Advance Sheet No. 2 | June 7, 2017 | Pages 59-213 Acts 15-42

2017 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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No. 15

(R39, H3150)

AN ACT TO AMEND SECTION 7-13-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SPECIAL ELECTIONS TO FILL VACANCIES IN OFFICES, SO AS TO ADJUST THE DATES ON WHICH PRIMARIES, RUNOFF PRIMARIES, AND SPECIAL ELECTIONS MUST BE HELD, AND TO REMOVE THE EXEMPTION FROM HOLDING CERTAIN SPECIAL AND GENERAL ELECTIONS; AND TO REQUIRE THE STATE ELECTION COMMISSION TO PROVIDE RANK CHOICE BALLOTS FOR A FEDERAL SPECIAL ELECTION FOR WHICH THE PRIMARY IS HELD ON MAY 2, 2017, TO INDIVIDUALS CASTING BALLOTS IN ACCORDANCE WITH THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.

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

Special elections to fill vacancies, procedures

SECTION 1. Section 7-13-190(B) of the 1976 Code, as last amended by Act 412 of 1998, is further amended to read:

"(B)(1) In partisan elections, whether seeking nomination by political party primary or political party convention, filing by these candidates shall open for the office at twelve o'clock noon on the third Friday after the vacancy occurs for a period to close eight days later at twelve o'clock noon. If seeking nomination by petition, the petitions must be submitted not later than twelve o'clock noon, sixty days prior to the election. Verification of these petitions must be made not later than twelve o'clock noon forty-five days prior to the election. If seeking nomination by political party primary or political party convention, filing with the appropriate official is the same as provided in Section 7-11-15 and if seeking nomination by petition, filing with the appropriate official is the same as provided in Section 7-11-70.

(2) A primary must be held on the eleventh Tuesday after the vacancy occurs. A runoff primary must be held on the thirteenth Tuesday after the vacancy occurs. The special election must be on the twentieth Tuesday after the vacancy occurs. If the twentieth Tuesday after the vacancy occurs is no more than sixty days prior to the general election,

the special election must be held on the same day as the general election. If the filing period closes on a state holiday, then filing must be held open through the succeeding weekday. If the date for an election falls on a state holiday, the election must be set for the next succeeding Tuesday. For purposes of this section, state holiday does not mean the general election day."

Exemption from holding certain special elections removed

SECTION 2. Section 7-13-190(E) of the 1976 Code, as added by Act 3 of 2003, is amended to read:

"(E) (Reserved)"

State Election Commission requirements

SECTION 3. (A) For a federal special election for which the primary is held on May 2, 2017, the State Election Commission must provide a rank choice ballot to an individual who casts a ballot in accordance with the Uniformed and Overseas Citizens Absentee Voting Act.

(B) This SECTION applies to any federal special election for which the primary is May 2, 2017.

Time effective

SECTION 4. SECTION 1 takes effect upon approval by the Governor and applies to elections for which candidate filings begin on or after that date.

Time effective

SECTION 5. SECTION 2 takes effect on January 1, 2018, and applies to elections for which candidate filings begin on or after that date.

Ratified the 4th day of May, 2017.

Approved the 4th day of May, 2017.

No. 16

(R25, S181)

AN ACT TO AMEND SECTION 44-56-200, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA HAZARDOUS WASTE MANAGEMENT ACT, SO AS TO MAKE THE FEDERAL SUPERFUND RECYCLING EQUITY ACT APPLICABLE TO THE ACT.

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

Applicability of Superfund Recycling Equity Act

SECTION 1. Section 44-56-200(B) of the 1976 Code is amended by adding an item at the end to read:

"(3) For purposes of this chapter, the provisions of the Superfund Recycling Equity Act, 42 U.S.C. Section 9627, shall apply."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 17

(R26, S213)

AN ACT TO AMEND CHAPTER 20, TITLE 2, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NONJUDICIAL SCREENING AND ELECTION, SO AS TO CREATE THE COLLEGE AND UNIVERSITY TRUSTEE SCREENING COMMISSION TO CONSIDER THE QUALIFICATIONS OF CANDIDATES FOR TRUSTEES TO STATE-SUPPORTED COLLEGES AND UNIVERSITIES, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND TO PROVIDE

FOR THE INVESTIGATIVE, NOMINATION, AND ELECTION PROCESSES.

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

College and University Trustee Screening Commission

SECTION 1. Chapter 20, Title 2 of the 1976 Code is amended to read:

"CHAPTER 20

Nonjudicial Screening and Election

Article 1

Nonjudicial Screening and Election Generally

Section 2-20-10. Except as otherwise provided in Sections 58-3-520 and 58-3-530, whenever an election is to be held by the General Assembly in joint session, except for members of the judiciary and for trustees elected pursuant to Article 3, a joint committee composed of eight members, four of whom must be members of the House of Representatives and four of whom must be members of the Senate, must be appointed to consider the qualifications of the candidates. Each body shall determine how its respective members are selected. Each joint committee shall meet as soon after its appointment as practicable and elect one of its members as chairman, one as secretary, and other officers as it considers desirable.

Section 2-20-15. For any office filled by election of the General Assembly for which screening is required pursuant to this chapter, except for judicial offices, the joint committee may not accept a notice of intention to seek the office from any candidate as provided by Section 2-20-10, until the clerk of the House or Senate, as appropriate, has certified that the proper notices required by this section have been published or provided or until the time for the publication of the notices has expired.

(1) If the office to be filled is from the State at large, a notice of the position vacancy must be forwarded to three newspapers of general circulation in the State with a request that it be published at least once a week for four consecutive weeks. If the office to be filled is from a congressional district, judicial circuit, or other area of this State less than

the State at large, a notice of the position vacancy must be forwarded to three newspapers of general circulation in that district, circuit, or area with a request that it be published at least once a week for four consecutive weeks.

(2) Notices of the position vacancy also must be furnished, on or before the date of the first newspaper publication provided in item (1), in writing to any person who has informed the committee that he desires to be notified of the vacancy.

(3) If the office to be filled is from a congressional district, judicial circuit, or other area of the State but not from the State at large, notices of the position vacancy also must be provided to each member of the General Assembly representing a portion of that district, circuit, or area. If it is a position filled from the State at large, each member of the General Assembly shall receive the notice.

(4) The cost of the notification process required by this section must be absorbed and paid from the approved accounts of both houses as contained in the annual general appropriations act.

Nothing in this section prevents the joint committee from providing notices other than those required by this section, which the committee believes are appropriate.

Section 2-20-20. Any person wishing to seek an office, which is elected by the General Assembly, shall file a notice of intention to seek the office with the joint committee. Upon receipt of the notice of intention, the joint committee shall begin to conduct investigation of the candidate as it considers appropriate and may in the investigation utilize the services of any agency of state government. The agency shall, upon request, cooperate fully with the joint committee.

Section 2-20-25. A person serving in an office elected by the General Assembly who is not seeking reelection must give written notice to the joint committee to review candidates for that office of his decision not to seek reelection. The notice must be given not less than thirty days before the last date for filing for that office. If the notice is given less than thirty days before the last date for filing for that office or if the notice is withdrawn and the person seeks reelection, the joint committee may reopen or extend, as appropriate, the time period for filing for the office. For purposes of this subsection, 'person serving in an office elected by the General Assembly' includes a person serving in office as an appointee to an unexpired term.

Section 2-20-30. Upon completion of the investigation, the chairman of the joint committee shall schedule a public hearing concerning the qualifications of the candidates. The hearing shall be conducted no later than two weeks prior to the date set in the election resolution for the election. Any person who desires to testify at the hearing, including candidates, shall furnish a written statement of his proposed testimony to the chairman of the joint committee. These statements shall be furnished no later than forty-eight hours prior to the date and time set for the hearing. The joint committee shall determine the persons who shall testify at the hearing. All testimony, including documents furnished to the joint committee, shall be submitted under oath and persons knowingly furnishing false information either orally or in writing shall be subject to the penalties provided by law for perjury and false swearing. During the course of the investigation, the joint committee may schedule an executive session at which each candidate, and other persons whom the committee wishes to interview, may be interviewed by the joint committee on matters pertinent to the candidate's qualification for the office to be filled. A reasonable time thereafter the committee shall render its tentative findings as to whether the candidate is qualified for the office to be filled and its reasons therefor as to each candidate.

As soon as possible after the completion of the hearing, a verbatim copy of the testimony, documents submitted at the hearing, and findings of fact shall be transcribed and published in the journals of both houses or otherwise made available in a reasonable number of copies to the members of both houses prior to the date of the scheduled election, and a copy thereof shall be furnished to each candidate.

A candidate may withdraw at any stage of the proceedings, and in this event no further inquiry, report on, or consideration of his candidacy shall be made.

Section 2-20-40. Notwithstanding the provisions of this chapter, when there is no known opposition to a candidate, and there appears to be no substantial reason for having a public hearing, whether or not the candidate be an incumbent, and no request is made by at least ten members of the House of Representatives and five members of the Senate for a public hearing, the joint committee chairman upon recommendation of the joint committee may determine that a public hearing is unnecessary and shall not be held, but no election shall be held prior to this determination.

Section 2-20-50. All records, information, and other material that the joint committee has obtained or used to make its findings of fact, except materials, records, and information presented under oath at the public hearing, shall be kept strictly confidential. After the joint committee has reported its findings of fact, or after a candidate withdraws his name from consideration, all records, information, and material required to be kept confidential shall be destroyed.

Section 2-20-60. The joint committee in the discharge of its duties may administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary in connection with the investigation of the joint committee.

No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the joint committee on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any criminal penalty based upon testimony or evidence submitted or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury and false swearing committed in so testifying.

In case of contumacy by any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge thereof within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the joint committee may issue to the person an order requiring him to appear before the joint committee to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the court may be punished as a contempt hereof. Subpoenas shall be issued in the name of the joint committee and shall be signed by the joint committee chairman. Subpoenas shall be issued to those persons as the joint committee may designate.

Section 2-20-70. The privilege of the floor in either house of the General Assembly may not be granted to any candidate, or any immediate family member of a candidate unless the family member is

serving in the General Assembly, during the time the candidate's application is pending before the joint committee and during the time his election is pending in the General Assembly.

Article 3

Joint Legislative Screening Commission

Section 2-20-310. (A) Whenever an election is to be held by the General Assembly in joint session, for trustees to state-supported colleges and universities, Wil Lou Gray Opportunity School, and the Old Exchange Building Commission, a College and University Trustee Screening Commission, composed of eight members, shall be appointed to consider the qualifications of the candidates and make nominations to the General Assembly. The commission must be composed of four members of the House of Representatives appointed by the Speaker and four members of the Senate appointed by the President. The commission shall meet as soon after its appointment as practicable and elect one of its members as chairman and other officers as it considers desirable.

(B) The commission shall adopt rules necessary to fulfill the purposes of the commission. The rules shall address, among other things:

(1) the conduct of proceedings before the commission;

(2) receipt of public statements in support of or in opposition to any of the candidates;

(3) procedure to review the qualifications of the candidates; and

(4) procedure for determining the residency of the candidates when running for an office to be filled from a congressional district, judicial circuit, or other area of the State, but not from the State at large.

(C) Five members of the commission constitute a quorum.

(D) No member of the commission shall receive any compensation for commission services, except those set by law for travel, board, and lodging expenses incurred in the performance of commission duties.

(E) The commission must use professional employees of the General Assembly for its staff, who must be made available to the commission. The costs and expenses of the commission and staff must be paid for by approved accounts of both the Senate and House of Representatives.

Section 2-20-320. (A) It is the responsibility of the commission to ascertain when vacancies are to occur on the following boards:

(1) The Citadel Board of Visitors

(2) Clemson University Board of Trustees

(3) Coastal Carolina University Board of Trustees
(4) College of Charleston Board of Trustees
(5) Francis Marion University Board of Trustees
(6) Lander University Board of Trustees
(7) The Medical University of South Carolina Board of Trustees
(8) South Carolina State University Board of Trustees
(9) The University of South Carolina Board of Trustees
(10) Winthrop University Board of Trustees
(11) Old Exchange Building Commission
(12) Wil Lou Gray Opportunity School Board of Trustees.

For purposes of this chapter, a vacancy is created when any of the following occurs: a term expires, a new seat is created, or a trustee can no longer serve due to resignation, retirement, disciplinary action, disability, or death.

(B) The commission shall announce and publicize vacancies and forthcoming vacancies. No person may concurrently seek more than one trustee seat.

Section 2-20-330. A person who desires to be considered for nomination as a trustee shall file a letter of intent to seek the office with the commission. Upon receipt of the letter of intent, the commission shall begin to conduct investigation of the candidate as it considers appropriate and may in the investigation utilize the services of any agency of state government. The agency must, upon request, cooperate fully with the commission. The commission shall announce the names of the persons who have filed a letter of intent.

Section 2-20-340. (A) Upon completion of the investigation, the chairman of the commission shall schedule a public hearing concerning the qualifications of the candidates. Any person other than the candidate who desires to testify at the hearing shall furnish a written statement of his proposed testimony to the chairman of the commission no later than two weeks prior to the date and time set for the hearing unless the commission determines that sufficient cause exists for allowing the submitting individual's testimony after the deadline. The commission shall determine the persons who may testify at the hearing. All testimony, including documents furnished to the commission, must be submitted under oath and persons knowingly furnishing false information either orally or in writing are subject to the penalties provided by law for perjury and false swearing.

(B) During the course of the investigation, the commission may schedule an executive session at which each candidate, and other persons

whom the commission wishes to interview, may be interviewed by the commission on matters pertinent to the candidate's qualification for the office to be filled.

(C)(1) A reasonable time after the completion of the investigation and public hearing, the commission shall render its tentative findings as to whether the candidate is qualified for the office to be filled and its reasons therefore as to each candidate.

(2) As soon as possible after the completion of the hearing, a verbatim copy of the testimony, documents submitted at the hearing, and findings of fact shall be transcribed and published or otherwise made available in a reasonable number of copies to members of the General Assembly prior to the date of the scheduled election. Also, a copy must be furnished to each candidate and anyone else upon request. A charge for these copies may be made as authorized in the Freedom of Information Act.

(D) A candidate may withdraw at any stage of the proceedings, and in this event, no further inquiry or consideration of his candidacy may be made.

Section 2-20-350. (A) Investigations and consideration of the commission shall include, but are not limited to, the following areas:

(1) knowledge of the institution;
(2) ethical fitness;
(3) professional and academic ability;
(4) character;
(5) reputation;
(6) physical health;
(7) mental stability;
(8) experience; and
(9) demonstrated support of and involvement in the institution.

(B) In making nominations, race, gender, national origin, and other demographic factors must be considered by the commission.

Section 2-20-360. Notwithstanding any other provision of this chapter, when there is no known opposition to a candidate, and there appears to be no substantial reason for having a public hearing, and no request is made by at least ten members of the House of Representatives and five members of the Senate for a public hearing, the commission chairman upon recommendation of the commission may determine that a public hearing is unnecessary and shall not be held, but no election shall be held prior to this determination.

Section 2-20-370. All records, information, and other material that the commission has obtained or used to make its findings of fact, except materials, records, and information presented under oath at the public hearing, must be kept strictly confidential. After the commission has reported its findings of fact, or after a candidate withdraws his name from consideration, all records, information, and material must be kept confidential and may be retained by the commission for at least six years.

Section 2-20-380. (A) The commission in the discharge of its duties may administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary in connection with the investigation of the commission.

(B) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the commission on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual may be prosecuted or subjected to any criminal penalty based upon testimony or evidence submitted or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual testifying shall not be exempt from prosecution and punishment for perjury and false swearing committed in testifying.

(C) In the case of contumacy by any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the commission may issue to the person an order requiring him to appear before the commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the court may be punished as a contempt of the commission. Subpoenas must be issued in the name of the commission and must be signed by the commission chairman. Subpoenas must be issued to those persons as the commission may designate.

Section 2-20-390. The privilege of the floor in either house of the General Assembly may not be granted to any candidate, or any immediate family member of a candidate, unless the family member is serving in the General Assembly, during the time the candidate's

application is pending before the commission and during the time his election is pending in the General Assembly.

Section 2-20-400. (A) The commission shall make nominations to the General Assembly of candidates and their qualifications for election to the boards in Section 2-20-320. It shall review the qualifications of all applicants for each trustee seat, select from the applicants, and submit the names of the qualified candidates to the General Assembly.

(B) The nominations of the commission for trustee positions are binding on the General Assembly, and it shall not elect a person not nominated by the commission. Nothing shall prevent the General Assembly from rejecting all persons nominated. In this event, the commission shall reopen the nominating process. Further nominations in the manner required by this article must be made until the office is filled.

(C) The commission shall accompany its nominations to the General Assembly with the electronic link to the screening transcript.

(D) A period of at least two weeks must elapse between the date of the commission's nominations to the General Assembly and the date the General Assembly conducts the election for the board of trustee offices.

Section 2-20-410. The General Assembly shall meet in joint session for the election to the boards in Section 2-20-320. The date and time for the joint session must be set by concurrent resolution upon the recommendation of the commission. The chairman of the commission shall announce the commission's nominees for each trustee race, and no further nominating or seconding speeches may be allowed by members of the General Assembly. In order to be elected, a candidate must receive a majority of the vote of the members of the General Assembly present and voting in joint session.

Section 2-20-420. (A) No member of the General Assembly may be elected to any board in Section 2-20-320 while he is serving in the General Assembly nor shall that person be elected to any board in Section 2-20-320 for a period of one year after he either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7-11-15.

(B) No candidate for a seat on the board of any institution listed in Section 2-20-320 or any other person may seek, directly or indirectly, the pledge of a member of the General Assembly's vote or, directly or indirectly, contact a member of the General Assembly regarding

screening for the seat until the qualifications of all candidates for that office have been determined by the commission and the commission has formally released its report as to the qualifications of all candidates for the vacancy to the General Assembly. No member of the General Assembly may offer his pledge until the qualifications of all candidates for that office have been determined by the commission and until the commission has formally released its report as to the qualifications of its nominees to the General Assembly. The formal release of the report of qualifications shall occur no earlier than forty-eight hours after the names of the nominees have been initially released to members of the General Assembly. For purposes of this section, indirectly seeking a pledge means the candidate, or someone acting on behalf of and at the request of the candidate, requesting a person to contact a member of the General Assembly on behalf of the candidate before nominations for that office are formally made by the commission. The prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate's qualifications.

(C) No member of the General Assembly may trade anything of value, including pledges to vote for legislation or for other candidates, in exchange for another member's pledge to vote for a candidate for a seat on the board of any institution listed in Section 2-20-320.

(D) Violations of this section may be considered by the commission when it considers a candidate's qualifications. Violations of this section by members of the General Assembly must be reported by the commission to the House or Senate Ethics Committee, as applicable. A violation of this section is a misdemeanor and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than ninety days. Cases tried under this section may not be transferred from general sessions court pursuant to Section 22-3-545."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 18

(R27, S342)

AN ACT TO AMEND SECTION 40-22-295, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENGINEER IMMUNITY FOR CERTAIN VOLUNTARY PROFESSIONAL SERVICES RENDERED AT THE SCENES OF DECLARED STATE OR NATIONAL EMERGENCIES AT THE REQUEST OF THE GOVERNOR, SO AS TO EXTEND THE EXEMPTION TO SURVEYORS; AND TO AMEND SECTION 40-22-280, AS AMENDED, RELATING TO THE EXEMPTION OF ELECTRIC COOPERATIVE EMPLOYEES FROM THE STATE REGULATION OF ENGINEERS AND SURVEYORS IN CERTAIN CIRCUMSTANCES, SO AS TO REVISE THE CLASSIFICATION OF EMPLOYEES TO WHOM THE EXEMPTION IS APPLICABLE AND TO CORRECT AN OBSOLETE REFERENCE.

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

Emergency service immunities extended to surveyors

SECTION 1. Section 40-22-295 of the 1976 Code, as added by Act 280 of 2012, is amended to read:

"Section 40-22-295. (A) A licensed engineer or surveyor who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering services or surveying services at the scene of a declared national or state emergency, at the request of the Governor, is not liable for any personal injury, wrongful death, property damage, or other loss caused by the licensed engineer or surveyor's acts, errors, or omissions in performing the engineering or surveying services for a property, structure, building, piping, or other engineered system, either publicly or privately owned. Immunity from liability under this section is only effective as to services rendered during the thirty days following the event that gave rise to the declared state of emergency.

(B)(1) Any licensed engineer or surveyor appointed pursuant to this section must not be held liable for any civil damages as a result of the providing of requested engineering or surveying services unless the damages result from providing, or failing to provide engineering or surveying services if the consequences of the services provided are

proven by a preponderance of the evidence to be the result of gross negligence or recklessness.

(2) This section applies if the engineer or surveyor does not receive payment other than as allowed in Section 8-25-40 for the appointed services and prescribed duties. However, if the engineer or surveyor is an employee of the State, the engineer or surveyor may continue to receive compensation from his employer.

(C) This section does not provide immunity from liability to persons providing services pursuant to Section 40-22-75."

Electric cooperative employee exemption revised

SECTION 2. Section 40-22-280(A)(6) of the 1976 Code, as last amended by Act 259 of 2016, is further amended to read:

"(6) the work or practice of a regular employee of an electric cooperative, when rendering to the employing cooperative engineering service in connection with its facilities which are subject to regulations and inspections of the Rural Utilities Service, if the person is actually and exclusively employed. Engineering work not related to the exemption in this item where the safety of the public is directly involved must be accomplished by or under the responsible charge of a professional engineer;"

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 19

(R28, S344)

AN ACT TO AMEND SECTION 56-1-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONTENTS OF AN APPLICATION FOR A DRIVER'S LICENSE OR PERMIT, SO AS TO PROVIDE THAT AN APPLICATION

FOR A DRIVER'S LICENSE OR PERMIT MUST ALLOW AN APPLICANT WHO HAS BEEN MEDICALLY DIAGNOSED WITH AUTISM TO VOLUNTARILY DISCLOSE THAT HE IS AUTISTIC, WHICH MUST BE INDICATED BY A SYMBOL DESIGNATED BY THE DEPARTMENT ON THE DRIVER'S LICENSE AND CONTAINED IN THE DRIVER'S RECORD; AND TO AMEND SECTION 56-1-3350, AS AMENDED, RELATING TO THE ISSUANCE OF SPECIAL IDENTIFICATION CARDS BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE THAT AN APPLICANT FOR A SPECIAL IDENTIFICATION CARD WHO WISHES TO OBTAIN A CARD THAT INDICATES THAT HE IS AUTISTIC MUST PROVIDE DOCUMENTATION OF HIS CONDITION WHICH MUST BE INDICATED BY A SYMBOL DESIGNATED BY THE DEPARTMENT ON HIS SPECIAL IDENTIFICATION CARD.

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

Autism designation placed on a driver's license

SECTION 1. Section 56-1-80(A) of the 1976 Code, as last amended by Act 277 of 2010, is further amended to read:

"Section 56-1-80. (A) An application for a driver's license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the

department on the driver's license and contained in the driver's record; and

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35)."

Autism designation placed on a special identification card

SECTION 2. Section 56-1-3350(A) of the 1976 Code, as last amended by Act 147 of 2012, is further amended to read:

"Section 56-1-3350. (A) Upon application by a person five years of age or older, who is a resident of South Carolina, the department shall issue a special identification card as long as the:

(1) application is made on a form approved and furnished by the department;

(2) applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth; and

(3) applicant, who wishes to obtain a special identification card that indicates the applicant is autistic, complies with subsections (A)(1) and (2) and provides documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35). The special identification requested must be indicated by a symbol designated by the department on the person's special identification card."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 20

(R36, S530)

AN ACT TO AUTHORIZE THE PELHAM-BATESVILLE FIRE DISTRICT, WHICH PROVIDES FIRE PROTECTION SERVICES TO PORTIONS OF GREENVILLE AND SPARTANBURG COUNTIES, TO ISSUE BONDS TO FINANCE CERTAIN NECESSARY CAPITAL IMPROVEMENTS AND TO PROVIDE FOR THE AMOUNT AND PROCESS THROUGH WHICH THE BONDS MAY BE ISSUED.

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

Findings

SECTION 1. The Pelham-Batesville Fire District (district) was established by the South Carolina General Assembly pursuant to the provisions of Act 554 of 1971, as amended (act). The implementation of the act was contingent upon the results of a referendum to create the district. Thereafter, a referendum was held on September 14, 1971, which resulted favorably to the creation of the district. The district serves portions of Greenville County and Spartanburg County for the purpose of providing fire protection services. Since its creation, the area of the district has grown both industrially and commercially and now includes numerous manufacturing facilities as well as corporate headquarters of national and international companies along and beyond the corridor of I-85 between the cities of Greenville and Spartanburg.

In order to adequately serve the residents, commercial establishments and industrial facilities, the board of fire control, the governing body of the district (fire board) has determined that certain capital improvements must be undertaken as provided in SECTION 2 (improvements). Due to the fact that the district is not a governmental entity with its boundaries located in only one county but is a fully integrated political unit located both in Greenville and Spartanburg counties, neither the County Council of Greenville County nor the County Council of Spartanburg has the individual authority to authorize the fire board to issue general obligation bonds. Thus, because of its regional nature, the fire board has determined to ask the General Assembly to authorize the issuance of general obligation bonds of the district in a specific amount for specific purposes.

Bonds authorized

SECTION 2. The district is hereby authorized to issue general obligation bonds (bonds) in the principal amount of $6,500,000 in a single series or multiple series, in accordance with the remaining sections of this act. The proceeds shall be used to defray the costs of the improvements to include, as follows:

(1) the development, construction, and outfitting of an approximately 26,000 square foot headquarters and fire station building of the district, to include public access areas for meeting facilities, training, and community events; office and administrative areas; crew quarters; apparatus bays and apparatus and facility support areas; and furniture, fixtures, and equipment, the plan of which shall provide sufficient space, facilities, and equipment to satisfy the current and projected future needs of the district as necessary to ensure the district is capable of meeting the standards of modern fire and rescue facilities; and

(2) the costs of issuance of the bonds.

Public hearing on issuance

SECTION 3. A public hearing or hearings shall be held upon the question of the issuance of the bonds of the district by the governing bodies of both Spartanburg and Greenville counties at such time and place as they may prescribe. In the event public hearings are held under the provisions of Article 5, Chapter 11, Title 6 of the 1976 Code, as amended, such hearings shall meet the requirements to hold the public hearings provided for herein.

Notice

SECTION 4. A notice of each public hearing shall be published once a week for three successive weeks in a newspaper or newspapers, as necessary, of general circulation in Greenville County and in Spartanburg County. Such notice shall state:

(1) the time and date of each such public hearing, which shall be not less than sixteen days following the first publication of the notice;

(2) the place of each such public hearing;

(3) the proposed principal amount of bonds to be issued by the district;

(4) a statement setting forth the purpose for which the proceeds of such bonds are to be expended; and

(5) a brief summary of the reasons for the issuance of such bonds and the method by which the principal and interest of such bonds are to be paid.

Conduct of hearing

SECTION 5. Such public hearing or hearings shall be conducted publicly and both proponents and opponents of the issuance of the bonds shall be given full opportunity to be heard.

Use of proceeds hearing, decision on issuance

SECTION 6. Following the holding of the public hearing or hearings by the governing bodies of Greenville County and Spartanburg County, the fire board shall hold a public hearing in order to discuss the use of the proceeds of the bonds, the estimated annual principal and interest requirements for the proposed bonds and the method by which the bonds will be paid. A notice of such public hearing shall be published once not less than sixteen days prior to the public hearing in a newspaper of general circulation in Greenville County and in a newspaper of general circulation in Spartanburg County and except for requiring only one notice to be published, shall state the same particulars as required by the notice published pursuant to SECTION 4. Subsequent to this public hearing, the fire board, by public vote, shall determine whether the bonds are to be issued. If the bonds are to be issued, the fire board shall determine by resolution the manner in which the bonds shall be issued, all in accordance with the remaining sections of this act.

Maturity

SECTION 7. All bonds issued pursuant to this act shall mature in such annual series or installments as the fire board shall prescribe, except that the first maturing bonds shall mature not later than five years from the date of their original issuance. No bond shall mature later than forty years from the date of its original issuance.

The bonds shall be dated as of the date of delivery and shall bear interest from their dated date. The resolution of the fire board approving the bonds (resolution) shall state: (1) whether the bonds will be issued in fully registered form registered in the name of the purchaser thereof or under a book-entry only system in accordance with the provisions of SECTION 18; (2) the denomination of the bonds, and the interest payment dates of the bonds; (3) whether to award the bonds on a net

interest cost or true interest cost basis; (4) whether, and in what manner, the bonds may be subject to optional and/or mandatory sinking fund redemption; and (5) such other matters regarding the bonds as are necessary, desirable, or appropriate to effect the issuance thereof.

Notice of adoption

SECTION 8. Subsequent to the adoption of the resolution, a notice of such adoption shall be published in a newspaper or newspapers, as necessary, of general circulation in Greenville County and in Spartanburg County. The resolution and the validity of the bonds authorized thereby shall not be open to question except by a suit or other proceeding instituted within twenty (20) days from the date of the publication.

Registrar and paying agent

SECTION 9. Subject to the last sentence of this section, as long as any of the bonds remain outstanding, there shall be a registrar and paying agent, each of which shall be a financial institution maintaining corporate trust offices where: (1) the bonds may be presented for registration of transfers and exchanges, (2) notices and demands to or upon the district in respect of the bonds may be served, and (3) the bonds may be presented for payment, exchange, and transfer. Initially, such financial institution designated by the fire board shall act as both registrar and paying agent. In the event the bonds are issued in physical form payable to the successful bidder at the sale of the bonds, the Treasurer of Greenville County shall serve as registrar and paying agent for the bonds.

Redemption

SECTION 10. Any bonds issued pursuant to this act may be issued with a provision for their redemption prior to their maturity at par and accrued interest, plus such redemption premium as may be prescribed by the fire board, but no bond shall be redeemable before maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of the bonds, provisions shall be made specifying the manner of redemption and the notice thereof that must be given.

Payability

SECTION 11. The bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Interest

SECTION 12. The bonds issued pursuant to this act shall bear interest at a rate or rates determined by the fire board.

Execution

SECTION 13. (A) The bonds shall be executed in the name and on behalf of the district by the manual or facsimile signature of the chairman of the fire board, with its official seal impressed, imprinted, or otherwise reproduced thereon, and attested by the manual or facsimile signature of the secretary of the fire board. The bonds may bear the signature of any person who shall have been such an officer authorized to sign the bond at the time such bond was so executed, and shall bind the district notwithstanding the fact that his or her authorization may have ceased prior to the authentication and delivery of the bond.

(B) Each bond shall not be valid or obligatory for any purpose nor shall it be entitled to any right or benefit hereunder unless there shall be endorsed on the bond a certificate of authentication in the form set forth in the resolution, duly executed by the manual signature of the registrar, and such certificate of authentication upon any bond executed on behalf of the district shall be conclusive evidence that the bond so authenticated has been duly issued hereunder and that the holder thereof is entitled to the benefit of the terms and provisions of the resolution authorizing the issuance of the bonds.

Sale of bonds

SECTION 14. The bonds shall be sold at public sale, after advertisement of a notice of sale, which may be in summary form, in The State Newspaper or in a financial publication published in the City of New York. The advertisement must appear not less than seven days prior to the date set for the sale. The advertisement may set as a sale date a fixed date not less than seven days following publication, or the advertisement may advise that the sale date will be at least seven days following the date of publication. If a fixed date of sale is not set forth

in the notice of sale published in accordance with this section, the date selected for the receipt of bids must be disseminated via an electronic information service at least forty-eight hours prior to the time set for the receipt of the bids. If a fixed date of sale is set forth in the notice of sale, it may be modified by notice disseminated via an electronic information service at least forty-eight hours prior to the time set for the receipt of bids on the modified date of sale. No bonds may be sold pursuant to this act on a date that is more than sixty days after the date of the most recent publication of the notice of sale. Bids for the purchase of bonds may be received in such form as determined by the fire board.

Full faith, credit, and taxing power of district pledged

SECTION 15. For the payment of the principal and interest of all bonds issued pursuant to this act, as they respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the district shall be irrevocably pledged, and there shall be levied annually by the auditors of Greenville County and Spartanburg County and collected by the treasurers of Greenville County and Spartanburg County, in the same manner as county taxes are levied and collected, a tax without limit on all taxable property in the district sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor. The taxes levied and collected for the bonds shall be subject to a statutory lien in favor of the purchaser of the bonds. Each bond shall contain a statement on the face thereof specifying the sources from which payment is to be made and shall state that the full faith, credit, and taxing power of the district are pledged therefor.

Tax levied for payment

SECTION 16. The auditors of Greenville County and Spartanburg County and the treasurers of Greenville County and Spartanburg County shall each be notified of the issuance of the bonds or each series of bonds, as the case may be, and directed to levy and collect, upon all taxable property in the district an annual tax sufficient to meet the payment of the principal installment and interest on said bonds, as the same respectively mature, and to create such sinking fund as may be necessary therefor.

Exempt from taxation

SECTION 17. The bond payments shall be exempt from all State, county, municipal, school district, and all other taxes or assessments of the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer, or certain franchise taxes.

Form of bonds

SECTION 18. (A) Notwithstanding anything to the contrary herein, the fire board may determine that the bonds will be issued in physical form to the purchaser or issued under the book-entry only system in fully registered form, registered in the name of a securities depository nominee (the securities depository nominee), which will act as initial securities depository (a securities depository) for the bonds. Notwithstanding anything to the contrary herein, so long as the bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the bonds will be effected pursuant to rules and procedures established by such securities depository.

(B) As long as a book-entry system is in effect for the bonds, the securities depository nominee will be recognized as the holder of the bonds for the purposes of: (i) paying the principal, interest, and premium, if any, on such bonds, (ii) selecting the portions of such bonds to be redeemed, if bonds are to be redeemed in part, (iii) giving any notice permitted or required to be given to bondholders under the resolution, (iv) registering the transfer of bonds, and (v) requesting any consent or other action to be taken by the holders of such bonds, and for all other purposes whatsoever, and the district shall not be affected by any notice to the contrary.

(C) The district shall not have any responsibility or obligation to any participant, any beneficial owner or any other person claiming a beneficial ownership in any bonds which are registered to a securities depository nominee under or through the securities depository with respect to any action taken by the securities depository as holder of such bonds.

(D) The paying agent shall pay all principal, interest, and premium, if any, on bonds issued under a book-entry system, only to the securities depository or the securities depository nominee, as the case may be, for such bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the principal of and premium, if any, and interest on such bonds.

(E) In the event that the district determines that it is in the best interest of the district to discontinue the book-entry system of transfer for the bonds, or that the interests of the beneficial owners of the bonds may be adversely affected if the book-entry system is continued, then the district shall notify the securities depository of such determination. In such event, the district shall appoint the Treasurer of Greenville County as registrar and paying agent, which shall authenticate, register and deliver physical certificates for the bonds in exchange for the bonds registered in the name of the securities depository nominee.

(F) In the event that the securities depository for the bonds discontinues providing its services, the district shall either engage the services of another securities depository or arrange with the registrar and paying agent for the delivery of physical certificates in the manner described in subsection (E).

(G) In connection with any notice or other communication to be provided to the holders of bonds by the district or by the registrar and paying agent with respect to any consent or other action to be taken by the holders of bonds, the district or the registrar and paying agent, as the case may be, shall establish a record date for such consent or other action and give the securities depository nominee notice of such record date not less than fifteen days in advance of such record date to the extent possible.

Proceeds

SECTION 19. The proceeds derived from the sale of any bonds issued pursuant to this act shall be paid to the Treasurer of Greenville County, to be deposited in a bond account fund for the district, and shall be expended and made use of by the fire board as follows:

(1) Any accrued interest shall be applied to the payment of the first installment of interest to become due on such bonds.

(2) Any premium shall be applied to the payment of the first installments of principal of, and/or interest on the bonds or paid into the bond account fund described above.

(3) The remaining proceeds shall be used to pay the cost of acquiring and constructing the improvements specified in SECTION 1 and to pay the costs of issuance of the bonds, and, if the fire board shall so prescribe, to fund the interest to become due on the bonds issued under this act during but not exceeding the first three years following the date of the bonds.

(4) If any balance remains, it shall be held by the Treasurer of Greenville County in a special fund or otherwise transferred to the

paying agent and used to effect the retirement of the bonds authorized hereby.

Refunding

SECTION 20. The district may utilize the provisions of Article 5, Chapter 15, Title 11 of the 1976 Code, as amended, to effect the refunding or, pursuant to Section 11-21-20 of the 1976 Code, as amended, the advance refunding of the bonds issued pursuant hereto.

Prior acts superceded

SECTION 21. Any prior act, or provision contained within a prior act, of the General Assembly related to bonding by the district that is in conflict with this act, or any provision contained within this act, shall be superseded by the provisions contained herein.

Time effective

SECTION 22. This act takes effect upon approval by the Governor.

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 21

(R37, S617)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 142 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL ISSUE “UNIVERSITY OF SOUTH CAROLINA 2017 WOMEN’S BASKETBALL NATIONAL CHAMPIONS” SPECIAL LICENSE PLATES.

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

Special license plates

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 142

'University of South Carolina 2017 Women's Basketball National Champions' Special License Plates

Section 56-3-14210. (A) The Department of Motor Vehicles shall issue 'University of South Carolina 2017 Women's Basketball National Champions' special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number '1' for the 'University of South Carolina 2017 Women's Basketball National Champions' license plate is reserved for the University of South Carolina Women's Basketball Coach."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 22

(R38, H3034)

AN ACT TO AMEND SECTION 59-112-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "COVERED INDIVIDUAL" FOR THE PURPOSES OF PROVIDING IN-STATE TUITION AND FEE RATES FOR CHILDREN AND SPOUSES OF VETERANS AND ACTIVE DUTY MILITARY PERSONNEL, SO AS TO PROVIDE THAT THE DEFINITION INCLUDES A CHILD OR SPOUSE ENROLLING WITHIN THREE YEARS OF A VETERAN'S DISCHARGE PROVIDED THAT THE CHILD OR SPOUSE IS ENTITLED TO AND RECEIVING ASSISTANCE UNDER SECTION 3319, TITLE 38 OF THE UNITED STATES CODE, A CHILD OR SPOUSE OF ACTIVE DUTY MILITARY PERSONNEL WHO IS ENTITLED TO AND RECEIVING ASSISTANCE UNDER SECTION 3319, TITLE 38 OF THE UNITED STATES CODE, AND A CHILD OR SPOUSE OF ACTIVE DUTY MILITARY PERSONNEL KILLED IN THE LINE OF DUTY WHO IS ENTITLED TO AND RECEIVING ASSISTANCE UNDER SECTION 3311(b)(9), TITLE 38 OF THE UNITED STATES CODE; AND TO PROVIDE ELIGIBILITY FOR CONTINUOUS ENROLLMENT BEYOND THE THREE YEAR INITIAL ELIGIBILITY PERIOD IN CERTAIN CIRCUMSTANCES.

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

'Covered individual' defined, eligibility period, categories

SECTION 1. Section 59-112-50(C)(2) and (4) of the 1976 Code, as added by Act 11 of 2015, is amended to read:

"(2) For purposes of this subsection, a covered individual is defined as:

(a) a veteran who served ninety days or longer on active duty in the Uniformed Service of the United States, their respective Reserve forces, or the National Guard and who enrolls within three years of discharge;

(b) a person who is entitled to and receiving assistance under Section 3319, Title 38 of the United States Code by virtue of the person's

relationship to the veteran described in subitem (a) who enrolls within three years of the veteran's discharge;

(c) a person using transferred benefits under Section 3319, Title 38 of the United States Code while the transferor is on active duty in the Uniformed Service of the United States, their respective Reserve forces, or the National Guard; or

(d) a person who is entitled to and receiving assistance under Section 3311(b)(9), Title 38 of the United States Code.

(4) At the conclusion of the applicable three year period in subsection (C)(2)(a) or (C)(2)(b), a covered individual shall remain eligible for in-state rates as long as he remains continuously enrolled in an in-state institution or transfers to another in-state institution during the term or semester, excluding summer terms, immediately following his enrollment at the previous in-state institution. In the event of a transfer, the in-state institution receiving the covered individual shall verify the covered individual's eligibility for in-state rates with the covered individual's prior in-state institution. It is the responsibility of the transferring covered individual to ensure all documents required to verify both the previous and present residency decisions are provided to the in-state institution."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 23

(R41, H3221)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-20-90 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO DEVELOP AND ADOPT A STATEWIDE PROGRAM FOR IDENTIFYING FISCAL PRACTICES AND BUDGETARY CONDITIONS THAT, IF UNCORRECTED, COULD

COMPROMISE THE FISCAL INTEGRITY OF A SCHOOL DISTRICT AND FOR ADVISING THE DISTRICT ON HOW TO TAKE APPROPRIATE CORRECTIVE ACTIONS, TO ESTABLISH THREE LEVELS OF FISCAL AND BUDGETARY CONCERNS WITH CONDITIONS AND REQUIREMENTS ASSOCIATED WITH EACH, AND TO DIRECT THE DEPARTMENT TO PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION; AND BY ADDING SECTION 59-20-95 SO AS TO REQUIRE THE STATE AUDITOR TO ADOPT THE STATEWIDE PROGRAM CREATED BY THE DEPARTMENT OF EDUCATION IN SECTION 59-20-90 AND USE IT TO IDENTIFY FISCAL PRACTICES AND BUDGETARY CONDITIONS THAT, IF UNCORRECTED, COULD COMPROMISE THE FISCAL INTEGRITY OF A STATE AGENCY THAT IS ALSO A LOCAL EDUCATION AGENCY AND TO ADVISE THE STATE AGENCY THAT IS ALSO A LOCAL EDUCATION AGENCY ON HOW TO TAKE APPROPRIATE CORRECTIVE ACTIONS, AND TO PROVIDE EXCEPTIONS TO ENABLE THE STATE AUDITOR TO DIRECT THE DEPARTMENT TO IMMEDIATELY ASSUME EMERGENCY MANAGEMENT OF THE STATE AGENCY THAT IS ALSO A LOCAL EDUCATION AGENCY FOR WHICH IT HAS MADE A DECLARATION OF FISCAL CAUTION OR FISCAL EMERGENCY, TO CONTINUE THIS EMERGENCY MANAGEMENT OF THE LOCAL EDUCATION AGENCY UNTIL THE STATE AUDITOR RELEASES THE STATE AGENCY THAT IS ALSO A LOCAL EDUCATION AGENCY FROM THE DECLARATION OF FISCAL CAUTION OR FISCAL EMERGENCY, AS APPLICABLE, AND TO DIRECT THE STATE AUDITOR TO PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

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

School district fiscal practices of concern, actions authorized

SECTION 1. A. Chapter 20, Title 59 of the 1976 Code is amended by adding:

"Section 59-20-90. (A) The State Department of Education shall work with district superintendents and finance officers to develop and adopt a statewide program with guidelines for:

(1) identifying fiscal practices and budgetary conditions that, if uncorrected, could compromise the fiscal integrity of a school district; and

(2) advising a district identified under item (1) to take appropriate corrective actions.

(B) The program must include a series of criteria that the department shall use to establish three escalating levels of fiscal and budgetary concern, which must be 'fiscal watch', 'fiscal caution', and 'fiscal emergency'.

(C) 'Fiscal watch' is the first level and lowest level of concern.

(1) The State Superintendent of Education shall declare fiscal watch if:

(a) he determines, within his discretion, that a district declared to be in fiscal watch has not acted reasonably to eliminate or correct practices or conditions that prompted the declaration and has determined that a state of fiscal watch is necessary to prevent further decline; and

(b) there is any type of ongoing, related investigation by any state or federal law enforcement agency or any other investigatory agency of the State.

(2) The State Superintendent of Education may declare fiscal watch if:

(a) an independent, outside auditing firm notifies the department that the district is not operating under generally accepted accounting principles; or

(b) the district does not maintain a general reserve fund of at least one month of general fund operating expenditures of the previous two completed fiscal years.

(3)(a) Within sixty days after the State Superintendent of Education declares a fiscal watch for a district, the district board shall submit a financial recovery plan to the department.

(b) The State Superintendent shall evaluate and accept or reject the plan within thirty days after receipt of the financial recovery plan. If he disapproves the plan, he shall recommend modifications that would make the plan acceptable.

(c) A district shall not implement a recovery plan unless approved by the State Superintendent.

(d) The department shall provide technical assistance.

(e) The district board may amend the plan at any time with the State Superintendent's approval.

(f) The district board shall submit an updated recovery plan annually until the district is released from the fiscal watch.

(g) The State Superintendent shall accept or reject an updated plan no later than the anniversary of the date on which the first plan was approved.

(4) A district under a declaration of fiscal watch must not be released from fiscal watch in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal watch.

(5) The district board of trustees may appeal a declaration of a fiscal watch to the State Board of Education within ten days of the declaration and the state board must hold a hearing on the appeal within thirty days after the filing of the appeal. However, the district shall continue to work with the department in the manner provided by this subsection when a fiscal watch is declared pending determination of the appeal.

(D) 'Fiscal caution' is the second level of concern, and is the intermediate level of concern.

(1)(a) After consulting with the local board of education, the State Superintendent may declare fiscal caution if:

(i) the district's audits have been reviewed and there are conditions observed that could result in a declaration of fiscal emergency; or

(ii) the outside, independent auditing firm conducting the district's audit reports to the State Superintendent that any conditions or practices exist that could result in a declaration of fiscal emergency.

(b) The written communication, verbal communication, or both, between the department and the school district constitutes the consultation with the local board of education required in subitem (a).

(2) The State Superintendent shall declare a school district to be in a state of fiscal caution if:

(a) upon review of the district's annual audit, the department determines financial practices occurring that are outside of acceptable accounting standards exist;

(b) a district submits an annual audit more than sixty days after the December first deadline as provided in Section 59-17-100;

(c) the department discovers any other fiscal practices or conditions that could lead to a declaration of fiscal emergency through the examination of a school district's past two years' audits;

(d) the department reviews a district's annual audit and determines the district is not maintaining the mandatory minimum of one month of general fund operating expenditures in its general reserve fund;

(e) an outside, independent auditing firm declares that a school district's financial records are unauditable;

(f) the department identifies significant deficiencies, material weaknesses, direct and material legal noncompliance or management letter comments which, in the opinion of the department, the aggregate effect of the reported issues has a significant effect on the financial condition of the district; or

(g) there is an ongoing investigation being conducted by any federal or state agency, law enforcement or otherwise, with regard to the district's finances or local board of trustees.

(3) The State Superintendent shall notify the district in writing that a declaration of fiscal caution for the district is pending and request a written proposal for correcting the conditions that led to fiscal caution and for preventing further fiscal difficulties that could lead to fiscal caution within at least ten business days before the effective date of the declaration. The notice must be sent to the board chairman, district superintendent, and chief financial officer, and must include, but not be limited to, an explanation of the circumstances that led to the decision and if there are any steps the school district could take to avoid the declaration.

(4) While a district is under a declaration of fiscal caution:

(a) the department shall:

(i) visit and inspect the district;

(ii) provide technical assistance in implementing proposals; and

(iii) make recommendations concerning the board's proposals;

(b) the department may order a performance audit of the district at the department's expense and later require full reimbursement from the district, which the district shall provide within sixty days after the request is made; and

(c) the district must:

(i) be required to provide written proposals for discontinuing or correcting the practices and conditions that led to the declaration of fiscal caution to the department; and

(ii) be given approximately sixty days to provide a written proposal, which the department may extend an additional thirty days at the request of the district, provided that no additional extension may be granted under any circumstances.

(5) If the State Superintendent finds a district has not made reasonable proposals or taken action to correct the practices or conditions that led to the declaration, he may report to the State Board of Education that a declaration of fiscal emergency is necessary to prevent further fiscal decline.

(6) A district under a declaration of fiscal caution must not be released from fiscal caution in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal caution.

(E) The third and most severe level of concern is 'fiscal emergency'. The State Superintendent of Education shall declare fiscal emergency if:

(1) a district under fiscal caution fails to submit an acceptable recovery plan within one hundred twenty days or fails to submit an updated recovery plan when required;

(2) the department finds that a district under fiscal caution is not complying with an original or updated recovery plan and determines that fiscal emergency is necessary to prevent further decline;

(3) a district is at risk of defaulting on any type of debt, to include, but not be limited to, tax anticipation notes, general obligation bonds, or lease-purchase installment agreements;

(4) a district has previously been under fiscal watch, fiscal caution, or any combination of fiscal watch and fiscal caution for three fiscal years collectively, regardless of whether these three years are continuous; or

(5) he determines that a declaration of fiscal emergency is necessary to correct the district's fiscal problems and to prevent further fiscal decline.

(6)(a) While a district is under a declaration of fiscal emergency, the department shall:

(i) visit and inspect the district;

(ii) provide technical assistance in implementing proposals; and

(iii) make recommendations concerning the district recovery plans.

(b) In addition to the provisions of subitem (a), while a district is under a declaration of fiscal emergency, the district must:

(i) be required to provide written proposals for discontinuing or correcting the practices and conditions that led to the declaration of fiscal emergency to the department; and

(ii) be given approximately sixty days to provide a written proposal, which the department may extend for an additional thirty days at the request of the district, provided that no additional extension may be granted under any circumstances.

(7) If the State Superintendent finds a district has not made reasonable proposals or taken action to correct the practices or conditions that led to the declaration, the Superintendent may make a recommendation to the State Board of Education that the department take over financial operations of the district for the fiscal year in which a fiscal emergency is declared as part of the technical assistance offered to the district. Upon approval of the recommendation by the State Board of Education, the department may maintain financial operations until the district is released from a fiscal emergency.

(8) A district under a declaration of fiscal emergency must not be released from fiscal emergency in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal emergency.

(F) The provisions of this section are supplemental to other provisions of law, but to the extent the provisions of this section conflict with another provision of law, the provisions of this section must prevail.

(G) The provisions of this section also apply to the statewide charter school district."

B. The State Board of Education shall promulgate regulations to carry out the provisions of this section.

Fiscal practices of local education agencies of concern, actions authorized

SECTION 2.A. Chapter 20, Title 59 of the 1976 Code is amended by adding:

"Section 59-20-95. (A) For purposes of this section, 'LEA' means a state agency that is also a Local Education Agency.

(B) The State Auditor shall adopt the statewide program created by the State Department of Education in Section 59-20-90, and shall use it to identify fiscal practices and budgetary conditions that, if uncorrected, could compromise the fiscal integrity of a state agency that is also an LEA, and advise the LEA to take appropriate corrective actions.

(C)(1) This program must replicate the procedures of Section 59-20-90, except that:

(a) the State Auditor shall act with respect to an LEA as the department acts toward a school district; and

(b) in a declaration of fiscal caution, the State Auditor may waive the provisions of Section 59-20-90(D)(3), (4), (5), and (6) and immediately direct the department to assume emergency management of the LEA, which may continue until the State Auditor releases the LEA from the declaration of fiscal caution; and

(c) in a declaration of fiscal emergency, the State Auditor immediately shall direct the department to assume emergency management of the LEA, which must continue until the State Auditor releases the LEA from the declaration of fiscal emergency.

(2) The department assumes full management of an LEA at the moment that written notice is sent from the State Auditor to the LEA by certified mail, return receipt requested."

B. The State Auditor shall promulgate regulations to carry out the provisions of this section.

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 24

(R43, H3441)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 42-9-450 SO AS TO PROVIDE WORKERS' COMPENSATION PAYMENTS BY EMPLOYERS' REPRESENTATIVES MUST BE MADE BY CHECKS OR ELECTRONIC PAYMENT SYSTEMS.

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

Employer's representatives to pay by check or electronic payment systems

SECTION 1. Chapter 9, Title 42 of the 1976 Code is amended by adding:

"Section 42-9-450. An employer's representative shall make payment of compensation by means of check or electronic payment system including, but not limited to, an electronic funds transfer, a direct deposit, debit card, or similar payment system if such payments are made in accordance with the policies, procedures, or regulations as provided by the commission."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 25

(R44, H3792)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-23-245 SO AS TO REQUIRE MINIMUM NUMBERS OF TOILETS AND LAVATORIES AT MIDDLE SCHOOL STADIUMS AND HIGH SCHOOL STADIUMS BASED ON GENDER AND SEATING CAPACITY, AND TO PROVIDE THESE STANDARDS APPLY NOTWITHSTANDING OTHERWISE APPLICABLE BUILDING CODES AND PLUMBING CODES.

Whereas, South Carolina adopts building codes to maintain reasonable and consistent standards of construction in buildings and other structures in the State in order to protect the public health, safety, and welfare of its citizens; and

Whereas, the South Carolina General Assembly finds current building codes and plumbing codes that specify the minimum number of water closets and lavatories for football stadiums causes an undue financial burden on our public schools, and consequently must be revised. Now, therefore,

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

Fixture ratios based on gender and facility capacity established, exempted from other building and plumbing codes

SECTION 1. Article 2, Chapter 23, Title 59 of the 1976 Code is amended by adding:

"Section 59-23-245. (A) Notwithstanding applicable national, state, or local building codes, plumbing codes, school building regulations, or other provisions of law relating to the minimum numbers of required plumbing fixtures for stadiums in middle schools and high schools based on occupancy and use, the minimum number of:

(1) toilets for male restrooms required for a stadium are:

(a) one per two hundred for the first fifteen hundred occupancy;

(b) one per two hundred fifty for the next fifteen hundred occupancy; and

(c) one per five hundred for the remainder occupancy;

(2) toilets for female restrooms required for a stadium are:

(a) one per one hundred for the first one thousand five hundred twenty occupancy;

(b) one per one hundred fifty for the next one thousand five hundred twenty occupancy; and

(c) one per three hundred for the remainder occupancy;

(3) lavatories for male restrooms required for a stadium are one per three hundred; and

(4) lavatories for female restrooms required for a stadium are one per three hundred.

(B) The provisions of this section apply to all middle school stadiums and high school stadiums built or renovated after the effective date of this act and all middle school stadiums and high school stadiums in existence or in the process of being planned, constructed, or renovated on the effective date of this act. However, a stadium that is being renovated but is not replacing existing seating or adding new seating may not be required to add water closets or lavatories to conform to the provisions of this section or any other applicable building code,

plumbing code, school building regulations, or another provision of law. For a stadium that is being renovated to replace existing or add new seating, the plumbing fixtures requirements apply only to the number of new seats being added or replaced.

(C) To determine the occupant load of each sex, the total occupant load must be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type must be applied to the occupant load of each sex in accordance with subsection (A). Fractional numbers resulting from applying the fixture ratios must be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy first must be summed and then rounded up to the next whole number. However, the total occupant load must not be required to be divided in half where approved statistical data indicates a distribution of the sexes of other than fifty percent of each sex."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and is applicable to any existing facilities and future facilities.

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 26

(R45, H3936)

AN ACT TO AMEND SECTION 7-7-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN CHARLESTON COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THE CHARLESTON COUNTY VOTING PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO STRIKE OBSOLETE REFERENCES TO THE OFFICE OF RESEARCH AND STATISTICS.

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

Charleston County voting precinct map number redesignated

SECTION 1. Section 7-7-140(B) of the 1976 Code, as last amended by Act 43 of 2007, is further amended to read:

"(B) The precinct lines pursuant to subsection (A) defining the precincts in Charleston County are as shown on the official map of the United States Census Bureau designated as P-19-17 on file with the Revenue and Fiscal Affairs Office. The Revenue and Fiscal Affairs Office shall provide revised copies of maps of the above precincts defining precinct changes incorporated by the Revenue and Fiscal Affairs Office pursuant to this section to the Board of Voter Registration and Elections of Charleston County."

Time effective

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

Ratified the 4th day of May, 2017.

Approved the 9th day of May, 2017.

No. 27

(R46, S200)

AN ACT TO AMEND SECTION 57-25-150, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS ISSUED BY THE DEPARTMENT OF TRANSPORTATION FOR THE ERECTION AND MAINTENANCE OF CERTAIN OUTDOOR ADVERTISING SIGNS, SO AS TO REVISE PROVISIONS THAT VOID PERMITS FOR CONFORMING AND NONCONFORMING SIGNS REMOVED IN CERTAIN CIRCUMSTANCES, TO PROVIDE PERMITS MUST BE MAINTAINED FOR NONCONFORMING SIGNS STRUCTURALLY DAMAGED BY VANDALISM, AND TO PROVIDE PROCEDURES FOR RESTORING NONCONFORMING SIGNS STRUCTURALLY DAMAGED BY VANDALISM.

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

Void outdoor sign permits, restoration of vandalized nonconforming signs

SECTION 1. Section 57-25-150(G) and (H) of the 1976 Code is amended to read:

"(G) Permits for the following signs are void:
(1) a conforming sign that is removed voluntarily for more than thirty days; and
(2) a nonconforming sign that is removed voluntarily by the owner.
(H) Permits shall be maintained for nonconforming signs structurally damaged by vandalism, and:
(1) those signs may only be restored in kind;
(2) restoration may begin not earlier than ten business days after the department has received notice of the vandalism from the sign owner, but must begin no later than one hundred eighty days after the department has received the report of vandalism pursuant to subsection (H)(3); and
(3) restoration shall not begin until a report of the vandalism incident has been made by the appropriate law enforcement authority and the report has been received by the department.
(I)(1) National Historic Landmark Section 501(C)(3) properties located along South Carolina highways and properties listed on the National Register of Historic Places by the Department of the Interior which are located along South Carolina highways are allowed to erect small directional signs no more frequently than one a mile within six miles of such properties.
(2) The signs shall state the name of the historic property and mileage and comprise no more than twenty letters measuring no more than fifteen inches by thirty-six inches and painted using a single color or a neutral background.
(3) The South Carolina Department of Transportation shall issue a permit sticker for each sign for an annual fee of fifteen dollars a sign. The department is also authorized to issue regulations as are necessary to implement the permit process and the conditions and restrictions for the proper placement, height, and design as necessary to the efficient administration of this subsection. The department has no responsibility for erecting these permitted signs."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 28

(R47, S315)

AN ACT TO AMEND SECTION 38-75-470, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HURRICANE, EARTHQUAKE, AND FIRE ADVISORY COMMITTEE, SO AS TO AUTHORIZE THE ADVISORY COMMITTEE TO ADDRESS THE MITIGATION OF PROPERTY LOSSES DUE TO FLOOD; TO AMEND SECTION 38-75-480, RELATING TO THE LOSS MITIGATION GRANT PROGRAM, SO AS TO ESTABLISH THAT GRANTS MAY BE MADE TO LOCAL GOVERNMENTS TO MITIGATE LOSSES AND PROVIDE TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF PROACTIVE HAZARD MITIGATION STRATEGIES AND TO ALLOW THE DEPARTMENT OF INSURANCE TO ACCEPT GRANTS IN AID FOR THE MITIGATION OF LOSSES FOR ELIGIBLE PROPERTIES; AND TO AMEND SECTION 38-75-485, RELATING TO THE SOUTH CAROLINA HURRICANE DAMAGE MITIGATION PROGRAM, SO AS TO ESTABLISH CERTAIN CRITERIA THAT A RESIDENTIAL PROPERTY MUST MEET IN ORDER TO BE ELIGIBLE FOR A NONMATCHING GRANT, TO PROHIBIT THE PROGRAM FROM ISSUING A GRANT FOR A RESIDENTIAL PROPERTY FROM EXCEEDING FIVE THOUSAND DOLLARS, TO ALLOW FOR MATCHING GRANT FUNDS TO BE MADE AVAILABLE TO LOCAL GOVERNMENTS AND NONPROFIT ENTITIES UNDER CERTAIN CIRCUMSTANCES, AND TO ESTABLISH A FORMULA FOR DETERMINING NONMATCHING GRANT AWARDS BASED ON AN APPLICANT’S HOUSEHOLD INCOME.

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

Hurricane, Earthquake, and Fire Advisory Committee, authorized to address mitigation of property losses due to flood

SECTION 1. Section 38-75-470(A) of the 1976 Code is amended to read:

"Section 38-75-470. (A) The Director of Insurance shall appoint an advisory committee to the director to study issues associated with the development of strategies for reducing loss of life and to address the mitigation of property losses due to hurricane, earthquake, flood, and fire. The advisory committee also shall consider the associated costs to individual property owners. The advisory committee is composed of:

(1) the director or his designee;

(2) the Chairman of the Building Codes Council or his designee;

(3) a representative from Clemson University involved with wind engineering;

(4) a representative from an academic institution involved with the study of earthquakes;

(5) a representative from an insurer writing property insurance in South Carolina;

(6) a representative from the Department of Commerce;

(7) a representative from the South Carolina's Municipal Association;

(8) a representative from the South Carolina Association of Counties;

(9) a representative from the Homebuilders Association;

(10) a representative from the Manufactured Housing Institute of South Carolina;

(11) a representative from the State Fire Marshal's office;

(12) a representative from the South Carolina Emergency Management Division;

(13) a representative from the State Flood Mitigation Program;

(14) two at-large members appointed by the director;

(15) two at-large members appointed by the Governor;

(16) a general contractor;

(17) a representative from the South Carolina Association of Realtors; and

(18) a structural engineer."

Loss Mitigation Grant Program, grants for the development of proactive hazard mitigation strategies authorized

SECTION 2. Section 38-75-480 of the 1976 Code is amended to read:

"Section 38-75-480. (A) There is established within the Department of Insurance a loss mitigation grant program. Funds may be appropriated to the grant program, and any funds appropriated must be used for the purpose of making grants to local governments or for the study and development of strategies for reducing loss of life and mitigating property losses due to hurricane, flood, earthquake, and fire. Grants to local governments must be for the following purposes:

(1) mitigating losses for eligible residential properties within the local jurisdiction in accordance with the guidelines established by the director or his designee; and

(2) providing technical assistance to and acting as an information resource for local governments in the development of proactive hazard mitigation strategies as they relate to reducing the loss of life and mitigating property losses due to natural hazards to include hurricane, flood, earthquake, and fire.

(B) Funds may be appropriated for a particular grant only after a majority affirmative vote on each grant by the advisory committee and submission of a resolution approved by a majority of the members of the relevant local governing body approving the application for grant funds.

(C) The Department of Insurance may make application and enter into contracts for and accept grants in aid from federal and state government and private sources for the purposes of:

(1) mitigating losses for eligible residential properties in accordance with the guidelines established by the director or his designee; and

(2) conducting loss mitigation studies for the development of strategies or measures aimed at reducing loss of life and mitigating property losses due to hurricane, flood, earthquake, and fire; or

(3) any other purposes consistent with this article."

South Carolina Hurricane Mitigation Program, grant criteria and limit established, matching grant funds may be available to local governments, and to establish a nonmatching grant formula

SECTION 3. Section 38-75-485 of the 1976 Code is amended to read:

"Section 38-75-485. (A) There is established within the Department of Insurance, the South Carolina Hurricane Damage Mitigation Program. The advisory committee, established pursuant to Section 38-75-470, shall provide advice and assistance to the program administrator with regard to his administration of the program.

(B) This section does not create an entitlement for property owners or obligate the State in any way to fund the inspection or retrofitting of residential property in this State. Implementation of this program is subject to annual legislative appropriations.

(C) The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that includes the following:

(1) The program may award matching or nonmatching grants based upon the availability of funds. The program administrator also shall apply for financial grants to be used to assist single-family, site-built or manufactured or modular, owner-occupied, residential property owners to retrofit their primary legal residence to make them less vulnerable to hurricane damage.

(a) To be eligible for a matching grant, a residential property must:

(i) be the applicant's primary legal residence;

(ii) be actually owned and occupied by the applicant;

(iii) be the owner's legal residence as described in Section 12-43-220(c);

(iv) be a single family, site-built, manufactured, or modular, owner-occupied residential property;

(v) be a residential property covered by a current homeowners or dwelling insurance policy that:

(A) is issued by an insurer licensed in this State or a surplus lines insurer, where the policy is lawfully placed by a broker authorized to do business in this State; and

(B) provides insurance coverage of the residential property equal to or greater than the fair market value of the residential property as defined in Section 12-37-3135(a)(2) and reflected in the county records;

(vi) have undergone an acceptable wind certification and hurricane mitigation inspection in accordance with program requirements.

(b) All matching grants must be matched on a dollar-for-dollar basis for a total of ten thousand dollars for the mitigation project. No grant issued by the program for any mitigation project for a residential property may exceed five thousand dollars.

(c) The program must create a process in which mitigation contractors agree to participate and seek reimbursement from the State and homeowners selected from a list of participating contractors. All mitigation projects must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection. The program may reinspect up to ten percent of all projects.

(d) Matching fund grants also must be made available to local governments and nonprofit entities, on a first-come, first-served basis, for projects that reduce hurricane damage to single-family, site-built or manufactured or modular owner-occupied, residential property, provided that:

(i) no matching grant for any one local government or nonprofit entity may exceed fifty thousand dollars in any fiscal year;

(ii) the total amount of matching grants awarded to all local governments and nonprofit entities combined may not exceed two hundred fifty thousand dollars in any fiscal year; and

(iii) the difference between two hundred fifty thousand dollars and the total amount of grants awarded to all local governments and nonprofit entities combined in any fiscal year may be applied to grants to individual homeowners who meet the qualifications for a grant described in subitems (a) through (d) or in subitem (g).

(e) Grants may be used for the following improvements:

(i) roof deck attachment;

(ii) secondary water barrier;

(iii) roof covering;

(iv) brace gable ends;

(v) reinforce roof-to-wall connections;

(vi) opening protection;

(vii) exterior doors, including garage doors;

(viii) tie downs;

(ix) problems associated with weakened trusses, studs, and other structural components;

(x) inspection and repair or replacement of manufactured home piers, anchors, and tiedown straps; and

(xi) any other mitigation techniques approved by the advisory committee.

(f) To be eligible for a nonmatching grant, a residential property must comply with the requirements set forth in subsection (C)(1)(a), (c), and (e).

(i) For nonmatching grants, applicants who otherwise meet the requirements of subitems (a), (c), and (e) may be eligible for a grant of up to five thousand dollars and may not be required to provide a

matching amount to receive the grant. These grants must be used to retrofit single-family, site-built or manufactured or modular, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage. The grant must be used for the retrofitting measures set forth in Section 38-75-485(C)(1)(e).

(ii) Nonmatching grant award amounts will be determined based on the cost of the mitigation project and a percentage of the total adjusted household income of the applicant according to the most recent federal income tax return. Those applicants with a total annual adjusted gross household income of which does not exceed eighty percent of the median annual adjusted gross income for households within the county in which the person or family resides may be eligible for the maximum grant award amount of five thousand dollars. Applicants with a higher total annual adjusted household income may be awarded a lower amount. The director or his designee shall issue a bulletin annually that sets forth the maximum grant award amounts based on the total annual adjusted gross household income of the applicant adjusted for family size relative to the county area median income or the state median family income, whichever is higher, as published annually by the United States Department of Housing and Urban Development. If the cost of the mitigation project exceeds the amount of the grant award, the remaining cost is the applicant's responsibility. No grant award may exceed five thousand dollars.

(2) The department shall define by regulation the details of the mitigation measures necessary to qualify for the grants described in this section.

(3) Multimedia public education, awareness, and advertising efforts designed to specifically address mitigation techniques must be employed, as well as a component to support ongoing consumer resources and referral services.

(4) The department shall use its best efforts to obtain grants or funds from the federal government to supplement the financial resources of the program. In addition to state appropriations, if any, this program must be implemented by the department through the use of the premium taxes due to this State by the South Carolina Wind and Hail Underwriting Association, and one percent of the premium taxes collected annually and remitted to the Department of Insurance.

(5) The director or his designee may promulgate regulations necessary to implement the provisions of this article."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 29

(R48, S359)

AN ACT TO AMEND SECTION 39-5-325, CODE OF LAWS OF SOUTH CAROLINA 1976, RELATING TO UNFAIR TRADE PRACTICES FOR MOTOR FUEL RETAILERS, SO AS TO REMOVE REFERENCES TO THE DEPARTMENT OF CONSUMER AFFAIRS; AND TO AMEND SECTION 39-5-350, RELATING TO EXEMPTIONS FROM MERCHANDISING UNFAIR TRADE PRACTICES, SO AS TO REMOVE THE REFERENCES TO THE DEPARTMENT OF CONSUMER AFFAIRS.

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

Unfair trade practice for selling motor fuel below cost exemption, reference to Department of Consumer Affairs removed

SECTION 1. Section 39-5-325(C) of the 1976 Code, as added by Act 161 of 1993, is amended to read:

"(C) Any person who is in the retail business of selling motor fuel claiming any exemption from subsection (A) under the exceptions provided in subsection (B) must keep and maintain records substantiating this claim. These records must be made available to the Office of the Attorney General on request made in connection with any investigation of a possible violation of this section by the Attorney General."

Unfair trade practice exemptions, reference to Department of Consumer Affairs removed

SECTION 2. Section 39-5-350(B) of the 1976 Code, as amended by Act 161 of 1993, is further amended to read:

"(B) Any person selling motor fuel at wholesale or retail at a price below the actual cost of acquiring the product, including transportation and taxes, claiming exemption from this article on the basis that such sales of motor fuel by that person are at a price to meet existing competition under subsection (A) shall keep and maintain records substantiating each effort to meet the competition, including the identity and place of business of the competitors whose competition that person is meeting. The records must be made available to the Attorney General on request made in connection with any investigation of a possible violation of this article by the Attorney General."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 30

(R49, S465)

AN ACT TO AMEND SECTION 50-5-15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS PERTAINING TO SALTWATERS, SO AS TO PROVIDE DEFINITIONS FOR THE TERMS "SHELLFISH MARICULTURE" AND "SHELLFISH SEED"; TO AMEND SECTION 50-5-360, RELATING TO WHOLESALE SEAFOOD DEALERS, PEELER CRAB, AND MOLLUSCAN SHELLFISH LICENSES, SO AS TO PROVIDE THAT A PERSON REQUIRED TO OBTAIN A WHOLESALE SEAFOOD DEALER LICENSE WHO RECEIVES MOLLUSCAN SHELLFISH MUST COMPLETE ANY

REQUIRED DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TRAINING; TO AMEND SECTION 50-5-945, RELATING TO A SHELLFISH MARICULTURE PERMITTEE ACQUIRING A PERMIT TO TAKE SHELLFISH FOR REPLANTING FROM STATE BOTTOMS DESIGNATED FOR THAT PURPOSE, SO AS TO PROVIDE FOR THE ISSUANCE OF PERMITS TO SHELLFISH MARICULTURE PERMITTEES TO HARVEST WILD SHELLFISH SEED FOR USE IN MARICULTURE; TO AMEND SECTION 50-5-965, RELATING TO THE TAKING OF SHELLFISH FROM BOTTOMS OR WATERS DESIGNATED FOR COMMERCIAL HARVEST, SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY PLACE CERTAIN CONDITIONS UPON HARVEST PERMITS FOR THESE AREAS; BY ADDING SECTION 50-5-997 SO AS TO PROVIDE FOR THE ISSUANCE OF OUT-OF-SEASON HARVEST PERMITS TO SHELLFISH MARICULTURE PERMITTEES; TO AMEND SECTION 50-5-1005, RELATING TO THE ISSUANCE OF SHELLFISH IMPORTATION PERMITS, SO AS TO PROHIBIT THE PLACING OF GENETICALLY MODIFIED SHELLFISH IN THE WATERS IN THIS STATE EXCEPT UNDER THE PROVISIONS OF A PERMIT ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE ISSUANCE OF PERMITS TO PERSONS WHO POSSESS, PRODUCE, PURCHASE, OR SELL GENETICALLY MODIFIED SHELLFISH, AND TO PROVIDE FOR THE ISSUANCE OF PERMITS WITH CONDITIONS RELATING TO TESTING, TREATMENT OF EFFLUENT, AND BIOSECURITY; AND TO AMEND SECTION 50-5-2500, RELATING TO THE ASSIGNMENT OF POINT VALUES BY THE DEPARTMENT OF NATURAL RESOURCES UPON PERSONS WHO VIOLATE PROVISIONS RELATED TO THE MARINE RESOURCES ACT, SO AS TO PROVIDE THAT THIS PROVISION ALSO APPLIES TO VIOLATIONS RELATED TO HARVESTING AND HANDLING OF SHELLFISH.

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

Definitions, shellfish

SECTION 1. Section 50-5-15 of the 1976 Code, as last amended by Act 166 of 2016, is further amended by adding appropriately numbered new items to read:

"( ) 'Shellfish mariculture' means the controlled cultivation of shellfish in confinement from seed size until harvest.

( ) 'Shellfish seed' means any shellfish that does not exceed one inch in height or maximum dimension."

Molluscan shellfish, wholesale seafood dealer training required

SECTION 2. Section 50-5-360(C) of the 1976 Code is amended to read:

"(C) A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must first be licensed for molluscan shellfish. The fee for a resident to acquire a molluscan shellfish license is an additional ten dollars, and the fee for a nonresident is an additional fifty dollars. Prior to obtaining a molluscan shellfish license, a person or entity must complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44-1-140."

Shellfish mariculture permittees, wild shellfish seed permit required

SECTION 3. Section 50-5-945 of the 1976 Code is amended to read:

"Section 50-5-945. (A) Shellfish Culture permittees must acquire a permit to take shellfish for replanting from state bottoms designated by the department for that purpose. The permittee must make application to the department ten days before removing shellfish.

(B) Shellfish Mariculture permittees must acquire a permit from the department to take wild shellfish seed for use in mariculture.

(C) Permits issued pursuant to this section may include conditions related to:

(1) harvest dates and harvest areas;
(2) shellfish size and quantity limits;
(3) cull requirements; and
(4) protection of the natural resources of this State."

Taking of shellfish, harvest permits and conditions

SECTION 4. Section 50-5-965 of the 1976 Code is amended to read:

"Section 50-5-965. (A) A person who takes shellfish from bottoms or waters designated for commercial harvest must possess an individual harvesting permit granted by the department if the person:

(1) harvests or possesses quantities greater than those provided in this article for personal use; or

(2) harvests for commercial purposes.

(B) In order to obtain an individual harvesting permit, a person must be a licensed commercial saltwater fisherman, hold all other appropriate valid commercial licenses, and complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44-1-140.

(C) Permits issued pursuant to this section may include conditions related to:

(1) harvest dates and harvest areas;

(2) shellfish size and quantity limits;

(3) cull requirements; and

(4) protection of the natural resources of this State.

(D) The department may limit the number of areas not under Shellfish Culture Permit or Shellfish Mariculture Permit on which an individual may be permitted to harvest.

(E) When bottoms or waters are under permit for shellfish culture or mariculture, permittees may allow persons to harvest shellfish from bottoms and waters permitted to him. In addition to the permit required in subsection (A), harvesters must possess written approval from the Shellfish Culture permittee or Shellfish Mariculture permittee in a form approved by the department. Culture and Mariculture permittees must provide approved harvesters with the written permission and must maintain accurate record of harvesters' names, addresses, and, if available, telephone numbers.

(F) It is unlawful for a person to take or attempt to take shellfish in quantities greater than those for personal use provided in this article from any state-owned bottoms or waters without having in his possession a valid individual commercial harvesting permit granted to him.

(G) It is unlawful for any person to take or attempt to take shellfish from state-owned bottoms or waters under permit for shellfish culture or mariculture without a valid individual harvester permit granted to him by the department.

(H) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days."

Shellfish mariculture permittees, out-of-season harvest permits

SECTION 5. Article 9, Chapter 5, Title 50 of the 1976 Code is amended by adding:

"Section 50-5-997. (A) The department may issue an out-of-season harvest permit to a Shellfish Mariculture permittee for the privilege of harvesting or selling maricultured shellfish out of season. The department may consider a permittee's past compliance with the provisions of this chapter in making its determination to issue an out-of-season harvest permit.

(B) In order to obtain an out-of-season harvest permit, a mariculture permittee must provide the following to the department:

(1) a shellfish operations plan that meets requirements established by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44-1-140; and

(2) a list of authorized harvesters and wholesale dealers that will possess the permittee's out-of-season shellfish.

(C) Out-of-season harvest permits issued pursuant to this section may include conditions related to:

(1) harvest times and harvest areas;

(2) species;

(3) testing;

(4) reporting, record keeping, and inspection requirements;

(5) genetic strains including ploidy;

(6) tagging;

(7) authorized harvesters; and

(8) protection of the natural resources of this State.

(D) An authorized harvester acting under the provisions of a permittee's out-of-season harvest permit must first complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44-1-140. A Mariculture permittee must ensure that an authorized harvester acting under the permittee's out-of-season harvest permit abides by the conditions of the permit, receives proper training, and holds all required permits and licenses.

(E) The department may suspend or revoke a mariculture permittee's out-of-season harvest permit for a violation of a permit condition by the permittee or by an authorized harvester of the permittee. The filing of a judicial appeal does not act as an automatic stay of enforcement of the out-of-season permit suspension or revocation."

Shellfish importation permits, genetically modified shellfish permits

SECTION 6. Section 50-5-1005 of the 1976 Code is amended to read:

"Section 50-5-1005. (A)(1) The department may grant permits to persons to import molluscan shellfish, shellfish tissues, or shells into this State.

(2) No molluscan shellfish, shellfish tissues, or shells may be imported into this State and placed in waters in this State except under the provisions of a shellfish importation permit.

(B)(1) The department may grant permits to persons to possess, produce, purchase, or sell genetically modified shellfish, including polyploid shellfish.

(2) No genetically modified shellfish, including polyploid shellfish, may be placed in the waters of this State or waters connected to the waters of this State, except under the provisions of a permit issued by the department.

(C) Permits issued pursuant to this section may include conditions related to:

(1) the type or species of mollusks to be imported;

(2) testing;

(3) ancillary species attached to or associated with the species to be imported;

(4) structure and placement of holding or storage facilities;

(5) placement of the product in natural waters of this State;

(6) disposal of shellfish, shellfish parts, and associated biota;

(7) treatment of effluent;

(8) biosecurity;

(9) reporting requirements; and

(10) protection of the natural resources of this State.

(D) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not more than thirty days."

Suspension of saltwater privileges for violations, violations related to harvesting and handling of shellfish added

SECTION 7. Section 50-5-2500 of the 1976 Code is amended to read:

"Section 50-5-2500. (A) There are established the following point values to be assigned by the department in suspending the saltwater privileges of persons or entities found to be in violation of one or more of the items listed below. Point assignments shall be:

(1) failing to keep records or make reports required by law, permit, or regulation: 4;

(2) violating law pertaining to crab size limit or sponge crabs: 4;

(3) violations of a section of Title 50 pertaining to saltwater privileges not mentioned specifically in this section: 6;

(4) taking, attempting to take, or possessing fish, shellfish, or crustaceans in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, except trawling violations: 8;

(5)(a) taking, attempting to take, or possessing shellfish for a commercial purpose in an unlawful manner; in unlawful or closed areas, including areas closed by the Department of Health and Environmental Control; during unlawful hours; or during the closed season for the activity; or

(b) violating Department of Health and Environmental Control regulations promulgated pursuant to Section 44-1-140 related to the harvesting and handling of shellfish resulting in an adulterated product as defined in Regulation 61-47: 10;

(6) selling or offering for sale fish, shellfish, crustaceans, or other seafood or marine products without a proper license: 8;

(7) unlawfully buying fish, shellfish, crustaceans, or other seafood or marine products: 8;

(8) trawling inside the General Trawling Zone other than in restricted areas:

(a) more than one-quarter nautical mile during the closed season: 10;

(b) more than one-quarter nautical mile at a time more than ten minutes before daily opening or ten minutes after daily closing times during the open season: 10;

(9) trawling in a restricted area during closed season: 10;

(10) trawling outside the General Trawling Zone:

(a) one hundred yards or less distance from the nearest point of the General Trawling Zone during the open season: 10;
(b) more than one hundred yards distance from the nearest point of the General Trawling Zone during the open season: 18;
(c) during the closed season: 18;
(11) taking or attempting to take fish, shellfish, or crustaceans for a commercial purpose without a proper license, permit, or stamp: 10;
(12) captain or crew of a boat failing to cooperate with an enforcement officer: 18;
(13) channel netting in an area closed to channel netting or during closed season for channel netting: 18; and
(14) applying for or obtaining any resident license as provided in this chapter using a falsified application or supporting documentation, or simultaneously possessing any currently valid South Carolina resident license as provided in this chapter while possessing any resident license from another state: 18.
(B) The points and penalties assessed under this article are in addition to criminal penalties which may be assessed. Statutory suspension of saltwater privileges provided in other articles of this chapter take precedence over assessment of points under this article."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 31

(R50, S570)

AN ACT TO AMEND SECTION 46-33-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGISTRATION REQUIREMENTS FOR THE SHIPMENT AND SALE OF TREES, PLANTS, AND SHRUBS, TO PROVIDE A NURSERY REGISTRATION FEE SCHEDULE AND A NURSERY DEALER REGISTRATION FEE SCHEDULE AND TO DEFINE NECESSARY TERMS; TO AMEND SECTIONS 46-9-90,

RELATING TO PENALTIES FOR VIOLATING THE CHAPTER ON THE STATE CROP PEST COMMISSION, 46-10-100, RELATING TO BOLL WEEVIL ERADICATION, 46-13-180, RELATING TO PENALTIES FOR VIOLATING THE PESTICIDE CONTROL ACT, 46-15-100, RELATING TO AGRICULTURAL MARKETING GENERALLY, 46-23-80, RELATING TO NOXIOUS WEEDS, AND 46-49-70, RELATING TO THE SUPERVISION AND REGULATION OF MILK AND MILK PRODUCTS, ALL SO AS TO REMOVE REFERENCE TO REGULATIONS; AND TO AMEND SECTION 46-13-90, RELATING TO THE DENIAL, SUSPENSION, REVOCATION, OR MODIFICATION OF CERTAIN PESTICIDE CONTROL LICENSES AND CERTIFICATES, SO AS TO PROVIDE THAT THE DIRECTOR MAY DENY, SUSPEND, REVOKE, OR MODIFY A LICENSE OR CERTIFICATE IF THE HOLDER MADE A PESTICIDE APPLICATION WITHOUT THE PROPER LICENSE.

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

Nursery registration fee schedule

SECTION 1. Section 46-33-90 of the 1976 Code is amended to read:

"Section 46-33-90. (A) For purposes of this section:

(1) 'Nursery' means any place where nursery stock is grown for sale.

(2) 'Nursery stock' means all fruit, nut, and shade trees, all ornamental plants and trees, bush fruits, buds, grafts, scions, vines, roots, bulbs, seedlings, slips, or other portions of plants (excluding true seeds) grown or kept for propagation, sale, or distribution.

(3) 'Nurseryman' means a person who operates a nursery for the production of nursery stock.

(4) 'Registered nursery dealer' means any person other than a grower of nursery stock who buys certified nursery stock for resale with annual sales of five thousand dollars or more, and any nurseryman who operates a sales lot separately from his nursery with annual sales of five thousand dollars or more. Registered and unregistered nursery dealers are required to produce sales records to agents of the commission upon request.

(5) 'Hobbyist' and 'backyard gardener' mean any person selling nursery stock who has less than five thousand dollars in gross sales per

calendar year. Hobbyist and backyard gardeners are required to produce sales records to agents of the commission upon request. Hobbyist and backyard gardeners are exempt from registration.

(6) 'Gross annual sales' means the total sales of nursery stock or related live plant material made by a nursery or registered nursery dealer that occurs during a given calendar year.

(7) 'Person' means an individual, firm, corporation, partnership, association, state or federal agency, school, other group, or organization.

(8) 'Sales lot' means the individual physical area or property where a nursery or registered nursery dealer grows, collects, or distributes nursery stock or related live plant material for sale.

(9) 'Turfgrass' means the top layer of earth comprised of grass leaf blades, stolons, thatch, and roots grown for commercial harvesting and sale such as sod, sprigs, or any other part thereof, excluding seed.

(10) 'Turfgrass grower' means any person engaged in the production of turfgrass.

(B) All persons engaged in sale or distribution of nursery stock must register with the commission and pay the fees required by this section. The commission is authorized to collect and retain fees from nursery inspection and registration, nursery dealer registration, plant pest inspection, and all other plant pest certification activities.

(C)(1) Nursery registration fees shall be on a graduated scale and may not exceed two hundred dollars per year. All registration certificates expire on September thirtieth and are renewable on or before October first annually. In cases where nursery stock is grown at more than one location by one nursery, the fees shall be based upon the nursery's aggregate number of acres in production of the nursery. In cases where the nursery consists of a combination of greenhouses and acreage, a single license fee must be assessed at the higher rate of the two categories.

(2)(a) The following nursery registration fees shall be paid annually:

(i) Nursery stock, except turfgrass, with a production acreage of ten or less; greenhouses with less than six thousand square feet; or a turfgrass production acreage of two hundred fifty or less shall be $75.00.

(ii) Nursery stock, except turfgrass, with a production acreage of eleven to twenty-five; greenhouses with six thousand to thirty thousand square feet; or a turfgrass production acreage of two hundred fifty-one to five hundred shall be $125.00.

(iii) Nursery stock, except turfgrass, with a production acreage of twenty-five or more; greenhouses with more than thirty

thousand square feet; or a turfgrass production acreage of five hundred one or more shall be $200.00.

(b) The following nursery dealer fees shall be paid annually:

(i) Nursery dealer locations for which annual gross sales equal $10,000.00 or less shall pay $0.00.

(ii) Nursery dealer locations for which annual gross sales are between $10,001.00 to $100,000.00 shall pay $50.00.

(iii) Nursery dealer locations for which annual gross sales are over $100,000.00 shall pay $100.00.

(D) Growers who produce transplants or seedlings grown solely for the purpose of being distributed for production of agricultural commodities must register with the commission but are exempt from nursery registration fees. No ornamental bedding plants or nursery stock may be grown in conjunction with exempt agricultural transplants unless the fees required by this section are paid.

(E) Governmental and nonprofit organizations which are not in the business of commercial sale of nursery stock are exempt from the payment of fees and registration required by this section; however, governmental and nonprofit organizations which are not in the business of commercial sale of nursery stock are subject to all commission rules and regulations. The Forestry Commission is exempt from paying fees required by this section. All persons selling Christmas trees from November to January who are not otherwise required by this section to either register or pay the fees are exempt from registering and paying the fees."

State Crop Pest Commission, removal of reference to regulations

SECTION 2. Section 46-9-90(A) of the 1976 Code is amended to read:

"(A) A person violating this chapter or chapters assigned to the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty nor more than five hundred dollars or imprisoned not less than ten nor more than thirty days for a first offense and for a second offense in the discretion of the court."

Boll weevil eradication, removal of reference to regulations

SECTION 3. Section 46-10-100(A) of the 1976 Code is amended to read:

"(A) A person who violates Section 46-10-60 or who alters, forges, counterfeits, or uses without authority a certificate, a permit, or other document provided for in this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, in the discretion of the court."

Pesticide Control Act, removal of reference to regulations

SECTION 4. Section 46-13-180(1) of the 1976 Code is amended to read:

"(1) Criminal Penalty. Any person who wilfully violates the provisions of this chapter, including, but not limited to, working without the appropriate South Carolina Commercial Pesticide Applicator's License or South Carolina Pest Control Business License, is guilty of a misdemeanor and, upon conviction, shall be punished as follows:

(a) for a first offense, by a fine of not more than one hundred dollars or imprisonment for not more than thirty days;

(b) for a second offense, by a fine of not more than five hundred dollars or imprisonment for not more than sixty days;

(c) for a third or subsequent offense, by a fine of not more than one thousand dollars or imprisonment for not more than ninety days."

Agricultural marketing, removal of reference to regulations

SECTION 5. Section 46-15-100 of the 1976 Code is amended to read:

"Section 46-15-100. Any person who shall, within the bounds of any market established under the provisions of this chapter and Article 1, Chapter 19, violate any of the provisions hereof is guilty of a misdemeanor, punishable by a fine of not exceeding one hundred dollars or imprisonment for not exceeding thirty days."

Noxious weeds, removal of reference to regulations

SECTION 6. Section 46-23-80 of the 1976 Code is amended to read:

"Section 46-23-80. Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both."

Milk and milk products, removal of reference to regulations

SECTION 7. Section 46-49-70 of the 1976 Code is amended to read:

"Section 46-49-70. Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days, and each day during which the violation continues is considered a separate violation."

Denial, suspension, revocation, or modification of pesticide control licenses or certificates

SECTION 8. Section 46-13-90(1) of the 1976 Code is amended by adding a new item to read:

"Q. Made a pesticide application or performed other activity without the proper South Carolina Commercial Pesticide Applicator's License or South Carolina Pest Control Business License."

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 32

(R52, S279)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT" BY ADDING ARTICLE 3 TO CHAPTER 60, TITLE 40 SO AS TO PROVIDE CERTAIN DEFINITIONS, TO REQUIRE REGISTRATION FOR ENTITIES ACTING AS APPRAISAL MANAGEMENT COMPANIES, TO SPECIFY REGISTRATION

AND RENEWAL REQUIREMENTS, TO PROVIDE EXEMPTIONS FROM REGISTRATION, TO PROVIDE FOR THE CONDUCT OF APPRAISAL MANAGEMENT COMPANIES, AND TO PROVIDE REMEDIES FOR VIOLATIONS; TO AMEND SECTION 40-60-10, AS AMENDED, RELATING TO THE SOUTH CAROLINA REAL ESTATE APPRAISERS BOARD, SO AS TO PROVIDE FOR EIGHT MEMBERS TO INCLUDE ONE MEMBER REPRESENTING AN APPRAISAL MANAGEMENT COMPANY; TO DESIGNATE SECTIONS 40-60-5 THROUGH 40-60-230 AS ARTICLE 1; AND TO REDESIGNATE CHAPTER 60, TITLE 40 AS "REAL ESTATE APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES".

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

Appraisal Management Company Registration Act

SECTION 1. Chapter 60, Title 40 of the 1976 Code is amended by adding:

"Article 3

Appraisal Management Company Registration Act

Section 40-60-310. This article may be cited as the 'Appraisal Management Company Registration Act'.

Section 40-60-320. For the purposes of this article:

(1) 'Appraisal management company' means an external third party, in connection with valuing properties, collateralizing mortgage loans, or incorporating mortgages into a securitization. The third party must be authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter or by other principal in the secondary mortgage markets that oversees a network or panel of more than fifteen certified or licensed appraisers in a state or twenty-five or more nationally within a given year in order to:

(a) recruit, select, and retain appraisers;

(b) contract with licensed and certified appraisers to perform appraisal assignments;

(c) manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal

orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(d) review and verify the work of appraisers.

(2) 'Appraisal management services' means the process of receiving a request for the performance of real estate appraisal services from a client and, for a fee paid by the client, entering into an agreement with one or more certified or licensed appraisers, who are independent contractors, to perform the real estate appraisal services contained in the request.

(3) 'Appraiser panel' means a group of certified or licensed appraisers, who are independent contractors, selected by an appraisal management company to perform real estate appraisal services for the appraisal management company.

(4) 'Appraisal review' means the act, by a certified or licensed appraiser employed by an appraisal management company, of developing and communicating an opinion about the quality of work of another appraiser that was performed as part of an appraisal assignment. Appraisal review does not include:

(a) an examination by an unlicensed employee of an appraisal management company for an appraisal solely for grammatical errors, typographical errors, or other similar errors; or

(b) a quality control examination for completeness that does not make a valuation change.

(5) 'Client' means a person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the purpose of real estate appraisal services.

(6) 'Controlling person' means:

(a) an owner, officer, or director of a corporation, partnership, limited liability company, or other business entity that seeks to offer an appraisal management service in this State;

(b) an individual employed, appointed, or authorized by an appraisal management company authorized to enter a management agreement with certified or licensed appraisers, who are independent contractors, for the performance of real estate appraisal services; or

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(7) 'Independent contractor' means a person in a trade, business, or profession in which he offers his services to the general public, in which

the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

(8) 'Real estate appraisal services' means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) published by the Appraisal Foundation.

(9) 'Payor' means a person or entity responsible for making payment for the appraisal.

Section 40-60-330. (A)(1) A person may not directly or indirectly engage or attempt to engage in business as an appraisal management company, or directly or indirectly engage or attempt to perform appraisal management services, or advertise or hold himself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the board under the provisions of this chapter.

(2) To register as an appraisal management company, an applicant shall submit to the board an application on a form or forms prescribed by the board.

(3) In the event that a registration process is unavailable upon the effective date of this article, an appraisal management company already conducting business in this State may continue to conduct business pursuant to the article until one hundred twenty days after a registration process becomes available.

(B) The registration required in subsection (A) must include:

(1) the name of the entity seeking registration;

(2) the business address of the entity seeking registration;

(3) contact information of the entity seeking registration;

(4) the name and contact information for the company's agent for service of process in this State if the entity seeking registration is not a corporation that is domiciled in this State;

(5) contact information for an individual, corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;

(6) the name, address, and contact information of a controlling person;

(7) certification that the entity seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a certification or license in good standing in this State pursuant to the South Carolina Real Estate Appraisers Act;

(8) certification that the applicant has a system in place to review the work of all certified or licensed appraisers who are independent contractors and perform real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted pursuant to Uniform Standards of Professional Appraisals Practice;

(9) certification that the entity maintains a detailed record of each service request that it receives and the certified or licensed appraisers who are independent contractors and who perform the real estate appraisal services for the appraisal management company;

(10) an irrevocable consent to service of process;

(11) a detailed statement of current financial condition of the entity on a form approved by the board;

(12) authorization for the board to conduct a criminal background check of all controlling persons and any individual who owns ten percent or more of the appraisal management company; and

(13) certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion, as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, 15 U.S.C. Section 1639e.

(C) A change of an entity's name, address, organizational status, or federal identification number must be reported to the department within fifteen days. Failure to do so may result in registration cancellation and the requirement of the new entity to submit an initial application and meet all requirements for registration.

(D) The board shall review and approve or deny the registration of an appraisal management company.

Section 40-60-340. The following are excluded from the registration requirements of an appraisal management company:

(1) a person or entity that exclusively employs appraisers on an employer and employee basis for the performance of appraisals;

(2) a department or unit within a financial institution subject to direct regulation by an agency of the United States Government or an agency of this State and that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is a certified or licensed appraiser. However, an appraisal management company that is a subsidiary owned or controlled by a financial institution may not be considered a

department or unit within a financial institution to which the provisions of this chapter do not apply;

(3) a person that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal. However, an appraisal management company may not avoid the requirements of this chapter by requiring an employee of the appraisal management company who is an appraiser to sign an appraisal that is completed by an appraiser who is part of the appraisal panel of the appraisal management company;

(4) an appraisal management company that maintains an appraiser panel that consists of:

(a) fifteen or fewer certified or licensed appraisers who are independent contractors in this State, or

(b) a total of twenty-four or fewer certified or licensed appraisers who are independent contractors in two or more states; and

(5) an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency, except that each appraisal management company exempt from registration pursuant to this subsection shall comply with the requirements of Section 40-60-360(C).

Section 40-60-350. (A) An initial registration granted by the board pursuant to this article is valid from the date of issuance through expiration unless renewed pursuant to subsection (B).

(B) To renew biennially, an entity actively registered under this article shall submit all information required by the board before June thirtieth, and the board shall review and renew or review and deny the renewal of the registration of an appraisal management company.

(C) Failure to renew registration by the renewal date must result in the loss of authority to operate under this article.

(D) A request to reinstate registration within twelve months of expiration must be accompanied by a payment penalty of one hundred dollars for each month of delinquency.

(E) A registration expired for more than twelve months must be canceled but may be considered for reinstatement by the board upon proper application and payment of the original registration fee and any late fee. The application must be reviewed by the board to determine reinstatement and any further required conditions of the reinstatement.

Section 40-60-360. (A) The board shall promulgate regulations to establish fees for registration, renewal, and reinstatement and additional fees as are reasonably necessary for the administration of this chapter. The fees must be established in consideration of the costs of administering this chapter and the actual cost of the specific service to be provided or performed. The board periodically shall review and adjust the schedule of fees as needed to cover expenses.

(B) The board also shall collect the national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company registered in this State or seeking to be registered in this State.

(C) The board shall collect the information and the national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company exempt from registration pursuant to Section 40-60-340(5).

(D) All appraisal management company national registry fees collected must be transferred to the appraisal subcommittee.

(E) The board shall adopt regulations regarding the determination of the size of the appraiser panel of an appraisal management company in accordance with the rules of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338.

Section 40-60-370. (A) An appraisal management company applying for registration in this State may not:

(1) be owned by a person who has had an appraiser certificate or license refused, denied, canceled, surrendered in lieu of revocation, or revoked in this State or in another state unless the certificate or license was subsequently granted or reinstated; or

(2) be more than ten percent owned by a person who is not of good moral character, which for purposes of this section requires that the person has not been convicted of or entered a plea of nolo contendere to a felony relating to the practice of appraisal, banking, mortgage lending, or the provision of financial services, or a crime involving fraud, misrepresentation, or moral turpitude.

(B) For purposes of this section, each owner of more than ten percent of an appraisal management company shall submit to a criminal background check.

Section 40-60-380. (A) An appraisal management company applying to the board for registration in this State shall designate one controlling person who is to be the main contact for all communication between the board and the appraisal management company.

(B) To serve as a controlling person of an appraisal management company, a person shall certify to the board that he has never had a certificate or license issued by the appropriate board of this State or another state refused, denied, canceled, revoked, or surrendered in lieu of revocation.

(C) A registrant shall notify the board within fifteen days of a change in its controlling person or a change in the contact information of the controlling person.

Section 40-60-390. (A) An employee of the appraisal management company who is responsible for performing appraisal reviews of certified or licensed appraisers, who are independent contractors, must demonstrate knowledge of the Uniform Standards of Professional Appraisal Practice as determined by the board.

(B) An appraisal management company that applies to the board for a registration to do business in this State as an appraisal management company shall not knowingly:

(1) employ a person who has had a certificate or license to act as an appraiser in this State or in another state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in a position in which the person has the responsibility to order appraisals or to review completed appraisals;

(2) enter into an independent contractor arrangement for appraisal services, whether in verbal, written, or other form, with a person who has had a certificate or license to act as an appraiser in this State or in another state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation; or

(3) enter into a contract, agreement, or other business relationship, whether in verbal, written, or another form, with an entity for appraisal services that employs, has entered into an independent contract arrangement, or has entered into a contract, agreement, or other business relationship, whether in verbal, written, or other form, with a person who has ever had a certificate or license to act as an appraiser in this State or in another state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation.

Section 40-60-400. An employee, or independent contractor of, the appraisal management company must be an appraiser certified or

licensed in this State to perform a Uniform Standards of Professional Appraisals Practice Standard 3 appraisal review of property located in this State.

Section 40-60-410. An appraisal management company registered in this State pursuant to this article may not enter into contracts or agreements with a certified or licensed appraiser, who is an independent contractor, to perform a real estate appraisal service in this State unless the person performing the appraisal service is certified or licensed in good standing with the board.

Section 40-60-420. An appraisal management company seeking to be registered shall certify to the board, at each renewal, that it:

(1) maintains a detailed record of each service request that it receives;

(2) has a policy that requires a certified or licensed appraiser who is an independent contractor and who performs a real estate appraisal service for the appraisal management company to maintain those records, including, but not limited to, the work file, for at least the later of:

(a) five years after preparation; or

(b) two years after final disposition of a judicial proceeding in which the appraiser or the appraisal management company provided testimony related to the assignment.

Section 40-60-430. A registered appraisal management company that requires a real estate appraiser to submit to a criminal background check as a condition of employment, contractual relationship, or access to an appraisal portal shall accept a criminal background check performed within the preceding twelve months if it substantially conforms to the criminal background checks of the company selected by the appraisal management company.

Section 40-60-440. (A) It is unprofessional conduct for an employee, director, or agent of an appraisal management company registered pursuant to this article to influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or in another manner, including:

(1) withholding or threatening to withhold timely payment for an appraisal, with the exception of an appraisal noncompliant with the written terms of the agreement;

(2) withholding or threatening to withhold future business from certified or licensed appraisers, who are independent contractors, or demoting, threatening to demote, or terminating certified or licensed appraisers, who are independent contractors;

(3) expressly or impliedly promising future business, promotion, or increased compensation for certified or licensed appraisers, who are independent contractors;

(4) requesting that certified or licensed appraisers, who are independent contractors, provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values of comparable sales at any time before the certified or licensed appraiser's completion of an appraisal service;

(5) providing to certified or licensed appraisers, who are independent contractors, an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, excepting that a copy of the sales contract for purchase transactions may be provided;

(6) providing stock or other financial or nonfinancial benefits to certified or licensed appraisers, who are independent contractors, or an entity or person related to the appraiser;

(7) allowing the removal of certified or licensed appraisers, who are independent contractors, from an appraiser panel without prior written notice to the appraiser specifying the basis for his removal from the appraisal panel;

(8) obtaining, using, or paying for a second or subsequent appraisal or valuation in connection with a mortgage financing transaction, unless there is a reasonable basis to believe that the initial appraisal or valuation was flawed or tainted and this basis is clearly and appropriately noted in the loan file, or unless the appraisal review or quality control process written preestablished lending requirements, or unless the appraisal or valuation is required by state or federal law;

(9) engaging in another act or practice that impairs or attempts to impair the independence, objectivity, or impartiality of an appraiser;

(10) requiring an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for liability, damages, losses, or claims arising out of the services performed by the appraisal management company and not the services performed by the appraiser; and

(11) prohibiting certified or licensed appraisers, who are independent contractors, to file an initial complaint against the appraisal management company for alleged abuses of above prohibitions or other issues of misconduct. The board shall handle initial complaints in the

same manner as those initial complaints against certified or licensed appraisers.

(B) The provisions of subsection (A) may not be construed to prohibit the appraisal management company from requiring certified or licensed appraisers, who are independent contractors, to:

(1) provide additional information about the basis for a valuation;

(2) correct objective factual errors in an appraisal report; and

(3) consider additional, appropriate property information, including the consideration of additional comparable priorities to make or support an appraisal.

Section 40-60-450. (A) An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to certified or licensed appraisers, who are independent contractors, for the completion of an appraisal or valuation assignment within forty-five days after the date on which the certified or licensed appraisers, who are independent contractors, transmit or otherwise provide the completed appraisal or valuation study to the appraisal management company or its assignee.

(B) An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. Section 1639e and regulations adopted pursuant to it.

(C) An appraiser may not be prohibited by the appraisal management company, client of the appraiser, or another third party from disclosing the fee paid to the appraiser for the performance of the appraisal in the appraisal report.

Section 40-60-460. (A) An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by a licensed or certified independent appraiser without the appraiser’s consent, except as necessary to comply with regulatory mandates or legal requirements.

(B) An appraisal management company may not use an appraisal report submitted by a licensed or certified independent appraiser, or any of the data or information contained therein, for any purpose other than its intended use without the appraiser’s or the intended end user’s consent, except as necessary to comply with regulatory mandates or legal requirements.

Section 40-60-470. (A) In addition to the grounds for disciplinary action pursuant to Section 40-1-110, the board may discipline, publicly or privately reprimand, or fine an appraisal management company or suspend or revoke a registration issued under this article if, in the opinion of the board, an appraisal management company is attempting to perform, has performed, or has attempted to:

(1) commit an act in violation of this article;

(2) violate a rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this article;

(3) procure a registration, license, or certification by fraud, misrepresentation, or deceit; or

(4) violate the South Carolina Real Estate Appraisers Act or the federal Financial Institutions Reform Recovery and Enforcement Act of 1989.

(B) In addition to the sanctions provided in Section 40-1-120, the board may impose a fine not to exceed ten thousand dollars for an initial violation and not to exceed twenty thousand dollars for subsequent violations and may require payment of investigative costs. A fine is payable immediately upon the effective date of discipline unless otherwise provided by the board. A registrant against whom a fine is levied is not eligible for reinstatement until the fine is paid in full.

(C) A decision by the board to publicly or privately reprimand, fine, revoke, suspend, or otherwise restrict a registrant or to limit or otherwise discipline a registrant becomes effective upon delivery of a copy of the decision to the registrant.

(D) Nothing in this section prevents a registrant from voluntarily entering into a consent agreement with the board in which a violation is not contested and a sanction is accepted.

Section 40-60-480. The board may conduct investigations and disciplinary proceedings in accordance with Sections 40-1-80 and 40-1-90 and the Administrative Procedures Act, provided:

(1) before disciplining a registrant by publicly or privately reprimanding, fining, or suspending or revoking a registration, the board shall notify the registrant in writing of charges made at least thirty days prior to the date set for the hearing and shall afford the registrant an opportunity to be heard in person or by counsel;

(2) the written notice requirement is satisfied by sending the notice through the United States Postal Service by regular mail or certified mail, return receipt requested, to the controlling person of the registrant to the address of the registrant on file with the board;

(3) a hearing on the charges must be held at a time and place prescribed by the board; and

(4) a registrant aggrieved by a final action of the board may seek review of the decision pursuant to Section 40-1-160 and the Administrative Procedures Act.

Section 40-60-490. The board may issue restraining orders and cease and desist orders pursuant to Section 40-1-100.

Section 40-60-500. The board has jurisdiction over the actions committed or omitted by current and former registrants as provided by Section 40-1-115.

Section 40-60-510. As provided in Section 40-1-130, the board may deny registration to an applicant based on the same grounds for which the board may take disciplinary action against a registrant.

Section 40-60-520. A registration obtained pursuant to this chapter may not be denied solely because of a prior criminal conviction unless the criminal conviction directly relates to the profession or occupation.

Section 40-60-530. A registrant under investigation for a violation of this article or a regulation promulgated under this article may voluntarily surrender his registration to practice, in accordance with and subject to the provisions of Section 40-1-150. A person whose registration is voluntarily surrendered may not practice or represent himself as authorized to practice until the board takes final action in the pending disciplinary matter. The voluntary surrender of a registration is subject to public disclosure pursuant to Chapter 4, Title 30. The board has discretion to credit time that an authorization has been surrendered toward a period of suspension or other restriction of practice.

Section 40-60-540. A respondent aggrieved by a final decision of the board may seek review of the decision by the Administrative Law Court pursuant to Section 40-1-160. Motions for continuance and for other interlocutory relief are not subject to review by the Administrative Law Court until a final decision has been issued by the board.

Section 40-60-550. Investigations and proceedings conducted under this article are confidential, and all communications are privileged as provided in Section 40-1-190.

Section 40-60-560. The department, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Court, in the name of the State, for injunctive relief against a person or entity violating this article, a regulation promulgated under this article, or an order of the board. The court may impose a fine of not more than ten thousand dollars for each violation in addition to a fine imposed by the board for the same violation."

Real Estate Appraisers Board, membership increased

SECTION 2. Section 40-60-10(B) of the 1976 Code, as last amended by Act 243 of 2016, is further amended to read:

"(B) The South Carolina Real Estate Appraisers Board consists of eight members who must be residents of this State and appointed by the Governor with the advice and consent of the Senate and with consideration given to appropriate geographic representation and to areas of appraisal expertise as follows:

(1) One member must be a public member who may not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The member from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45.

(2) One member must be a licensed real estate broker who is not a real estate appraiser.

(3) One member must be actively engaged in mortgage lending, representing supervised financial institutions, who is not a real estate licensee or a real estate appraiser and who also must not be connected in any way with the brokerage of real estate, the appraisal of real estate, or the review of real estate appraisals.

(4) Four members must be licensed or certified appraisers, actively engaged in real estate appraisal for at least three years, at least two of whom must be certified general appraisers and at least one of whom must be a certified residential appraiser. In appointing real estate appraisers to the board, the Governor, while not automatically excluding other appraisers, shall give preference to real estate appraisers whose primary source of income is derived from appraising real estate and not real estate brokerage.

(5) One member must represent an appraisal management company registered with the board."

Sections designated

SECTION 3. Sections 40-60-5 through Section 40-60-230 are designated as Article 1, General Provisions. The Code Commissioner is directed to make appropriate changes in the 1976 Code to reflect this designation.

Sections and chapter redesignated

SECTION 4. The existing sections of Chapter 60, Title 40 are designated the "South Carolina Real Estate Appraiser License and Certification Act". Chapter 60, Title 40 is redesignated "Real Estate Appraisers and Appraisal Management Companies".

Time effective

SECTION 5. This act takes effect upon approval by the Governor. In the event that a registration process is unavailable upon the effective date of this act, an appraisal management company already conducting business in this State may continue to conduct business until one hundred twenty days after a registration process becomes available.

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 33

(R53, S334)

AN ACT TO AMEND SECTIONS 61-4-515 AND 61-6-2016, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO PURCHASE AND SELL BEER AND WINE AND ALCOHOLIC LIQUORS, RESPECTIVELY, FOR ON-PREMISES CONSUMPTION AND A BIENNIAL LICENSE TO PURCHASE ALCOHOLIC LIQUORS BY THE DRINK AT A MOTORSPORTS ENTERTAINMENT COMPLEX OR TENNIS SPECIFIC COMPLEX, SO AS TO INCLUDE CERTAIN BASEBALL COMPLEXES IN THE PURVIEW OF THE

STATUTES, AND TO PROVIDE A DEFINITION FOR "BASEBALL COMPLEX".

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

Beer and wine, licenses, baseball complexes

SECTION 1. Section 61-4-515 of the 1976 Code, as added by Act 199 of 2014, is amended to read:

"Section 61-4-515. (A) In addition to the permits authorized pursuant to the provisions of this article, the department also may issue a biennial permit to the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, or baseball complex located in this State, which authorizes the purchase and sale for on-premises consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The nonrefundable filing fee and the fees for the motorsports, tennis complex, or baseball complex biennial permit are the same as for other biennial permits for on-premises consumption of beer and wine, with the revenue therefrom used for the purposes provided in Section 61-4-510. Notwithstanding another provision of this article, the issuance of this permit authorizes the permit holder to purchase beer and wine from licensed wholesalers in the same manner that a person with appropriate licenses issued pursuant to this title purchases beer and wine from licensed wholesalers. The department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, pursuant to the provisions of Chapter 4, Title 61, and these permits may be issued whether or not the motorsports entertainment complex, tennis specific complex, or baseball complex is located in a county or municipality which pursuant to Section 61-6-2010 successfully has held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance

is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, which satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion.

(3) 'Baseball complex' means a baseball stadium, along with its ancillary grounds and facilities, that hosts a professional minor league baseball team."

Alcoholic liquor, licenses, baseball complexes

SECTION 2. Section 61-6-2016 of the 1976 Code, as added by Act 199 of 2014, is amended to read:

"Section 61-6-2016. (A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, or baseball complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on-premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61-4-515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on-premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on-premises consumption beer and wine and a license to purchase and sell for on-premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty-two week local option permit under Section 61-6-2010 with the revenue therefrom used for the same purposes as provided in Section 61-6-2010.

(B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex, tennis specific

complex, or baseball complex is located in a county or municipality, which pursuant to Section 61-6-2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion.

(3) 'Baseball complex' means a baseball stadium, along with its ancillary grounds and facilities, that hosts a professional minor league baseball team."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 34

(R54, S444)

AN ACT TO AMEND SECTIONS 56-1-10 AND 56-1-130, BOTH AS AMENDED, SECTION 56-3-20 AND SECTION 56-19-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF A DRIVER'S LICENSE, THE REGISTRATION AND LICENSING OF MOTOR VEHICLES, THE TERM "AUTOMOTIVE THREE-WHEEL VEHICLE" AND ITS DEFINITION, AND THE TERM "MOTORCYCLE THREE-WHEEL VEHICLE" AND ITS DEFINITION, SO AS TO DELETE THE TERM "AUTOMOTIVE THREE-WHEEL VEHICLE" AND REPLACE IT WITH THE TERM "AUTOCYCLE" AND TO REVISE ITS DEFINITION; AND TO REPEAL SECTIONS 56-5-145 AND 56-5-155 RELATING TO THE TERMS "AUTOMOTIVE THREE-WHEEL VEHICLE" AND "MOTORCYCLE THREE-WHEEL VEHICLE" AND THEIR DEFINITIONS.

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

Autocycle

SECTION 1. Section 56-1-10(15) of the 1976 Code is amended to read:

"(15) 'Autocycle' means every motor vehicle having no more than three permanent functional wheels in contact with the ground, having seating that does not require the operator to straddle or sit astride it and having an automotive-type steering device, but excluding a tractor or motorcycle three-wheel vehicle."

Autocycle

SECTION 2. Section 56-1-10(18) of the 1976 Code is amended to read:

"(18) 'Motorcycle three-wheel vehicle' means every motor vehicle having no more than three permanent functional wheels in contact with the ground to include motorcycles with detachable side cars, having a saddle type seat for the operator, and having handlebars or a motorcycle type steering device but excluding a tractor or autocycle."

Autocycle

SECTION 3. Section 56-1-130(C) of the 1976 Code, as last amended by Act 42 of 2009, is further amended to read:

"(C)(1) A basic driver's license authorizes the licensee to operate motor vehicles, autocycles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-680, and 56-3-690, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. Notwithstanding another provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm truck on a freeway. A person operating a farm truck while holding a conditional driver's license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

(2) A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycle, two-axle truck, three- or more axle truck, combination of vehicles, motor busses, or oversize or overweight vehicles. The department shall determine from the driving demonstration the endorsements to be indicated on the license."

Reserved

SECTION 4. Section 56-3-20(30) of the 1976 Code is amended to read:

"(30) Reserved."

Reserved

SECTION 5. Section 56-3-20(31) of the 1976 Code is amended to read:

"(31) Reserved."

Reserved

SECTION 6. Section 56-19-10(44) of the 1976 Code is amended to read:

"(44) Reserved."

Reserved

SECTION 7. Section 56-19-10(45) of the 1976 Code is amended to read:

"(45) Reserved."

Repeal

SECTION 8. Sections 56-5-145 and 56-5-155 of the 1976 Code are repealed.

Time effective

SECTION 9. This act takes effect six months after approval by the Governor.

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 35

(R55, H3220)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-59-175 SO AS TO ESTABLISH THE SOUTH CAROLINA EDUCATION ECONOMIC DEVELOPMENT COORDINATING COUNCIL, TO PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND

FUNCTIONS, AND TO PROVIDE THAT THE PROVISION OF SECTION 59-59-175 EXPIRE FIVE YEARS AFTER ITS EFFECTIVE DATE UNLESS OTHERWISE EXTENDED.

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

South Carolina Education and Economic Development Coordinating Council

SECTION 1. Chapter 59, Title 59 of the 1976 Code is amended by adding:

"Section 59-59-175. (A) There is created the South Carolina Education and Economic Development Coordinating Council. The council is comprised of the following members representing the geographic regions of the State and must be representative of the ethnic, gender, rural, and urban diversity of the State:

(1) State Superintendent of Education or his designee;

(2) Executive Director of the South Carolina Department of Employment and Workforce or his designee;

(3) Executive Director of the State Board for Technical and Comprehensive Education or his designee;

(4) Secretary of the Department of Commerce or his designee;

(5) Executive Director of the South Carolina Chamber of Commerce or his designee;

(6) Chief Executive Officer of the South Carolina Manufacturers Alliance or his designee;

(7) Executive Director of the South Carolina Commission on Higher Education or his designee;

(8) Executive Director of the Office of First Steps to School Readiness or his designee;

(9) the following members who must be appointed by the State Superintendent of Education:

(a) a school district superintendent;

(b) a principal;

(c) a school guidance counselor;

(d) a teacher; and

(e) the director of a career and technology center;

(10) the following members who must be appointed by the Chairman of the Commission on Higher Education:

(a) the president or provost of a research university;

(b) the president or provost of a four-year college or university; and

(c) the president of a technical college;

(11) ten representatives of business appointed by the Governor, at least one of whom must represent small business, and one whom must represent the health care industry. Of the representatives appointed by the Governor, five must be recommended by statewide organizations representing business and industry. The chair is to be selected by the Governor from one of his appointees;

(12) Chairman of the Education Oversight Committee or his designee;

(13) a member from the House of Representatives appointed by the Speaker of the House; and

(14) a member from the Senate appointed by the President Pro Tempore.

Initial appointments must be made by October 1, 2017, at which time the Governor shall call the first meeting. Appointments made by the Superintendent of Education and the Governor are to ensure that the demographics and diversity of this State are represented.

Appointed members of the council shall serve for terms of four years each and until their successors are appointed and qualify. Vacancies on the council in appointed positions must be filled by appointment in the same manner of original appointment for the remainder of the unexpired term.

Any member of the council who is a public official with a term of office provided by law, including the State Superintendent of Education and members of the General Assembly, shall serve on the council for a term coterminous with his or her term of office as a public official. Designees of a public official shall serve at the pleasure of the designating public official.

Members of the council who are not public officials but who hold a specified position of employment shall serve on the council for as long as that person holds the specified position. Designees of a person who holds a specified position of employment shall serve at the pleasure of that person.

Members of the council are not deemed to hold an office of honor or profit in this State as the functions of council only involve providing advice, review, recommendations, or reports to other officials, boards, or departments.

(B) The council shall:

(1) advise the Department of Education and the Department of Commerce to ensure the components of this chapter are implemented with fidelity;

(2) review accountability and performance measures for implementation of this chapter;

(3) report annually by December first to the Governor, the General Assembly, the Department of Commerce, the State Board of Education, and other appropriate governing boards on the progress, results, and compliance with the provisions of this chapter to specifically include progress toward career pathways and its ability to provide a better prepared workforce and student success in postsecondary education;

(4) make recommendations to the Department of Education and Department of Commerce for the development and implementation of a communication and marketing plan to promote statewide awareness of the provisions of this chapter;

(5) provide input to the Department of Commerce, State Board of Education, and other appropriate governing boards for the promulgation of regulations to carry out the provisions of this chapter including, but not limited to, enforcement procedures, which may include monitoring and auditing functions, and addressing consequences for noncompliance; and

(6) the coordinating council shall be staffed by personnel from the State Department of Education and the Department of Commerce.

(C) The provisions of this section expire five years after its effective date unless the General Assembly by law extends its provisions."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 36

(R58, H3538)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "PERSONS WITH

DISABILITIES RIGHT TO PARENT ACT" BY ADDING CHAPTER 21 TO TITLE 63 SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES, LAW ENFORCEMENT, AND THE FAMILY AND PROBATE COURTS, AMONG OTHERS, TO PROTECT THE PARENTING RIGHTS OF PERSONS WITH A DISABILITY BY ESTABLISHING CERTAIN REQUIREMENTS AND SAFEGUARDS APPLICABLE IN CHILD CUSTODY, CHILD PROTECTION, AND PROBATE GUARDIANSHIP PROCEEDINGS TO ENSURE THAT PERSONS WITH DISABILITIES ARE NOT DENIED THE RIGHT TO PARENT OR TO HAVE CUSTODY OF OR VISITATION WITH A CHILD BECAUSE OF THE DISABILITY; AND TO PROHIBIT CHILD PLACING AGENCIES AND ADOPTION SERVICE PROVIDERS FROM DENYING PERSONS WITH A DISABILITY THE RIGHT TO ACCESS SERVICES BECAUSE OF THE PERSON'S DISABILITY, WITH EXCEPTIONS; TO AMEND SECTION 63-7-720, RELATING TO REASONABLE EFFORTS REQUIREMENTS FOR PROBABLE CAUSE HEARINGS, SO AS TO REQUIRE CERTAIN EFFORTS IF A PARENT OR LEGAL GUARDIAN HAS A DISABILITY, TO INCLUDE REFERRALS FOR SERVICES PROVIDING INSTRUCTION ON ADAPTIVE PARENTING TECHNIQUES AND OTHER REASONABLE ACCOMMODATIONS WITH REGARD TO ACCESSING SERVICES; TO AMEND SECTION 63-7-1640, AS AMENDED, RELATING TO FAMILY COURT DETERMINATIONS WHETHER TO REQUIRE REASONABLE EFFORTS TO PRESERVE OR REUNIFY A FAMILY WHEN THE PARENT OR LEGAL GUARDIAN HAS A DISABILITY, SO AS TO REQUIRE THE COURT TO TAKE INTO CONSIDERATION THE DISABILITY AND WAYS IN WHICH TO ACCOMMODATE THE DISABILITY TO PRESERVE OR REUNIFY THE FAMILY; AND TO AMEND SECTION 63-7-2570, AS AMENDED, RELATING TO GROUNDS FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO PROHIBIT TERMINATION OF PARENTAL RIGHTS SOLELY ON THE BASIS OF A DISABILITY.

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

Persons with Disabilities Right to Parent Act

SECTION 1. This act may be cited as the "Persons with Disabilities Right to Parent Act".

Right of parents with disabilities to parent, requirements of the Department of Social Services, law enforcement, service providers, and courts

SECTION 2. Title 63 of the 1976 Code is amended by adding:

"CHAPTER 21

Persons with Disabilities Right to Parent Act

Section 63-21-10. As used in this chapter:

(1) 'Adaptive parenting equipment' means equipment or any other item that is used to increase, maintain, or improve the parenting capabilities of a person with a disability.

(2) 'Adaptive parenting techniques' means strategies for accomplishing childcare and other parenting tasks that enable a person with a disability to execute a task safely for themselves and their children alone or in conjunction with adaptive parenting equipment.

(3) 'Adoption' has the same meaning as provided for in Chapter 9, Title 63.

(4) 'Child custody proceeding' means a proceeding in family or probate court in which a third party is seeking to be awarded temporary or permanent legal or physical custody of a child to obtain legal guardianship of a child, or to limit or deny visitation of a parent or legal guardian with a child, including an action filed by the other parent.

(5) 'Child protection proceeding' means a proceeding in family court provided for in Chapter 7, Title 63 relating to protection of children from abuse or neglect, access to services and other support for parents to preserve or reunify the family, and permanency planning for children whose parents are unable or unwilling to parent adequately.

(6) 'Child placing agency' has the same meaning as provided for in Section 63-9-30.

(7) 'Covered entity' has the same meaning as provided for in the Americans with Disabilities Act, as amended.

(8) 'Department' means the South Carolina Department of Social Services.

(9) 'Disability' means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of an impairment, or being regarded as having an impairment, consistent with the Americans with Disabilities Act, as amended, and as interpreted broadly under that act. An individual who is currently engaging in the illegal use of drugs or the abuse of alcohol, drugs or other substances is not an individual with a 'disability' for purposes of this chapter.

(10) 'Supportive services' means services that help a person with a disability compensate for those aspects of the disability that affect the ability to care for a child and that enables the person to fulfill parental responsibilities including, but not limited to, specialized or adapted training, evaluations, and assistance with effective use of adaptive equipment, and accommodations that enable a person with a disability to benefit from other services, such as braille text or sign language interpretation.

Section 63-21-20. (A) The department, family court, probate court, and any other covered entity shall comply with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Fourteenth Amendment, before taking any action pursuant to Chapters 7, 9, or 15, Title 63, or Title 62 that could impact the parental rights of a person with a disability.

(B)(1) The department shall, consistent with its purposes as mandated in Section 63-7-10:

(a) make reasonable efforts, that are individualized and based upon a parent's or legal guardian's specific disability, to avoid removal of a child from the home of a parent or legal guardian with a disability, including referrals for access to adaptive parenting equipment, referrals for instruction on adaptive parenting techniques, and reasonable accommodations with regard to accessing services that are otherwise made available to a parent or legal guardian who does not have a disability;

(b) make reasonable accommodations to a parent or legal guardian with a disability as part of placement and visitation decisions; preventive, maintenance, and reunification services; and evaluations or assessments of parenting capacity.

(2) The department, and any other covered entity, must not deny reunification services to a parent or legal guardian with a disability solely on the basis of the disability.

(C) If any party to the proceedings alleges that the parent or legal guardian has a disability that affects the parent's ability to fulfill parent

responsibilities, the family court shall determine and include as findings in the probable cause order:

(1) the nature of the parent's or legal guardian's disability, if any, that affects the parent's ability to fulfill parent responsibilities;

(2) the reasonable efforts made by the department to avoid removal of the child from the parent or legal guardian, including reasonable efforts made to address the parenting limitations caused by the disability; and

(3) reasonable accommodations the department, and any other covered entity, shall make to provide the parent or legal guardian with the opportunity to participate fully in the child protection proceedings throughout the duration of the case.

Section 63-21-30. (A) A child placing agency must not deny a person with a disability the right to pursue adoption of a child solely on the basis of the disability, without considering whether adaptive parenting equipment, instruction in adaptive parenting techniques, and other supportive services could enable the person to parent adequately.

(B) The department or other covered entity that provides pre- or postadoption services must not deny a person with a disability the right to access services solely on the basis of the disability, without considering whether adaptive parenting equipment, instruction in adaptive parenting techniques, and other supportive services could enable the person to parent adequately."

Reasonable efforts to prevent removal of a child from a parent, requirements of the Department of Social Services

SECTION 3. Section 63-7-720 of the 1976 Code is amended to read:

"Section 63-7-720. (A) An order issued as a result of the probable cause hearing held pursuant to Section 63-7-710 concerning a child of whom the department has assumed legal custody shall contain a finding by the court of whether reasonable efforts were made by the department to prevent removal of the child and a finding of whether continuation of the child in the home would be contrary to the welfare of the child. The order shall state:

(1) the services made available to the family before the department assumed legal custody of the child and how they related to the needs of the family;

(2) the efforts of the department to provide services to the family before assuming legal custody of the child;

(3) why the efforts to provide services did not eliminate the need for the department to assume legal custody;

(4) whether a meeting was convened as provided in Section 63-7-640, the persons present, and the outcome of the meeting or, if no meeting was held, the reason for not holding a meeting;

(5) what efforts were made to place the child with a relative known to the child or in another familiar environment;

(6) whether the efforts to eliminate the need for the department to assume legal custody were reasonable including, but not limited to, whether services were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstances, and whether efforts to place the child in a familiar environment were reasonable.

(B) Reasonable efforts required pursuant to subsection (A) to prevent removal of the child from a parent or legal guardian who has a disability must include efforts that are individualized and based upon a parent's or legal guardian's specific disability, including referrals for access to adaptive parenting equipment, referrals for instruction on adaptive parenting techniques, and reasonable accommodations with regard to accessing services that are otherwise made available to a parent or legal guardian who does not have a disability.

(C) If the court finds that reasonable services would not have allowed the child to remain safely in the home, the court shall find that removal of the child without services or without further services was reasonable."

Family presentation services, requirements of the Department of Social Services

SECTION 4. Section 63-7-1640(A) of the 1976 Code is amended to read:

"(A)(1) When this chapter requires the department to make reasonable efforts to preserve or reunify a family and requires the family court to determine whether these reasonable efforts have been made, the child's health and safety must be the paramount concern.

(2) Reasonable efforts required pursuant to item (1) to preserve or reunify a family in which the parent or legal guardian has a disability must include efforts that are individualized and based upon a parent's or legal guardian's specific disability, including referrals for access to adaptive parenting equipment, referrals for instruction on adaptive parenting techniques, and reasonable accommodations with regard to

accessing services that are otherwise made available to a parent or legal guardian who does not have a disability."

Grounds for termination of parental rights, limitations when parent has a disability

SECTION 5. Section 63-7-2570(6) of the 1976 Code, as last amended by Act 281 of 2014, is further amended to read:

"(6)(a) The following circumstances exist, subject to the requirements set forth in Section 63-21-20:

(i) the parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, addiction to alcohol or illegal drugs or prescription medication abuse; and

(ii) the condition makes the parent unlikely to provide minimally acceptable care of the child.

(b) It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program.

(c) The department, and any other covered entity, must not terminate the rights of a parent or legal guardian with a disability solely on the basis of the disability."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 37

(R59, H3559)

AN ACT TO AMEND CHAPTER 55, TITLE 46, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CULTIVATION OF INDUSTRIAL HEMP, SO AS TO REVISE THE DEFINITIONS OF TERMS CONTAINED IN THIS CHAPTER, TO PROVIDE DEFINITIONS FOR ADDITIONAL TERMS, TO CREATE THE SOUTH CAROLINA INDUSTRIAL HEMP PROGRAM, TO PROVIDE THAT INDUSTRIAL HEMP IS AN AGRICULTURAL CROP UPON WHICH CERTAIN INSTITUTIONS OF HIGHER EDUCATION MAY CONDUCT RESEARCH, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY ISSUE PERMITS TO RESIDENTS OF THIS STATE TO GROW INDUSTRIAL HEMP UNDER CERTAIN CIRCUMSTANCES, TO ESTABLISH A PROCESS TO APPLY AND BE ISSUED A PERMIT, TO PROVIDE THAT INDUSTRIAL HEMP OR HEMP PRODUCTS MAY NOT BE CONSIDERED AN ADULTERANT, TO PROVIDE PROVISIONS THAT REGULATE THE GROWING, SELLING, AND IMPORTATION OF INDUSTRIAL HEMP AND HEMP SEED, TO DELETE THE PROVISION THAT EXCLUDES INDUSTRIAL HEMP FROM THE DEFINITION OF MARIJUANA, TO PROVIDE THAT A PERSON ENGAGED IN ACTIVITIES COVERED BY THE INDUSTRIAL HEMP PROGRAM ARE NOT SUBJECT TO ANY STATE CIVIL OR CRIMINAL ACTIONS, TO REVISE THE PROVISION THAT SPECIFIES THAT CERTAIN CONDUCT REGARDING THE MANUFACTURING, DISTRIBUTION, PURCHASE, AND OTHER ACTIVITIES RELATING TO DISGUISING MARIJUANA TO MAKE IT APPEAR TO BE INDUSTRIAL HEMP IS ILLEGAL, TO PROVIDE FOR LABORATORY TESTING OF INDUSTRIAL HEMP, AND TO PROVIDE A PENALTY FOR DISGUISING MARIJUANA TO APPEAR TO BE INDUSTRIAL HEMP.

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

Industrial hemp cultivation

SECTION 1. Chapter 55, Title 46 of the 1976 Code is amended to read:

"CHAPTER 55

Industrial Hemp Cultivation

Section 46-55-10. For the purposes of this chapter:

(1) 'Industrial hemp products' means all products made from any part of industrial hemp, including, but not limited to, cannabinoids, cloth, construction materials, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal, supplements, seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.

(2) 'Industrial hemp' means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dried weight basis.

(3) 'Delta-9 tetrahydrocannabinol' means the natural or synthetic equivalents or substances contained in the plant, or in the resinous extractives of cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

(4) 'Human consumption' means ingestion or topical application to the skin or hair.

Section 46-55-20. (1) The South Carolina Industrial Hemp Program is created.

(2) Industrial hemp is an agricultural crop. Any public institution of higher education offering a four-year baccalaureate degree or private institution of higher education accredited by the Southern Association of Colleges and Schools offering a four-year baccalaureate degree throughout the State may conduct research, pursuant to Public Law 113-79, contingent upon funding. The institution may conduct research or pilot programs as an agricultural commodity and may work with growers located in South Carolina. Once the institution of higher education engages in research on industrial hemp, the institution shall work in conjunction with the Department of Agriculture to identify solutions for applications, applicants, and new market opportunities for industrial hemp growers. The purchaser or manufacturer will be included under the provisions of this chapter.

(3) The Department of Agriculture will allow up to twenty permits for the first year and up to forty permits for the second year and third year, and every year after, the Department of Agriculture, along with the institutions of higher learning, will evaluate the program to determine

the number of permits to be issued. The permits are to be given to South Carolina residents for the purposes of a pilot program. Each permittee is permitted to grow industrial hemp on up to twenty acres of land the first year and up to forty acres the second year and third year, and every year after, the Department of Agriculture, along with the institutions of higher learning, will evaluate the program to determine the amount of acreage permitted. When applying for a permit, each applicant, at a minimum, must submit to the department global positioning system coordinates of where the industrial hemp will be grown and must submit any and all information, including, but not limited to, fingerprints, and the appropriate fees, required by the South Carolina Law Enforcement Division (SLED) to perform a fingerprint-based state criminal records check and for the Federal Bureau of Investigation to perform a national fingerprint-based criminal records check.

(4) The department shall require a state criminal records check, supported by fingerprints, by SLED and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. No person who has been convicted of any felony, or any person convicted of any drug-related misdemeanor or violation in the previous ten years from the date of the application, shall be eligible to obtain a permit.

(5) Before the department will issue a permit to the applicant, the applicant must have proof of a signed purchaser with a contract.

(6) Industrial hemp is an agricultural crop subject to regulations by the Department of Agriculture.

(7) To grow industrial hemp, a person must be registered with the department as a grower.

(8) To register, an applicant, under this section, must submit to the department, in a manner prescribed by the department, the following information:

(a) the name and address of the applicant;

(b) the name and address of the industrial hemp operation of the applicant;

(c) the Global Positioning System coordinates of the land on which the industrial hemp will be planted, grown, cultivated, or processed;

(d) any other information required by the department through regulation; and

(e) written consent allowing SLED and the Department of Agriculture to enter onto all premises where industrial hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the Industrial Hemp Pilot Program.

(9) A grower may renew a registration under this section in the manner prescribed by the department.

(10) The department may charge growers application, registration, and renewal of registration fees reasonably calculated by the department to pay the cost of administering the South Carolina Industrial Hemp Program, not to exceed one thousand dollars annually per registrant. Monies from fees collected under this subsection shall be continuously appropriated to the department for purposes of carrying out the duties of the South Carolina Industrial Hemp Program under this section.

(11) It is lawful for a permitted individual to cultivate, produce, or otherwise grow industrial hemp in this State to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp.

(12) Growers or processors may retain any industrial hemp that tests between three-tenths of one percent to one percent delta-9 tetrahydrocannabinol on a dry weight basis and recondition the hemp product by grinding it with the stem and stalk. Industrial hemp products must not exceed three-tenths of one percent delta-9 tetrahydrocannabinol.

(13) For the purposes of Chapter 25, Title 39, industrial hemp or industrial hemp products may not be considered to be an adulterant.

Section 46-55-30. (1) A grower may use any propagation method, including, but not limited to, planting seeds or starts or using clones or cuttings, to produce industrial hemp. Nothing in this article limits or precludes a grower from propagating or cultivating noncertified industrial hemp seed.

(2) Notwithstanding any other provision of law, except as subject to federal law, a person engaged in cultivating, processing, selling, transporting, possessing, or otherwise distributing industrial hemp, or selling industrial hemp products from industrial hemp, grown, processed, or produced pursuant to this chapter, is not subject to any civil or criminal actions under South Carolina law for engaging in these activities. Nothing in this chapter limits or precludes the importation or exportation of industrial hemp or industrial hemp products. The

provisions of the chapter create a three-year pilot program as contained in 7 U.S.C. Section 5940.

Section 46-55-40. (A) For purposes of this section:

(1) 'Independent testing laboratory' means any facility, entity, or site that offers or performs tests of industrial hemp or industrial hemp-based products that has been accredited by an independent accreditation body.

(2) 'Accreditation body' means an impartial organization that provides accreditation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Corporation Mutual Recognition Arrangement for Testing.

(3) 'Scope of accreditation' means a document issued by the accreditation body which describes the methodologies, range, and parameters for testing for which the accreditation has been granted.

(B) Independent testing laboratories may test industrial hemp and industrial hemp products produced or processed by a grower or processor.

(C) All testing performed to meet regulatory requirements shall be included in an independent testing laboratory's scope of accreditation.

(D) An independent testing laboratory shall demonstrate the ability to accurately quantitate individual cannabinoids in both their acidic and neutral forms down to 0.05 percent by weight, including, but not limited to, delta-9 THC, delta-9 THCA, cannabidiol (CBD), and CBDA.

(E) Testing is required by an International Organization for Standardization (ISO) Certified Laboratory Facility as approved by an accredited body. The test results must be retained by the grower or processor for at least three years and be made readily available to any state law enforcement agency upon request. Any industrial hemp sample testing at one percent or above delta-9 tetrahydrocannabinol shall be destroyed in a controlled environment with law enforcement present.

(F) Registered growers shall have a minimum of four random samples per grow tested for delta-9 tetrahydrocannabinol concentrations not more than thirty days prior to harvest. If the grower has planted different varieties, at least one sample from each variety must be tested for delta-9 tetrahydrocannabinol concentrations.

(G) Industrial hemp or industrial hemp products, intended by a processor for sale for human consumption, shall be tested by an independent testing laboratory to confirm that products are fit for human consumption and meet United States Food Industry standards for food products. Testing shall confirm safe levels of potential contaminants,

including, but not limited to, pesticides, heavy metals, residual solvents, and microbiological contaminants.

(H) All test results and corresponding product batch numbers shall be retained by the registered processor for at least three years.

Section 46-55-50. Industrial hemp is excluded from the definition of marijuana in Section 44-53-110.

Section 46-55-60. An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana, in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 38

(R61, H3879)

AN ACT TO AMEND SECTION 42-9-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM AMOUNT OF BURIAL EXPENSES PAYABLE UNDER WORKERS' COMPENSATION LAWS FOR ACCIDENTAL DEATH, SO AS TO INCREASE THE MAXIMUM PAYABLE AMOUNT TO TWELVE THOUSAND DOLLARS.

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

Maximum amount increased

SECTION 1. Section 42-9-290 of the 1976 Code is amended to read:

"Section 42-9-290. (A) If death results proximately from an accident and within two years of the accident or while total disability still continues and within six years after the accident, the employer shall pay or cause to be paid, subject, however, to the provisions of the other sections of this title, in one of the methods provided in this chapter, to the dependents of the employee wholly dependent upon his earnings for support at the time of the accident, a weekly payment equal to sixty-six and two-thirds percent of his average weekly wages, but not less than seventy-five dollars a week so long as this amount does not exceed his average weekly wages; if this amount does exceed his average weekly wages, the amount payable may not be less than his average weekly wages nor more than the average weekly wage in this State for the preceding fiscal year, for a period of five hundred weeks from the date of the injury, and burial expenses up to but not exceeding twelve thousand dollars. If the employee leaves dependents, only partly dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid must equal the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependence bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents begins from the date of the last of such payments but does not continue more than five hundred weeks from the date of the injury. Compensation under this title to aliens not residents (or about to become nonresidents) of the United States or Canada is the same in amount as provided for residents, except that dependents in any foreign country are limited to a surviving spouse and child or children or, if there be no surviving spouse or child, to a surviving father or mother whom the employee has supported, either wholly or in part, for a period of three years before the date of the injury, and except that the commission may, at its option, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of future installments of compensation as determined by the commission.

(B) The provisions of this section may not be construed to prohibit lump-sum payments to surviving spouses. Provisions for lump-sum settlement may be retroactive.

(C) Any death benefits to which a child through the age of eighteen years of an employee is entitled under this section vest with the child at the date of death of the employee and continue to be paid to the beneficiary subject to the five-hundred-week limitation regardless of his age.

(D) If at the date of death of the employee, the employee has a child nineteen years of age or older enrolled as a full-time student in an accredited educational institution, the child is entitled to death benefits in the same manner as though he were under nineteen and shall receive benefits, subject to the five-hundred-week limitation, until the age of twenty-three. However, if a student's enrollment ends, except for normal breaks and vacations in accordance with schedules of the school, the child no longer is considered a dependent. When all the deceased employee's children are no longer dependent, the remainder of that portion of the award must be paid to a surviving spouse or other full dependent, or if there be none, the remainder of that portion of the award must be paid in the same manner as provided in this section for cases where the employee is survived by no full dependents.

(E) Any dependent child mentally or physically incapable of self-support must be paid benefits for the full five-hundred-week period regardless of age.

(F) In cases where benefits are payable to a surviving spouse and dependent children, the surviving spouse shall receive not less than one-half of the benefits paid if there are two or more children."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 39

(R62, H3883)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "PYRAMID PROMOTIONAL SCHEME PROHIBITION ACT" BY ADDING

ARTICLE 7 TO CHAPTER 5, TITLE 39 SO AS TO PROVIDE PYRAMID PROMOTIONAL SCHEMES CONSTITUTE UNFAIR TRADE PRACTICES UNDER THE SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT, AND TO PROVIDE NECESSARY DEFINITIONS; AND TO REPEAL SECTION 39-5-30 RELATING TO PYRAMID CLUBS AND SIMILAR OPERATIONS.

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

Pyramid Promotional Scheme Prohibition Act

SECTION 1. Chapter 5, Title 39 of the 1976 Code is amended by adding:

"Article 7

Pyramid Promotional Scheme Prohibition Act

Section 39-5-710. This article must be known and may be cited as the 'Pyramid Promotional Scheme Prohibition Act'.

Section 39-5-720. As used in this article:
(1) 'Compensation' means the payment of money, a thing of value, or a benefit.
(2) 'Consideration' means either the payment of money or the provision of a thing of value for the purchase of a product, good, service, or intangible property. Consideration does not include:
(a) the purchase of a product, furnished at cost, for use in making a sale, but not for resale, of the purchased product itself; or
(b) time and effort spent to pursue a sale or recruiting activity.
(3) 'Pyramid promotional scheme' means a plan or operation in which an individual pays consideration for the right to receive compensation based primarily upon recruiting other individuals into the plan or operation instead of selling products or services to ultimate users for their use or consumption.
(4) 'Ultimate users' are individuals who consume or use the products or services, whether or not they are participants in the plan or operation.

Section 39-5-730. A pyramid promotional scheme is an unfair trade practice pursuant to Section 39-5-20(a), and accordingly, is prohibited in this State."

Repeal

SECTION 2. Section 39-5-30 of the 1976 Code is repealed.

Savings clause

SECTION 3. 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.

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 40

(R51, H3516)

AN ACT TO AMEND SECTION 57-11-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPOSIT OF FUNDS WITH THE DEPARTMENT OF TRANSPORTATION, SO AS TO CREATE THE INFRASTRUCTURE MAINTENANCE TRUST FUND; TO AMEND SECTION 12-28-310, RELATING TO THE MOTOR FUEL USER FEE, SO AS TO PHASE-IN AN INCREASE OF TWELVE CENTS ON THE FEE OVER SIX YEARS; TO AMEND

SECTIONS 56-11-410 AND 56-11-450, BOTH RELATING TO THE ROAD TAX, SO AS TO INCREASE THE ROAD TAX IN THE SAME MANNER AS THE MOTOR FUEL USER FEE; TO AMEND SECTION 56-3-620, AS AMENDED, RELATING TO THE BIENNIAL REGISTRATION OF A MOTOR VEHICLE, SO AS TO INCREASE THE FEE FOR THE REGISTRATION; BY ADDING SECTION 56-3-627 SO AS TO REQUIRE THE PAYMENT OF AN INFRASTRUCTURE MAINTENANCE FEE UPON FIRST REGISTERING ANY VEHICLE AND CERTAIN OTHER ITEMS IN THIS STATE AND TO SPECIFY THE MANNER IN WHICH THE FEE IS CALCULATED, CREDITED, AND ADMINISTERED; BY ADDING SECTION 56-3-645 SO AS TO IMPOSE A ROAD USE FEE ON CERTAIN MOTOR VEHICLES THAT OPERATE ON FUEL THAT IS NOT SUBJECT TO THE MOTOR FUEL USER FEE; TO AMEND SECTION 12-36-2110, RELATING TO THE MAXIMUM SALES TAX, SO AS TO INCREASE THE MAXIMUM TAX ON CERTAIN ITEMS; TO AMEND SECTION 12-36-2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE SALES TAX, SO AS TO EXEMPT ANY ITEM SUBJECT TO THE INFRASTRUCTURE MAINTENANCE FEE; TO AMEND SECTION 12-36-1710, RELATING TO THE CASUAL EXCISE TAX, SO AS TO PROVIDE THAT MOTOR VEHICLES AND MOTORCYCLES ARE NOT SUBJECT TO THE TAX; TO REPEAL SECTION 12-36-2647 RELATING TO THE CREDITING OF CERTAIN MOTOR VEHICLE TAX REVENUES; TO AMEND ARTICLE 23, CHAPTER 37, TITLE 12, RELATING TO MOTOR CARRIERS, SO AS TO DEFINE TERMS, TO PROVIDE THAT THE ARTICLE DOES NOT APPLY TO A SMALL COMMERCIAL VEHICLE, TO PROVIDE THAT CERTAIN VEHICLES ARE ASSESSED AND APPORTIONED BASED ON A ROAD USE FEE INSTEAD OF PROPERTY TAXES, TO PROVIDE THAT THE ROAD USE FEE IS DUE AT THE SAME TIME AS REGISTRATION FEES, TO PROVIDE FOR THE DISTRIBUTION OF THE ROAD USE FEE, AND TO EXEMPT CERTAIN SEMITRAILERS, TRAILERS, LARGE COMMERCIAL MOTOR VEHICLES, AND BUSES FROM AD VALOREM TAXATION; TO AMEND SECTION 56-3-376, RELATING TO THE REGISTRATION OF MOTOR VEHICLES, SO AS TO PROVIDE A REGISTRATION SYSTEM FOR LARGE COMMERCIAL MOTOR VEHICLES AND BUSES; TO AMEND SECTION 56-3-120, RELATING TO

EXEMPTIONS FROM THE REGISTRATION PROCESS, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 56-3-610, RELATING TO THE PAYMENT OF REGISTRATION FEES, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 56-3-660, RELATING TO REGISTRATION FEES, SO AS TO PROVIDE THAT FEES FOR LICENSING AND REGISTRATION AND THE ROAD USE FEE MAY BE CREDITED OR PRORATED IF THE FEE EXCEEDS FOUR HUNDRED DOLLARS INSTEAD OF EIGHT HUNDRED DOLLARS, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTION 58-23-620, RELATING TO THE IMPOSITION OF LOCAL FEES, SO AS TO APPORTION CERTAIN LICENSE FEES AND TAXES; BY ADDING SECTION 12-37-2600 SO AS TO EXEMPT MOTOR CARRIERS FROM AD VALOREM TAXES ON LARGE COMMERCIAL MOTOR VEHICLES AND BUSES; TO AMEND SECTION 12-37-2610, AS AMENDED, RELATING TO THE TAX YEAR FOR MOTOR VEHICLES, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 12-37-2650, RELATING TO THE ISSUANCE OF TAX NOTICES, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 12-28-2355, RELATING TO INSPECTION FEE REVENUES, SO AS TO DELETE A PROVISION THAT CREDITED THE DEPARTMENT OF AGRICULTURE WITH TEN PERCENT OF THE REVENUES; TO REPEAL SECTION 12-28-530 RELATING TO THE MOTOR FUEL USER FEE ON FUEL INVENTORY; TO AMEND SECTION 12-28-2740, RELATING TO THE DISTRIBUTION OF THE MOTOR FUEL USER FEE TO COUNTIES, SO AS TO ALLOW FOR CERTAIN ADDITIONAL ALLOCATIONS, AND TO DISTRIBUTE ADDITIONAL REVENUES TO EACH COUNTY; BY ADDING SECTION 57-1-380 SO AS TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PREPARE A TRANSPORTATION ASSET MANAGEMENT PLAN FOR THE STATE HIGHWAY SYSTEM; TO AMEND SECTION 11-43-167, RELATING TO FEES AND FINES CREDITED TO THE STATE HIGHWAY FUND, SO AS TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO REDUCE CERTAIN AMOUNTS TRANSFERRED TO THE STATE-FUNDED RESURFACING PROGRAM; TO REPEAL SECTION 11-43-165 RELATING TO A TRANSFER OF FUNDS TO THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK; BY ADDING SECTION 12-6-3780 SO AS TO ALLOW FOR A REFUNDABLE

INCOME TAX CREDIT FOR CERTAIN PREVENTATIVE MAINTENANCE ON A PRIVATE PASSENGER MOTOR VEHICLE, AND TO SPECIFY THE MANNER IN WHICH THE CREDIT IS CALCULATED AND OFFSET; BY ADDING SECTION 11-11-240 SO AS TO CREATE THE SAFETY MAINTENANCE ACCOUNT TO OFFSET THE AMOUNT OF THE PREVENTATIVE MAINTENANCE CREDIT; BY ADDING SECTION 12-6-3632 SO AS TO PHASE-IN A CREDIT EQUAL TO ONE HUNDRED TWENTY-FIVE PERCENT OF ANY EARNED INCOME TAX CREDIT ALLOWED; TO AMEND SECTION 12-6-3330, RELATING TO THE TWO-WAGE EARNER CREDIT, SO AS TO PHASE-IN AN INCREASE IN THE MULTIPLIER THAT DETERMINES THE MAXIMUM CREDIT AMOUNT; TO AMEND SECTION 12-6-3385, RELATING TO THE INCOME TAX CREDIT FOR TUITION, SO AS TO INCREASE THE AMOUNT OF THE CREDIT FOR BOTH FOUR-YEAR INSTITUTIONS AND TWO-YEAR INSTITUTIONS; TO AMEND SECTION 12-37-220, AS AMENDED, RELATING TO EXEMPTIONS FROM PROPERTY TAX, SO AS TO PHASE-IN AN EXEMPTION OF A PERCENTAGE OF MANUFACTURING PROPERTY; TO REPEAL SECTION 57-1-460 RELATING TO THE DEPARTMENT OF TRANSPORTATION SECRETARY'S EVALUATION AND APPROVAL OF ROUTINE OPERATION, MAINTENANCE, AND EMERGENCY REPAIRS; TO REPEAL SECTION 57-1-470 RELATING TO THE DEPARTMENT OF TRANSPORTATION COMMISSION'S REVIEW OF ROUTINE MAINTENANCE AND EMERGENCY REPAIR REQUESTS APPROVED BY THE SECRETARY; TO AMEND SECTION 57-1-310, AS AMENDED, RELATING TO THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO ADD AN AT-LARGE MEMBER AND TO SPECIFY THE MANNER IN WHICH THE MEMBERS ARE APPROVED; TO AMEND SECTION 57-1-325, AS AMENDED, RELATING TO THE SUBMISSION OF TRANSPORTATION DISTRICT APPOINTMENTS, SO AS TO SPECIFY THE MANNER IN WHICH THE LEGISLATIVE DELEGATION MAY APPROVE THE APPOINTEE; TO AMEND SECTION 57-1-340, AS AMENDED, RELATING TO THE OATH OF OFFICE FOR A COMMISSION MEMBER, SO AS TO MAKE A CONFORMING CHANGE; TO REPEAL ARTICLE 7, CHAPTER 1, TITLE 57 RELATING TO THE JOINT TRANSPORTATION REVIEW

COMMITTEE; TO AMEND SECTION 57-1-350, AS AMENDED, RELATING TO THE RULES AND PROCEDURES OF THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO REQUIRE A MINIMUM OF SIX REGULAR MEETINGS ANNUALLY, TO PROHIBIT A MEMBER FROM BEING INVOLVED IN THE DAY-TO-DAY OPERATIONS OF THE DEPARTMENT, AND TO PROHIBIT A MEMBER FROM HAVING AN INTEREST IN A GRANT OR AWARD OF THE DEPARTMENT; TO AMEND SECTION 57-1-360, AS AMENDED, RELATING TO THE CHIEF INTERNAL AUDITOR OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO REQUIRE ALL FINAL AUDIT REPORTS BE PUBLISHED ON THE WEBSITE MAINTAINED BY THE DEPARTMENT AND THE STATE AUDITOR; TO AMEND SECTION 57-1-430, AS AMENDED, RELATING TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO REQUIRE THE SECRETARY TO PREPARE AND PUBLISH CERTAIN ANNUAL REPORTS; AND TO AMEND SECTION 57-1-330, AS AMENDED, RELATING TO THE TERMS OF OFFICE FOR MEMBERS OF THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO MAKE A CONFORMING CHANGE.

Whereas, this act is a comprehensive approach to address the effect that the deteriorating transportation infrastructure system has on our State and its residents, tourists, and economy; and

Whereas, our transportation infrastructure system has begun to deteriorate, causing safety and economic problems. It is time to focus the resources of our State in an efficient, effective manner to stop that deterioration and to set our State on the path toward building a first-class road network that is the envy of the nation; and

Whereas, this act will provide the Department of Transportation with the resources it needs to effectively and immediately address the highway, road, and bridge maintenance and construction needs and to enable the department to provide safe and high-quality infrastructure for the decades ahead; and

Whereas, the hazardous road conditions found throughout our State endanger residents and visitors alike. This act recognizes that safety is a

paramount concern to drivers traversing the State and must also be a priority when the Department of Transportation identifies projects to undertake; and

Whereas, this act makes necessary reforms to the Department of Transportation's operational footprint to provide a more effective, efficient delivery of services free from conflicts of interest that undermine the public's confidence that the taxes that they pay are being applied in a fair, even-handed manner across the State; and

Whereas, the revenue generated by this act will provide the Department of Transportation with additional resources, but it will also place an additional financial burden on the state's taxpayers. This act strikes an appropriate balance between the needs of our transportation infrastructure and the needs of the taxpayers by providing targeted tax relief that will stimulate economic growth, which, in turn, will generate revenue growth from the sales of motor vehicles, from the sale of fuel for motor vehicles, and from other provisions contained in this act; and

Whereas, this act allocates to the Department of Transportation adequate resources to build and maintain a safe highway system for the residents of our State while preserving for taxpayers the means to engage in commerce and other daily activities that provide the Department of Transportation with those resources. Now, therefore,

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

Infrastructure Maintenance Trust Fund

SECTION 1. Section 57-11-20(A) of the 1976 Code, as last amended by Act 176 of 2005, is further amended to read:

"(A)(1) All state revenues and state monies dedicated by statute to the operation of the department must be deposited into either the 'State Highway Fund', the 'State Non-Federal Aid Highway Fund', or the 'Infrastructure Maintenance Trust Fund'. All funds must be held and managed by the State Treasurer separate and distinct from the general fund, except as to monies utilized by the State Treasurer for the payment of principal or interest on state highway bonds as provided by law. Interest income from the State Highway Fund must be deposited to the credit of the State Highway Fund. Interest income from the Non-Federal Aid Highway Fund must be deposited to the credit of the Non-Federal

Aid Highway Fund. Interest income from the Infrastructure Maintenance Trust Fund must be deposited to the credit of the Infrastructure Maintenance Trust Fund. The commission may commit up to the maximum annual debt service provided in Section 13, Article X, of the South Carolina Constitution, 1895, into a special fund to be used for the sole purpose of paying the principal and interest, as it comes due, on bonds issued for the construction or maintenance of state highways, or both. This special account will be designated as the State Highway Construction Debt Service Fund.

(2) The Infrastructure Maintenance Trust Fund must be used exclusively for the repairs, maintenance, and improvements to the existing transportation system."

Motor fuel user fee increase

SECTION 2. Section 12-28-310 of the 1976 Code is amended by adding a subsection at the end to read:

"(D) On July 1, 2017, and each July first thereafter until after July 1, 2022, the department shall permanently increase the amount of the user fee imposed pursuant to subsection (A) by two cents, for a total of twelve cents. All of the funds raised by the increase in the motor fuel user fee imposed by this subsection must be credited to the Infrastructure Maintenance Trust Fund."

Road tax increase

SECTION 3. A. Section 56-11-410 of the 1976 Code is amended to read:

"Section 56-11-410. (A) A road tax for the privilege of using the streets and highways in this State is imposed upon every motor carrier. The tax is equivalent to the user fee imposed pursuant to Section 12-28-310, calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations within this State. Except as credit for certain taxes as provided for in this chapter, taxes imposed on motor carriers by this chapter are in addition to taxes imposed upon the carriers by any other provision of law.

(B) Notwithstanding any other provision of law, all of the road tax funds collected in excess of sixteen cents a gallon after accounting for the credit provided in Section 56-11-450, must be credited to the Infrastructure Maintenance Trust Fund."

B. Section 56-11-450(A) of the 1976 Code is amended to read:

"(A) Every motor carrier subject to the tax imposed under this chapter is entitled to a credit on the tax equivalent to the user fee imposed pursuant to Section 12-28-310 on all gasoline or other motor fuel purchased by the carrier within this State for use in operations either within or without this State and upon which gasoline or other motor fuel the tax imposed by the laws of this State has been paid by the carrier. Evidence of the payment of the tax in such form as may be required by or is satisfactory to the Department of Motor Vehicles must be furnished by each carrier claiming the credit."

Registration fee increase

SECTION 4. A. Section 56-3-620 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

"Section 56-3-620. (A) For persons sixty-five years of age or older or persons who are handicapped, as defined in Section 56-3-1950, the biennial registration fee for every private passenger motor vehicle, excluding trucks, is thirty-six dollars.

(B) For persons under the age of sixty-five years the biennial registration fee for every private passenger motor vehicle, excluding trucks, is forty dollars.

(C) For persons sixty-five years of age or older, the biennial registration fee for a property-carrying vehicle with a gross weight of six thousand pounds or less is forty-six dollars.

(D) For persons who are sixty-four years of age, the biennial registration fee for a private passenger motor vehicle, excluding trucks, is thirty-eight dollars.

(E) Applicable truck fees, established by Section 56-3-660, are not negated by this section.

(F) Annual license plate validation stickers which are issued for nonpermanent license plates on certified South Carolina public law enforcement vehicles must be issued without charge.

(G) From each biennial registration and license fee collected, sixteen dollars must be credited to the Infrastructure Maintenance Trust Fund."

B. This SECTION takes effect January 1, 2018.

Infrastructure maintenance fee

SECTION 5. A. Article 5, Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Section 56-3-627. (A) In order to account for the necessary road maintenance caused by each item traversing the roads of this State, in addition to the registration fees imposed by this chapter, the owner of each vehicle or other item that is required to be registered pursuant to this chapter must pay an infrastructure maintenance fee upon first registering the vehicle or other item. Also, the owner of each trailer or semitrailer must pay the fee upon first registering the trailer or semitrailer. The Department of Motor Vehicles may not issue a registration until the infrastructure maintenance fee has been collected. The infrastructure maintenance fee must be credited to the Infrastructure Maintenance Trust Fund.

(B) If upon purchasing or leasing the item from a dealer, the owner first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the gross proceeds of sales, or sales price, as those terms are defined in Chapter 36, Title 12. If the dealer holds a South Carolina retail license or offers to license and register the item, then the dealer must collect the fee and remit it to the Department of Motor Vehicles.

(C)(1) If upon purchasing or leasing the item from a person other than a dealer, the owner first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the fair market value of the item.

(2) Excluded from the fee imposed pursuant to this subsection are:

(a) items transferred:

(i) to members of the immediate family;

(ii) to a legal heir, legatee, or distributee;

(iii) from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(iv) to a licensed motor vehicle or motorcycle dealer for the purpose of resale;

(v) to a financial institution for the purpose of resale;

(vi) as a result of repossession to any other secured party, for the purpose of resale;

(b) the fair market value of an item transferred to the seller or secured party in partial payment;

(c) gross proceeds of transfers of items specifically exempted by Section 12-36-2120 from the sales or use tax;

(d) items where a sales or use tax has been paid on the transaction necessitating the transfer.

(3) The Department of Motor Vehicles shall require every applicant for a certificate of title to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the fee is based upon total purchase price as defined in this subsection, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

(4) For purposes of this subsection:

(a) 'Fair market value' means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(b) 'Immediate family' means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(c) 'Total purchase price' means the price of an item agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

(D)(1) If upon purchasing or leasing the item, the owner first registers the item in another state, and subsequently registers the item in this State, then the fee equals two hundred fifty dollars.

(2) This subsection does not apply if the owner of the item is serving on active duty in the armed forces of the United States. The exclusion allowed by this item also extends to items owned by the spouse or dependent of a person serving on active duty in the armed forces of the United States.

(3) Notwithstanding any other provision of this section, until after December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Safety Maintenance Account established pursuant to Section 11-11-240. After December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Infrastructure Maintenance Trust Fund.

(E)(1)(a) The Department of Motor Vehicles shall transfer eighty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C), but not to exceed two hundred forty dollars, to the Department of Transportation to be allocated to the state-funded resurfacing program. The Department of Transportation shall develop and implement a needs-based methodology to distribute revenue within the state-funded resurfacing program, which shall include consideration

of pavement condition on a county-by-county basis, to ensure that each county in the State is guaranteed funding for resurfacing.

(b) The Department of Motor Vehicles shall transfer twenty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C), but not to exceed sixty dollars, to the South Carolina Education Improvement Act of 1984 Fund.

(2) The Department of Transportation shall reduce the allocation to the state-funded resurfacing program required in item (1) in proportion to the amounts transferred to the South Carolina Transportation Infrastructure Bank pursuant to subsection (F) and in proportion to the amounts required by the Department of Transportation to fund repairs, maintenance, and improvements to the existing transportation system.

(F)(1) The Department of Transportation shall identify bridge and road projects to be financed utilizing nontax revenue transferred to the bank by the Department of Transportation in an amount equal to the financing requirements related to projects selected pursuant to this section, provided that:

(a) Fifty million dollars in revenue utilized by the bank shall be used to finance bridge replacement, rehabilitation projects, and expansion and improvements on existing roads in the State Highway System.

(b) Funds in excess of fifty million dollars utilized by the bank shall be used to finance expansion and improvements to existing mainline interstates.

(2) Funds transferred to the bank pursuant to this section may not be used to finance projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section 11-43-180, before approving a project for financing.

(3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of nontax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.

(4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer nontax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.

(5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.

(G) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs.

(H) Notwithstanding any other provision of this section, any transaction exempt pursuant to Section 12-36-2120(25), is also exempt from the infrastructure maintenance fee."

B. This SECTION takes effect on July 1, 2017.

Road use fee

SECTION 6. A. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Section 56-3-645. (A) In addition to the registration fees imposed by this chapter, the owner of motor vehicles that are powered:

(1) exclusively by electricity, hydrogen, or any fuel other than motor fuel, as defined in Section 12-28-110(39), that are not subject to motor fuel user fees imposed by Chapter 28, Title 12 shall pay a biennial road use fee of one hundred twenty dollars; and

(2) by a combination of motor fuel subject to motor fuel user fees imposed by Chapter 28, Title 12 and electricity, hydrogen, or any fuel other than motor fuel that is not subject to motor fuel user fees imposed by Chapter 28, Title 12 shall pay a biennial road use fee of sixty dollars.

(B) All of the fees collected pursuant to this section must be credited to the Infrastructure Maintenance Trust Fund.

(C) The Department of Motor Vehicles shall collect this fee at the same time as the vehicle subject to the fee is registered."

B. This SECTION takes effect January 1, 2018.

Maximum tax increase, sales tax exemption, revenues

SECTION 7. A. Section 12-36-2110(A) of the 1976 Code is amended to read:

"(A)(1) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed, after August 31, 1985, of each:

(a) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;

(b) motor vehicle;

(c) motorcycle;

(d) boat;

(e) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Section 56-3-710 or a fire safety education trailer;

(f) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or

(g) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.

(2) In the case of a lease, the total tax rate required by this section applies on each payment until the total tax paid equals three hundred dollars. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days.

(3) Notwithstanding any other provision of this subsection, after June 30, 2017, the maximum tax imposed pursuant to this chapter on the sale, lease, or registration of an item enumerated in item (1) only applies to items not subject to the fee pursuant to Section 56-3-627.

(4) Notwithstanding any other provision of this subsection, after June 30, 2017, the maximum tax imposed pursuant to this chapter on the sale, lease, or registration of an item enumerated in item (1) is increased from three hundred dollars to five hundred dollars, mutatis mutandis. Notwithstanding Section 59-21-1010, or any other provision of law, any revenue resulting from the increase contained in this item must be credited to the Infrastructure Maintenance Trust Fund.

(5) Notwithstanding any other provision of law, revenues resulting from the maximum tax imposed pursuant to this chapter on the sale, lease, or registration of an item enumerated in item (1) which would be subject to the fee set forth in Section 56-3-627 but for the state in which it is registered, must be collected by and remitted to the Department of Motor Vehicles. Upon collection, the Department of Motor Vehicles must transfer all the revenues to the Infrastructure Maintenance Trust Fund."

B. Section 12-36-2120 of the 1976 Code, as last amended by Act 256 of 2016, is further amended by adding an appropriately numbered item to read:

"( ) any item subject to the fee set forth in Section 56-3-627."

C. Section 12-36-1710(A) through (D) of the 1976 Code is amended to read:

"(A) In addition to all other fees prescribed by law there is imposed an excise tax for the issuance of every certificate of title, or other proof of ownership, for every boat, motor, or airplane, required to be registered, titled, or licensed. The tax is five percent of the fair market value of the airplane, boat, and motor.

(B) Excluded from the tax are:

(1) boats, motors, or airplanes:

(a) transferred to members of the immediate family;

(b) transferred to a legal heir, legatee, or distributee;

(c) transferred from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(d) transferred to a licensed motor vehicle or motorcycle dealer for the purpose of resale;

(e) transferred to a financial institution for the purpose of resale;

(f) transferred as a result of repossession to any other secured party, for the purpose of resale;

(2) the fair market value of a boat, motor, or airplane, transferred to the seller or secured party in partial payment;

(3) gross proceeds of transfers of airplanes specifically exempted by Section 12-36-2120 from the sales or use tax;

(4) boats, motors, or airplanes, where a sales or use tax has been paid on the transaction necessitating the transfer.

(C) 'Fair market value' means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(D) 'Total purchase price' means the price of a boat, motor, or airplane agreed upon by the buyer and seller with an allowance for a trade-in, if applicable."

D. Section 12-36-2647 of the 1976 Code is repealed.

E. The Code Commissioner is directed to change or correct all references to the sales tax on vehicles and other such items to reflect the provisions of Section 56-3-627, as added by this act. References to the sales tax on vehicles and other such items in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

Road use fee on certain commercial motor vehicles

SECTION 8. A. Article 23, Chapter 37, Title 12 of the 1976 Code is amended to read:

"Article 23

Motor Carriers

Section 12-37-2810. As used in this article, unless the context requires otherwise:

(A) 'Motor carrier' means a person who owns, controls, operates, manages, or leases a commercial motor vehicle, or bus for the transportation of property or persons in intrastate or interstate commerce except for scheduled intercity bus service and farm vehicles using FM tags as allowed by the Department of Motor Vehicles. A motor carrier is defined further as being a South Carolina-based International Registration Plan registrant or owning or leasing real property within this State used directly in the transportation of freight or persons.

(B) 'Commercial motor vehicle' means a motor propelled vehicle used for the transportation of property on a public highway, except for farm vehicles using FM tags as allowed by the Department of Motor Vehicles.

(C) 'Large commercial motor vehicle' means a commercial motor vehicle with a gross vehicle weight of greater than twenty-six thousand pounds that is registered under the International Registration Plan or used on a highway for the transportation of property.

(D) 'Small commercial motor vehicle' means a commercial motor vehicle with a gross vehicle weight of less than or equal to twenty-six thousand pounds that is registered under the International Registration Plan or used on a highway for the transportation of property.

(E) 'Highway' means all public roads, highways, streets, and ways in this State, whether within a municipality or outside of a municipality.

(F) 'Person' means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor,

administrator, receiver, conservator, or a person acting in a fiduciary capacity.

(G) 'Semitrailers' means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that a part of its weight and of its load rests upon or is carried by another vehicle.

(H) 'Trailers' means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(I) 'Bus' means every motor vehicle designed for carrying more than sixteen passengers and used for the transportation of persons, for compensation, other than a taxicab or intercity bus.

(J) 'South Carolina apportionment factor' means the ratio of miles operated by a fleet of vehicles in South Carolina to the miles operated by the fleet of vehicles everywhere, which is used to apportion the registration fees of the fleet under the International Registration Plan.

Section 12-37-2815. The provisions contained in this article do not apply to small commercial motor vehicles that must be licensed, registered, and pay ad valorem taxes as otherwise provided by law.

Section 12-37-2820. (A) The Department of Motor Vehicles annually shall assess, equalize, and apportion the valuation of all large commercial motor vehicles and buses of motor carriers registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56-3-190. The valuation must be based on fair market value for the motor vehicles and an assessment ratio of nine and one-half percent as provided by Section 12-43-220(g). Fair market value is determined by depreciating the gross capitalized cost of each motor carrier's large commercial motor vehicle or bus by an annual percentage depreciation allowance down to ten percent of the cost as follows:

(1) Year One -- .90
(2) Year Two -- .80
(3) Year Three -- .65
(4) Year Four -- .50
(5) Year Five -- .35
(6) Year Six -- .25
(7) Year Seven -- .20
(8) Year Eight -- .15
(9) Year Nine -- .10

(B) 'Gross capitalized cost', as used in this section, means the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing. However, for a motor vehicle which is fueled wholly or partially by alternative fuel as defined in Section 12-28-110(1), and that was acquired after 2015 but before 2026, the gross capitalized cost is reduced by the differential costs of a comparable diesel or gasoline powered vehicle, not to exceed thirty percent of the total acquisition cost of the motor vehicle. This reduction shall apply for the first ten property tax years for which tax is due following the acquisition of the vehicle.

Section 12-37-2830. The value of a motor carrier's large commercial motor vehicles and buses subject to road use fees in this State must be determined according to the South Carolina apportionment factor for the fleet of which the commercial vehicle is a part.

Section 12-37-2840. A motor carrier registering a large commercial motor vehicle or bus must pay the road use fee due on the vehicle at the time and in the manner the person pays the registration fees on the vehicle pursuant to Section 56-3-660. A person choosing to pay registration fees on a large commercial motor vehicle or bus in quarterly installments pursuant to Section 56-3-660 also must pay the road use fee on the vehicle in the same quarterly installments.

Section 12-37-2850. Beginning on January 1, 2019, the Department of Motor Vehicles shall assess annually the road use fee due on large commercial motor vehicles and buses based on the value determined in Section 12-37-2820 and an average millage for all purposes statewide for the preceding calendar year and shall publish the average millage for the preceding year by July first of each year. The Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee by June first of each year for the following calendar year. The road use fee assessed must be paid to the Department of Motor Vehicles, in addition to the registration fees required pursuant to Sections 56-3-660 and 56-3-670, at the time and in the manner that the registration fees on the vehicle are paid pursuant to Sections 56-3-660 and 56-3-670. Distribution of the fees paid must be made by the Office of the State Treasurer based on the distribution formula provided in Sections 12-37-2865 and 12-37-2870.

Section 12-37-2860. (A) In addition to the property tax exemptions allowed pursuant to Section 12-37-220, one hundred percent of the fair market value of semitrailers and trailers as defined in Section 12-37-2810, and commonly used in combination with a large commercial motor vehicle, as defined pursuant to Section 12-37-2810, is exempt from property tax.

(B) Instead of any property tax and the registration requirements provided in Sections 56-3-110 and 56-3-700 on semitrailers and trailers of motor carriers as defined in Section 12-37-2810, and commonly used in combination with a large commercial motor vehicle, a one-time fee payable to the Department of Motor Vehicles in the amount of eighty-seven dollars is imposed on all semitrailers and trailers currently registered and subsequently on each semitrailer and trailer before being placed in service.

(C) The fee imposed pursuant to subsection (B) and the registration requirements of this article are in lieu of any local road use fee, registration fees, or any other vehicle-related fee imposed by a political subdivision of this State on a trailer or semitrailer.

(D) Twelve dollars of the one-time fee must be distributed to the Department of Motor Vehicles and may be retained by the Department of Motor Vehicles and expended in budgeted operations to record and administer the fee. The remaining seventy-five dollars of the fee must be distributed based on the distribution formula provided in Sections 12-37-2865 and 12-37-2870, and must occur by the fifteenth day of the month following the month in which the fees are collected.

(E) The Department of Motor Vehicles shall design a permanent tag for display on the exterior of the rear of the trailer or semitrailer in a conspicuous place.

(F) If the apportioned registration fees of a large commercial motor vehicle or bus and the road use fees for large commercial motor vehicles required under this chapter are equal to or exceed four hundred dollars, the fees may be remitted to the Department of Motor Vehicles quarterly provided that each installment is made online. A motor carrier who fails to make a quarterly payment on a timely basis may no longer make installment payments and must remit to the department the balance of the fees owed for any previous calendar year before the Department of Motor Vehicles will renew registration for the current calendar year. A motor carrier that opts out of installment payments must make full payment of fees at the time of registration.

Section 12-37-2865. Seventy-five percent of the revenues from the road use fee assessed pursuant to Section 12-37-2850, and the one-time

fee assessed pursuant to Section 12-37-2860 must be distributed by the State Treasurer as provided in Section 12-37-2870. Distributions must be made by the last day of the next month succeeding the month in which the fee is paid. The remaining twenty-five percent must be credited to the Infrastructure Maintenance Trust Fund to be used to finance expansion and improvements to existing mainline interstates.

Section 12-37-2870. The distribution of the fee revenues required to be distributed pursuant to Section 12-37-2865 for each county must be determined on the ratio of total federal and state highway miles within each county during the preceding calendar year to the total federal and state highway miles within all counties of this State during the same preceding calendar year. The county must distribute the revenue from the payment-in-lieu of taxes received pursuant to this section within thirty days of its receipt to every governmental entity levying a property tax in the manner set forth below. For each governmental entity levying a property tax, the entire assessed value of the taxable property within its boundaries and the county area must be multiplied by the millage rate imposed by the governmental entity. That figure constitutes the numerator for that governmental entity. The total of the numerators for all property tax levying entities within the county area constitutes the denominator. The numerator for each governmental entity must be divided by the denominator. The resulting percentage must be multiplied by the fee revenue received pursuant to this section and that amount distributed to the general fund of the appropriate governmental entity. The distribution of taxes and fees paid must be made by the last day of the next month succeeding the month in which the taxes and fees were paid.

Section 12-37-2880. (A) In addition to the property tax exemptions allowed pursuant to Section 12-37-220, one hundred percent of the fair market value of all large commercial motor vehicles and buses registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56-3-190, is exempt from property tax and is instead subject to the road use fee imposed pursuant to this article.

(B) The road use fee imposed by this article is in lieu of all ad valorem taxes upon large commercial motor vehicles or buses, and any road use or other vehicle-related fees imposed by a political subdivision of this State if registered for use in this State under the International Registration Plan."

B. Section 56-3-376 of the 1976 Code is amended to read:

"Section 56-3-376. (A) All vehicles except those vehicles designated in Section 56-3-780 are designated as distinct classifications and must be assigned an annual registration period as follows:

(1) Classification (1). Vehicles for which the biennial registration fee is one-hundred sixty dollars or more. The Department of Motor Vehicles may register and license a vehicle for which the biennial registration fee is one-hundred sixty dollars or more or for a semiannual or one-half year upon application to the department by the owner and the payment of one-fourth of the specified biennial fee. Biennial registrations and licenses expire at midnight on the last day of the twenty-fourth month for the period for which they were issued. Semiannual or half-year registrations and licenses expire at midnight of the sixth month for the period for which they were issued and no person shall drive, move, or operate a vehicle upon a highway after the expiration of the registration and license until the vehicle is registered and licensed for the then current period. Trucks, truck tractors, or road tractors with an empty or unloaded weight of over five thousand pounds or less, or gross vehicle weight of eight thousand pounds or less also must be placed in this classification but may not be registered for less than a full biennial period.

(2) Classification (2). Other vehicles. All other vehicles except those vehicles described in classification (1) and (3) of this section are assigned a staggered biennial registration which expires on the last day of the month for the period for which they were issued.

(3) Classification (3). Large commercial motor vehicles and buses registered by motor carriers, as defined in Section 12-37-2810, are assigned a staggered annual registration which expires on the last day of the month for the period for which they were issued.

(B) Notwithstanding the registration periods provided in this section, upon appropriate notice, the department may revise the established renewal dates to allow renewals to be assigned an expiration date pursuant to a staggered monthly basis."

C. Section 56-3-120(5) of the 1976 Code is amended to read:

"(5) a trailer or semitrailer commonly used in combination with a large commercial motor vehicle, as defined in Section 12-37-2810, for which trailer or semitrailer the fee imposed pursuant to Section 12-37-2860 is paid and applicable registration requirements provided pursuant to Article 23, Chapter 37, Title 12, are met, and a distinctive permanent plate has been issued pursuant to Section 12-37-2860."

D. Section 56-3-610 of the 1976 Code is amended to read:

"Section 56-3-610. (A) Except as provided in subsection (B), the owner of every motor vehicle, trailer, semitrailer, pole trailer, and special mobile equipment vehicle required to be registered and licensed under this chapter shall pay to the Department of Motor Vehicles at the time of registering and licensing the vehicle and biennially after that time registration and license fees as set forth in this article.

(B) A large commercial motor vehicle or bus on which is imposed the road use fee provided pursuant to Article 23, Chapter 37, Title 12 is required to be registered and licensed annually pursuant to this chapter and the scheduled fees adjusted as provided pursuant to Section 56-3-660(E)."

E. Section 56-3-660(A) of the 1976 Code is amended to read:

"Section 56-3-660. (A) The determination of gross vehicle weight to register and license self-propelled property carrying vehicles is the empty weight of the vehicle or combination of vehicles and the heaviest load to be transported by the vehicle or combination of vehicles as declared by the registered owner. All determinations of weight must be made in units of one thousand pounds or major fraction of one thousand pounds. The declared gross vehicle weight applies to all self-propelled property carrying vehicles operating in tandem with trailers or semitrailers except that the gross weight of a trailer or semitrailer is not required to be included when the operation is to be in tandem with a self-propelled property carrying vehicle licensed for six thousand pounds or less gross weight, and the gross vehicle weight of the combination does not exceed nine thousand pounds. The Department of Motor Vehicles may register and license a small commercial motor vehicle, as defined in Section 12-37-2810, for which the biennial registration and license fee is one-hundred and sixty dollars or more for an annual or one-year period beginning on April first and ending on March thirty-first of the next year upon application to the department by the owner and the payment of one-half the specified biennial fee or for a semiannual or one-half year beginning on April first and ending on September thirtieth of the same year upon application to the department by the owner and the payment of the appropriate fees. The registration and license fee for small commercial motor vehicles which are registered for the remaining twenty-four months or less of the twenty-four month biennial period or for the eleven months or less of the twelve-month year

ending on March thirty-first or the remaining five months or less for the one-half period ending on September thirtieth is the proportionate part of the specified biennial fee for the remainder of the twenty-four month period or year or one-half year based on one twenty-fourth of the specified twenty-four-month fee for each month or part of a month remaining in the biennial registration period or license year or one-half year. A proportionate fee may not be reduced lower than ten dollars. A person making application for a registration and license for a motor vehicle of this classification shall declare the true unloaded or empty weight of the vehicle."

F. Section 56-3-660 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Fees for licensing and registration, and fees imposed pursuant to Article 23, Chapter 37, Title 12, may be credited or prorated as prescribed by the Department of Motor Vehicles."

G. Section 56-3-660(E) of the 1976 Code is amended to read:

"(E) The department may register a large commercial motor vehicle, as defined in Section 12-37-2810, for the payment of one-half of this state's portion of the license and road fee for a vehicle whose portion of the license and road fee owed to this State exceeds four hundred dollars. The department may require any information necessary to complete the transaction."

H. Section 58-23-620 of the 1976 Code is amended to read:

"Section 58-23-620. (A) A municipality or county in this State may not impose a license fee or license tax upon a holder of a certificate A or a certificate B, and a municipality or county may not impose a license fee or license tax on the holder of a certificate E or a certificate F, Certificate of Compliance, or a common or contract motor carrier of property, except the municipality of the carrier's residence or the location of the carrier's principal place of business. However, the fee required of a holder of a certificate C is in addition to any license tax or license fee charged by a municipality.

(B) If a municipality or county imposes a license fee or license tax pursuant to subsection (A), the fee or tax in the case of any certificate holder or common or contract motor carrier of property which operates its vehicles both within and without this State, must be apportioned in

the ratio that the miles traveled by the vehicles operated by the certificate holder in this State bears to miles traveled by those vehicles in all states."

I. Article 21, Chapter 37, Title 12 of the 1976 Code is amended by adding:

"Section 12-37-2600. Motor carriers, as defined in Section 12-37-2810, are exempt from ad valorem taxes imposed pursuant to this chapter on large commercial motor vehicles and buses."

J. Section 12-37-2610 of the 1976 Code, as last amended by Act 87 of 2015, is further amended to read:

"Section 12-37-2610. The tax year for licensed motor vehicles begins with the last day of the month in which a registration required by Section 56-3-110 is issued and ends on the last day of the month in which the registration expires or is due to expire. A registration may not be issued for motor vehicles until the ad valorem tax is paid for the year for which the registration is to be issued. Large commercial motor vehicles and buses, as defined in Section 12-37-2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes. The provisions of this section do not apply to the transfer of motor vehicle registrations as specified in Section 12-37-2675 or to sales of motor vehicles by a licensed motor vehicle dealer. Notice of the sales must be furnished to the Department of Motor Vehicles by the dealer, along with other documents necessary for the registration and licensing of the vehicle concerned. The notice must be received by the Department of Motor Vehicles as a prerequisite to the registration and licensing of the vehicle and must include the name and address of the purchaser, the vehicle identification number, and the year and model of the vehicle. The notice must be an original and one copy, and the copy must be provided by the department to the auditor of the county in which the vehicle is taxable. All ad valorem taxes on a vehicle are due and payable one hundred twenty days from the date of purchase. The notice and the time in which to pay the tax applies to motor vehicles that are serviced and delivered by a licensed motor vehicle dealer for the benefit of an out-of-state dealer."

K. The first paragraph of Section 12-37-2650 of the 1976 Code is amended to read:

"The auditor shall prepare a tax notice of all vehicles owned by the same person and licensed at the same time for each tax year within the two-year licensing period. A notice must describe the motor vehicle by name, model, and identification number. The notice must set forth the assessed value of the vehicle, the millage, the taxes due on each vehicle, and the license period or tax year. The notice must be delivered to the county treasurer who must collect or receive payment of the taxes. One copy of the notice must be in the form of a bill or statement for the taxes due on the motor vehicle and, when practical, the treasurer shall mail that copy to the owner or person having control of the vehicle. When the tax and all other charges included on the tax bill have been paid, the treasurer shall issue the taxpayer a paid receipt. The receipt or a copy may be delivered by the taxpayer to the Department of Motor Vehicles with the application for the motor vehicle registration. A record of the payment of the tax must be retained by the treasurer. The auditor shall maintain a separate duplicate for motor vehicles. A registration may not be issued by the Department of Motor Vehicles unless the application is accompanied by the receipt, a copy of the notification required by Section 12-37-2610 or notice from the county treasurer, by other means satisfactory to the Department of Motor Vehicles, of payment of the tax. Large commercial motor vehicles and buses, as defined in Section 12-37-2810, must pay road use fees pursuant to Article 23, Chapter 37, Title 12 in lieu of ad valorem property taxes. The treasurer, tax collector, or other official charged with the collection of ad valorem property taxes in each county may delegate the collection of motor vehicle taxes to banks or banking institutions, if each institution assigns, hypothecates, or pledges to the county, as security for the collection, federal funds or federal, state, or municipal securities in an amount adequate to prevent any loss to the county from any cause. Each institution shall remit the taxes collected daily to the county official charged with the collections. The receipt given to the taxpayer, in addition to the information required in this section and by Section 12-45-70, must contain the name and office of the treasurer or tax collector of the county and must also show the name of the banking institution to which payment was made."

L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12-37-2820 and 12-37-2850 at the time the vehicle's registration fees are paid.

(2) Notwithstanding the provisions in Section 12-37-2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12-37-2865 must be retained by the Department of Motor Vehicles to defray programming costs.

(3) The initial millage required by Section 12-37-2850 must be calculated on or before June 1, 2018.

M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12-37-2850 by July 1, 2018.

Inspection fee revenues

SECTION 9. The first paragraph in Section 12-28-2355(C), before the first colon, is amended to read:

"(C) Notwithstanding any other provision of law, the fees collected pursuant to subsection (A) must be credited to the Department of Transportation State Non-Federal Aid Highway Fund as provided in the following schedule:"

Repeal

SECTION 10. Section 12-28-530 of the 1976 Code is repealed.

Additional allocation for certain counties

SECTION 11. Section 12-28-2740(H) of the 1976 Code is amended to read:

"(H)(1) For purposes of this subsection, 'donor county' means a county that contributes to the 'C' fund an amount in excess of what it receives under the allocation formula as stated in subsection (A). In addition to the allocation to the counties pursuant to subsection (A), the Department of Transportation annually shall transfer to the donor counties an amount equal to seventeen million dollars in the ratio of the individual donor county's contribution in excess of 'C' fund revenue allocated to the county under subsection (A) to the total excess contributions of all donor counties.

(2) A county is eligible for an additional allocation from the Department of Transportation if the county contributed to the 'C' fund an amount in excess of what it receives under the allocation formula as stated in subsection (A) plus what it receives under item (1). The Department of Transportation annually shall transfer to the eligible counties an amount up to three and one-half million dollars in the ratio of the individual eligible county's contribution to the 'C' fund in excess of the eligible county's total allocations under subsection (A) and item (1) to the total excess contributions of all eligible counties remaining after all allocations under subsection (A) and item (1) have been made. Under no circumstances can an allocation under this item result in an eligible county receiving total allocations in excess of what the county contributed to the 'C' fund."

Transportation Asset Management Plan

SECTION 12. Article 3, Chapter 1, Title 57 of the 1976 Code is amended by adding:

"Section 57-1-380. The Department shall prepare a Transportation Asset Management Plan which includes objectives and performance measures for the preservation and improvement of the State Highway System. In addition, the Transportation Asset Management Plan shall include objectives, performance measures and innovative approaches to address high-risk rural roads that are functionally classified as a rural Primary or Federal Aid Secondary Roads. High-risk rural roads shall include roads in which the accidents resulting in fatalities and incapacitating injuries exceeds the statewide average, including roadway departures, for those functional classes of roadway. The Transportation Asset Management Plan shall be approved by the commission and is to establish fiscally constrained performance goals, including fifty million dollars for high-risk rural roads, for transportation infrastructure assets such as pavements and bridges. The Department shall provide an annual update on achieving the Transportation Asset Management Plan performance goals to the General Assembly as well as publishing the results for the public to view."

Additional "C" funds

SECTION 13. Section 12-28-2740 of the 1976 Code is further amended by adding an appropriately lettered subsection at the end to read:

"( ) Notwithstanding the provisions of subsection (A), on July 1, 2018, and each July first thereafter until after July 1, 2021, the amount of proceeds of the user fee on gasoline only as levied for in this chapter that must be deposited with the State Treasurer and expended for the purposes of this section must be increased by .3325 cents a gallon, until such time as the total amount equals three and ninety-nine one-hundredths cents a gallon. Any increase in proceeds resulting from the provisions of this subsection must be used exclusively for repairs, maintenance, and improvements to the state highway system."

State-funded resurfacing program, elimination of transfer

SECTION 14. A. Section11-43-167(B)(2) of the 1976 Code is amended to read:

"(2) The Department of Transportation shall reduce the allocation to the state-funded resurfacing program required in item (1) in proportion to the amounts transferred to the South Carolina Transportation Infrastructure Bank pursuant to subsection (C) and in proportion to the amounts required by the Department of Transportation to fund repairs, maintenance, and improvements to the existing transportation system."

B.1. Section 11-43-165 of the 1976 Code is repealed.

2. This subsection 14.B.1. takes effect upon approval by the Governor and first applies to Fiscal Year 2018-2019.

Credit for preventative maintenance, Safety Maintenance Account

SECTION 15. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3780. (A)(1) A resident taxpayer is allowed a refundable income tax credit for preventative maintenance on a private passenger motor vehicle as defined in Section 56-3-630, including motorcycles, registered in this State during the appropriate year, subject to other limitations contained in this section. The total amount of the credit may not exceed the lesser of: (i) the resident taxpayer's actual motor fuel user fee increase incurred for that motor vehicle as a result of increases in the motor fuel user fee pursuant to Section 12-28-310(D) or (ii) the amount the resident taxpayer expends on preventative

maintenance. The resident taxpayer shall claim the credit allowed by this section on the resident taxpayer's income tax return in a manner prescribed by the department. The department may require any documentation it deems necessary to implement the provisions of this section. Notwithstanding any other provision of this section, a resident taxpayer may claim the credit for up to two private passenger motor vehicles, with the credit being calculated separately for each vehicle. For the purposes of this section, 'preventative maintenance' includes costs incurred within this State for new tires, oil changes, regular vehicle maintenance, and the like. In addition, 'motor fuel expenditures' are purchases of motor fuel within this State to which the motor fuel user fee imposed pursuant to Section 12-28-310(D) applies.

(2) Notwithstanding any other provision of this section:

(a) For tax year 2018, the credit allowed by this section may not exceed forty million dollars for all taxpayers.

(b) For tax year 2019, the credit allowed by this section may not exceed sixty-five million dollars for all taxpayers.

(c) For tax year 2020, the credit allowed by this section may not exceed eighty-five million dollars for all taxpayers.

(d) For tax year 2021, the credit allowed by this section may not exceed one hundred ten million dollars for all taxpayers.

(e) For all tax years after 2021, the credit allowed by this section may not exceed one hundred fourteen million dollars for all taxpayers.

On or before September 30, 2018, and by September thirtieth of each year thereafter, the Revenue and Fiscal Affairs Office shall estimate the number of taxpayers expected to claim the credit for the current tax year and the total amount expected to be claimed. In the event that the Revenue and Fiscal Affairs Office estimates that the total amount of credits claimed will exceed the maximum amount of aggregate credit allowed pursuant to this item, the Revenue and Fiscal Affairs Office shall certify to the Department of Revenue a pro rata adjustment to the credit otherwise provided.

(B)(1) In order to offset the credit allowed by the section, on or before January 31, 2019, and by January thirty-first of each year thereafter, an amount of funds necessary to entirely offset the estimated credit as certified by the Revenue and Fiscal Affairs Office, must be transferred from the Safety Maintenance Account to the Department of Revenue. If any funds exist in the Safety Maintenance Fund after all the income tax credits are claimed for the year or if any transferred funds still exist after all the income tax credits are claimed for the year, the remainder must be credited to the Infrastructure Maintenance Trust Fund.

(2) If the transferred funds pursuant to item (1) are not sufficient to completely offset the credit, on or before January 31, 2019, and by January thirty-first of each year thereafter, the Department of Transportation shall transfer to the Department of Revenue an amount equal to the total amount of credits estimated by the Revenue and Fiscal Affairs Office to be claimed for the applicable tax year minus any amounts transferred pursuant to item (1). If the credit claimed by all taxpayers in a tax year is less than the amounts transferred pursuant to this item, then the excess shall revert back from the Department of Revenue to the Department of Transportation as soon as practicable within the same year that the transfer occurred.

(C) Unless reauthorized by the General Assembly, the credit allowed by this section may not be claimed for any tax year beginning after 2022."

B. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

"Section 11-11-240. (A) There is created in the State Treasury the Safety Maintenance Account. This account is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year, subject to the provision of Section 12-6-3780(C). Notwithstanding Section 56-3-627, the account must be credited any funds collected pursuant to Section 56-3-627(D). The funds in the account only must be appropriated to offset the costs of the refundable income tax credit allowed pursuant to Section 12-6-3780.

(B) Notwithstanding subsection (A), after December 31, 2022, the Safety Maintenance Account shall no longer be credited funds collected pursuant to Section 56-3-627(D). Once the account has expended all its funds on the costs of the credit or are transferred to the Infrastructure Maintenance Trust Fund pursuant to Section 12-6-3780(C), this section is repealed."

C. This SECTION takes effect upon approval by the Governor, and subsection A first applies to tax years beginning after 2017.

Earned income tax credit

SECTION 16. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3632. There is allowed as a nonrefundable credit against the tax imposed pursuant to Section 12-6-510 on a full-year resident individual taxpayer an amount equal to one hundred twenty-five percent of the federal earned income tax credit (EITC) allowed the taxpayer pursuant to Internal Revenue Code Section 32."

B. Notwithstanding Section 12-6-3632, as added by this SECTION, the percentage of the federal earned income tax credit, for which the credit allowed by Section 12-6-3632 is based, must be phased-in in six equal installments of twenty and eighty-three hundredths percent each tax year until it is fully phased-in in tax year 2023, with the twenty and eighty-three hundredths percent applying in tax year 2018.

C. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2017.

Two-wage earner credit

SECTION 17. A. Section 12-6-3330(B)(1) of the 1976 Code is amended to read:

"(1) fifty thousand dollars; or"

B. Notwithstanding the increased multiplier of fifty thousand dollars in Section 12-6-3330(B)(1) as amended in this SECTION, the increase must be phased-in in six equal installments of three thousand three hundred thirty-three dollars each tax year until it is fully phased-in in tax year 2023, with the first increase occurring in tax year 2018.

C. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2017.

Tuition credit

SECTION 18. A. Section 12-6-3385(A)(1) of the 1976 Code is amended to read:

"(A)(1)(a) A student is allowed a refundable individual income tax credit equal to fifty percent, not to exceed one thousand five hundred dollars in the case of both four-year institutions and two-year institutions, for tuition paid an institution of higher learning or a designated institution as provided in this section, during a taxable year. The amount of the tax credit claimed up to the limits authorized in this section for any taxable year may not exceed the amount of tuition paid during that taxable year.

(b) The maximum amount of credits allowed by this section for all taxpayers may not exceed forty million dollars in tax year 2018. For all tax years after 2018, the maximum amount of credits for all taxpayers may not exceed the maximum amount in tax year 2018, plus a cumulative amount equal to the percentage increase in the Higher Education Price Index, not to exceed more than three percent a year. If the total amount of credits claimed in a tax year exceeds the maximum amount, then the amount of each credit must be reduced proportionately.

(c) Notwithstanding any other provision of this section, the Revenue and Fiscal Affairs Office annually shall estimate a maximum credit that may be permitted under this section for a taxable year based on the number of taxpayers expected to claim the credit and the expected amount claimed. The Revenue and Fiscal Affairs Office shall certify the maximum credit to the Department of Revenue, and for the applicable taxable year, the maximum credit amount must not exceed the lesser of the certified estimate or the maximum amount set forth in subitem (a). If the certified estimate exceeds the maximum amount set forth in subitem (b), then the credit must be reduced by a pro rata amount that the certified estimate exceeds the maximum set forth in subitem (b).

(d) The Commission on Higher Education, the State Board for Technical and Comprehensive Education, and each public institution of higher learning, as defined in Section 59-103-5, must develop a plan to notify each student of the tax credit allowed by this section and shall promote resources that may be available on campus, or in the community, that would assist students in applying for the tax credit as applicable."

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2017.

Manufacturing property tax exemption

SECTION 19. A. Section 12-37-220(B) of the 1976 Code is amended by adding an item at the end to read:

"(52)(a) 14.2857 percent of the property tax value of manufacturing property assessed for property tax purposes pursuant to Section 12-43-220(a)(1). For purposes of this item, if the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the limit imposed pursuant to Section 6, Article X of the South Carolina Constitution, 1895;

(b) The revenue loss resulting from the exemption allowed by this item must be reimbursed and allocated to the political subdivisions of this State, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed eighty-five million dollars per year. In calculating estimated state individual and corporate income tax revenues for a fiscal year, the Board of Economic Advisors shall deduct amounts sufficient to account for the reimbursement required by this item.

(c) Notwithstanding the exemption allowed by this item, in any year in which reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap in subitem (b), the exemption amount shall be proportionally reduced so as not to exceed the reimbursement cap.

(d) Notwithstanding any other provision of law, property exempted from property taxes in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the Constitution of this State."

B. Notwithstanding the exemption amount allowed pursuant to item (52) added pursuant to subsection A of this SECTION, the percentage exemption amount is phased-in in six equal and cumulative percentage installments, applicable for property tax years beginning after 2017.

C. This SECTION takes effect upon approval by the Governor and first applies to property tax years beginning after 2017.

Repeal

SECTION 20. Section 57-1-460 of the 1976 Code, relating to the Department of Transportation Secretary's evaluation and approval of routine operation, maintenance, and emergency repairs, is repealed.

Repeal

SECTION 21. Section 57-1-470 of the 1976 Code, relating to the Department of Transportation Commission's review of routine maintenance and emergency repair requests approved by the Secretary, is repealed.

Appointment process for Commission of the Department of Transportation

SECTION 22. A.Section 57-1-310(A) and (B) of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"(A) The congressional districts of this State are constituted and created Department of Transportation Districts of the State, designated by numbers corresponding to the numbers of the respective congressional districts. The Commission of the Department of Transportation shall be composed of:

(1) one member from each transportation district, all appointed by the Governor, subject to the provisions of Section 57-1-325; and

(2) two members from the State at large, both appointed by the Governor, upon the advice and consent of the General Assembly. Each house must hold a separate confirmation vote.

In making appointments to the commission, the Governor shall take into account race, gender, and other demographic factors, such as residence in rural or urban areas, so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. The members of the commission shall represent the transportation needs of the State as a whole and may not subordinate the needs of the State to those of any particular area of the State.

(B) The at-large appointments made by the Governor must be transmitted to the Senate and the House of Representatives for confirmation."

B. Section 57-1-325 of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"Section 57-1-325. (A) The Governor shall submit his transportation district appointees to the Senate and the House of Representatives for referral.

(B) Upon receipt of a referral, the legislative delegation shall meet to approve or disapprove the Governor's appointee. The question of whether to approve an appointee may be taken up in a full delegation meeting or it may be taken up separately by the Senators in the legislative delegation and the members of the House of Representatives in the legislative delegation. To approve an appointee, the appointee must receive a majority of the weighted vote of only the senators in the legislative delegation and a majority of the weighted vote of only the members of the House of Representatives in the delegation. The legislative delegation shall report its findings to the Clerk of the House of Representatives, the Clerk of the Senate, and the Governor whether the appointee was approved by the weighted vote of the members of the legislative delegation from both the House of Representatives and the Senate. If the delegation disapproves the appointee, the Governor shall make another appointment. If the legislative delegation fails to approve of the Governor's appointee within forty-five days of the appointee's referral to the delegation, the appointee is deemed to have been disapproved. An appointee must receive a majority of the weighted vote of the members of the legislative delegation from both the House of Representatives and the Senate prior to entering a term of office.

(C) For the purposes of this article, 'legislative delegation' means legislators representing any portion of the congressional district corresponding to the transportation district the appointee was appointed to represent."

C. Section 57-1-340 of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"Section 57-1-340. Each commission member, within thirty days after his appointment and confirmation, or approval by the appropriate legislative delegation, as the case may be, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State."

D. Article 7, Chapter 1, Title 57 of the 1976 Code, relating to the Joint Transportation Review Committee, is repealed.

Commission of the Department of Transportation

SECTION 23. Section 57-1-350 of the 1976 Code, as last amended by Act 275 of 2016 is further amended to read:

"Section 57-1-350. (A) The commission may adopt an official seal for use on official documents of the department.

(B) The commission shall elect a chairman and adopt its own rules and procedures and may select such additional officers to serve such terms as the commission may designate.

(C) Commissioners must be reimbursed for official expenses as provided by law for members of state boards and commissions as established in the annual general appropriations act.

(D) All commission members are eligible to vote on all matters that come before the commission.

(E) The commission shall hold a minimum of six regular meetings annually, and other meetings may be called by the chair upon giving at least one week's notice to all members and the public. Emergency meetings may be held with twenty-four hours' notice. Meeting materials for the regularly scheduled meetings shall be published at least twenty-four hours in advance of the meeting.

(F) The commission or a member thereof may not enter into the day-to-day operations of the department, except in an oversight role with the Secretary of Transportation, and is specifically prohibited from taking part in:

(1) the awarding of contracts;

(2) the selection of a consultant or contractor or the prequalification of any individual consultant or contractor;

(3) the selection of a route for a specific project;

(4) the specific location of a transportation facility;

(5) the acquisition of rights of way or other properties necessary for a specific project or program; and

(6) the granting, denial, suspension, or revocation of any permit issued by the department.

(G) A member of the commission may not have any interest, direct or indirect, in any contract, franchise, privilege, or other benefit granted or awarded by the department during the member's term of appointment and for one year after the termination of the appointment."

Audit reports of the Department of Transportation

SECTION 24. Section 57-1-360(B) of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"(B)(1)The chief internal auditor must be a Certified Public Accountant and possess any other experience the State Auditor may require. The chief internal auditor must establish, implement, and maintain the exclusive internal audit function of all departmental activities. The State Auditor shall set the salary for the chief internal auditor as allowed by statute or applicable law.

(2) The audits performed by the chief internal auditor must comply with recognized governmental auditing standards. The department and any entity contracting with the department must fully cooperate with the chief internal auditor in the discharge of his duties and responsibilities and must timely produce all books, papers, correspondence, memoranda, and other records considered necessary in connection with an internal audit. All final audit reports must be submitted to the commission and the Chairman of the Senate Transportation Committee, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Education and Public Works Committee, and the Chairman of the House of Representatives Ways and Means Committee before being made public. All final audit reports shall be published on the department's and the State Auditor's websites.

(3) The State Auditor is vested with the exclusive management and control of the chief internal auditor."

Annual reports of the Department of Transportation

SECTION 25. Section 57-1-430 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

"Section 57-1-430. (A) The secretary is charged with the affirmative duty to carry out the policies of the commission, to administer the day-to-day affairs of the department, to direct the implementation of the Statewide Transportation Improvement Program and the Statewide Mass Transit Plan, and to ensure the timely completion of all projects undertaken by the department, and routine operation and maintenance requests, and emergency repairs. He must represent the department in its dealings with other state agencies, local governments, special districts, and the federal government. The secretary must prepare an annual

budget for the department that must be approved by the commission before becoming effective.

(B) For each division, the secretary may employ such personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by statute and for which funds have been authorized in the annual general appropriations act.

(C) The secretary shall prepare and publish on the department's website an annual report outlining the department's annual expenditures. The report must include a statewide summary and a detailed expenditure report for each county.

(D) The secretary shall prepare and publish on the department's website an annual report that includes a list of all companies doing business with the department and the amount spent on these contracts."

Conforming change

SECTION 26. Section 57-1-330(B) of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"(B) An at-large commission member may be appointed from any county in the State unless another commission member is serving from that county. Failure by an at-large commission member to maintain residence in the State shall result in a forfeiture of his office.

Commission members may be removed from office at the discretion of the Governor."

One subject

SECTION 27. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections relating to the subject of the effects of inadequate infrastructure financing and oversight.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

Savings

SECTION 28. 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 29. 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 30. Except where specified otherwise, this act takes effect July 1, 2017.

Ratified the 9th day of May, 2017.

Vetoed by the Governor -- 5/9/17.
Veto overridden by House -- 5/10/17.
Veto overridden by Senate -- 5/10/17.

No. 41

(R56, H3349)

AN ACT TO AMEND ARTICLE 15, CHAPTER 33, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NURSE LICENSURE COMPACT, SO AS TO REVISE THE PROVISIONS OF THE COMPACT TO REFLECT CHANGES MANDATED FOR MEMBERSHIP IN THE COMPACT.

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

Mandatory changes for continued compact membership

SECTION 1. Article 15, Chapter 33, Title 40 of the 1976 Code is amended to read:

“Article 15

Nurse Licensure Compact

Section 40-33-1300. The Nurse Licensure Compact is hereby enacted into law and entered into by this State with all other states legally joining therein, in the form substantially as set forth in this article.

Section 40-33-1305. (A) The party states find that:

(1) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation’s health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(6) uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(B) The general purposes of this compact are to:

(1) facilitate the states' responsibility to protect the public's health and safety;

(2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(6) decrease redundancies in the consideration and issuance of nurse licenses; and

(7) provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Section 40-33-1310. As used in this article:

(1) 'Adverse action' means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(2) 'Alternative program' means a nondisciplinary monitoring program approved by a licensing board.

(3) 'Commission' means the Interstate Commission of Nurse Licensure Compact Administrators.

(4) 'Coordinated licensure information system' means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(5) 'Current significant investigative information' means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(6) 'Encumbrance' means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(7) 'Home state' means the party state which is the nurse's primary state of residence.

(8) 'Licensing board' means a party state's regulatory body responsible for issuing nurse licenses.

(9) 'Multistate license' means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(10) 'Multistate licensure privilege' means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

(11) 'Nurse' means RN or LPN/VN, as those terms are defined by each party state's practice laws.

(12) 'Party state' means any state that has adopted this compact.

(13) 'Remote state' means a party state, other than the home state.

(14) 'Single-state license' means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(15) 'State' means a state, territory, or possession of the United States and the District of Columbia.

(16) 'State practice laws' means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. 'State practice laws' do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Section 40-33-1315. (A) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(B) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by

endorsement. These procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(C) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(1) meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(2) has graduated:

(a) or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(b) from a foreign RN or LPN/VN prelicensure education program that has been:

(i) approved by the authorized accrediting body in the applicable country; and

(ii) verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(3) has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

(4) has successfully passed an NCLEX-RN or NCLEX-PN examination or recognized predecessor, as applicable;

(5) is eligible for or holds an active, unencumbered license;

(6) has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(7) has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(8) has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(9) is not currently enrolled in an alternative program;

(10) is subject to self-disclosure requirements regarding current participation in an alternative program; and

(11) has a valid United States Social Security number.

(D) All party states must be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system must promptly notify the home state of any such actions by remote states.

(E) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but must include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(F) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact may affect the requirements established by a party state for the issuance of a single-state license.

(G) A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by his then-current home state, provided that a nurse who:

(1) changes primary state of residence after this compact's effective date, must meet all applicable requirements of subsection (C) to obtain a multistate license from a new home state; and

(2) fails to satisfy the multistate licensure requirements in subsection (C) due to a disqualifying event occurring after this compact's effective date must be ineligible to retain or renew a multistate license, and the nurse's multistate license must be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

Section 40-33-1320. (A) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether:

(1) the applicant has ever held, or is the holder of, a license issued by another state;

(2) there is an encumbrance on a license or multistate licensure privilege held by the applicant;

(3) an adverse action has been taken against a license or multistate licensure privilege held by the applicant; and

(4) the applicant is currently participating in an alternative program.

(B) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(C) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission, provided:

(1) the nurse may apply for licensure in advance of a change in primary state of residence; and

(2) the new home state may not issue a multistate license until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(D) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

Section 40-33-1325. (A) In addition to the other powers conferred by state law, a licensing board has the authority to:

(1) Take adverse action against a nurse’s multistate licensure privilege to practice within that party state, provided:

(a) only the home state has the power to take adverse action against a nurse’s license issued by the home state; and

(b) for purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state, and in so doing, the home state shall apply its own state laws to determine appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a nurse’s authority to practice within that party state.

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board also has the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The

administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(B) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states must be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license must include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(C) Nothing in this compact may override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

Section 40-33-1330. Reserved.

Section 40-33-1335. Reserved.

Section 40-33-1340. (A) All party states shall participate in a coordinated licensure information system of all licensed registered

nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(B) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(C) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, with the reasons for such denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is considered nonpublic or confidential under state law.

(D) Current significant investigative information and participation in nonpublic or confidential alternative programs must be transmitted through the coordinated licensure information system only to party state licensing boards.

(E) Notwithstanding another provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(F) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(G) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information must be expunged from the coordinated licensure information system.

(H) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which must include, at a minimum:

(1) identifying information;

(2) licensure data;

(3) information related to alternative program participation; and

(4) other information that may facilitate the administration of this compact, as determined by commission rules.

(I) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

Section 40-33-1345. (A) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(1) The commission is an instrumentality of the party states.

(2) Venue is proper, and judicial proceedings by or against the commission must be brought, solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact may be construed to be a waiver of sovereign immunity.

(B) Membership, voting, and meetings.

(1) A party state must have and be limited to one administrator. The administrator of the nurse licensing board or his designee must be the administrator of this compact for each party state. An administrator may be removed or suspended from office as provided by the law of the state from which he is appointed. A vacancy occurring in the commission must be filled in accordance with the laws of the party state in which the vacancy exists.

(2) An administrator is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings must be held as provided in the bylaws or rules of the commission.

(4) A meeting must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in Section 40-33-1350.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) noncompliance of a party state with its obligations under this compact;

(b) the employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) accusing a person of a crime or formally censuring a person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigatory records compiled for law enforcement purposes;

(i) disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(j) matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons for taking the actions, including a description of the views expressed. All documents considered in connection with an action must be identified in these minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(C) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact including, but not limited to:

(1) establishing the fiscal year of the commission;

(2) providing reasonable standards and procedures:

(a) for the establishment and meetings of other committees; and

(b) governing any general or specific delegation of any authority or function of the commission;

(3) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(4) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission; provided that notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(5) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations; and

(6) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(D) The commission shall publish its bylaws and rules, and any amendments to them, in a convenient form on the website of the commission.

(E) The commission shall maintain its financial records in accordance with the bylaws.

(F) The commission shall meet and take actions consistent with the provisions of this compact and the bylaws.

(G) The commission has power to:

(1) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact, and these rules have the force and effect of law and are binding in all party states;

(2) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of a licensing board to sue or be sued under applicable law may not be affected;

(3) purchase and maintain insurance and bonds;

(4) borrow, accept or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations;

(5) cooperate with other organizations that administer state compacts related to the regulation of nursing including, but not limited to, sharing administrative or staff expenses, office space, or other resources;

(6) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out

the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(7) accept appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, use, and dispose of the same; provided that the commission shall avoid any appearance of impropriety or conflict of interest;

(8) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that the commission shall avoid any appearance of impropriety;

(9) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(10) establish a budget and make expenditures;

(11) borrow money;

(12) appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(13) provide and receive information from, and to cooperate with, law enforcement agencies;

(14) adopt and use an official seal; and

(15) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(H) Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission also may levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(3) The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same, nor may the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its

bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(I) Qualified immunity, defense, and indemnification.

(1) The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this item may be construed to protect him from suit or liability for any damage, loss, injury, or liability caused by his intentional, wilful, or wanton misconduct.

(2) The commission shall defend an administrator, officer, executive director, employee, or representative of the commission in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein may be construed to prohibit that person from retaining his own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, wilful, or wanton misconduct.

(3) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of a settlement or judgment obtained against that person arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that he had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from his intentional, wilful, or wanton misconduct.

Section 40-33-1350. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted pursuant to it. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

(B) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(C) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking on the websites of:

(1) the commission; and

(2) each licensing board or the publication in which each state would otherwise publish proposed rules.

(D) The notice of proposed rulemaking must include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(E) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

(F) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(G) The commission shall publish the place, time, and date of the scheduled public hearing, provided:

(1) hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing;

(2) all hearings will be recorded and a copy will be made available upon request; and

(3) nothing in this subsection may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(H) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(J) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective

date of the rule, if any, based on the rulemaking record and the full text of the rule.

(K) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or party state funds; or

(3) meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(L) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-33-1355. (A) Oversight.

(1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(2) The commission is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

(B) Default, technical assistance, and termination.

(1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide:

(a) written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(b) remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission may not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.

(C) Dispute resolution.

(1) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the commission cannot resolve disputes among party states arising under this compact:

(a) the party states may submit the issues in dispute to an arbitration panel, which must be comprised of individuals appointed by the compact administrator in each of the affected party states and an

individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(b) a decision of a majority of the arbitrators is final and binding.

(D) Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40-33-1360. (A) This compact must become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact that also were parties to the prior Nurse Licensure Compact, superseded by this compact, must be considered to have withdrawn from the prior compact within six months after the effective date of this compact.

(B) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(C) A party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal may not take effect until six months after enactment of the repealing statute.

(D) A party state's withdrawal or termination may not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(E) Nothing contained in this compact may be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(F) This compact may be amended by the party states. No amendment to this compact becomes effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(G) Representatives of nonparty states to this compact must be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

Section 40-33-1365. This compact must be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of it to any government, agency, person, or circumstance is not affected. If this compact is held to be contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters."

Time effective

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

Ratified the 9th day of May, 2017.

Approved the 10th day of May, 2017.

No. 42

(R63, S9)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-380 SO AS TO PROVIDE THAT THE OPTIONAL INTOXICANTS AND NARCOTICS EXCLUSION PROVISION CONTAINED IN CERTAIN INSURANCE POLICIES THAT REQUIRE THE REPLICATION OF EXACT LANGUAGE AS PROVIDED IN SECTION 38-71-370 DOES NOT APPLY TO A MEDICAL EXPENSE POLICY, AND TO DEFINE MEDICAL EXPENSE POLICY.

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