTIES OF SCHOOL DISTRICT BOARDS AND CHARTER SCHOOL AUTHORIZERS.

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

Definitions, booster club duties, school board and charter authorizer powers and duties

SECTION 1. Chapter 17, Title 59 of the S.C. Code is amended by adding:

Section 59-17-170. (A) For the purposes of this section:

(1) "Booster club" means a parent-led organization, not directly controlled by a school or school district, that is formed with the primary purpose of raising funds for the school, school district programs, interscholastic athletics, or afterschool activities.

(2) "Financial officer" means a person or persons who maintain custody of a booster club's financial records and/or who has signatory authority on all of the booster club's transactions, accounts, contracts, checks, or other instruments or undertakings of any kind.

(B)(1) A person who was convicted of, or pled guilty or nolo contendere to, a felony, a violation of Chapter 13 of Title 16, or a violation of Chapter 14 of Title 16 is prohibited from serving as a financial officer of a booster club.

(2) A financial officer who was convicted of, or who pled guilty or nolo contendere to, a crime identified in item (1) must immediately resign, and a new person must be assigned to that role within the booster club. A booster club is prohibited from disbursing funds for any purpose until a new person is designated as the financial officer.

(C)(1) Each booster club within a school district or affiliated with a

charter school must annually register with the school district board of trustees or charter school authorizer no later than August first. The registration shall include the name of the booster club, its purpose, the name of each of the booster club's officers, including its designated financial officer, and other information required by the school district board of trustees or charter school authorizer. A booster club may be required by the school district board of trustees or charter school authorizer to submit an accounting compilation or review. A school district board of trustees or charter school authorizer may not require an external audit from a booster club except for a finding of specific cause determined by a majority vote of the board members or other governing body.

(2) A booster club that fails to register by August first is prohibited from disbursing any funds for any purpose until registration has been completed.

(D) Upon the receipt of a booster club's registration, a school district board of trustees or charter school authorizer may request a state criminal records check, including fingerprints, from the South Carolina Law Enforcement Division of the financial officer. The school district board of trustees or charter school authorizer shall immediately notify a booster club if the criminal records check reveals that its financial officer is prohibited from serving in that role for the booster club pursuant to subsection (B).

Time effective

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

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 113

(R113, S298)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-2320, RELATING TO ALTERNATE METHODS FOR THE ALLOCATION AND APPORTIONMENT OF INCOME FOR STATE INCOME TAX PURPOSES, SO AS TO SET FORTH A PROCESS FOR THE DEPARTMENT OF REVENUE AND TAXPAYERS TO ACCURATELY DETERMINE NET INCOME.

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

Allocation and apportionment

SECTION 1. Section 12-6-2320 of the S.C. Code is amended to read:

Section 12-6-2320. (A) If the allocation and apportionment provisions of this chapter do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for, or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) the exclusion of one or more of the factors;

(3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in the State; or

(4) the employment of any other method, in accordance with subsection (B), to effectuate an equitable allocation and apportionment of the taxpayer's income.

(B)(1) Notice. When the department has reason to believe that any taxpayer conducts its trade or business in a manner as to fail to fairly represent the extent of the taxpayer's business activity in this State through the use of transactions that lack economic substance or are not at fair market value between members of an affiliated group of entities, the department may, upon written notice to the taxpayer, require any information reasonably necessary to determine whether the taxpayer's intercompany transactions have economic substance and are at fair market value and for the accurate computation of the taxpayer's state net income properly attributable to its business activity in this State. The taxpayer must provide the information requested within ninety days of the date of the notice.

(2) Adjust Net Income. If upon review of the information provided, the department finds that the taxpayer's intercompany transactions lack economic substance or are not at fair market value, the department may redetermine the state net income of the taxpayer properly attributable to its business activity in this State under subsection (A) by: (i) adding back, eliminating, or otherwise adjusting intercompany transactions to accurately compute the taxpayer's state net income, or, if such adjustments are not adequate under the circumstances to redetermine state net income, (ii) requiring the taxpayer to file a return that reflects the net income on a combined basis of all members of its affiliated group that are conducting a unitary business. The department shall consider and be authorized to use any reasonable method proposed by the taxpayer for redetermining its state net income attributable to its business activity in this State. In determining whether the taxpayer's intercompany transactions lack economic substance or are not at fair market value, the department shall consider each taxable year separately.

(3) Voluntary Redetermination. In addition to the authority granted under this subsection, if the department has reason to believe that any taxpayer's state net income properly attributable to its business activity in this State is not fairly represented on a separate return required by this subsection because of intercompany transactions, without making a finding that those transactions lack economic substance or are not at fair market value, the department and the taxpayer jointly may determine and agree to an alternative filing methodology that fairly represents state net income.

(4) Combined Return. If the department finds that a combined return is required under the provisions of subsection (A) and this subsection, the department may, upon written notice to the taxpayer, require the taxpayer to submit the combined return, and the taxpayer shall submit the combined return within ninety days of the date of the notice. The submission by the taxpayer of the combined return required by the department must not be deemed to be a return or construed as an agreement by the taxpayer that an assessment based on the combined return is correct or that additional tax is due by the department's deadline for submitting the combined return. The department or the taxpayer may propose a combination of fewer than all members of the unitary group, and the department is authorized to consider whether such proposed combination is a reasonable means of redetermining state net income; provided, however, the department shall not require a combination of fewer than all members of the unitary group without the consent of the taxpayer.

(5) Written Statement of Findings. If the department makes an

adjustment or requires a combined return under this section, the department shall provide the taxpayer with a written statement containing details of the facts, circumstances, and reasons for which the department has found that the taxpayer did not fairly represent its state net income properly attributable to its business activity in this State and the department's proposed method for computation of the taxpayer's state net income no later than ninety days following the issuance of a proposed assessment as provided in this section.

(6) Members of Affiliated Group. The department may require a combined return under this section regardless of whether the members of the affiliated group are or are not doing business in this State.

(7) Economic Substance. A transaction has economic substance if: (i) the transaction, or the series of transactions of which the transaction is a part, has one or more reasonable business purposes other than the creation of state income tax benefits; and (ii) the transaction, or the series of transactions of which the transaction is a part, has economic effects beyond the creation of state income tax benefits. In determining whether a transaction has economic substance, all of the following apply:

(a) Reasonable business purposes and economic effects include, but are not limited to, any material benefit from the transaction other than state income tax benefits not allowable under item (2).

(b) In determining whether to require a combined return, whether the transaction has economic effects beyond the creation of state income tax benefits may be satisfied by demonstrating material business activity of the entities involved in the transaction.

(c) If state income tax benefits resulting from a transaction, or a series of transactions of which the transaction is a part, are consistent with legislative intent, such state income tax benefits must be considered in determining whether the transaction has business purpose and economic substance.

(d) Centralized cash management of an affiliated group as defined in item (10) shall not constitute evidence of an absence of economic substance.

(e) Achieving a financial accounting benefit shall not be taken into account as a reasonable business purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of state income tax.

(8) Allocation of Income and Deductions. In determining whether transactions between members of the affiliated group of entities are not at fair market value, the department shall apply the standards contained in the regulations adopted under Section 482 of the Internal Revenue Code.

(9) Apportionment. If the department requires a combined return under this section, the combined state net income of the taxpayer and the members of the affiliated group of entities must be apportioned to this State by use of an apportionment formula that fairly represents the extent of taxpayer's business activity in this State and which fairly reflects the apportionment formula in Section 12-6-2295 applicable to the taxpayer and each member of the affiliated group included in the combined return.

(10) Affiliated Group Defined. For purposes of this section, an affiliated group is a group of two or more corporations or noncorporate entities in which more than fifty percent of the voting stock of each member corporation or ownership interest of each member noncorporate entity is directly or indirectly owned or controlled by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations or noncorporate entities. Nothing in this subsection may be construed to limit or negate the department's authority to add back, eliminate, or otherwise adjust intercompany transactions involving the listed entities to accurately compute the taxpayer's state net income properly attributable to its business activity in this State, as provided in this subsection.

The following entities must not be included in a combined return:

(a) a taxpayer not required to file a federal income tax return;

(b) an insurance company, other than a captive insurance company: (i) which is subject to tax under Title 38; (ii) whose premiums are subject to tax under Chapter 7, Title 38 or a similar tax in another state; (iii) which is licensed as a reinsurance company; (iv) which is a life insurance company as defined in Section 816 of the Internal Revenue Code; or (v) which is an insurance company subject to tax imposed by Section 831 of the Internal Revenue Code. A "captive insurance company" means an insurer that is part of an affiliated group where the insurer receives more than fifty percent of its net written premiums or other amounts received as compensation for insurance from members of the affiliated group;

(c) a taxpayer exempt from taxation under Section 501 of the Internal Revenue Code;

(d) a foreign taxpayer as defined in Section 7701 of the Internal Revenue Code, other than a domestic branch thereof;

(e) a taxpayer with at least eighty percent of its gross income from all sources in the tax year being active foreign business income as defined in Section 861(c)(1)(B) of the Internal Revenue Code in effect as of July 1, 2021;

(f) any other entity not subject to tax under Section 12-6-530.

(11) Proposed Assessment or Refund. If the department

redetermines the state net income of the taxpayer in accordance with this section by adjusting the state net income of the taxpayer or requiring a combined return, the department shall issue a proposed assessment or refund upon making the redetermination. When a refund is determined in whole or part by a proposed assessment to an affiliated group member under this section, the refund may not be issued until the proposed assessment to the affiliated group member has become collectable. The amount of the refund shall reflect any changes made by the department under this section. Otherwise, the procedures for a proposed assessment or a refund in Chapter 60 are applicable to proposed assessments and refunds made under this section.

(12) Penalties. If a combined return required by this section is not timely submitted by a taxpayer, then the taxpayer is subject to the penalties provided in Section 12-60-430. Penalties may not be imposed on an assessment under this section except as expressly authorized in this section.

(13) Advice. A taxpayer may request in writing from the department specific advice regarding whether a redetermination of the taxpayer's state net income or a combined return would be required under this section under certain facts and circumstances. The department may request information from the taxpayer that is required to provide the specific advice. The department shall provide the specific advice within one hundred twenty days of the receipt of the requested information from the taxpayer. The department's advice under this item is not a department determination under the Revenue Procedures Act.

(14) Extension. The department and the taxpayer may extend any time limit contained in this subsection by mutual agreement.

(15) Other Tax Adjustments. Nothing in this section may be construed to limit or negate the department's authority to make tax adjustments as otherwise permitted by law.

(16) Appeals. If the taxpayer appeals a final determination by the department under this section to the Administrative Law Court in a contested tax case, the administrative law judge shall review de novo: (i) whether the separate income tax returns submitted by the taxpayer fail to fairly represent the extent of the taxpayer's business activity in this State through the use of intercompany transactions that lack economic substance or are not at fair market value between members of an affiliated group of entities; (ii) whether the department's means of determining the taxpayer's state net income under this section is an appropriate means of determining the taxpayer's state net income properly attributable to this State; and (iii) if a combined return is required by the department, whether adjustments other than requiring the

taxpayer to file a return on a combined basis are adequate under the circumstances to redetermine state net income.

(C)(1) For the purposes of this chapter, the department may enter into an agreement with the taxpayer establishing the allocation and apportionment of the taxpayer's income for a period not to exceed five years, if the following conditions are met:

(a) the taxpayer is planning a new facility in this State or an expansion of an existing facility;

(b) the taxpayer asks the department to enter into a contract under this subsection reciting an allocation and apportionment method; and

(c) after reviewing the taxpayer's proposal and planned new facility or expansion, the Advisory Coordinating Council for Economic Development certifies that the new facility or expansion will have a significant beneficial economic effect on the region for which it is planned and that its benefits to the public exceed its costs to the public. It is within the Advisory Coordinating Council for Economic Development's sole discretion to determine whether a new facility or expansion has a significant economic effect on the region for which it is planned.

(2) For the purposes of this subsection the word "taxpayer" includes any one or more of the members of a controlled group of corporations authorized to file a consolidated return under Section 12-6-5020. Also, the word "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.

(3) Notwithstanding the provisions of item (1), the department may enter into an agreement with the taxpayer establishing the allocation and apportionment of the taxpayer's income for a period not to exceed ten years if the following conditions are met:

(a)(i) the taxpayer is planning a new facility in this State or an expansion of an existing facility and the new or expanded facility results in a total investment of at least ten million dollars and the creation of at least two hundred new full-time jobs, with an average cash compensation level for the new jobs of more than three times the per capita income of this State at the time the jobs are filled which must be within five years of the Advisory Coordinating Council for Economic Development's certification. Per capita income for the State shall be determined by using the most recent data available from the Revenue and Fiscal Affairs Office; or

(ii) the taxpayer is planning a new facility in this State and invests at least seven hundred fifty million dollars in real or personal property or both in a single county in this State and creates at least three thousand eight hundred full-time new jobs, as those terms are defined in

Section 12-6-3360(M), within the county. The taxpayer has seven years from the date it makes the notification provided for in subitem (b) of this item to make the required investment and create the required number of jobs;

(b) the taxpayer asks the department to enter into a contract under this subsection reciting an allocation and apportionment method; and

(c) after reviewing the taxpayer's proposal and planned new facility or expansion, the Advisory Coordinating Council for Economic Development certifies that the new facility or expansion will have a significant beneficial economic effect on the region for which it is planned and that its benefits to the public exceed its costs to the public. It is within the Advisory Coordinating Council for Economic Development's sole discretion to determine whether a new facility or expansion has a significant economic effect on the region for which it is planned.

(4) The taxpayer may begin operating under the agreement beginning with the tax year in which the agreement is executed. If the taxpayer fails to meet the requirements of subitem (3)(a)(ii), the department may assess any tax due as a result of the taxpayer's failure to meet the requirements of subitem (3)(a)(ii). For any subsequent year that the taxpayer fails to maintain three thousand eight hundred full-time new jobs, then the department may assess any tax due for that year.

(D) Notwithstanding the provisions of this section, a taxpayer who is constructing or operating a qualified recycling facility as defined in Section 12-6-3460 may petition the department for the use of separate accounting with respect to all or any part of the taxpayer's or taxpayer's subsidiaries' business activities or for the use of any other method to determine the taxpayer's or taxpayer's subsidiaries' taxable income. The department shall forward the petition with its comments concerning the economic impact of the suggested method to the Advisory Coordinating Council for Economic Development. The department may approve the petition upon certification of the Advisory Coordinating Council for Economic Development that the benefits to the public exceed the costs to the public.

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to all open tax periods excluding assessments under judicial review by the South Carolina Administrative Law Court, Court of Appeals, or Supreme Court as of the date of the Governor's approval.

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 114

(R115, S418)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-155-110, RELATING TO THE SOUTH CAROLINA READ TO SUCCEED OFFICE AND THE COMPREHENSIVE READING PROGRAM IMPLEMENTED BY THE OFFICE, SO AS TO ELIMINATE THE OFFICE, TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL ADMINISTER THE PROGRAM, AND TO REVISE REQUIREMENTS FOR THE PROGRAM; BY AMENDING SECTION 59-155-120, RELATING TO DEFINITIONS CONCERNING THE STATEWIDE READING PROGRAM, SO AS TO REVISE VARIOUS DEFINITIONS; BY AMENDING SECTION 59-155-130, RELATING TO FUNCTIONS OF THE PROGRAM FOR WHICH THE DEPARTMENT SHALL PROVIDE GUIDANCE AND SUPPORT TO SCHOOL DISTRICTS AND EDUCATOR PREPARATION PROGRAMS IN IMPLEMENTING THE PROVISIONS OF THE PROGRAM, SO AS TO REVISE THE FUNCTIONS AND TO PROVIDE DISTRICTS THAT FAIL TO MEET REPORTING REQUIREMENTS ON READING CAMPS ARE INELIGIBLE TO RECEIVE STATE FUNDING FOR THE CAMPS DURING THE FOLLOWING FISCAL YEAR BUT SHALL CONTINUE TO OPERATE THE CAMPS; BY AMENDING SECTION 59-155-140, RELATING TO COMPONENTS OF THE PROGRAM, SO AS TO REQUIRE ANNUAL APPROVAL BY THE STATE BOARD OF EDUCATION, TO REVISE CERTAIN COMPONENTS, AND TO REVISE OTHER REQUIREMENTS FOR THE PROGRAM; BY AMENDING SECTION 59-155-150, RELATING TO DUTIES OF THE STATE SUPERINTENDENT TO ENSURE CERTAIN READINESS ASSESSMENTS ARE ADMINISTERED WITHIN THE FIRST FORTY-FIVE DAYS OF SCHOOL, SO AS TO

PROVIDE DISTRICTS AND CHARTER SCHOOLS MAY REQUEST WAIVERS FROM STATUTORY ATTENDANCE REQUIREMENTS TO SCHEDULE THE ASSESSMENTS, AMONG OTHER THINGS; BY ADDING SECTION 59-155-155 SO AS TO PROVIDE REQUIREMENTS FOR THE NUMBER OF UNIVERSAL READING SCREENERS THAT DISTRICTS MAY USE, TO PROVIDE REQUIREMENTS FOR SCREENERS, TO PROVIDE DISTRICTS SHALL ADMINISTER SCREENERS AT LEAST THREE TIMES DURING EACH SCHOOL YEAR IN CERTAIN INTERVALS, TO PROVIDE RELATED REQUIREMENTS OF THE DEPARTMENT, AND TO PROVIDE FOR ALTERNATE ASSESSMENT AND PROGRESS MONITORING TOOLS; BY AMENDING SECTION 59-155-160, RELATING TO MANDATORY RETENTION PROVISIONS FOR THIRD GRADERS WHO FAIL TO DEMONSTRATE READING PROFICIENCY, SO AS TO REVISE EXEMPTIONS AND EXEMPTION PROCESSES, TO PROVIDE SERVICES AND SUPPORT THAT MUST BE PROVIDED TO RETAINED STUDENTS, TO PROVIDE RETAINED STUDENTS SHALL ENROLL IN SUMMER READING CAMPS, AMONG OTHER THINGS; BY AMENDING SECTION 59-155-170, RELATING TO THE REQUIREMENT OF TEACHERS IN CERTAIN CONTENT AREAS MASTER CERTAIN READING COMPREHENSION INSTRUCTION PRACTICES AND ASSIST IN THE IMPLEMENTATION OF THESE PROVISIONS, SO AS TO REMOVE THE REQUIREMENT, AMONG OTHER THINGS, AND TO REQUIRE THE DEPARTMENT SHALL IMPLEMENT CERTAIN FOUNDATIONAL LITERACY SKILLS TRAINING FOR ALL KINDERGARTEN THROUGH THIRD GRADE TEACHERS CERTIFIED IN CERTAIN TEACHING AREAS, AND TO PROVIDE SUCCESSFUL COMPLETION OF THIS TRAINING SHALL SATISFY LITERACY ENDORSEMENT REQUIREMENTS; BY AMENDING SECTION 59-155-180, RELATING TO LITERACY READING COACHES, SO AS TO REVISE TRAINING REQUIREMENTS FOR THE COACHES, AMONG OTHER THINGS; BY AMENDING SECTION 59-155-200, RELATING TO THE PROMOTION OF READING AND WRITING HABITS AND SKILLS DEVELOPMENT, SO AS TO REMOVE FAMILY SUPPORT PROVISIONS; BY AMENDING SECTION 59-155-210, RELATING TO STANDARDS, PRACTICES, AND PROCEDURES DEVELOPED BY THE BOARD AND DEPARTMENT TO IMPLEMENT THE

PROGRAM, SO AS TO REMOVE THE BOARD FROM THE PROVISIONS, AMONG OTHER THINGS; AND BY AMENDING SECTION 59-18-310, RELATING TO ASSESSMENTS REQUIRED IN THE EDUCATION ACCOUNTABILITY ACT, SO AS TO REVISE ASSESSMENTS AND THEIR USES, AMONG OTHER THINGS.

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

Program established, administrator revised, requirements revised

SECTION 1. Section 59-155-110 of the S.C. Code is amended to read:

Section 59-155-110. The South Carolina Department of Education shall implement a comprehensive, systemic approach to reading which will ensure:

(1) classroom teachers use scientifically based reading instruction in prekindergarten through grade five, to include oral language, phonological awareness, phonics, fluency, vocabulary, and comprehension; administer and interpret valid and reliable assessments; analyze data to inform reading instruction; and provide scientifically based interventions as needed so that all students develop proficiency with literacy skills and comprehension;

(2) each district, in consultation with classroom teachers, periodically reassess curriculum and instructional materials for alignment with foundational literacy skills and exclusion of materials that employ the three-cueing system model of reading, visual memory as the primary basis for teaching word recognition, or the three-cueing system model of reading based on meaning, structure and syntax, and visual cues;

(3) each student who cannot yet comprehend grade-level text is identified and served as early as possible and at all stages of his or her educational process;

(4) each student receives targeted, effective, comprehensive support from the classroom teacher and, if needed, supplemental support from a reading interventionist so that ultimately all students can comprehend grade-level texts;

(5) after each administration of a universal reading screener or formative assessment as defined in this chapter, each student and his parent or guardian are informed in writing of:

(a) the student's reading proficiency needs, progress, and ability to comprehend grade-level texts;

(b) specific actions the classroom teacher and other reading

professionals have taken and will take to help the student comprehend texts; and

(c) specific actions that the parent or guardian can take to help the student comprehend grade-level texts;

(6) classroom teachers receive pre-service and in-service coursework based in the science of reading, structured literacy, and foundational literacy skills;

(7) all students develop reading and writing proficiency to prepare them to graduate and to succeed in their career and post-secondary education;

(8) each school district publishes annually a comprehensive scientifically based reading plan that includes intervention options available to students and funding for these services; and

(9) all programs focused on early childhood literacy development promote parental involvement in children's literacy and development of foundational literacy skills.

Definitions

SECTION 2. Section 59-155-120 of the S.C. Code is amended to read:

Section 59-155-120. As used in this chapter:

(1) "Board" means the State Board of Education.

(2) "Department" means the State Department of Education.

(3) "Foundational literacy skills" means phonological and phonemic awareness, phonics, fluency, vocabulary, and reading comprehension and excludes models based on meaning, structure, syntax, and visual cues.

(4) "Formative assessment" means nationally normed formative assessments approved by the board and aligned with state standards used during the school year to analyze general strengths and weaknesses in learning and instruction, to include reading comprehension, of students individually as to adapt instruction, make decisions about appropriate intervention services, and inform placement and instructional planning for the next grade level.

(5) "Literacy" means the mastery of foundational literacy skills and the use of those skills to comprehend texts and write proficiently to meet grade-level English/Language Arts standards.

(6) "Readiness assessment" means an assessment used to analyze students' competency in prekindergarten or kindergarten.

(7) "Reading interventions" means individual or group assistance in the classroom and supplemental support based on curricular and

instructional decisions made by classroom teachers who have proven effectiveness in teaching reading and a literacy endorsement or reading/literacy coaches who meet the minimum qualifications established in guidelines published by the department.

(8) “Reading proficiency” means the ability of students to meet state reading standards in kindergarten through grade five, demonstrated by readiness, formative, or summative assessments.

(9) “Reading proficiency skills” means the ability to understand how written language works at the word, sentence, paragraph, and text level and mastery of the skills, strategies, and oral and written language needed to comprehend grade-level texts.

(10) “Science of reading” means the comprehensive body of scientific research on how proficient reading develops, why some students have difficulty learning to read, and the scientifically based approaches to effectively, explicitly, and systematically teach students to read, including foundational literacy skills. The science of reading also addresses the developmental stages of reading, effective instructional strategies, the identification and support of diverse learners to include those with reading difficulties such as dyslexia, and the application of these research findings in an educational setting to ensure effective reading instruction and literacy develops for all students.

(11) “Scientifically based” means reading instruction, interventions, programs, and other reading services provided to students that are aligned with the science of reading. These approaches and methods must be grounded in systematic and objective research conforming to established scientific principles.

(12) “Substantially fails to demonstrate third grade reading proficiency” means a student who does not demonstrate reading proficiency at the end of the third grade as indicated by scoring Does Not Meet Expectations or at the lowest achievement level on the statewide summative reading assessment.

(13) “Summative assessment” means state-approved assessments administered in grades three through eight and any statewide assessment used in grades nine through twelve to determine student mastery of grade-level or content standards.

(14) “Summer reading camp” means an educational program offered by each local school district or consortia of school districts for students who are unable to comprehend grade-level texts and who qualify for mandatory retention.

(15) “Third grade reading proficiency” means the ability to read grade-level texts by the end of a student’s third grade year as demonstrated by scoring Meets or Exceeds Expectations as a result of

state-approved summative reading assessments administered to third grade students, or through other assessments as noted in this chapter and adopted by the board.

(16) "Universal reading screener" means a nationally normed formative assessment used to screen and monitor the progress of students in foundational literacy skills to identify or predict students at risk of not meeting grade-level proficiency and determine effectiveness of instruction and intervention. All universal reading screeners must be aligned with state standards to English/Language Arts, meet the criteria of a nationally normed formative assessment, and be recommended by the department and approved by the board.

Guidance and support

SECTION 3. Section 59-155-130 of the S.C. Code is amended to read:

Section 59-155-130. (A) The department shall guide and support districts and collaborate with educator preparation programs to increase reading proficiency through the following functions including, but not limited to:

(1) providing professional development to teachers, school principals, and other administrative staff based in the science of reading, structured literacy, and foundational literacy skills;

(2) working collaboratively with institutions of higher learning offering courses in reading and writing for initial certification in early childhood, elementary, and special education, and accredited master's degrees in reading/literacy to design coursework leading to a literacy teacher endorsement by the State;

(3) providing coaching for already certified reading/literacy coaches and literacy teachers based in the science of reading, structured literacy, and foundational literacy skills;

(4) developing information and resources that school districts can use to provide workshops for parents about how they can support their children as readers and writers;

(5) assisting school districts in the development and implementation of their district reading proficiency plans as provided for in Section 59-155-140;

(6) annually reviewing and approving the reading proficiency plan of each district;

(7) monitoring and reporting to the board the yearly success rate of summer reading camps. Districts must provide the department with data to include the:

(a) number of students enrolled in camps;
(b) number of students by grade level who successfully complete the camps;
(c) number of third graders promoted to fourth grade;
(d) number of third graders retained;
(e) total expenditures to operate the camps to include source of funds and in-kind donations;
(f) number of third graders promoted using a good cause exemption as provided in this chapter;
(g) number of first and second graders who are projected to score Does Not Meet and Approaches Expectations or at the lowest levels of the statewide summative reading assessment; and
(8) providing an annual report to the General Assembly regarding the implementation of the South Carolina Read to Succeed Act to include the state's and district's progress toward ensuring at least ninety-five percent of all students are reading at grade level.
(B) Districts failing to provide reports on summer reading camps pursuant to Section 59-155-130 are ineligible to receive state funding for summer reading camps for the following fiscal year; however, districts must continue to operate summer reading camps as defined in this act.

Components

SECTION 4. Section 59-155-140 of the S.C. Code is amended to read:

Section 59-155-140. (A)(1) The department, with approval by the board, shall develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in public schools. The State Reading Proficiency Plan must be approved by the board annually, and must include, but not be limited to, sections addressing the following components:
(a) reading process;
(b) professional development to increase teacher reading expertise;
(c) professional development to increase reading expertise and literacy leadership of principals and assistant principals;
(d) reading instruction;
(e) reading assessment;
(f) support for struggling readers;
(g) early childhood interventions;
(h) family support of literacy development;
(i) district guidance and support for reading proficiency;

(j) state guidance and support for reading proficiency;

(k) accountability; and

(l) urgency to improve reading proficiency.

(2) The state plan must be based on research and evidence-based practices, aligned to the science of reading, structured literacy, and foundational literacy skills, and applied to the conditions prevailing in reading/literacy education in this State, with special emphasis on addressing instructional and institutional deficiencies. The plan must present and explain the scientifically based rationale for state-level actions to be taken. The plan must be updated annually and incorporate a state reading proficiency progress report.

(3) The state plan must include specific details and explanations for all substantial uses of state, local, and federal funds promoting reading/literacy and best judgment estimates of the cost of scientifically based, thoroughly analyzed proposals for initiation, expansion, or modification of major funding programs addressing reading and writing. Analyses of funding requirements must be prepared by the department for incorporation into the plan.

(B)(1) Each district must prepare a comprehensive annual reading proficiency plan for prekindergarten through fifth grade.

(2) Each district reading proficiency plan shall:

(a) document how reading and writing assessment and instruction for all PK-5 students are aligned to the science of reading, structured literacy, and foundational literacy skills;

(b) document scientifically based interventions being provided to students who have failed to demonstrate grade-level reading proficiency;

(c) include a system for helping parents understand how they can support the student as a reader at home;

(d) provide for the monitoring of reading achievement and growth at the classroom, school, and district levels with decisions about intervention based on all available data; and

(e) explain how the district will provide teacher training based in the science of reading, structured literacy, and foundational literacy skills from an approved list provided by the department.

(3)(a) The department shall develop the format for the plan and the deadline for districts to submit their plans for approval. A district that does not submit a plan or whose plan is not approved shall not receive any state funds for reading until it submits a plan that is approved. All district reading plans must be reviewed and approved by the department. The department shall provide written comments to each district on its plan and to all districts on common issues raised in prior or newly submitted district reading plans.

(b) The department shall monitor the district and school plans and use their findings to inform the training and support the office provides to districts and schools.

(c) The department may direct a district that is persistently unable to prepare an acceptable PK-12 reading proficiency plan or to help all students comprehend grade-level texts to enter into a multidistrict or contractual arrangement to develop an effective intervention plan.

(C) Each school serving students in grades kindergarten through fifth grade must prepare, submit to the district, and post on its website prior to the start of each year an implementation plan aligned with the district reading proficiency plan to enable the district to monitor and support implementation at the school level. The school plan must be a component of the school's strategic plan required by Section 59-18-1310. A school implementation plan shall be sufficiently detailed to provide practical guidance for classroom teachers. Proposed strategies for assessment, instruction, and other activities specified in the school plan must be sufficient to provide to classroom teachers and other instructional staff helpful guidance that can be related to the critical reading and writing needs of students in the school. In consultation with the School Improvement Council, each school must include in its implementation plan the training and support that will be provided to parents as needed to maximize their promotion of reading and writing by students at home and in the community.

(D) The department shall identify schools serving students in sixth through eighth grade with fifty percent or more of its students scoring at the lowest achievement level on the statewide summative assessment. Each year identified, the school shall prepare, submit to the district, and post on its website prior to the start of the school year a school implementation plan aligned with the district's reading proficiency plan to enable the district to monitor and support implementation at the school level. The school implementation plan shall be sufficiently detailed to provide classroom teachers and instructional staff with strategies based in the science of reading, structured literacy, and foundational literacy skills for assessments, instruction, and other activities related to the critical reading and writing needs of students. In consultation with the School Improvement Council, the implementation plan shall include training and supports provided to parents as needed to maximize the promotion of reading and writing by students at home and in the community.

Assessment administration

SECTION 5. Section 59-155-150 of the S.C. Code is amended to read:

Section 59-155-150. (A) The State Superintendent of Education shall ensure every student entering publicly funded prekindergarten and kindergarten will be administered a board-approved readiness assessment within the first forty-five days of school. The approved assessments of academic readiness must be aligned with first and second grade standards for English/language arts and mathematics. The purpose of the assessment is to provide teachers and parents or guardians with information to address the readiness needs of each student by identifying early language and literacy development, physical well-being, and cognitive development to inform and assist appropriate instruction for each child. The results of the assessment and the developmental intervention strategies recommended to address the child's identified needs must be provided, in writing, to the parent or guardian. Reading instructional strategies and developmental activities for children whose oral language skills are assessed to be below the norm of their peers in the State must be aligned with the district's reading proficiency plan for addressing the readiness needs of each student. The results of each assessment with the date of when the assessment was administered must be reported to the department.

(B) A district superintendent or charter school authorizer may submit a request to the department to waive the minimum one hundred eighty-day school attendance requirement for kindergarten and South Carolina Child Early Reading Development and Education Program (CERDEP) students for the purpose of scheduling readiness assessments. Upon approval of the waiver request, the approved school may allow kindergarten and CERDEP students to be administered the assessments during a shortened school day within the first five days of the academic year.

Universal reading screeners

SECTION 6. Chapter 155, Title 59 of the S.C. Code is amended by adding:

Section 59-155-155. (A) Beginning with the 2025-2026 School Year, the board shall approve no more than five reliable and valid universal reading screeners for selection and use by districts for kindergarten through fifth grade and shall use the same process as

required by Section 59-18-310 to ensure the validity and reliability of the instruments and to periodically reevaluate approved instruments. All districts shall use one of the approved universal reading screeners.

(B) Each approved universal reading screener must:

(1) provide screening and diagnostic capabilities for monitoring student progress in reading;

(2) measure, at minimum, foundational literacy skills;

(3) identify students who have a reading deficiency, including identifying students with characteristics of dyslexia; and

(4) meet the criteria of a nationally normed formative assessment.

(C) In determining which instrument to approve, the board shall consider the following factors:

(1) the time required to conduct the assessments with the intention of minimizing the impact on instructional time;

(2) the level of integration of assessment results with instructional supports offered to teachers and students;

(3) the timeliness in reporting assessment results to teachers, administrators, and parents; and

(4) the recommendation of the department.

(D) In order to determine student progression in reading, a district shall administer a universal reading screener three times per school year with the first administration occurring within the first forty-five days of school, the second administration occurring at the midpoint of the school year, and the third administration occurring by the end of the school year. Within fifteen days of each administration, the district shall notify the parent or guardian regarding the performance of their student and whether the student may be considered for retention. For each student demonstrating literacy deficiencies and not meeting grade-level proficiencies based on the data received from the administration of the universal reading screeners, the district shall create an individualized reading plan and include a copy in the notification to the parent or guardian.

(E) The department shall:

(1) provide technical assistance and support to districts and classroom teachers in administering universal reading screeners and in understanding the results so teachers are able to provide appropriate, scientifically based interventions;

(2) require districts and approved universal reading screeners to annually submit data as requested by the department for purposes of determining whether the screening instruments are accurately identifying students in need;

(3) reimburse districts for the cost of the universal reading screener

upon receipt of the data as requested by the department as funding allows;

(4) annually report, on a grade-level basis, data received from districts and approved universal reading screeners; and

(5) implement an online reporting system to monitor the effectiveness of universal reading screeners which must:

(a) track, screen, and monitor the reading progress of students in kindergarten through third grade toward reading proficiency;

(b) create a consistent statewide reporting mechanism to identify students with a reading deficiency to include students with characteristics of dyslexia; and

(c) be used to receive the annual reporting requirements pursuant to Section 59-33-540.

(F) Administration of a universal reading screener may be replaced with an alternative assessment and progress monitoring tool for students who qualify for an alternative assessment based on a cognitive disability in kindergarten through third grade.

Mandatory retention

SECTION 7. Section 59-155-160 of the S.C. Code is amended to read:

Section 59-155-160. (A) Beginning with the 2024-2025 School Year, a student must be retained in the third grade if the student fails to demonstrate reading proficiency at the end of the third grade as indicated by scoring Does Not Meet Expectations or at the lowest achievement level on the state summative reading assessment. A student may be exempt for good cause from the mandatory retention but shall continue to receive instructional support and services and reading intervention appropriate for their age and reading level. Good cause exemptions include students:

(1) with limited English proficiency and less than two years of instruction in English as a Second Language program;

(2) with disabilities whose Individualized Education Program indicates the use of alternative assessments or alternative reading interventions and students with disabilities whose Individualized Education Program or Section 504 Plan reflects that the student has received intensive remediation in reading for more than two years but still does not substantially demonstrate reading proficiency;

(3) who successfully participate in a summer reading camp at the conclusion of third grade and demonstrate reading proficiency by achieving Approaches Expectations, or at least a level above the lowest

level, on the state summative reading assessment;

(4) who demonstrate third grade reading proficiency by scoring the equivalent of Approaches Expectations, or the level above the lowest level, on the statewide summative assessment or a norm-referenced alternative assessment approved by the board for use in summer reading camps; or

(5) who have received two years of reading intervention and were previously retained.

(B) The superintendent of the local district may determine whether a student in the district may be exempt from the mandatory retention by taking all of the following steps:

(1) The teacher of a student eligible for retention must submit to the principal documentation on the proposed exemption and evidence that promotion of the student is appropriate based on the student's academic record. This evidence must be limited to the student's Individualized Education Program, performance on the statewide summative assessment, or performance on an alternative assessment.

(2) The principal must review the documentation and determine whether the student should be promoted. If the principal determines the student should be promoted, the principal must submit a written recommendation for promotion, to include an individualized reading plan providing additional supports to be offered to the student to ensure reading proficiency is achieved, to the district superintendent for final determination.

(3) The district superintendent's acceptance or rejection of the recommendation, as well as the individualized reading plan provided by the principal, must be in writing and a copy must be provided to the parent or guardian of the child.

(4) A parent or legal guardian may appeal the decision to retain a student to the district superintendent if there is a compelling reason why the student should not be retained. A parent or legal guardian must appeal, in writing, within two weeks after the notification of retention. The letter must be addressed to the district superintendent and specify the reasons why the student should not be retained. The district superintendent shall render a decision in writing to the parent or legal guardian and the principal.

(C) Prior to the decision for a student to be retained, if the student is not demonstrating third grade reading proficiency by the end of the second grading period of the third grade:

(1)(a) his parent or guardian timely must be notified, in writing, that the student is being considered for retention and a conference with the parent or guardian must be held prior to a determination regarding

retention is made, and conferences must be documented;

(b) within two weeks following the parent/teacher conference, copies of the conference form must be provided to the principal, parent or guardian, teacher and other school personnel who are working with the child on literacy, and summary statements must be sent to parents or legal guardians who do not attend the conference; and

(c) following the parent/teacher retention conference, the principal, classroom teacher, and other school personnel who are working with the child on literacy must review the recommendation for retention and provide suggestions for supplemental instruction.

(2) The parent or guardian may designate another person as an education advocate also to act on their behalf to receive notification and to assume the responsibility of promoting the reading success of the child. The parent or guardian of a retained student must be offered supplemental tutoring for the retained student in scientifically based services outside the instructional day.

(D) Retained students must be provided intensive instructional services and support, including a minimum of ninety minutes of daily reading instruction, supplemental foundational literacy skill instruction, and other strategies grounded in the science of reading prescribed by the district. These strategies may include, but are not limited to, instruction directly focused on improving the student's individual foundational literacy skills through small group instruction, reduced teacher-student ratios, more frequent student progress monitoring, high dose low ratio tutoring or mentoring as prescribed by the department, transition classes containing students in multiple grade spans, and extended school day, week, or year reading support. The delivery of additional supports and interventions shall not result in a student losing access to regular instruction in subject areas identified in the defined program for grades K-5 as established by the board. The school must report to the department on the progress of students in the class at the end of the school year and at other times as required by the department based on the reading progression monitoring requirements of these students.

(E)(1) For students in kindergarten through second grade who are not demonstrating reading proficiency, additional support in foundational literacy skills shall be provided. These interventions must be based in the science of reading, be at least thirty minutes daily, and be in addition to the minimum of ninety minutes of daily reading and writing instruction provided to all students in kindergarten through second grade. The delivery of additional supports and interventions shall not result in a student losing access to regular instruction in subject areas identified in the defined program for grades K-5 as established by the

board. The district must continue to provide intensive interventions until the student is meeting grade-level reading proficiency.

(2) To ensure early interventions, districts are encouraged to retain students in kindergarten through second grade who are not demonstrating grade-level reading proficiency. In making retention decisions, districts shall seek recommendations from the student's teacher(s) and principal.

(F) For students in grades four and above who are not demonstrating reading proficiency shall be provided additional reading interventions which may include services from a reading interventionist in the classroom or supplementally by teachers with a literacy teacher endorsement or reading/literacy coaches. This supplemental support will be provided during the school day and, as appropriate, before or after school, as documented in the district reading plan, and may include high dose low ratio tutoring or mentoring as prescribed by the department, or in summer reading camps.

(G) Students eligible for retention pursuant to this section shall enroll in a summer reading camp provided by their district or a summer reading camp consortium to which their districts belong prior to being retained the following school year. Summer reading camps must be at least the equivalent of ninety-six hours of instruction. The camps must be taught by compensated teachers who have at least a literacy endorsement or who have documented and demonstrated substantial success in helping students achieve proficiency of grade-level reading standards. The department shall assist districts that cannot find qualified teachers to work in the summer camps. Districts may choose to contract for the services of qualified instructors or collaborate with one or more districts to provide a summer reading camp. Schools and districts are encouraged to partner with county or school libraries, institutions of higher learning, community organizations, faith-based institutions, businesses, pediatric and family practice medical personnel, and other groups to provide volunteers, mentors, tutors, space, or other support to assist with the provision of the summer reading camps. A parent or guardian of a student who does not demonstrate reading proficiency for his grade level shall make the final decision regarding the student's participation in the summer reading camp.

(H) A district shall include in the summer reading camps first and second grade students who are not exhibiting grade-level reading proficiency. This shall be implemented beginning with the 2025-2026 School Year by including first grade students not exhibiting grade-level reading proficiency and beginning with the 2026-2027 School Year by including second grade students not demonstrating grade-level reading

proficiency. Students at any other grade who are not exhibiting reading proficiency may be included in summer reading camps at the discretion of the district. Districts may charge fees for these students to attend the summer reading camps based on a sliding scale pursuant to Section 59-19-90, except where a child is found to be reading below grade level in the first through third grade and does not meet the good cause exemption.

Literacy skills training for educators

SECTION 8. Section 59-155-170 of the S.C. Code is amended to read:

Section 59-155-170. (A) The department shall establish a set of essential competencies describing what certified teachers in early childhood, elementary, middle and secondary levels, and special education must know and be able to do so that all students can comprehend grade-level texts. These competencies, developed collaboratively with the faculty of higher education institutions and based on the science of reading, must then be incorporated into the coursework required by Section 59-155-180. The department shall provide professional development courses to ensure that educators have access to multiple avenues of receiving endorsements.

(B)(1) The department shall deliver professional development that has demonstrated success in establishing deep knowledge of foundational literacy skills grounded in the science of reading and promoting student reading achievement. Each district shall participate in the implementation of this foundational literacy skills training with the goal of statewide implementation to include all kindergarten through third grade teachers certified in early childhood, elementary, or special education, and elementary administrators. This training shall be offered at no cost to the district or teacher.

(2) Successful completion of this training shall satisfy the requirements of the literacy endorsement provided for in Section 59-155-180.

Literacy coaches

SECTION 9. Section 59-155-180(C) of the S.C. Code is amended to read:

(C)(1) To ensure that practicing professionals possess the knowledge and skills necessary to assist all children in becoming proficient readers,

multiple pathways are needed for developing this capacity.

(2) A reading/literacy coach shall be employed in each elementary school. Reading coaches shall serve as job-embedded, stable resources for professional development throughout schools in order to generate improvement in reading and literacy instruction and student achievement. Reading coaches shall support and provide initial and ongoing professional development to teachers based on an analysis of student assessment and the provision of differentiated instruction and intensive intervention. The reading coach shall:

(a) model effective instructional strategies for teachers by working weekly with students in whole, and small groups, or individually;

(b) facilitate study groups;

(c) train teachers in data analysis and using data to differentiate instruction;

(d) coaching and mentoring colleagues;

(e) work with teachers to ensure that scientifically based reading programs are implemented with fidelity;

(f) work with all teachers (including content area and elective areas) at the school they serve, and help prioritize time for those teachers, activities, and roles that will have the greatest impact on student achievement, namely coaching and mentoring in the classrooms; and

(g) help lead and support reading leadership teams.

(3) The reading coach must not be assigned a regular classroom teaching assignment, must not perform administrative functions that deter from the flow of improving reading instruction and reading performance of students and must not devote a significant portion of his or her time to administering or coordinating assessments. The department must publish guidelines that define the minimum qualifications for a reading coach. Districts must provide to the department information on the name and qualifications of reading coaches funded by the state appropriations.

(4) The board is authorized to approve guidelines on an annual basis for professional development, coursework, certification, and endorsement requirements for teachers of early childhood and elementary education, including special education teachers, interventionists, reading specialists, and administrators, whose responsibilities, either directly or indirectly, substantially relate to reading and literacy instruction, support, or interventions as provided in this section. The guidelines approved by the board shall also include the issuance of appropriate credit to individuals who have completed a department-approved intensive and prolonged professional development

program. Local school districts, working with the department, shall offer the required professional development, coursework, certification, and endorsements at no charge to teachers. In-service hours earned through professional development must be used for renewal of teaching certificates in all subject areas.

(5) Beginning September 1, 2026, early childhood, elementary, and special education teacher candidates seeking their initial certification in South Carolina must earn a passing score on a rigorous test of scientifically based reading instruction and intervention and data-based decision making principles as approved by the board. The objective of this item is to ensure that teacher candidates understand the foundations of reading and are prepared to teach reading to all students.

(6) The board shall approve guidelines and procedures to allow in-service teachers the option of utilizing the test in item (5) to exempt requirements established by the board pursuant to item (4). As part of this process, the board shall set a minimum cut score for an in-service teacher to achieve to take advantage of this provision. A teacher's score on this assessment may not be used for evaluation purposes. Contingent upon funding by the General Assembly, this test shall be provided at no cost to the teacher.

(7) Teachers, administrators, and other certified faculty and staff are exempt from having to earn the literacy endorsement to maintain certification only if they are not educating or serving students in a school or other educational setting. The literacy endorsement must be earned before an individual who was previously exempt pursuant to this item returns to a position where they educate or otherwise serve students.

(8) Annually by August first, the department shall publish guidelines and procedures used in evaluating all courses offered to teachers, including virtual courses and professional development, leading to the literacy endorsement. The department shall publish the approved courses and professional development leading to the literacy endorsement no later than January first, annually.

(9) Prior to August 1, 2026, and continuing every five years thereafter, the department will conduct an evaluation of approved courses used for compliance of this section. The evaluation should include survey data from prior course participants. The department shall remove any courses receiving an unsatisfactory evaluation from the list of approved courses and professional development under this section.

Reading and writing habits and skills development

SECTION 10. Section 59-155-200 of the S.C. Code is amended to read:

Section 59-155-200. The department and each school district must plan for and act decisively to engage the families of students as full participating partners in promoting the reading habits and skills development of their children. With support from the department, districts and individual schools shall provide families with information about how children progress as readers and writers and how they can support this progress.

Standards, practices, and procedures for program implementation

SECTION 11. Section 59-155-210 of the S.C. Code is amended to read:

Section 59-155-210. The department shall translate the statutory requirements for reading and writing specified in this chapter into guidance for districts, boards, and other organizations as appropriate. In this effort, they shall solicit the advice of education stakeholders who have a deep understanding of the science of reading, as well as school boards, administrators, and others who play key roles in facilitating support for and implementation of effective reading instruction.

Education Improvement Act assessment requirements

SECTION 12. Section 59-18-310(D) of the S.C. Code is amended to read:

(D)(1) Beginning with the 2025-2026 School Year, the State Board of Education shall create a statewide adoption list of no more than five nationally normed formative assessments for use in kindergarten through eighth grade aligned with the state content standards in English/language arts and mathematics that satisfies professional measurement standards in accordance with criteria jointly determined by the Education Oversight Committee and the State Department of Education. The formative assessments must provide diagnostic information in a timely manner to all school districts for each student during the course of the school year. Subject to appropriations by the General Assembly for the assessments, local districts must be allocated resources to select and administer formative assessments from the statewide adoption list to use to improve student performance in accordance with district improvement

plans.

(2) Districts shall ensure all students in kindergarten through eighth grade are assessed using a state-approved, nationally normed formative assessment tool during the fall, winter, and spring each year. School districts shall provide all formative assessment data and scores by grade level and school to the department from the prior school year. The department is directed to compile the information received and submit a comprehensive report regarding performance on the formative assessments to the General Assembly by June 1, annually. Any school district failing to provide this data to the department shall have ten percent of their State Aid to Classroom funding withheld until the data is provided.

(3) The state-approved, nationally normed formative assessments shall be periodically reevaluated pursuant to a timeline established by the department not to exceed four years.

Time effective

SECTION 13. This act takes effect upon approval by the Governor.

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 115

(R118, S801)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-430, RELATING TO DESIGNATION OF VOTING PRECINCTS IN OCONEE COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE; AND BY AMENDING SECTION 7-7-40, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO ADD NEW PRECINCTS AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE

FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Oconee County voting precincts

SECTION 1. Section 7-7-430(B) of the S.C. Code is amended to read:

(B) The precinct lines defining the above precincts in Oconee County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-73-23 and as shown on certified copies of the official map provided to the Board of Voter Registration and Elections of Oconee County.

Aiken County voting precincts

SECTION 2. Section 7-7-40 of the S.C. Code is amended to read:

Section 7-7-40. (A) In Aiken County there are the following voting precincts:
Aiken No. 1
Aiken No. 2
Aiken No. 3
Aiken No. 4
Aiken No. 5
Aiken No. 6
Aiken No. 47
Anderson Pond No. 69
Ascauga Lake
Ascauga Lake No. 84
Bath
Beech Island
Belvedere No. 9
Belvedere No. 44
Belvedere No. 62
Belvedere No. 74
Breezy Hill
Breezy No. 87
Carolina Heights
Cedar Creek No. 64
China Springs

Clearwater
College Acres
Community No. 86
Couchton
Creek No. 85
Eureka
Fox Creek No. 58
Fox Creek No. 73
Gem Lakes No. 60
Gem Lakes No. 77
Gloverville
Graniteville
Hammond
Hammond No. 81
New Holland
Hitchcock No. 66
Hollow Creek
Jackson
Langley
Levels No. 52
Levels No. 72
Levels No. 83
Lynwood
Midland Valley No. 51
Midland Valley No. 71
Midlands No. 88
Millbrook
Misty Lakes
Monetta
Montmorenci No. 22
Montmorenci No. 78
New Ellenton
North Augusta No. 25
North Augusta No. 26
North Augusta No. 27
North Augusta No. 28
North Augusta No. 29
North Augusta No. 54
North Augusta No. 55
North Augusta No. 67
North Augusta No. 68
North Augusta No. 80

Oak Grove
Perry
Redds Branch
Salley
Sandstone No. 70
Sandstone No. 79
Shaws Fork
Shiloh
Silver Bluff
Six Points No. 35
Six Points No. 46
Sleepy Hollow No. 65
South Aiken No. 75
South Aiken No. 76
South Creek No. 89
Tabernacle
Talatha
Pine Forest
Vaucluse
Wagener
Ward
Warrenville
White Pond
Willow Springs
Windsor
Windsor No. 82

(B) Precinct lines defining the precincts provided in subsection (A) of this section are as shown on the official map on file with the Revenue and Fiscal Affairs Office designated as document P-03-24 and as shown on certified copies of the official map provided by the office to the Board of Voter Registration and Elections of Aiken County.

(C) Polling places for the precincts provided in subsection (A) of this section must be established by the Board of Voter Registration and Elections of Aiken County with the approval of a majority of the county legislative delegation.

Time effective

SECTION 3. This act takes effect on March 1, 2024.

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 116

(R120, H3116)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-37-610, RELATING TO PERSONS LIABLE FOR TAXES AND ASSESSMENTS ON REAL PROPERTY, SO AS TO PROVIDE THAT CERTAIN DISABLED VETERANS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN SPOUSES ARE EXEMPT FROM PROPERTY TAXES IN THE YEAR IN WHICH THE DISABILITY OCCURS; AND BY AMENDING SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE THAT A QUALIFIED SURVIVING SPOUSE INCLUDES CERTAIN SPOUSES REGARDLESS OF WHETHER THE DECEASED SPOUSE APPLIED, FILED FOR, OR CLAIMED AN EXEMPTION AND TO PROVIDE THAT A PROPERTY TAX EXEMPTION FOR TWO PRIVATE PASSENGER VEHICLES MAY BE CLAIMED BY CERTAIN SPOUSES OF A DISABLED VETERAN OR CERTAIN TRUSTEES.

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

Disabled veterans' property tax exemptions

SECTION 1. Section 12-37-610 of the S.C. Code is amended to read:

Section 12-37-610. (A) Each person is liable to pay taxes and assessments on the real property that, as of December thirty-first of the

year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for deeds of the county in which the property is located, or on the real property that, as of December thirty-first of the year preceding the tax year, he has care of as guardian, executor, or committee or may have the care of as guardian, executor, trustee, or committee.

(B) Notwithstanding any other provision of law, a veteran of the Armed Forces of the United States, who is permanently and totally disabled as a result of a service-connected disability and who files with the department a certificate signed by the county service officer certifying this disability, and who otherwise meets the requirements of Section 12-37-220(B)(1) may immediately claim the exemption for the entire year in which the disability occurs. A surviving spouse may immediately claim the exemption for the entire year in the same manner as the veteran regardless of whether the veteran applied, filed for, or claimed the exemption. Additionally, a veteran who is permanently and totally disabled for any part of the year, or surviving spouse thereof, is entitled to the exemption for the entire year. In a year in which a disabled veteran, or surviving spouse thereof, owns a property for less than a year, any other owner, who is not a disabled veteran, or otherwise entitled to an exemption, is responsible for the property tax accrued on the property for the time in which he owned the property.

Qualified surviving spouse

SECTION 2. Section 12-37-220(B)(1)(f)(iii) of the S.C. Code is amended to read:

(iii) "qualified surviving spouse" means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of an individual described in subsubitem (i) whose deceased spouse met the requirements to obtain the exemption allowed by this item regardless of whether the deceased spouse applied, filed for, or claimed the exemption, while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the Armed Forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23-23-10 and Chapter 80, Title 40, if the surviving spouse remains unmarried, resides

in the house, and has acquired ownership of the house in fee or for life;

Property tax exemption for vehicles of a disabled veteran

SECTION 3.A. Section 12-37-220(B)(3) of the S.C. Code is amended to read:

(3) two private passenger vehicles owned or leased by any disabled veteran, or the spouse of the disabled veteran if the spouse resides with the veteran and the vehicle is registered at that same address, designated by the veteran for which special license tags have been issued by the Department of Motor Vehicles under the provisions of Sections 56-3-1110 to 56-3-1130 or, in lieu of the license, if the veteran has a certificate signed by the county service officer or the Veterans Administration of the total and permanent disability which must be filed with the Department of Motor Vehicles. The exemption extends to the surviving spouse of the person on one private passenger vehicle owned or leased by the spouse for their lifetime or until the remarriage of the surviving spouse. If a trustee holds legal title to a vehicle and the beneficiary is a person who qualifies otherwise for the exemption provided and the beneficiary uses the vehicle, then the vehicle is exempt from property taxation in the same amount and manner;

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2023.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and applies to tax years beginning after 2023 and any open period less than three years.

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 117

(R122, H3951)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 48-59-40, RELATING TO THE COMPOSITION OF THE BOARD OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO INCREASE MEMBERSHIP BY ADDING THE COMMISSIONER OF AGRICULTURE, THE SECRETARY OF COMMERCE, AND THE SECRETARY OF TRANSPORTATION; AND BY ADDING SECTION 48-59-150 SO AS TO ESTABLISH THE WORKING FARMLAND PROTECTION FUND.

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

South Carolina Conservation Bank, composition of board

SECTION 1. Section 48-59-40(A) and (B) of the S.C. Code is amended to read:

(A) There is established the South Carolina Conservation Bank. The bank is governed by a seventeen-member board selected as follows:

(1) the Chairman of the Board for the Department of Natural Resources, the Chairman of the South Carolina Forestry Commission, the Commissioner of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and the Director of the South Carolina Department of Parks, Recreation and Tourism, or their designees, all of whom shall serve ex officio and without voting privileges;

(2) three members appointed by the Governor from the State at large;

(3) four members appointed by the Speaker of the House of Representatives, one each from the Third, Fourth, and Sixth Congressional Districts and one member from the State at large; and

(4) four members appointed by the President of the Senate, one each from the First, Second, Fifth, and Seventh Congressional Districts.

(B)(1) In making their respective appointments to the board, the Governor, Speaker of the House of Representatives, and President of the Senate shall take all reasonable steps to ensure that the members of the board reflect the state's racial and gender diversity.

(2) Each member of the board must possess experience in the areas of natural resources, land development, forestry, farming, finance, land

conservation, real estate, or law.

The Working Farmland Protection Fund

SECTION 2. Chapter 59, Title 48 of the S.C. Code is amended by adding:

Section 48-59-150. (A) There is established in the State Treasury the Working Farmland Protection Fund for the purpose of providing permanent protection to working farmland properties whose continued availability to commercial agricultural businesses is essential to the long-term future of the economic sector. Balances in the fund must be retained and carried forward annually and interest earned on balances in the fund must be credited to the fund.

(B) The Working Farmland Protection Fund must be used by the bank only for the purpose of awarding grants to eligible trust fund recipients for the purchase of interests in farmland in which a landowner derives at least fifty percent of his income.

(C) When evaluating applications for grants under this section, the bank must use the criteria set forth in Section 48-59-70(D), except for Section 48-59-70(D)(9) and Section 48-59-70(D)(13), along with the following criteria:

(1) the authority of the owner of the working farmland property to make the subject farmland available via lease or transfer of the protected property to another farmer or other farmers so as to advance the goal of preserving and increasing access to farmland for new and expanding farms;

(2) the threat of conversion of the working farmland property such that it would become unavailable for commercial production of agricultural products;

(3) the percentage of soils classified by the United States Department of Agriculture as prime farmland, unique farmland, farmland of statewide importance, and farmland of local importance;

(4) the agricultural structures and improvements associated with the working farmland property;

(5) the economic viability of the working farmland property in terms of current and potential future commercial agricultural activities in local, regional, and statewide markets; connection of the working farmland property to agricultural services including processors, aggregators, and distributors; and the number of on-farm jobs supported by the working farmland property;

(6) the multiple natural resources values associated with the

working farmland property, including open space land, forested land and wetlands, riparian buffers, wildlife habitat, and freshwater aquifers; and

(7) whether the working farmland is located or serving in an underserved or underprivileged community.

Time effective

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

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 118

(R123, H3993)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-1920, RELATING TO THE SALE OF EXOTIC FARM-RAISED VENISON, SO AS TO PROVIDE AN EXCEPTION.

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

Sale of white-tailed deer organ meat

SECTION 1. Section 50-11-1920 of the S.C. Code is amended by adding:

(H) The provisions of this section do not apply to the retail sale of white-tailed deer organ meat, packaged as pet treats, by official establishments certified by the State Livestock-Poultry Health Division, Clemson University, or the United States Department of Agriculture. The official establishment first must obtain an annual permit from the department, at no cost. For the purposes of this subsection organ meat is defined as white-tailed deer heart, kidney, liver, lung, and spleen. Any product offered for sale pursuant to this subsection must bear the name of the official establishment and have an official product registration as

required by the South Carolina Department of Agriculture.

Time effective

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

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 119

(R124, H4047)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 50-15-100 SO AS TO PROHIBIT THE RELEASE OF RECORDS REGARDING THE OCCURRENCE OF RARE, THREATENED, ENDANGERED, OR IMPERILED PLANT AND ANIMAL SPECIES BY THE DEPARTMENT OF NATURAL RESOURCES.

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

Prohibition of release of certain records

SECTION 1. Article 1, Chapter 15, Title 50 of the S.C. Code is amended by adding:

Section 50-15-100. (A) The department may not release records in its possession that contain site-specific information including, but not limited to, unique numeric identifiers of precise geographic locations, telemetry, or other locational data, regarding the occurrence of federal- or state-listed rare, threatened, species in need of management, endangered, or otherwise imperiled plant and animal species on public or private property, except in support of scientific, conservation, or educational purposes. The owner or owners of private property upon which threatened, endangered, or at-risk species occur shall be entitled to records specific to said property upon the request to the department.

Time effective

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

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 120

(R125, H4159)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA TELEHEALTH AND TELEMEDICINE MODERNIZATION ACT" BY ADDING CHAPTER 42 TO TITLE 40 SO AS TO DEFINE NECESSARY TERMS AND PROVIDE REQUIREMENTS FOR CERTAIN REGULATED HEALTH CARE PROFESSIONALS WHO PROVIDE HEALTH CARE BY MEANS OF TELEHEALTH; BY AMENDING SECTION 40-47-20, RELATING TO DEFINITIONS IN THE MEDICAL PRACTICE ACT, SO AS TO DEFINE "TELEHEALTH"; BY AMENDING SECTION 40-47-37, RELATING TO THE PRACTICE OF TELEMEDICINE, SO AS TO REVISE REQUIREMENTS FOR THE PRACTICE OF TELEMEDICINE AND TO INCLUDE PROVISIONS CONCERNING TELEHEALTH; TO AMEND SECTION 40-33-34, RELATING TO THE AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES TO PRACTICE TELEMEDICINE, SO AS TO ALSO AUTHORIZE THE PRACTICE OF TELEHEALTH BY ADVANCED PRACTICE REGISTERED NURSES AND TO CLARIFY THAT LICENSURE TO PRACTICE MEDICINE IN THIS STATE IS NOT REQUIRED FOR ADVANCED PRACTICE REGISTERED NURSES TO PRACTICE TELEMEDICINE OR TELEHEALTH EXCEPT AS OTHERWISE REQUIRED; AND TO AMEND SECTION 40-47-935, RELATING TO THE AUTHORITY OF PHYSICIAN ASSISTANTS TO PRACTICE TELEMEDICINE, SO AS TO ALSO AUTHORIZE THE

PRACTICE OF TELEHEALTH BY PHYSICIAN ASSISTANTS AND TO CLARIFY THAT LICENSURE TO PRACTICE MEDICINE IN THIS STATE IS NOT REQUIRED FOR PHYSICIAN ASSISTANTS TO PRACTICE TELEMEDICINE OR TELEHEALTH EXCEPT AS OTHERWISE REQUIRED.

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

Citation

SECTION 1. This act may be cited as the "South Carolina Telehealth and Telemedicine Modernization Act".

Telehealth

SECTION 2. Title 40 of the S.C. Code is amended by adding:

CHAPTER 42

Telehealth

Section 40-42-10. As used in this title unless the context requires a different meaning:

(1) "Licensing board" means the licensing board that is responsible for licensing or disciplining an individual who provides health care pursuant to this title.

(2) "Health care" means any care, treatment, service, assessment, counsel, education, or procedure to maintain, monitor, diagnose, or otherwise affect an individual's physical or mental illness, injury, or condition.

(3) "Licensee" means a professional licensed by a licensing board and authorized to practice health care pursuant to this title.

(4) "Scope of practice" means the extent of a licensee's authority to provide health care. The term includes a condition on authority imposed by the licensee's practice act or licensing board, including but not limited to the requirement to perform telehealth pursuant to a practice agreement as defined in Section 40-33-20(45) or within written scope of practice guidelines under physician supervision pursuant to Section 40-47-935.

(5) "Telehealth" means the use of electronic communications, information technology, or other means to deliver clinical health care, patient and professional health-related education, public health, or health administration between a licensee in one location and a patient in another

location with or without an intervening licensee.

(6) "Unprofessional conduct" means an act or behavior that fails to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one's fitness to practice, or conduct that may violate any provision of the code of ethics adopted by the licensee's respective board or a specialty.

Section 40-42-20. (A) A licensee who provides health care via telehealth:

(1) may only provide health care within his scope of practice;

(2) shall adhere to the same standard of care as required for in-person care and must be evaluated according to the standard of care applicable to the licensee's area of specialty. The failure of a licensee to conform to the appropriate standard of care is considered unprofessional conduct and may be disciplined according to the licensee's respective practice act and pursuant to Section 40-42-10(3);

(3) shall generate and maintain confidentiality of a patient's records and disclose the records to the patient consistent with state and federal laws, rules, and regulations; provided, that licensees practicing telemedicine must be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing by traditional means;

(4) shall, if authorized by the licensee's respective practice act and within his scope of practice, prescribe in accordance with all applicable state and federal laws, including his respective practice act, rules and regulations, and standards required by such practice authorization;

(5) must be licensed in this State; provided, however, a licensee need not reside or maintain a physical office in this State to be considered actively practicing medicine if he has a valid, current license issued by the applicable licensing board in this State; further provided that a licensee residing in this State who intends to practice via telehealth to treat or diagnose patients outside of this State shall comply with other state licensing boards; and

(6) shall maintain a controlled substances registration with South Carolina's Bureau of Drug Control if prescribing controlled substances.

(B) Nothing in this section may be construed to prohibit electronic communications between a licensee and patient with a preexisting licensee-patient relationship, between a licensee and another licensee concerning a patient with whom the other licensee has a licensee-patient

relationship, or between a licensee and a patient when treatment is provided pursuant to an on-call situation or a cross-coverage situation.

(C) In addition to the provisions of subsection (A), a licensee who establishes or maintains a licensee-patient relationship solely via telehealth shall:

(1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing this information upon request of his respective licensing board;

(2) provide an appropriate evaluation before providing health care to the patient, which need not be done in person, if the licensee determines he is able to appropriately provide health care to the patient via telehealth in conformity with the same standard of care required for in-person care;

(3) ensure availability of appropriate follow-up care;

(4) verify the identity and location of the patient and inform the patient of the licensee's name, location, and professional credentials; and

(5) only prescribe:

(a) if specifically authorized by his respective practice act;

(b) within his scope of practice; and

(c) in accordance with federal and state laws, rules, standards provided in the practice act and, if applicable, any practice agreement or scope of practice guidelines.

(D) A licensee or any other person involved in a telehealth encounter must:

(a) be trained in the use and operation of the telehealth equipment; and

(b) demonstrate competence in the use and operation of telehealth equipment.

(E) Notwithstanding any of the provisions of this section, a licensee's respective licensing board retains all authority with respect to telehealth practice in accordance with the authorization provided to him by his respective practice act.

Section 40-42-30. This article governs all licensees providing services via telehealth except for additional or more specific standards provided in the licensees' respective practice act.

Medical Practice Act, definitions

SECTION 3. Section 40-47-20(52)-(57) of the S.C. Code is amended to read:

(52) “Telehealth” means the use of electronic communications, information technology, or other means to deliver health care, patient and professional health-related education, public health, and health administration between a licensee in one location and a patient in another location with or without an intervening practitioner.

(53) “Telemedicine” means the practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner.

(54) “Temporary license” means a current, time-limited document that authorizes practice at the level for which one is seeking licensure.

(55) “Unprofessional conduct” means acts or behavior that fails to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one’s fitness to practice, or conduct that may violate any provision of the code of ethics adopted by the board or a specialty.

(56) “Voluntary surrender” means forgoing the authorization to practice by the subject of an initial or formal complaint pending further order of the board. It anticipates other formal action by the board and allows any suspension subsequently imposed to include this time.

(57) “Volunteer license” means authorization of a retired practitioner to provide medical services to others through an identified charitable organization without remuneration.

(58) “Certified medical assistant” or “CMA” means a person who is a graduate of a post-secondary medical assisting education program accredited by the National Healthcare Association, or its successor; by the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor; by the Accrediting Bureau of Health Education Schools, or its successor; or by any accrediting agency recognized by the United States Department of Education. The accredited post-secondary medical assisting education program must include courses in anatomy and physiology, medical terminology, pharmacology, medical laboratory techniques, and clinical experience. A certified medical assistant must maintain current certification from the certifying board of the American Association of Medical Assistants, the National Center for Competency Testing, the National Certification Medical Association, American Medical Technologists, or any other recognized certifying body approved by the Board of Medical Examiners.

(59) “Unlicensed assistive personnel” or “UAP” means persons not currently licensed by the Board of Nursing as nurses, or persons who are

not certified medical assistants as defined in Section 40-47-20(58), who perform routine nursing tasks that do not require a specialized knowledge base or the judgment or skill of a licensed nurse. Nursing tasks performed by unlicensed assistive personnel must be performed under the supervision of a physician, physician assistant, APRN, registered nurse, or licensed practical nurse. Unlicensed assistive personnel must not administer medications except as otherwise provided by law.

Physicians, telemedicine and telehealth services

SECTION 4. Section 40-47-37 of the S.C. Code is amended to read:

Section 40-47-37. (A) A licensee who provides care, renders a diagnosis, or otherwise engages in the practice of medicine as defined in Section 40-47-20(36) via telemedicine as defined in Section 40-47-20(52) shall:

(1) adhere to the same standard of care as in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. The failure of a licensee to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9);

(2) generate and maintain medical records for such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records timely must be made accessible to other practitioners and to the patient when lawfully requested by the patient or his lawfully designated representative;

(3) prescribe in accordance with Section 40-47-113;

(4) be licensed to practice medicine in this State; provided, however, a licensee need not reside in this State if he has a valid, current South Carolina medical license; further, provided, that a licensee who resides in this State and intends to practice medicine via telemedicine to treat or diagnose patients outside of this State shall comply with other applicable state licensing boards; and

(a) this requirement is not applicable to an informal consultation or second opinion, at the request of a physician licensed to practice medicine in this State, provided that the physician requesting the opinion retains the authority and responsibility for the patient's care; and

(b) where an in-person physician-patient relationship is

established in another state for specialty care and treatment is ongoing by that out-of-state provider, care provided pursuant to an existing treatment plan via telehealth in this State by the out-of-state provider between in-person visits is considered acts incidental to the care of the patient in another state and the out-of-state provider is not required to be licensed in this State. This exception may not be construed to apply to:

(i) episodic care that is provided by an out-of-state provider;

(ii) new health conditions that arise and are not connected to the condition being treated by the out-of-state provider; or

(iii) care provided by an out-of-state provider for extended periods of time without intervening in-person visits; and

(c) for purposes of subitems (a) and (b), the care provided to the patient by the out-of-state provider is deemed to have occurred where the patient was located at the time health care services were provided to him by means of telehealth; and

(d) shall maintain a controlled substances registration with South Carolina's Bureau of Drug Control if prescribing controlled substances.

(B) Nothing in this section may be construed to prohibit electronic communications between:

(1) a physician and patient with a preexisting physician-patient relationship;

(2) a physician and another physician concerning a patient with whom the other physician has a physician-patient relationship; or

(3) a provider and a patient when treatment is provided pursuant to an on-call situation or a cross-coverage situation.

(C) In addition to those requirements set forth in subsection (A), a licensee who establishes and/or maintains a physician-patient relationship, provides care, renders a diagnosis, or otherwise engages in the practice of medicine as defined in Section 40-47-20(36) solely via telemedicine as defined in Section 40-47-20(53) shall:

(1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;

(2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in person if the licensee considers that he is able to accurately diagnose and treat the patient in conformity with the applicable standard of care via telehealth; provided that evaluations in which a licensee is at a distant site, but a practitioner who is acting within his scope is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted;

(3) ensure the availability of appropriate follow-up care;

(4) verify the identity and location of the patient and inform the patient of the licensee's name, location, and professional credentials;

(5) maintain the confidentiality of a patient's records and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine must be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means;

(6) if applicable, discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home;

(7) prescribe in compliance with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program in Article 15, Chapter 53, Title 44 and the Ryan Haight Act, within a practice setting fully compliant with this section, and subject to the following limitations:

(a) at each encounter, threshold information necessary to make an accurate diagnosis must be obtained in a medical history interview conducted by the prescribing licensee;

(b) Schedule II-narcotic and Schedule III-narcotic prescriptions are not permitted except in the following instances:

(i) when the practice of telemedicine is being conducted while the patient is physically located in a hospital and being treated by a practitioner acting in the usual course of professional practice;

(ii) those Schedule II and Schedule III medications used specifically for patients actively enrolled in a Medication-Assisted Treatment (MAT) program with a provider who has an established physician-patient relationship when buprenorphine is being prescribed as a medication for opioid use disorder;

(iii) patients enrolled in palliative care or hospice; or

(iv) any other programs specifically authorized by the board; and

(c) prescribing abortion inducing drugs is not permitted; as used in this chapter "abortion inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec) and methotrexate. This definition does not apply to drugs that may be known

to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as "medical", "drug induced", or "chemical abortion"; and

(8) be prohibited from establishing a physician-patient relationship pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis.

(D) A licensee, practitioner, or any other person involved in a telemedicine encounter must be trained in the use of the telemedicine equipment and competent in its operation.

(E) Notwithstanding any of the provisions of this section, the board shall retain all authority with respect to telemedicine practice as granted in Section 40-47-10(I) of this chapter.

Advanced practice registered nurses, telemedicine and telehealth services

SECTION 5. Section 40-33-34(I)(2) of the S.C. Code is amended to read:

(2) An APRN may perform medical acts via telemedicine and telehealth pursuant to a practice agreement as defined in Section 40-33-20(45) without having to be licensed to practice medicine in this State as otherwise required in Section 40-47-37(A)(4).

Physician assistants, telemedicine and telehealth services

SECTION 6. Section 40-47-935(A)(3) of the S.C. Code is amended to read:

(3) telemedicine and telehealth in accordance with the requirements of Section 40-47-37 including, but not limited to, Section 40-47-37(C)(6) requiring board authorization prior to prescribing Schedule II and Schedule III prescriptions; Section 40-47-113, approved written scope of practice guidelines, and pursuant to all physician supervisory requirements imposed by this chapter without having to be licensed to practice medicine in this State as otherwise required in Section 40-47-37(A)(4).

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211