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2025 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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Ashley Harwell-Beach, Code Commissioner, P.O. Box 11489,
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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

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

PART I

GENERAL AND PERMANENT LAWS

No. 1

(R5, H3523)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-13-135, RELATING TO THE OFFENSE OF RETAIL THEFT AND ASSOCIATED PENALTIES, SO AS TO REVISE NECESSARY DEFINITIONS, TO REVISE THE PREVIOUS OFFENSE OF RETAIL THEFT, TO CREATE THE OFFENSES OF ORGANIZED RETAIL CRIME AND ORGANIZED RETAIL CRIME OF AN AGGRAVATED NATURE, AND TO PROVIDE A GRADUATED PENALTY STRUCTURE.

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

Organized retail crime, and organized retail crime of an aggravated nature

SECTION 1. Section 16-13-135 of the S.C. Code is amended to read:

Section 16-13-135. (A) As used in this section:

(1) "Organized retail crime" means two or more people conspiring to commit theft of retail property from a retail establishment with the intent to sell, barter, exchange, or reenter such retail property into commerce for monetary or other gain.

(2) "Retail property" means an article, merchandise, property, money or negotiable documents including gift cards or other forms of credit, products, commodities, items, or components intended to be sold in retail commerce.

(3) "Retail property fence" means a person or business that buys retail property knowing or believing that the retail property is stolen.

(4) "Theft" means to take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to deprive the merchant of the possession, use, benefit, and value of the retail property.

(5) "Value" means the retail value of an item as offered for sale to the public by the affected retail establishment and includes all applicable taxes.

(B) It is unlawful for a person to:

(1) commit organized retail crime, with a value exceeding two thousand dollars aggregated over a ninety-day period, with the intent to

cause the retail property to be placed in the control of a retail property fence or other person in exchange for consideration; or

(2) receive, possess, or sell retail property that has been taken or stolen in violation of item (1) while knowing or having reasonable grounds to believe the property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(C) Acts committed in different counties that have been aggregated in one count may be indicted and prosecuted in any one of the counties in which the acts occurred. In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur within one city, county, or local jurisdiction. However, nothing in this subsection may be interpreted to allow a circuit solicitor or persons in the circuit solicitor's employ to prosecute cases outside of the circuit where the circuit solicitor was elected without the consent of the Attorney General.

(D) Property, funds, and interest a person has acquired or maintained in violation of this section are subject to forfeiture pursuant to the procedures for forfeiture as provided in Section 44-53-530.

(E) A person who violates this section commits the offense of organized retail crime, and:

(1) for a first offense:

(a) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both, if the value of the retail property is more than two thousand dollars but less than ten thousand dollars;

(b) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than five years, or both, if the value of the retail property is more than ten thousand dollars but less than twenty thousand dollars;

(c) is guilty of a felony and, upon conviction, must be fined not more than twenty thousand dollars or imprisoned for not more than ten years, or both, if the value of the retail property is more than twenty thousand dollars but less than fifty thousand dollars;

(d) is guilty of a felony and, upon conviction, must be fined not more than fifty thousand dollars or imprisoned for not more than twenty years, or both, if the value of the retail property is more than fifty thousand dollars;

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, regardless of the value of the retail property in any offense, must be fined not more than fifty thousand dollars or imprisoned for not more than twenty years, or both;

(3) for purposes of this section, multiple offenses occurring within

a ninety-day period may be aggregated into a single count with the aggregated value used to determine the total value of the property;

(4) organized retail crime is a lesser-included offense of organized retail crime of an aggravated nature as provided in subsection (F).

(F)(1) A person commits the offense of organized retail crime of an aggravated nature if, while committing the offense of organized retail crime, the person wilfully and maliciously:

(a) damages, destroys, or defaces real or personal property in excess of two thousand dollars; or

(b) causes moderate bodily injury or great bodily injury to another person. "Moderate bodily injury" and "great bodily injury" have the same meanings as defined in Section 16-3-600.

(2) A person convicted of organized retail crime of an aggravated nature is guilty of a felony and, upon conviction, must be fined not more than fifty thousand dollars or imprisoned not more than fifteen years, or both.

Savings clause

SECTION 2. 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 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of March, 2025

Approved the 7th day of March, 2025

No. 2

(R7, S157)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-27-1105, RELATING TO DEFINITIONS, SO AS TO DEFINE "QUALIFIED INDEPENDENT THIRD PARTY" AND TO ALLOW AN ELECTRICAL UTILITY TO INCLUDE STORM RECOVERY COSTS FOR HURRICANE HELENE IN ITS COST OF CAPITAL FROM THE DATE OF THE STORM THROUGH THE ISSUANCE OF STORM RECOVERY BONDS; AND BY AMENDING SECTION 58-27-1110, RELATING TO THE PETITION FOR A FINANCING ORDER AND REQUIREMENTS, SO AS TO ALLOW AN ELECTRICAL UTILITY TO DEFER THE REVIEW AND APPROVAL OF A FINANCING ORDER, AND PROVIDE FOR THE PARTICIPATION OF A QUALIFIED INDEPENDENT THIRD PARTY RETAINED BY THE PUBLIC SERVICE COMMISSION.

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

Definitions

SECTION 1. Section 58-27-1105 of the S.C. Code is amended to read:

Section 58-27-1105. When used in this article:

(1) The term "ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, liquidity or credit support arrangement, or other financial arrangement entered into in connection with recovery bonds.

(2) The term "assignee" means a legally recognized entity to which an electrical utility assigns, sells, or transfers, other than as a security, all or a portion of its interest in or right to storm recovery property. The term includes a corporation, limited liability company, general partnership or limited partnership, public authority, trust, financing entity, or any entity to which an assignee assigns, sells, or transfers, other than as security, all or a portion of its interest in or right to storm recovery property.

(3) The term "bondholder" means a person who holds a storm

recovery bond.

(4) The term "code" means the Uniform Commercial Code, Title 36 of the South Carolina Code of Laws.

(5) The term "commission" means the Public Service Commission of South Carolina.

(6) The term "electrical utility" is as defined in Section 58-27-10(7).

(7) The term "financing costs" includes all of the following:

(a) interest and acquisition, defeasance, or redemption premiums payable on recovery bonds;

(b) any payment required under an ancillary agreement and any amount required to fund or replenish a storm reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to recovery bonds;

(c) any other cost related to issuing, supporting, repaying, refunding, and servicing storm recovery bonds, including servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of recovery or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;

(d) any taxes and license fees or other fees imposed on the revenues generated from the collection of a storm recovery charge or otherwise resulting from the collection of storm recovery charges, in any such case whether paid, payable, or accrued;

(e) any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including regulatory assessment fees, whether paid, payable, or accrued;

(f) any costs incurred by (i) the commission or the Office of Regulatory Staff for any outside consultants, including counsel and advisors; and (ii) the qualified independent third party selected by the commission, to the extent retained in connection with the securitization of storm recovery costs.

(8) The term "financing order" means an order that authorizes the issuance of storm recovery bonds; the imposition, collection, and periodic adjustments of a storm recovery charge; the creation of storm recovery property; and the sale, assignment, or transfer of storm recovery property to an assignee.

(9) The term "financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other

person acting for the benefit of bondholders.

(10) The term "financing statement" is as defined in Section 36-9-102.

(11) The term "pledgee" means a financing party to which an electrical utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to storm recovery property.

(12) The term "qualified independent third party" means a person or entity with relevant expertise in accounting, finance, or utility regulation, sufficient to make the professional judgments necessary to certify compliance as required by Section 58-27-1110(C)(6)(a). The qualified independent third party shall be designated and retained by the commission to participate in the pre-bond issuance review process established by the commission pursuant to Section 58-27-1110(C)(2)(h). The role and responsibilities of the qualified independent third party are further detailed in Section 58-27-1110(C)(6). The qualified independent third party's certification of compliance is intended to inform the commission's decisions alongside other evidence in the proceeding.

(13) The term "storm" means, individually or collectively, a named tropical storm or hurricane, a tornado, ice storm or snowstorm, flood, an earthquake, or other significant weather or natural disaster.

(14)(a) The term "storm recovery activity" means an activity or activities by an electrical utility, its affiliates, or its contractors directly and specifically in connection with the restoration of service and infrastructure associated with electric power outages affecting customers of an electrical utility as the result of a storm or storms, including activities related to mobilization, staging, and construction, reconstruction, replacement, or repair of electric generation, transmission, distribution, or general plant facilities.

(b) No electrical utility is required to securitize nor is it prohibited from securitizing those capital improvements or infrastructure upgrades that have a quantifiable net benefit to consumers and that improve the resiliency of the transmission and distribution system.

(15) The term "storm recovery bonds" means bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued by an electrical utility or an assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance commission-approved storm recovery costs and financing costs, and that are secured by or payable from storm recovery property. If certificates of participation or ownership are issued, references in this article to principal, interest, or premium shall be construed to refer to comparable amounts under those certificates.

(16) The term "storm recovery charge" means the amounts authorized by the commission to repay, finance, or refinance storm recovery costs and financing costs and that are nonbypassable charges (i) imposed on and part of all retail customer bills, (ii) collected by an electrical utility or its successors or assignees, or a collection agent, in full, separate and apart from the electrical utility's base rates, and (iii) paid by all existing or future retail customers receiving transmission or distribution service, or both, from the electrical utility or its successors or assignees under commission-approved rate schedules or under special contracts, even if a customer elects to purchase electricity from an alternative electricity supplier following a fundamental change in regulation of electrical utilities in this State.

(17) The term "storm recovery costs" means:

(a) all incremental costs, including capital costs, appropriate for recovery from existing and future retail customers receiving transmission or distribution service from an electrical utility that an electrical utility has incurred or expects to incur as a result of the applicable storm that are caused by, associated with, or remain as a result of undertaking storm recovery activity;

(b) storm recovery costs shall be net of applicable insurance proceeds, tax benefits, income tax savings, and any other amounts intended to reimburse the electrical utility for storm recovery activities such as government grants, or aid of any kind and where determined appropriate by the commission, and may include adjustments for capital replacement and operating costs previously considered in determining normal amounts in the electrical utility's most recent general rate proceeding. Storm recovery costs may include, to the extent determined appropriate by the commission, the cost to replenish and fund any storm reserves, the costs of retiring any existing indebtedness relating to storm recovery activities, and carrying costs;

(c) with respect to storm recovery costs that the electrical utility expects to incur, any difference between costs expected to be incurred and actual, reasonable, and prudent costs incurred, including carrying costs and financing costs associated with any difference between costs expected to be incurred and actual, reasonable, and prudent costs incurred, or any other rate-making adjustments appropriate to fairly and reasonably assign or allocate storm cost recovery to customers over time, shall be addressed in a future general rate proceeding, regardless of whether the electrical utility elects to seek review and approval of principal costs prior to or after filing a petition for a financing order and issuing storm recovery bonds pursuant to Section 58-27-1110(B), as may be facilitated by other orders of the commission issued at the time or

prior to such proceeding; provided, however, any review of financing costs shall be limited to reconciling any estimated financing costs with actual financing costs incurred and that the commission's adoption of a financing order and approval of the issuance of storm recovery bonds may not be revoked or otherwise modified. Any overrecovered costs, including carrying costs and financing costs, shall be ordered by the commission to be returned to the electrical utility's customers in the next possible proceeding, over a period established by the commission;

(d) due to the significant and unprecedented damage caused by the 2024 hurricane referred to as Hurricane Helene to public and private property in South Carolina, including widespread destruction of utility infrastructure and the extraordinary expenses incurred by electrical utilities to repair, restore, and rebuild that infrastructure, the electrical utility is authorized to include as storm recovery costs, for Hurricane Helene only, its cost of capital from the date of the storm through the issuance of storm recovery bonds. This cost of capital shall be determined by the actual interest rate paid by the utility to borrow funds necessary to cover the restoration and recovery efforts after Hurricane Helene through the issuance of storm recovery bonds, provided that the interest rate percentage does not exceed the utility's total weighted average cost of capital percentage as established in its most recent general rate proceeding, adjusted for income tax savings associated with the interest rate component. This subsection shall not be construed to limit, modify, or otherwise affect the electrical utility's ability to seek recovery of carrying costs in future securitizations under this article, except as specifically provided herein for Hurricane Helene.

(18) The term "storm recovery property" means:

(a) All rights and interests of an electrical utility or successor or assignee of the electrical utility under a financing order, including the right to impose, bill, charge, collect, and receive storm recovery charges authorized under the financing order and to obtain periodic adjustments to such charges as provided in the financing order.

(b) All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

Petition for financing order, requirements

SECTION 2. Section 58-27-1110 of the S.C. Code is amended to read:

Section 58-27-1110. (A) An electrical utility may petition the commission for a financing order. The petition shall include all of the following:

(1) a description of the storm recovery activities that the electrical utility has undertaken or proposes to undertake and the reasons for undertaking the activities, or if the electrical utility is subject to a settlement agreement that governs the type and amount of principal costs that could be included in storm recovery costs, a description of the settlement agreement;

(2) the storm recovery costs and an estimate of the costs of any storm recovery activities that are being undertaken but are not completed;

(3) the level of the storm recovery reserve, if any, that the electrical utility proposes to establish or replenish and has determined would be appropriate to recover through storm recovery bonds and is seeking to so recover, and such level that the electrical utility is funding or will seek to fund through other means, together with a description of the factors and calculations used in determining the amounts and methods of recovery;

(4) an indicator of whether the electrical utility proposes to finance all or a portion of the storm recovery costs using storm recovery bonds. If the utility proposes to finance a portion of such costs, the electrical utility must identify the specific portion in the petition. By requesting not to finance a portion of such storm recovery costs using storm recovery bonds, an electrical utility shall not be deemed to waive its right to seek to recover such costs pursuant to a separate proceeding with the commission;

(5) an estimate of the financing costs related to the storm recovery bonds;

(6) an estimate of the storm recovery charges necessary to recover the storm recovery costs, including the storm recovery reserve amount, if any, determined appropriate by the commission, and financing costs and the period for recovery of such costs;

(7) a comparison between the net present value of the costs to customers that are estimated to result from the issuance of storm recovery bonds based on current market conditions and the costs that would result from the application of the traditional method of financing and recovering storm recovery costs from customers. The comparison

should demonstrate that the issuance of storm recovery bonds and the imposition of storm recovery charges are expected to provide quantifiable net benefits to customers on a present value basis as compared to the costs that would have been incurred absent the issuance of storm recovery bonds; and

(8) direct testimony, exhibits, and supporting workpapers supporting the petition, testimony, and exhibits. Such workpapers may be filed under seal to the extent necessary to protect confidential, proprietary, or sensitive information. The electrical utility shall provide functional exhibits and workpapers to the Office of Regulatory Staff and to the commission, subject to any appropriate confidentiality designations.

(B) If the principal costs the electrical utility proposes to finance using storm recovery bonds were not already subject to review by the commission in a general rate proceeding, then the electrical utility must file a petition with the commission for review and approval of those costs no later than one-hundred-eighty days before filing a petition for a financing order pursuant to this section, or, alternatively, defer the review and approval of such costs to either a future general rate proceeding or a separate proceeding established by the commission at the request of the electrical utility in consultation with the Office of Regulatory Staff. If the electrical utility chooses to defer the review and approval of such costs, it shall file a report with the commission updating the reconciliation of estimated costs to actual costs incurred at least twice per calendar year until the costs are reconciled. If the electrical utility does not file a petition with the commission for review and approval of such costs within one calendar year following the issuance of the storm recovery bonds, the Office of Regulatory Staff may, at its discretion, file a petition with the commission to initiate a proceeding for review and approval of such costs. In either case, reconciliation of estimated costs to actual costs shall be subject to review pursuant to Section 58-27-1105(17)(c).

(1) Any petition for review and approval of the principal costs shall be accompanied by direct testimony, exhibits, and supporting workpapers supporting the petition, testimony, and exhibits. Such workpapers may be filed under seal to the extent necessary to protect confidential, proprietary, or sensitive information. The electrical utility shall provide functional exhibits and workpapers to the Office of Regulatory Staff and to the commission, subject to any appropriate confidentiality designations.

(2) If the electrical utility must file a petition for review and approval of the principal costs, the electrical utility shall not be required

to provide additional notice prior to filing a petition for a financing order pursuant to this section; otherwise, the utility shall file a notice of its intent to file a petition for a financing order not less than thirty days prior to filing any such petition.

(C)(1) Proceedings on a petition for a financing order submitted pursuant to this section begin with the petition by an electrical utility, filed subject to the time frame specified in subsection (B), as applicable, and shall be disposed of in accordance with the requirements of this chapter and the rules of the commission, except as follows:

(a) within fourteen days after the date the petition is filed, the commission shall establish a procedural schedule that permits a commission decision no later than one-hundred-thirty-five days after the date the petition is filed; and

(b) no later than one-hundred-thirty-five days after the date the petition is filed, the commission shall issue a financing order or an order rejecting the petition. A party to the commission proceeding may petition the commission for reconsideration of the financing order within the time prescribed in Section 58-27-2150.

(2) A financing order issued by the commission to an electrical utility shall include all of the following elements and shall not issue unless each of the following elements is met:

(a) except for changes made pursuant to the formula-based mechanism authorized under this section, the amount of storm recovery costs, including the level of storm recovery reserves, if any, to be financed using storm recovery bonds. The commission shall describe and estimate the amount of financing costs that may be recovered through storm recovery charges and specify the period over which storm recovery costs and financing costs may be recovered;

(b) a finding that the proposed issuance of recovery bonds and the imposition and collection of a storm recovery charge will provide quantifiable net benefits to customers on a present value basis as compared to the costs that would have been incurred absent the issuance of storm recovery bonds;

(c) a finding that the structuring, marketing, and pricing of the storm recovery bonds will result in the lowest storm recovery charges consistent with market conditions at the time the storm recovery bonds are priced and the terms set forth in such financing order. The financing order must provide detailed findings of fact addressing cost effectiveness and associated rate impacts upon retail customers and retail customer classes;

(d) a requirement that, for so long as the storm recovery bonds are outstanding and until all financing costs have been paid in full, the

imposition and collection of storm recovery charges authorized under a financing order shall be nonbypassable and paid by all existing and future retail customers receiving transmission or distribution service, or both, from the electrical utility or its successors or assignees under commission-approved rate schedules or under special contracts, even if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of electrical utilities in this State;

(e) a determination of what portion, if any, of the storm recovery reserves, if any, must be held in a funded reserve and any limitations on how the reserve may be held, accessed, or used;

(f) a formula-based true-up mechanism for making, at least annually, expeditious periodic adjustments in the storm recovery charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of storm recovery bonds, financing costs, and other required amounts and charges payable in connection with the storm recovery bonds;

(g) the storm recovery property that is or shall be created in favor of an electrical utility or its successors or assignees, and that shall be used to pay or secure storm recovery bonds and all financing costs;

(h) the degree of flexibility to be afforded to the electrical utility in establishing the terms and conditions of the storm recovery bonds including, but not limited to, repayment schedules, expected interest rates, and other financing costs, and subject to any conditions in the financing order, including the pre-bond issuance review process which the commission shall establish;

(i) how storm recovery charges will be allocated among customer classes;

(j) a requirement that, after the final terms of an issuance of storm recovery bonds have been established and before the issuance of storm recovery bonds, the electrical utility determines the resulting initial storm recovery charge in accordance with the financing order and that such initial storm recovery charge be final and effective upon the issuance of such storm recovery bonds without further commission action so long as the recovery charge is consistent with the financing order and the pre-bond issuance review process established by the commission in the financing order is complete;

(k) a method of tracing funds collected as storm recovery charges, or other proceeds of storm recovery property, and the determination that such method shall be deemed the method of tracing

such funds and determining the identifiable cash proceeds of any storm recovery property subject to a financing order under applicable law; and

(l) any other conditions not otherwise inconsistent with this section that the commission determines are appropriate.

(3) A financing order issued to an electrical utility may provide that creation of the electrical utility's storm recovery property is conditioned upon, and simultaneous with, the sale or other transfer of the storm recovery property to an assignee and the pledge of the storm recovery property to secure storm recovery bonds.

(4) If the commission issues a financing order and the storm recovery bonds are issued, the electrical utility shall file with the commission at least annually a petition or a letter applying the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make the applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of storm recovery charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges with respect to storm recovery bonds approved under the financing order. Within sixty days after receiving an electrical utility's request pursuant to this paragraph, the commission shall either approve the request or inform the electrical utility of any mathematical or clerical errors in its calculation. If the commission informs the electrical utility of mathematical or clerical errors in its calculation, the electrical utility may correct its error and refile its request. The time frames previously described in this paragraph shall apply to a refiled request.

(5) Subsequent to the transfer of storm recovery property to an assignee or the issuance of storm recovery bonds authorized thereby, whichever is earlier, a financing order is irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this article, the commission may not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust recovery charges approved in the financing order. After the issuance of a financing order, the electrical utility retains sole discretion regarding whether to assign, sell, or otherwise transfer storm recovery property or to cause storm recovery bonds to be issued, including the right to defer or postpone such

assignment, sale, transfer, or issuance, unless otherwise provided in the financing order.

(6) If required by the commission in a financing order, within one business day after the final terms of the storm recovery bonds are determined, the electrical utility shall provide an issuance advice letter to the commission.

(a) Such issuance advice letter shall be in the form approved in a financing order and include the final terms of the storm recovery bond issuance, up-front financing costs and on-going financing costs. Such issuance advice letter shall include a certification from the electrical utility, the primary underwriter(s), and a qualified independent third party designated by the commission, as a condition to closing, certifying whether the sale of storm recovery bonds complies with the requirements of this article and the financing order. The certifications of the electrical utility and qualified independent third party shall certify whether the issuance of recovery bonds and the imposition and collection of a storm recovery charge will in fact provide quantifiable net benefits to customers on a present-value basis as compared to the costs that would have been incurred absent the issuance of storm recovery bonds. The certifications of the electrical utility, primary underwriter(s), and qualified independent third party shall certify whether the structuring, marketing, and pricing of the storm recovery bonds will in fact result in the lowest storm recovery charges consistent with market conditions at the time the storm recovery bonds were priced and the terms set forth in the financing order. The qualified independent third party designated by the commission shall review the issuance advice letter and deliver its independent certification to the commission along with any other information it believes the commission should consider as to the commission's decision in subitem (c) no later than one business day after the filing of the issuance advice letter by the electrical utility which will contain the aforementioned certifications.

(b) Once the qualified independent third party is designated and retained by the commission, the qualified independent third party shall independently participate in the pre-bond issuance review process established by the commission pursuant to subsection (C)(2)(j). The qualified independent third party shall have the authority to request and receive all necessary documents, data, and information from the electrical utility to fulfill its responsibilities and ensure compliance with subitem (a). The qualified independent third party shall also have the ability to communicate directly with the parties to the proceeding as needed to carry out its duties. The qualified independent third party's communications with the commission shall be limited solely to docket

filings or, if requested by the commission, participation in a postpricing meeting involving the electrical utility, the qualified independent third party, and other parties. The structure and details of the docket filings and such a meeting, including the handling of any confidential information, shall be determined by the commission in accordance with applicable procedural rules and orders.

(c) Unless otherwise provided in the financing order, by no later than noon on the fourth business day after the final terms of the storm recovery bonds are determined, the commission shall either accept the issuance advice letter or deliver an order to the electrical utility to prevent the issuance of the storm recovery bonds.

(D) At the request of an electrical utility, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding storm recovery bonds issued pursuant to the original financing order if the commission finds that the subsequent financing order satisfies all of the criteria specified in this article for a financing order. Effective upon retirement of the refunded storm recovery bonds and the issuance of new storm recovery bonds, the commission shall adjust the related storm recovery charges accordingly.

(E) Within thirty days after the commission issues a financing order or a decision denying a request for reconsideration or, if the request for reconsideration is granted, within thirty days after the commission issues its decision on reconsideration, an adversely affected party may petition for judicial review in the Supreme Court of South Carolina. Review on appeal shall be based solely on the record before the commission and briefs to the court and is limited to determining whether the financing order, or the order on reconsideration, conforms to the State Constitution and to state and federal law, and is within the authority of the commission under this article. The Supreme Court of South Carolina shall proceed to hear and determine the action as expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

(F)(1) A financing order remains in effect and storm recovery property under the financing order continues to exist until storm recovery bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all commission-approved financing costs of such storm recovery bonds have been recovered in full.

(2) A financing order issued to an electrical utility remains in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings, merger, or sale of the electrical utility or its successors or assignees.

Time effective

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

Ratified the 11th day of March, 2025

Approved the 13th day of March, 2025

No. 3

(R10, S2)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 12 TO TITLE 44 SO AS TO ESTABLISH THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES COMPRISED OF THE OFFICE OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, THE OFFICE OF MENTAL HEALTH, AND THE OFFICE OF SUBSTANCE USE SERVICES, AND TO PROVIDE FOR THE DEPARTMENT'S POWERS, DUTIES, AND AUTHORITY; BY AMENDING SECTION 1-30-10, RELATING TO DEPARTMENTS OF STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, AND TO REMOVE THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, AND THE DEPARTMENT OF MENTAL HEALTH; BY AMENDING SECTION 8-17-370, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCEDURE, SO AS TO EXEMPT THE DIRECTOR OF THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES AND CERTAIN OTHER DEPARTMENT STAFF FROM THE STATE EMPLOYEE GRIEVANCE PROCEDURE; BY AMENDING SECTIONS 44-20-30, 44-20-210, 44-20-220, 44-20-230, 44-20-240, AND 44-20-255, ALL RELATING TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO MAKE CONFORMING CHANGES TO INCLUDE DEFINITION

REVISIONS, ELIMINATION OF THE DEPARTMENT'S COMMISSION, RENAMING THE DEPARTMENT AS THE OFFICE OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WITHIN THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, AND REASSIGNMENT OF THE COMMISSION'S DUTIES; BY AMENDING SECTIONS 44-49-10 AND 44-49-20, BOTH RELATING TO THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS TO MAKE CONFORMING CHANGES BY RENAMING THE DEPARTMENT AS THE OFFICE OF SUBSTANCE USE SERVICES WITHIN THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES; BY AMENDING SECTIONS 44-9-10, 44-9-20, AND 44-9-30, ALL RELATING TO DEPARTMENT OF MENTAL HEALTH, SO AS TO MAKE CONFORMING CHANGES TO INCLUDE RENAMING THE DEPARTMENT AS THE OFFICE OF MENTAL HEALTH WITHIN THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES, ESTABLISHING QUALIFICATIONS FOR THE OFFICE DIRECTOR, AND ELIMINATING THE DEPARTMENT OF MENTAL HEALTH'S COMMISSION AND REASSIGNING THE COMMISSION'S DUTIES; BY ADDING SECTION 1-30-150 SO AS TO REQUIRE CERTAIN STATE AGENCIES TO DEVELOP AND EXECUTE A PLAN TO ENSURE SERVICES AND SUPPORT ARE PROVIDED, TO THE GREATEST EXTENT POSSIBLE, TO INDIVIDUALS WITH DISABILITIES IN THE COMMUNITY, IN ACCORDANCE WITH FEDERAL LAW, AND TO PROVIDE FOR THE APPOINTMENT OF AN ADMINISTRATOR OF COMMUNITY LIVING INTEGRATION AND A HEALTH PLANNING ADVISORY COMMITTEE; BY AMENDING SECTION 44-21-80, RELATING TO REGIONAL TERTIARY LEVEL DEVELOPMENTAL EVALUATION CENTERS, SO AS TO REQUIRE THAT THE CENTERS PROVIDE NEURODEVELOPMENTAL EVALUATION AND LIMITED TREATMENT SERVICES FOR INDIVIDUALS UP TO TWENTY-ONE YEARS OF AGE WHO HAVE CERTAIN SUSPECTED OR DIAGNOSED NEURODEVELOPMENTAL DISORDERS; BY REPEALING SECTIONS 44-9-40 AND 44-9-50 RELATING TO THE DEPARTMENT OF MENTAL HEALH; AND FOR OTHER PURPOSES.

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

Department of Behavioral Health and Developmental Disabilities

SECTION 1. Title 44 of the S.C. Code is amended by adding:

CHAPTER 12

Department of Behavioral Health and Developmental Disabilities

Section 44-12-10. For the purposes of this chapter:

(1) "Director" means the head of the Department of Behavioral Health and Developmental Disabilities.

(2) "Department" means the Department of Behavioral Health and Developmental Disabilities.

(3) "Office" or "component office" means any one or more of the component offices or divisions that comprise the Department of Behavioral Health and Developmental Disabilities.

(4) "Office director" means a person, appointed by the department director, to serve as the head of a component office. An office director shall answer directly to the oversight of the department director.

Section 44-12-20. There is created within the executive branch of the state government an agency to be known as the Department of Behavioral Health and Developmental Disabilities. The department shall be organized as provided in this chapter and shall have the duties, functions, and powers provided for in this chapter and other applicable provisions of law.

Section 44-12-30. The department shall be headed by a director who shall be appointed by the Governor with the advice and consent of the Senate. The director may be removed from office as provided in Section 1-3-240(B).

Section 44-12-40. In performing his duties as authorized by this chapter, the director:

(1) shall develop and execute a cohesive and comprehensive plan for services provided by the component offices housed within the department;

(2) shall develop the budget for the department, including the component offices, to reflect the priorities of its comprehensive service plan;

(3) shall procure collaboration technology that enables coordination and accountability across the department and with local partners. At a minimum, the technology should have the capability for authorized users to:

(a) securely access relevant information regarding the needs and care journey of individuals served;

(b) communicate bidirectionally with referring organizations using a secure chat feature; and

(c) send referrals on behalf of the individual, track and store the outcome of that referral, and track and store the outcome of services delivered within a single client record using an unique identifier;

(4) shall, subject to applicable federal law, require data sharing to the fullest extent possible among the component offices and necessary state agencies;

(5) shall consolidate administrative services among the component offices that include, but are not limited to:

(a) financial and accounting support, such as accounts payable and receivable processing, procurement processing, journal entry processing, and financial reporting assistance;

(b) human resources administrative support, such as transaction processing and reporting, payroll processing, and human resources training;

(c) budget support, such as budget transaction processing and budget reporting assistance; and

(d) information technology;

(6) shall, with regard to information technology, ensure that the department and the component offices comply with all plans, policies, and directives of the Department of Administration;

(7) may employ such persons as he determines are necessary to carry out the department's duties, functions, and powers;

(8) may enter into contracts with public agencies, institutions of higher education, and private organizations or individuals that the director determines would be beneficial to carrying out the department's duties, functions, and powers; and

(9) shall, pursuant to Sections 1-1-810 and 1-1-820 of the S.C. Code, provide to the Governor and General Assembly, an annual accountability report containing the agency's or department's mission, objectives to accomplish the mission, and performance measures that show the degree to which objectives are being met. Through the Calendar Year 2028, and to the extent permitted by applicable state and federal laws, the department's annual accountability report shall include a review of efforts to maximize efficiency and identify any duplicative services to

develop a plan to consolidate or coordinate identified duplicative programs, and to eliminate redundancy, while ensuring that the quality, accessibility, and specialization of services are preserved or enhanced.

Section 44-12-50. (A) The Department of Behavioral Health and Developmental Disabilities shall consist of the following component offices:

(1) the Office of Intellectual and Developmental Disabilities;

(2) the Office of Mental Health; and

(3) the Office of Substance Use Services.

(B)(1) Each component office shall be headed by an office director who shall be appointed by the department's director. Office directors shall serve at the pleasure of the department director.

(2) The director may, to the extent authorized through the annual appropriations act or relevant permanent law, organize the administration of the department, including the assignment of personnel to the component offices, as is necessary to carry out the department's duties.

Section 44-12-60. The component offices shall carry out their duties, functions, and powers as provided in their respective enabling statutes and as otherwise provided by laws subject to the management decisions, policy development, and standards established of and by the department director as provided in this chapter.

Departments of state government

SECTION 2. Section 1-30-10(A) of the S.C. Code is amended to read:

(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Administration
2. Department of Agriculture
3. Department of Behavioral Health and Developmental Disabilities
4. Department of Commerce
5. Department of Corrections
6. Department of Education
7. Department of Public Health
8. Department of Health and Human Services
9. Department of Insurance
10. Department of Juvenile Justice

11. Department of Labor, Licensing and Regulation
12. Department of Motor Vehicles
13. Department of Natural Resources
14. Department of Parks, Recreation and Tourism
15. Department of Probation, Parole and Pardon Services
16. Department of Public Safety
17. Department of Revenue
18. Department of Social Services
19. Department of Transportation
20. Department of Employment and Workforce
21. Department on Aging
22. Department of Veterans' Affairs
23. Department of Environmental Services.

State employee grievance procedure exemptions

SECTION 3. Section 8-17-370 of the S.C. Code is amended by adding:

(21) The Director of the Department of Behavioral Health and Developmental Disabilities and all the department's employees who report directly to the director or office director.

Definitions

SECTION 4. Section 44-20-30 of the S.C. Code is amended to read:

Section 44-20-30. As used in this chapter:

(1) "Applicant" means a person who is believed to have an intellectual disability, one or more related disabilities, one or more head injuries, one or more spinal cord injuries, or an infant at high risk of a developmental disability who has applied for services from the office.

(2) "Client" means a person who is determined by the office to have an intellectual disability, a related disability, head injury, or spinal cord injury and is receiving services or is an infant at risk of having a developmental disability and is receiving services.

(3) "County disabilities and special needs boards" means the local public body administering, planning, coordinating, or providing services within a county or combination of counties for persons with an intellectual disability, related disabilities, head injuries, or spinal cord injuries and recognized by the department.

(4) "Day programs" means programs provided to persons with an intellectual disability, related disabilities, head injuries, or spinal cord

injuries outside of their residences affording development, training, employment, or recreational opportunities as prescribed by the office.

(5) "Office" means the Office of Intellectual and Developmental Disabilities, a component of the Department of Behavioral Health and Developmental Disabilities.

(6) "Office director" means the head of the Office of Intellectual and Developmental Disabilities appointed by the Director of the Department of Behavioral Health and Developmental Disabilities.

(7) "Disabilities and special needs services" means activities designed to achieve the results specified in an individual client's plan.

(8) "High risk infant" means a child less than thirty-six months of age whose genetic, medical, or environmental history is predictive of a substantially greater risk for a developmental disability than that for the general population.

(9) "Least restrictive environment" means the surrounding circumstances that provide as little intrusion and disruption from the normal pattern of living as possible.

(10) "Improvements" means the construction, reconstruction of buildings, and other permanent improvements for regional centers and other programs provided by the department directly or through contract with county boards of disabilities and special needs, including equipment and the cost of acquiring and improving lands for equipment.

(11) "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(12) "Obligations" means the obligations in the form of notes or bonds or contractual agreements issued or entered into by the commission pursuant to the authorization of this chapter and of Act 1377 of 1968 to provide funds with which to repay the proceeds of capital improvement bonds allocated by the State Fiscal Accountability Authority.

(13) "Regional residential center" means a twenty-four-hour residential facility serving a multicounty area and designated by the department.

(14) "Related disability" is a severe, chronic condition found to be closely related to an intellectual disability or to require treatment similar to that required for persons with an intellectual disability and must meet the following conditions:

(a) it is attributable to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to an intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of

persons with an intellectual disability and requires treatment or services similar to those required for these persons;

(b) it is manifested before twenty-two years of age;

(c) it is likely to continue indefinitely; and

(d) it results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

(15) "Residential programs" means services providing dwelling places to clients for an extended period of time with assistance for activities of daily living ranging from constant to intermittent supervision as required by the individual client's needs.

(16) "Revenues" or "its revenues" means revenue derived from paying clients at regional residential centers and community residences but does not include Medicaid, Medicare, or other federal funds received with the stipulation that they be used to provide services to clients.

(17) "State capital improvement bonds" means bonds issued pursuant to Act 1377 of 1968.

Office of Intellectual and Developmental Disabilities, office director

SECTION 5. Section 44-20-210 of the S.C. Code is amended to read:

Section 44-20-210. There is created the Office of Intellectual and Developmental Disabilities, a component of the Department of Behavioral Health and Developmental Disabilities. The office shall be headed by an office director appointed by the Director of the Department of Behavioral Health and Developmental Disabilities pursuant to Section 44-12-50(B)(1).

Office of Intellectual and Developmental Disabilities, operational authority

SECTION 6. Section 44-20-220 of the S.C. Code is amended to read:

Section 44-20-220. The Director of the Department of Behavioral Health and Developmental Disabilities shall determine the policy and promulgate regulations governing the operation of the office and the employment of professional staff and personnel. Subject to the approval of the Director of the Department of Behavioral Health and Developmental Disabilities, the office director may appoint advisory committees it considers necessary to assist in the effective conduct of the

office's responsibilities. The office director may educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with an intellectual disability, related disabilities, head injuries, and spinal cord injuries and promote the best interest of persons with an intellectual disability, related disabilities, head injuries, and spinal cord injuries.

Office of Intellectual and Developmental Disabilities, operational authority

SECTION 7. Section 44-20-230 of the S.C. Code is amended to read:

Section 44-20-230. Subject to the supervision, direction, and control of the Department of Behavioral Health and Developmental Disabilities, the office director shall administer the policies and regulations established by the department's director. The office director may appoint and, in his discretion, remove all other officers and employees of the office subject to the approval of the department's director.

Office of Intellectual and Developmental Disabilities, organizational structure

SECTION 8. Section 44-20-240 of the S.C. Code is amended to read:

Section 44-20-240. The office has authority over all of the state's services and programs for the treatment and training of persons with an intellectual disability, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The office must be comprised of, at a minimum, an Intellectual Disability Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The office may be divided into additional divisions as may be determined by the office director and approved by the department's director. Responsibility for all autistic services is transferred from the Office of Mental Health to the Office of Intellectual and Developmental Disabilities.

Department of Behavioral Health and Developmental Disabilities, property ownership

SECTION 9. Section 44-20-255 of the S.C. Code is amended to read:

Section 44-20-255. (A) Upon execution of the deed as provided in subsection (B) of this section, ownership of the tract of real property in Richland County described in Section 1 of Act 1645 of 1972 is confirmed in the Department of Behavioral Health and Developmental Disabilities, as the successor agency to the South Carolina Department of Disabilities and Special Needs.

(B) The State Department of Administration shall cause to be executed and recorded an appropriate deed conveying the tract to the Department of Behavioral Health and Developmental Disabilities.

(C) Proceeds of a subsequent sale of the tract that is the subject of this section may be retained by the Department of Behavioral Health and Developmental Disabilities.

Office of Substance Use Services

SECTION 10. Section 44-49-10 of the S.C. Code is amended to read:

Section 44-49-10. (A) There is established the Office of Substance Use Services. The office shall be vested with all the functions, powers, and duties of the Department of Alcohol and Other Drug Abuse Services, the successor to the South Carolina Commission on Alcoholism and the South Carolina Commission on Alcohol and Drug Abuse and shall have full authority for formulating, coordinating, and administering the state plans for controlling narcotics and controlled substances and alcohol abuse, subject to the approval of the Director of the Department of Behavioral Health and Developmental Disabilities.

(B) All functions, powers, and duties of the commissioner of the narcotics and controlled substances section of the State Planning and Grants Division (Division of Administration in the Office of the Governor) that were transferred to the Department of Alcohol and Other Drug Abuse Services are hereby transferred to the Office of Substance Use Services, except those powers and duties related to the traffic of narcotics and controlled substances as defined in Section 44-53-130 which shall be vested in the State Law Enforcement Division.

(C) All rules and regulations promulgated by the predecessor agencies shall remain in effect until changed by the department.

(D) The department is authorized to establish a block grant

mechanism to provide such monies as may be appropriated by the legislature for this purpose to each of the agencies designated under Section 61-12-20(a). The distribution of these monies must be on a per capita basis according to the most recent United States Census. The agencies designated under Section 61-12-20(a) must expend any funds received through this mechanism in accordance with the county plans required under Section 61-12-20(b).

(E) Subject to the approval of the Director of the Department of Behavioral Health and Developmental Disabilities, the department is authorized to develop such rules and regulations not inconsistent with the provisions of this chapter as it may find to be reasonably appropriate for the government of the county plans called for in Section 61-12-20(b), and the financial and programmatic accountability of funds provided under this section and all other funds provided by the department to agencies designated under Section 61-12-20(a).

Office of Substance Use Services, office director

SECTION 11. Section 44-49-20 of the S.C. Code is amended to read:

Section 44-49-20. The component office shall be headed by an office director appointed by the Director of the Department of Behavioral Health and Developmental Disabilities pursuant to Section 44-12-50(B)(1).

Office of Mental Health, creation and office director

SECTION 12. Section 44-9-10 of the S.C. Code is amended to read:

Section 44-9-10. There is hereby created the Office of Mental Health, a component office of the Department of Behavioral Health and Developmental Disabilities. The office shall have jurisdiction over all of the state's mental hospitals, clinics and centers, joint state and community sponsored mental health clinics and centers and facilities for the treatment and care of alcohol and drug addicts, including the authority to name each facility. The office shall be headed by an office director appointed by the Director of the Department of Behavioral Health and Developmental Disabilities pursuant to Section 44-12-50(B)(1). The director must be a person of proven executive and administrative ability with appropriate education and substantial experience in the field of mental illness treatment.

Office of Mental Health, powers and duties

SECTION 13. Section 44-9-20 of the S.C. Code is amended to read:

Section 44-9-20. All the powers and duties vested in the South Carolina Mental Health Commission immediately prior to March 26, 1964, that were transferred to and vested in the Department of Mental Health are now transferred to and vested in the Office of Mental Health, a component of the Department of Behavioral Health and Developmental Disabilities. All records, files, and other papers belonging to the Department of Mental Health shall be continued as part of the records and files of the Office of Mental Health.

Office of Mental Health, operational authority

SECTION 14. Section 44-9-30 of the S.C. Code is amended to read:

Section 44-9-30. The department director shall determine policies and promulgate regulations governing the operation of the office and the employment of professional and staff personnel.

Olmstead rights planning, community services and support for individuals with disabilities

SECTION 15. Chapter 30, Title 1 of the S.C. Code is amended by adding:

Section 1-30-150. (A) The Departments of Health and Human Services, Veterans' Affairs, Administration, Public Health, Social Services, and Behavioral Health and Developmental Disabilities shall collaboratively develop and execute a cohesive and comprehensive plan that addresses how to ensure that services and support for South Carolinians with disabilities are, to the greatest extent possible, provided in the community instead of in an institutional setting in accordance with the requirements of the Americans with Disabilities Act and the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581.

(B) The Director of the Department of Public Health shall appoint an Administrator of Community Living Integration who will be responsible for providing oversight in the assessment of the current state of community integration in South Carolina and in the creation of the community integration goals and objectives to be included in the State Health Plan. The Administrator of Community Living will report to the

Director of the Department of Public Health and shall select an Americans with Disabilities Coordinator to ensure compliance with responsibilities outlined by the Americans with Disabilities Act and the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581.

(C) The Director of the Department of Public Health shall establish and appoint members to a health planning advisory committee, upon consultation with the other departments charged with participating in developing the plan, to provide advice in the development of the plan. Members of the advisory committee should include healthcare providers, representatives from the disabled community, disability advocacy agencies, consumers, payers, and public health professionals. When developing the community integration goals and objectives, the committee must seek input from people with disabilities of different types and varying levels of severity, family members of people with disabilities, and people currently providing services to the disabled community. The committee must identify objectives for the successful implementation of the community integration program. Members of the advisory committee are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions.

Developmental evaluation centers

SECTION 16. Section 44-21-80 of the S.C. Code is amended to read:

Section 44-21-80. (A) The Medical University of South Carolina, the Prisma Health Medical Group-Midlands, and the Prisma Health-University Medical Group are each hereby authorized, as agents of the State of South Carolina, to fulfill the role of Regional Tertiary Level Developmental Evaluation Centers, hereinafter collectively referred to as "developmental evaluation centers."

(B) As developmental evaluation centers, the above named institutions shall provide neurodevelopmental evaluation and limited treatment services for individuals up to twenty-one years of age who have a suspected or diagnosed neurodevelopmental disorder or who are referred and accepted for services.

(C) Contingent upon sufficient funding, developmental evaluation centers shall work with institutions, state agencies, and other organizations to increase the number of neurodevelopmental professions, increase community provider neurodevelopmental services capacity through provider training programs, provide technical assistance to improve regionalized, community-based, and family centered systems of care for individuals with neurodevelopmental

disorders, and participate in neurodevelopmental research.

(D) For the purposes of this section, "neurodevelopmental disorders" are characterized by disruptions in the functioning neurological system and the brain, leading to difficulties in one or more of cognition, behavior, social interaction, communication, or motor function. Neurodevelopmental disorders primarily manifest early in development, typically during infancy, childhood, or adolescence.

Repeal

SECTION 17. Sections 44-9-40 and 44-9-50 of the S.C. Code are repealed.

Code Commissioner

SECTION 18. (A) The Code Commissioner is directed to change references in the S.C. Code from "State Department of Mental Health," "South Carolina Mental Health Commission," and "commission" in Chapter 9, Title 44 and otherwise in the S.C. Code where "commission" refers to the "South Carolina Mental Health Commission" to the "Office of Mental Health," "component office," or "office" as appropriate.

(B) The Code Commissioner is directed to change references in the S.C. Code from "Department of Disabilities and Special Needs" or "department" in Chapter 20, Title 44 to "Office of Intellectual and Developmental Disabilities," "component office," or "office" as appropriate. The Code Commissioner is further directed to change references in the S.C. Code to the "Department of Disabilities and Special Needs Commission" or where "commission" refers to the "Department of Disabilities and Special Needs Commission" to "Director of the Office of Intellectual and Developmental Disabilities," "office director," or "director" as appropriate.

(C) The Code Commissioner is directed to change references in the S.C. Code from "Department of Alcohol and Other Drug Abuse Services" or "department" when referring to the "Department of Alcohol and Other Drug Abuse Services" to "Office of Substance Use Services," "component office," or "office" as appropriate.

Interim office leadership

SECTION 19. (A) Upon the effective date of this act, the Director of the Department of Disabilities and Special Needs shall serve as the Interim Director of the Office of Intellectual and Developmental Disabilities,

unless otherwise removed by the Director of the Department of Behavioral Health and Developmental Disabilities, until such time as a successor is appointed by the Director of the Department of Behavioral Health and Developmental Disabilities and assumes the position. In the case of a vacancy in the office director's position on or after the effective date of this act and prior to the appointment of a successor, the Director of the Department of Behavioral Health and Developmental Disabilities may assign an employee of the department to perform the duties required of the vacant position in the interim.

(B) Upon the effective date of this act, the Director of the Department of Mental Health shall serve as the Interim Director of the Office of Mental Health, unless otherwise removed by the Director of the Department of Behavioral Health and Developmental Disabilities, until such time as a successor is appointed by the Director of the Department of Behavioral Health and Developmental Disabilities and assumes the position. In the case of a vacancy in the office director's position on or after the effective date of this act and prior to the appointment of a successor, the Director of the Department of Behavioral Health and Developmental Disabilities may assign an employee of the department to perform the duties required of the vacant position in the interim.

(C) Upon the effective date of this act, the Director of the Department of Alcohol and Other Drug Abuse Services shall serve as the Interim Director of the Office of Substance Use Services, unless otherwise removed by the Director of the Department of Behavioral Health and Developmental Disabilities, until such time as a successor is appointed by the Director of the Department of Behavioral Health and Developmental Disabilities and assumes the position. In the case of a vacancy in the office director's position on or after the effective date of this act and prior to the appointment of a successor, the Director of the Department of Behavioral Health and Developmental Disabilities may assign an employee of the department to perform the duties required of the vacant position in the interim.

(D) Nothing in this act prevents the Director of the Department of Behavioral Health and Developmental Disabilities from reappointing the directors of their respective departments serving in those roles as of the effective date of this act.

State agency restructuring, effect of transfer of agencies

SECTION 20. (A) Except for personnel and funds transferred pursuant to subsection (B) of this section, the Office of Intellectual and Developmental Disabilities shall operate as a component department of

the Department of Behavioral Health and Developmental Disabilities in the 2025-2026 Fiscal Year using the authority and funds appropriated to the Department of Disabilities and Special Needs as a standalone agency in the Appropriations Act of 2025. Except for personnel and funds transferred pursuant to subsection (B) of this section, the Office of Mental Health shall operate as a component department of the Department of Behavioral Health and Developmental Disabilities in the 2025-2026 Fiscal Year using the authority and funds appropriated to the Department of Mental Health as a standalone agency in the Appropriations Act of 2025. Except for personnel and funds transferred pursuant to subsection (B) of this section, the Office of Substance Use Services shall operate as a component department of the Department of Behavioral Health and Developmental Disabilities in the 2025-2026 Fiscal Year using the authority and funds appropriated to the Department of Alcohol and Other Drug Abuse Services as a standalone agency in the Appropriations Act of 2025.

(B) Upon appointment and confirmation, the Director of the Department of Behavioral Health and Developmental Disabilities may cause the transfer to the Department of Behavioral Health and Developmental Disabilities such: (1) personnel and attendant funding included in the administrative areas of the 2025 Appropriations Act, and (2) operating expenses included in the administrative areas of the 2025 Appropriations Act of one or more of the component departments of the Department of Behavioral Health and Developmental Disabilities as, in the determination of the director, is necessary to carry out the duties of the department. The Department of Administration shall cause all necessary actions to be taken to accomplish any such transfer and shall in consultation with the Director of the Department of Behavioral Health and Developmental Disabilities prescribe the manner in which the transfer provided for in this section shall be accomplished. The Department of Administration's actions in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(C) Except for those positions transferred pursuant to this section or otherwise specifically referenced in this act, employees of the Departments of Disabilities and Special Needs, Mental Health, or Alcohol and Other Drug Abuse Services shall maintain their same status with the appropriate component departments of the Department of Behavioral Health and Developmental Disabilities. Employees of the Department of Mental Health shall become employees of the Office of Mental Health within the Department of Behavioral Health and Developmental Disabilities. Employees of the Department of

Disabilities and Special Needs shall become employees of the Office of Intellectual and Developmental Disabilities within the Department of Behavioral Health and Developmental Disabilities. Employees of the Department of Alcohol and Other Drug Abuse Services shall become employees of the Office of Substance Use within the Department of Behavioral Health and Developmental Disabilities.

(D) Nothing in this act affects bonded indebtedness, if applicable, real and personal property, assets, liabilities, contracts, regulations, or policies of the Departments of Disabilities and Special Needs, Mental Health, or Alcohol and Other Drug Abuse Services existing on the effective date of this act. All applicable bonded indebtedness, real and personal property, assets, liabilities, contracts, regulations, or policies shall continue in effect in the name of the Department of Behavioral Health and Developmental Disabilities or the appropriate component department.

One subject

SECTION 21. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of healthcare delivery as clearly enumerated in the title. 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.

Severability

SECTION 22. 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 23. This act takes effect upon approval by the Governor.

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 4

(R11, S126)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 30-2-500, RELATING TO DEFINITIONS IN THE LAW ENFORCEMENT PERSONAL PRIVACY PROTECTION ACT, SO AS TO REVISE THE DEFINITON OF "PERSONAL CONTACT INFORMATION" AND TO DEFINE "DISCLOSED RECORDS"; BY AMENDING SECTION 30-2-510, RELATING TO THE MEANS FOR ACTIVE AND FORMER LAW ENFORCEMENT OFFICERS TO MAKE THEIR PERSONAL CONTACT INFORMATION CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE, SO AS TO PROVIDE ADDITIONAL MEANS FOR MAKING SUCH INFORMATION IN DISCLOSED RECORDS RESTRICTED FROM PUBLICLY AVAILABLE INTERNET WEBSITES OF STATE AND LOCAL GOVERNMENTS UPON REQUEST AND TO MAKE PROVISIONS FOR HOME ADDRESSES OR TAX MAP NUMBERS THAT CANNOT BE RESTRICTED FROM A DISCLOSED RECORD WITHIN AN INDEX OR FROM BEING DISPLAYED ON AN IMAGE OF AN OFFICIAL RECORD, TO PROVIDE SUCH INFORMATION MUST REMAIN WITHIN THE OFFICIAL RECORD HELD OR MAINTAINED BY THE STATE OR LOCAL GOVERNMENT AGENCY, AND TO ALLOW DISCLOSURE TO CERTAIN INDIVIDUALS OR ENTITIES, AMONG OTHER THINGS; BY ADDING SECTION 30-2-515 SO AS TO PROVIDE ACTIVE AND FORMER LAW ENFORCEMENT OFFICERS MAY SEEK CERTAIN JUDICIAL

RELIEF FOR NONCOMPLIANCE AND TO PREVENT LIABILITY FROM ACCRUING TO STATE OR LOCAL GOVERNMENT EMPLOYEES OR AGENTS FOR CLAIMS OR DAMAGES THAT ARISE FROM PERSONAL CONTACT INFORMATION ON THE PUBLIC RECORD; BY AMENDING SECTION 30-2-700, RELATING TO DEFINITIONS IN THE JUDICIAL PERSONAL PRIVACY PROTECTION ACT, SO AS TO INCLUDE ADDITIONAL INFORMATION IN THE DEFINITION OF "PERSONAL CONTACT INFORMATION" AND TO DEFINE "DISCLOSED RECORDS"; BY AMENDING SECTION 30-2-710, RELATING TO THE MEANS FOR ACTIVE AND FORMER JUDGES TO MAKE THEIR PERSONAL CONTACT INFORMATION CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE, SO AS TO PROVIDE MEANS TO RESTRICT SUCH INFORMATION IN DISCLOSED RECORDS RESTRICTED FROM PUBLICLY AVAILABLE INTERNET WEBSITES OF STATE AND LOCAL GOVERNMENTS UPON REQUEST AND TO MAKE PROVISIONS FOR HOME ADDRESSES OR TAX MAP NUMBERS THAT CANNOT BE RESTRICTED FROM A DISCLOSED RECORD WITHIN AN INDEX OR FROM BEING DISPLAYED ON AN IMAGE OF AN OFFICIAL RECORD, TO PROVIDE SUCH INFORMATION MUST REMAIN WITHIN THE OFFICIAL RECORD HELD OR MAINTAINED BY THE STATE OR LOCAL GOVERNMENT AGENCY, AND TO ALLOW DISCLOSURE TO CERTAIN INDIVIDUALS OR ENTITIES, AMONG OTHER THINGS; BY ADDING SECTION 30-2-715 SO AS TO PROVIDE ACTIVE AND FORMER JUDGES MAY SEEK CERTAIN JUDICIAL RELIEF FOR NONCOMPLIANCE AND TO PREVENT LIABILITY FROM ACCRUING TO STATE OR LOCAL GOVERNMENT EMPLOYEES OR AGENTS FOR CLAIMS OR DAMAGES THAT ARISE FROM PERSONAL CONTACT INFORMATION ON THE PUBLIC RECORD; TO DELAY THE EFFECTIVE DATE OF ACT 56 OF 2023, WHICH ENACTED THE "LAW ENFORCEMENT PERSONAL PRIVACY PROTECTION ACT" AND THE "JUDICIAL PERSONAL PRIVACY PROTECTION ACT," FROM JULY 1, 2025, UNTIL JANUARY 1, 2026; AND TO DIRECT THE OFFICE OF COURT ADMINISTRATION AND THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY TO COLLABORATE AND CREATE THE DESIGNATED FORM FOR LAW ENFORCEMENT OFFICERS AND JUDGES TO USE

TO REQUEST STATE AND LOCAL GOVERNMENT AGENCIES REGSTRICT PUBLIC ACCESS TO PERSONAL CONTACT INFORMATION IN DISCLOSED RECORDS, TO PROVIDE REQUIREMENTS FOR THE CONTENTS OF THE FORM, AND TO PROVIDE STATE OR LOCAL GOVERNMENT AGENCIES MAY PROVIDE SUPPLMENTAL FORMS TO IDENTIFY INFORMATION NEEDED BY STATE OR LOCAL GOVERNMENT AGENCIES TO ADDRESS REQUESTS FROM ELIGIBLE REQUESTING PARTIES.

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

Law Enforcement Personal Privacy Protection Act, definitions, restrictions, judicial relief, liability protection

SECTION 1. Section 30-2-500 of the S.C. Code is amended to read:

Section 30-2-500. For the purposes of this article:

(1) "Personal contact information" means the home address, personal cellular telephone number, or property tax map number, if applicable, of the eligible requesting party.

(2) "Eligible requesting party" means an active or former law enforcement officer who has filed a formal request under the provisions of this article.

(3) "Law enforcement officer" means an active or former federal, state, or local certified law enforcement officer or corrections officer.

(4) "Disclosed records" means records accessible by a database or an image of an official record, that are placed on a publicly available internet website maintained by or operated on behalf of a state or local government agency. Disclosed records for the purpose of this article do not include records available for purchase or through an account, by registration or subscription, from a state or local government agency.

SECTION 30-2-510 of the S.C. Code is amended to read:

Section 30-2-510. (A) An eligible requesting party's personal contact information in a disclosed record shall be restricted on a publicly available internet website maintained by or operated on behalf of the state or local government agency if the law enforcement officer:

(1) notifies the individual state or local government agency of the law enforcement officer's choice to restrict public access to personal contact information in disclosed records by submission of the designated

form and any supplemental information requested by the state or local government agency; and

(2) provides a notarized affidavit affirming current employment or previous employment as a law enforcement officer. The affidavit must include contact information for the employer.

(B) A choice made under this article remains valid with the following exceptions:

(1) the law enforcement officer rescinds the request in writing and provides notice to the state or local government agency;

(2) the state or local government agencies disclose personal contact information related to violations of law or regulation as permitted by law;

(3) the law enforcement officer requests release of the law enforcement officer's personal contact information from a state or local government agency for a specific purpose and for a limited time;

(4) the personal contact information is included in a collision report or uniform traffic ticket maintained and provided by the South Carolina Department of Motor Vehicles as permitted by law;

(5) the personal contact information is included on a business filing or Uniform Commercial Code filing recorded with the South Carolina Secretary of State; or

(6) the eligible requesting party's request to restrict information does not apply to a subsequent home address. The eligible requesting party is responsible for notifying through the designated form each state or local government agency of a subsequent home address of the eligible requesting party, and any documents filed after the original request to restrict personal contact information including, but not limited to, changes to the mortgage on a property, or any change in personal contact information.

(C) Personal contact information protected under the provisions of this article may be disclosed under subpoena, by order of the court, upon written consent of the eligible law enforcement officer, or to a government agency.

(D)(1) Personal contact information restricted from disclosed records under this section must remain within the official records held or maintained by a state or local government agency, but may not be included in an index or displayed on an image of an official record on a publicly available internet website maintained or operated on behalf of a state or local government agency.

(2) In the event that a home address or tax map number cannot be restricted from a disclosed record within an index or from being displayed on an image of an official record on a publicly available

internet website maintained or operated on behalf of a state or local government agency, then the image of the official record shall not be displayed and the state or local government agency must restrict the home address or tax map number portion from the display within the index, regardless of the location within the index.

(E) Any personal contact information must be restricted, if requested by an eligible requesting party, from any disclosed record, including the designated form used to notify the state or local government agency and supplemental information requested by the state or local government agency, otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent the disclosure of any other otherwise public information allowed by law.

(F) A governmental agency that restricts or withholds information under this article shall provide to a requestor a description of the restricted or withheld information and a citation to this article.

(G) Personal contact information restricted pursuant to this article may be disclosed to:

(1) a title insurer or its affiliate;

(2) a title insurance agent or agency;

(3) a personal representative of a deceased eligible requesting party;

(4) an attorney duly admitted to practice law in the State of South Carolina and in good standing with the South Carolina Bar or a person appointed in writing by said attorney to receive the restricted information on his behalf; or

(5) a professional engineer or professional surveyor, as defined under Section 40-22-20, or a person appointed in writing by said professional engineer or professional surveyor to receive the restricted information on his behalf.

(H) The restricted status of a home address contained in the official records within a county register of deeds is maintained only during the period when an eligible requesting party resides at the dwelling location. Upon the conveyance of real property that no longer constitutes an eligible request in the party's home address, the eligible requesting party must submit the designated form to release the restriction on personal contact information, including the home address information, and a notarized affidavit affirming the designated form to the county register of deeds.

(I) Nothing in this article shall be construed to limit access to otherwise protected information in public records by applicable law including, but not limited to, the Driver's Privacy Protection Act (18 U.S.C. Section 2721, et seq.) and the Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.).

Chapter 2, Title 30 of the S.C. Code is amended by adding:

Section 30-2-515. Any eligible requesting party may petition the court for an order directing compliance with this article. Liability may not accrue to a state or local government employee or to his agents for claims or damages that arise from personal contact information on the public record.

Judicial Personal Privacy Protection Act, definitions, restrictions, judicial relief, liability protection

SECTION 2. Section 30-2-700 of the S.C. Code is amended to read:

Section 30-2-700. For the purpose of this article:

(1) "Personal contact information" means the home address, personal cellular telephone number, or tax map number, if applicable, of the eligible requesting party.

(2) "Eligible requesting party" means an active or a former judge who has filed a formal request under the provisions of this article.

(3) "Disclosed records" means records accessible by a database or image of an official record, that are placed on a publicly available internet website maintained by or operated on behalf of a state or local government agency. Disclosed records for the purpose of this article do not include records available for purchase or through an account, by registration or subscription, from a state or local government agency.

SECTION 30-2-710 of the S.C. Code is amended to read:

Section 30-2-710. (A) An eligible requesting party's personal contact information in a disclosed record shall be restricted on a publicly available internet website maintained by or operated on behalf of the state or local government agency if the judge:

(1) notifies the individual state or local government agency of the judge's choice to restrict public access to personal contact information in disclosed records by submission of the designated form and any supplemental information requested by the state or local government agency; and

(2) provides a notarized affidavit affirming the current or prior service as a judge. The affidavit must include the contact information for the court administration office affiliated with the court the judge serves or previously served.

(B) A choice made under this article remains valid with the following

exceptions:

(1) the judge rescinds in writing the request to restrict public access to or posting online of personal contact information and provides notice to the state or local government agency;

(2) the state or local government agencies disclose personal contact information related to violations of law or regulation, as permitted by law;

(3) the judge requests release of the judge's personal contact information from a state or local government agency for a specific purpose and for a limited time;

(4) the personal contact information is included in a collision report or uniform traffic ticket maintained and provided by the South Carolina Department of Motor Vehicles, as permitted by law;

(5) the personal contact information is included on a business filing or Uniform Commercial Code filing recorded with the South Carolina Secretary of State; or

(6) the eligible requesting party's request to restrict information does not apply to a subsequent home address of the eligible requesting party. The eligible requesting party is responsible for notifying, through the designated form, each state or local government agency of a subsequent home address, and any documents filed after the original request to restrict personal contact information including, but not limited to, changes to the mortgage on a property, or any change in personal contact information.

(C) Personal contact information provided under the provisions of this article may be disclosed under subpoena, by order of the court, upon written consent of the eligible judge, or to another government agency.

(D)(1) Personal contact information restricted from disclosed records under this section must remain within the official records held or maintained by a state or local government agency, but not be included within an index or displayed on an image of an official record on a publicly available internet website maintained or operated on behalf of a state or local government agency.

(2) In the event that a home address or tax map number cannot be restricted from a disclosed record within an index or from being displayed on an image of the official record on a publicly available internet website maintained or operated on behalf of a state or local government agency, then the image of the official record shall not be displayed and the state or local government agency must restrict the home address or tax map number portion from the display within the index, regardless of the location of the index.

(E) Any personal contact information, as defined under this article,

must be restricted, if requested by an eligible requesting party, from any disclosed record, including the designated form used to notify the state or local government agency and supplemental information requested by the state or local government agency, otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent the disclosure of other public information otherwise allowed by law.

(F) A state or local government agency that restricts or withholds information under this article shall provide to a requestor a description of the restricted or withheld information and a citation to this article.

(G) Personal contact information restricted pursuant to this article may be disclosed to:

(1) a title insurer or its affiliate;

(2) a title insurance agent or agency;

(3) the personal representative of a deceased eligible requesting party;

(4) an attorney duly admitted to practice law in the State of South Carolina and in good standing with the South Carolina Bar or a person appointed in writing by said attorney to receive the restricted information on his behalf; or

(5) a professional engineer or professional surveyor as defined under Section 40-22-20, or a person appointed in writing by said professional engineer or professional surveyor to receive the restricted information on his behalf.

(H) The restricted status of a home address contained in the official records within a county of register of deeds is maintained only during the period when an eligible requesting party resides at the dwelling location. Upon the conveyance of real property that no longer constitutes an eligible requesting party's home address, the eligible requesting party must submit the designated form to release the restriction on personal contact information, including home address information, and a notarized affidavit affirming the designated form to the county register of deeds.

(I) Nothing in this article shall be construed to limit access to otherwise protected information available by applicable law including, but not limited to, the Driver's Privacy Protection Act (18 U.S.C Section 2721, et seq.) and the Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.).

Chapter 2, Title 30 of the S.C. Code is amended by adding:

Section 30-2-715. Any eligible requesting party may petition the court for an order directing compliance with this article. Liability may not accrue to a state or local government employee or to his agents for claims or damages that arise from personal contact information on the public record.

Law Enforcement Personal Privacy Protection Act and Judicial Personal Privacy Protection Act, effective dates delayed

SECTION 3. The effective date of Act 56 of 2023, which enacted the "Law Enforcement Personal Privacy Protection Act" and the "Judicial Personal Privacy Protection Act," is delayed from July 1, 2025, until January 1, 2026.

Directives to the Office of Court Administration and the South Carolina Criminal Justice Academy

SECTION 4. The Office of Court Administration and the South Carolina Criminal Justice Academy shall collaborate to create the designated form for law enforcement officers and for judges to use to request a state or local government agency restrict public access to personal contact information in disclosed records. The form shall include a disclaimer to inform the requesting party the request is specific to the state or local government agency and will not be provided to other entities or apply to changes in personal contact information. The form must contain fields for the following:

(1) the requesting party's personal information including, but not limited to, legal name, date of birth, home address, driver's license information, personal email address, and where applicable, tax map numbers;

(2) the dates of service and status of service;

(3) the location of personal contact information in disclosed records by instrument number, book and page number of the copy or image, docket number, file number, vehicle identification number or title number; and

(4) an exception section to notify a state or local government agency of rescission of the request to restrict personal contact information and to permit disclosure of personal contact information for a specific purpose and for a limited time.

A state or local government agency may provide a supplemental form

for the purposes of identifying information needed by the state or local government agency to address the eligible requesting party's request.

Time effective

SECTION 5. This act takes effect on January 1, 2026.

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 5

(R12, S218)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 25-11-730 SO AS TO PROVIDE THAT THE DEPARTMENT OF VETERANS' AFFAIRS SHALL ADOPT CRITERIA FOR ADMISSIONS TO AND DISCHARGES FROM SOUTH CAROLINA VETERANS' HOMES.

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

South Carolina veterans' homes

SECTION 1. Chapter 11, Title 25 of the S.C. Code is amended by adding:

Section 25-11-730. (A) The Department of Veterans' Affairs shall adopt and execute criteria, policies, and procedures for admissions to and discharges from South Carolina veterans' homes.

(B) The Department of Veterans' Affairs shall set and collect fees for residence in and services provided by South Carolina veterans' homes.

(C) The Department of Veterans' Affairs is authorized to receive, as full or partial payment of any fees charged by a South Carolina veteran home, the assignment of any state or federal benefit.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 6

(R17, H3247)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-1-462 SO AS TO EXCUSE ABSENCES, NOT TO EXCEED TEN SCHOOL DAYS PER SCHOOL YEAR, FOR PUBLIC SCHOOL STUDENTS WHEN PARTICIPATING IN CERTAIN CAREER AND TECHNICAL STUDENT ORGANIZATION EXPERIENCES, AND TO PROVIDE STUDENTS AND THEIR PARENTS OR LEGAL GUARDIANS ARE RESPONSIBLE FOR OBTAINING AND COMPLETING ASSIGNMENTS MISSED DURING SUCH EXCUSED ABSENCES.

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

Excused school absences, limits, missed assignments

SECTION 1. Article 5, Chapter 1, Title 59 of the S.C. Code is amended by adding:

Section 59-1-462. Each school district shall adopt a policy that authorizes a student to be excused from school absences, not to exceed ten school days per school year, to participate in a Career and Technical Student Organization experience in which student participation and learning outcomes are directed by a certified teacher for assessment of competencies. Participation in such Career and Technical Student Organization experience may include, but is not limited to, scheduled events of state-level Future Farmers of America (FFA) organizations,

the national FFA organization, and 4-H programs as part of organized competitions or exhibitions. The student and his parent or legal guardian are responsible for obtaining and completing assignments missed while the student participates in any such Career and Technical Student Organization experiences.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 7

(R18, H3529)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-3-40, RELATING TO FAMILY COURT JUDGES ELECTED FROM EACH JUDICIAL CIRCUIT, SO AS TO INCREASE BY ONE THE NUMBER OF FAMILY COURT JUDGES IN THE NINTH, ELEVENTH, AND FOURTEENTH CIRCUITS.

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

Additional Family Court judges

SECTION 1. Section 63-3-40(A) of the S.C. Code is amended to read:

(A) The General Assembly shall elect a number of family court judges from each judicial circuit as follows:

First Circuit	Four Judges
Second Circuit	Two Judges
Third Circuit	Three Judges

Fourth Circuit	Three Judges
Fifth Circuit	Four Judges
Sixth Circuit	Two Judges
Seventh Circuit	Four Judges
Eighth Circuit	Three Judges
Ninth Circuit	Seven Judges
Tenth Circuit	Three Judges
Eleventh Circuit	Four Judges
Twelfth Circuit	Three Judges
Thirteenth Circuit	Six Judges
Fourteenth Circuit	Four Judges
Fifteenth Circuit	Three Judges
Sixteenth Circuit	Three Judges

Judicial Screening, funding contingency

SECTION 2. The Judicial Merit Selection Commission shall begin the process of nominating candidates for the judicial offices authorized by the provisions of SECTION 1. The General Assembly then shall elect these judges from the nominees of the commission; except that, the nominating process may not begin until funding for the additional judges is provided in the general appropriations act.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 8

(R19, H3654)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 63-7-1990 AND 63-11-550, BOTH RELATING TO CONFIDENTIALITY OF CHILD WELFARE RECORDS AND INFORMATION, SO AS TO AUTHORIZE DISCLOSURE OF CASE RECORDS TO COUNTY AND STATE GUARDIAN AD LITEM PROGRAM STAFF AND TO THE STATE CHILD ADVOCATE; AND BY AMENDING SECTIONS 63-11-700, 63-11-1340, AND 63-11-1360, RELATING TO CERTAIN DIVISIONS OF THE DEPARTMENT OF CHILDREN'S ADVOCACY, SO AS TO UPDATE REFERENCES TO THE DEPARTMENT AND THESE DIVISIONS.

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

Central registry confidentiality exceptions

SECTION 1. Section 63-7-1990(B)(1) and (23) of the S.C. Code is amended to read:

(1) the Department of Children's Advocacy, including the Guardian ad Litem Division, and county Guardian ad Litem Program staff, when carrying out their duties;

(23) employees of the Division of Guardian ad Litem, for purposes of certifying that no potential employee or volunteer is the subject of an indicated report or an affirmative determination and when carrying out their duties;

Guardian ad Litem Division

SECTION 2. Section 63-11-550(A) of the S.C. Code is amended to read:

(A) All reports and information collected pursuant to this article maintained by the South Carolina Guardian ad Litem Program, or a county Guardian ad Litem Program operating pursuant to Section 63-11-500(B) or by a guardian ad litem, are confidential. A person who disseminates or permits the unauthorized dissemination of the

information is guilty of contempt of court and, upon conviction, may be fined or imprisoned, or both, pursuant to Section 63-3-620. The appointed guardian ad litem may share reports and information collected with the county's Guardian ad Litem Program staff, the Guardian ad Litem Division, and the State Child Advocate.

Foster care review division

SECTION 3. Section 63-11-700(E) and (F) of the S.C. Code is amended to read:

(E) The Department of Children's Advocacy, upon recommendation of the division director, shall promulgate regulations to carry out the provisions of this article. These regulations shall provide for and must be limited to procedures for: reviewing reports and other necessary information at state, county, and private agencies and facilities; scheduling of reviews and notification of interested parties; conducting local review board and board of directors' meetings; disseminating local review board recommendations, including reporting to the appropriate family court judges the status of judicially approved treatment plans; participating and intervening in family court proceedings; and developing policies for summary review of children privately placed in privately owned facilities or group homes.

(F) The Department of Children's Advocacy may employ a division director and staff as is necessary to carry out this article, and the funds for the division director, staff, and other purposes of this division must be provided for in the annual general appropriations act.

Continuum of Care Division

SECTION 4.A. Section 63-11-1340 of the S.C. Code is amended to read:

Section 63-11-1340. The Department of Children's Advocacy may employ a Director of the Continuum of Care and staff necessary to carry out the provisions of this article. The funds for the division director, staff, and other purposes of the Continuum of Care Division must be provided in the annual general appropriations act. The department, upon the recommendation of the division director, may promulgate regulations in accordance with this article and the provisions of the Administrative Procedures Act and formulate necessary policies and procedures of administration and operation to carry out effectively the objectives of

this article.

B. Section 63-11-1360 of the S.C. Code is amended to read:

Section 63-11-1360. The Continuum of Care Division shall submit, through the Department of Children's Advocacy's annual report to the Governor and General Assembly, its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 9

(R21, H3932)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-190, RELATING TO DESIGNATION OF VOTING PRECINCTS IN CLARENDON COUNTY, SO AS TO SPLIT AN EXISTING PRECINCT AND REDESIGNATE THE MAP NUMBER ON WHICH THE OFFICIAL PRECINCT MAP IS FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Clarendon County voting precincts

SECTION 1. Section 7-7-190 of the S.C. Code is amended to read:

Section 7-7-190. (A) In Clarendon County there are the following voting precincts:

Alcolu;
Barrineau;
Barrows Mill;
Bloomville;
Calvary;
Davis Station;
Harmony;
Hicks;
Home Branch;
Jordan;
Manning No. 1;
Manning No. 2;
Manning No. 3;
Manning No. 4;
Manning No. 5;
New Zion;
Oakdale;
Paxville;
Panola;
Sardinia-Gable;
Summerton No. 1;
Summerton No. 2;
Summerton No. 3;
Summerton No. 4;
Turbeville; and
Wilson-Foreston.

(B) The polling places for the above precincts must be determined by the Board of Voter Registration and Elections of Clarendon County with the approval of a majority of the Clarendon County Legislative Delegation.

(C) The precinct lines defining the precincts as provided in subsection (A) are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-27-25.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 10

(R22, H3933)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 33-36-1330, RELATING TO THE APPOINTMENT OR ELECTION OF BOARD MEMBERS, SO AS TO ESTABLISH A SEVEN-MEMBER BOARD AND TO CHANGE THE APPOINTMENT PROCEDURE.

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

Appointment or election of board members

SECTION 1. Section 33-36-1330(B) of the S.C. Code is amended to read:

(B) For a corporation converted to a public service district pursuant to Section 33-36-1315, the existing directors, who shall constitute the initial governing board of the district, and officers shall serve until the expiration of their current terms. Thereafter, the public service district must be governed by a board comprised of seven members. The successor members must be appointed in accordance with the following procedures:

(1) the total number of customers of the public service district must be divided by the number of board seats, the result being an apportionate average;

(2) the respective number of customers located in a county must be divided by the apportionate average to determine an appointive index;

(3) the Governor, based upon the recommendation of the legislative delegation from the applicable county, must appoint a number of members to the board from each county to equal to the whole number indicated by its appointive index. If, by this method, there are insufficient members appointed to complete the board, an appointive index closest to the next highest whole number must be authorized to have an additional member appointed from the county; and

(4) each member must be appointed for a term of four years and until his successor is appointed and qualified; provided, that the terms of the members must be staggered such that approximately one-half of the

total members appointed by the Governor must be appointed or reappointed every two years. A vacancy must be filled for the remainder of the unexpired term in the manner of the original appointment.

Time effective

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

Ratified the 24th day of April, 2025

Approved the 28th day of April, 2025

No. 11

(R27, S62)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-8-110, RELATING TO DEFINITIONS CONCERNING THE EDUCATION SCHOLARSHIP TRUST FUND, SO AS TO REVISE DEFINITIONS; BY AMENDING SECTION 59-8-115, RELATING TO SCHOLARSHIP APPLICATION CRITERIA AND PROCEDURES, SO AS PROVIDE REQUIREMENTS CONCERNING PRIORITY AND GENERAL APPLICATIONS, TO PROVIDE CERTAIN EXEMPTION ACKNOWLEDGEMENT REQUIREMENTS FOR NONPUBLIC EDUCATION SERVICE PROVIDERS, AMONG OTHER THINGS; BY AMENDING SECTION 59-8-120, RELATING TO THE ESTABLISHMENT OF THE SOUTH CAROLINA EDUCATION SCHOLARSHIP TRUST FUND, SO AS TO RECHARACTERIZE ITS CORPUS AND REVISE ITS USAGES, TO ESTABLISH A TRUSTEE APPOINTMENT FOR THE FUND AND TO PROVIDE THE QUALIFICATIONS AND DUTIES OF THE TRUSTEE, AND TO ESTABLISH SCHOLARSHIP ALLOCATION AMOUNTS AND ACCOUNTABILITY MEASURES; BY AMENDING SECTION 59-8-125, RELATING TO SCHOLARSHIP FUND PAYMENTS, SO AS TO PROVIDE FOR THE ROLE OF THE TRUSTEE IN MAKING SUCH

PAYMENTS, TO PROVIDE FOR TRUSTEE PAYMENTS, AND TO PROVIDE TERMS FOR A CONTRACTUAL RELATIONSHIP FOR THE PERFORMANCE OF THE TRUSTEE'S DUTIES, AMONG OTHER THINGS; BY AMENDING SECTION 59-8-130, RELATING TO SCHOLARSHIP ELIGIBILITY TERMINATION NOTICE REQUIREMENTS, SO AS TO RESTATE THE SECTION; BY AMENDING SECTION 59-8-135, RELATING TO SCHOLARSHIP PARTICIPANT NUMBER LIMITATIONS, SO AS TO REVISE THE LIMITATIONS, ENABLE INCREASES, AND REMOVE A PERIODIC PROGRAM ELIGIBILITY AND USE REVIEW REQUIREMENT; BY AMENDING SECTION 59-8-140, RELATING TO EDUCATION SERVICE PROVIDER PROGRAM PARTICIPATION REQUIREMENTS, SO AS TO INCLUDE ELIGIBLE SCHOOLS, AND TO REMOVE CERTAIN ADMINISTRATIVE REQUIREMENTS OF THE STATE DEPARTMENT OF EDUCATION; BY AMENDING SECTION 58-8-145, RELATING TO MISCELLANEOUS DEPARTMENT ADMINISTRATIVE REQUIREMENTS, SO AS TO REMOVE A PROVISION ALLOWING THE DEPARTMENT TO CONTRACT WITH QUALIFIED ORGANIZATIONS FOR RELATED ASSISTANCE; BY ADDING SECTION 59-8-147 SO AS TO PROVIDE THE DEPARTMENT SHALL POST CERTAIN INFORMATION ABOUT THE PROGRAM ON ITS INTERNET WEBSITE, TO PROVIDE REQUIREMENTS OF THE DEPARTMENT CONCERNING THE APPLICATION PROCESS, AND TO PROVIDE A GRACE PERIOD FOR APPLICANTS TO CORRECT MINOR ERRORS; BY AMENDING SECTION 59-8-150, RELATING TO EDUCATION SERVICE PROVIDER REQUIREMENTS, SO AS TO EXPAND EMPLOYEE CRIMINAL BACKGROUND CHECKS, TO REVISE EMPLOYEE SURETY BOND REQUIREMENTS, TO REVISE ASSESSMENT REQUIREMENTS, AND TO REMOVE A PROVISION AUTHORIZING THE DEPARTMENT TO PROMULGATE RELATED REGULATIONS, AMONG OTHER THINGS; BY AMENDING SECTION 59-8-160, RELATING TO THE EDUCATION SCHOLARSHIP TRUST FUND REVIEW PANEL, SO AS TO RESTATE THE SECTION; BY AMENDING SECTION 59-8-165, RELATING TO DISTRICT-LEVEL STUDENT TRANSFER POLICIES, SO AS TO REPLACE THE EXISTING LANGUAGE WITH PROVISIONS CONCERNING INTERDISTRICT TRANSFERS; BY AMENDING SECTION

59-8-170, RELATING TO AN EXEMPTION FROM HIGH SCHOOL LEAGUE TRANSFER ELIGIBILITY RULES FOR INTERDISTRICT TRANSFER SCHOLARSHIP STUDENTS, SO AS TO MAKE THE PROVISION APPLICABLE TO SCHOLARSHIP AND NONSCHOLARSHIP STUDENTS, AND TO PROVIDE SUBSEQUENT TRANSFERS ARE SUBJECT TO HIGH SCHOOL LEAGUE ELIGIBILITY RULES; AND BY AMENDING SECTION 59-150-350, RELATING TO SCHOLARSHIPS DESIGNATED TO RECEIVE LOTTERY FUNDING, SO AS TO INCLUDE THE SOUTH CAROLINA EDUCATION SCHOLARSHIP TRUST FUND.

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

Definitions

SECTION 1. Section 59-8-110 of the S.C. Code is amended to read:

Section 59-8-110. For purposes of this chapter:

(1) "Department" means the South Carolina Department of Education.

(2) "Education Scholarship Trust Fund," "ESTF," or "fund" means the individual account that is administered by the department to which funds are allocated to the parent of an eligible student to pay for qualifying expenses.

(3) "Eligible school" means a South Carolina public school or a nonprofit South Carolina independent school where a student is enrolled full time, that chooses to participate in the program. "Eligible school" does not include a school in which a member of the General Assembly or an immediate family member of a member of the General Assembly has any direct financial interest. For purposes of this section, "immediate family member" means as defined in Section 8-13-100(18). "Eligible school" does not include a charter school.

(4) "Eligible student" means a student who:

(a) is a resident of this State; and

(b)(i) has attained at least the age of five on or before September first of the school year in which scholarship funds are awarded;

(ii) in School Year 2025-2026, has a household income that does not exceed three hundred percent of the federal poverty guidelines; and

(iii) in School Year 2026-2027, and all subsequent years has a household income that does not exceed five hundred percent of the federal poverty guidelines.

"Eligible student" does not include students participating in the

Educational Credit for Exceptional Needs Children's Fund program, as provided in Section 12-6-3790 or a student who is not subject to the compulsory attendance requirements of Section 59-65-10.

(5) "IDEA" means the Individuals with Disabilities Education Act found in 20 U.S.C. Section 1400, et seq.

(6) "Parent" means a resident of this State who is the natural or adoptive parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(7) "Education service provider" means a person or organization approved by the department that receives payments from ESTF to provide educational goods and services to scholarship students.

(8) "Program" means the ESTF program created by this chapter.

(9) "Resident school" means the public school in which the student is zoned for attendance.

(10) "Scholarship" means education funding allocated from an account established pursuant to this chapter.

(11) "Scholarship student" means an eligible student who is participating in the Education Scholarship Trust Fund program.

(12) "Substantial misuse" means wilfully and knowingly receiving or spending any portion of a scholarship for any purpose other than a qualifying expense.

(13) "Trustee" means the individual or entity appointed by the State Superintendent of Education pursuant to Section 59-8-120(A)(2).

(14) "Qualifying expense" means:

(a) tuition and fees for attendance at an education service provider or eligible school;

(b) textbooks, curriculum, or other instructional materials including, but not limited to, any supplemental materials or associated online instruction required by either a curriculum or an education service provider;

(c) tutoring services approved by the department;

(d) computer hardware or other technological devices that are used primarily for a scholarship student's educational needs and approved by the department or a licensed physician;

(e) tuition and fees for an approved online education service provider or course;

(f) fees for approved:

(1) national norm-referenced examinations, advanced placement examinations, or similar assessments;

(2) industry certification exams; or

(3) examinations related to college or university admission;

(g) educational services for pupils with disabilities from a licensed

or accredited practitioner or provider including, but not limited to, occupational, behavioral, physical, and speech-language therapies;

(h) approved contracted services from a public school district, or a public charter school including individual classes, after school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(i) contracted teaching services and education classes approved by the department;

(j) fees for transportation paid to a fee-for-service transportation provider for the scholarship student to travel to and from an eligible provider as defined in this section, but not to exceed three thousand dollars for each school year;

(k) fees for interdistrict public school transfers;

(l) cost of school uniforms which are required for attendance;

(m) any consumables and items necessary to complete a curriculum or that are otherwise applicable to a course of study that has been approved by the department; or

(n) any other educational expense approved by the department to enable personalized learning consistent with the intent of this act.

A qualifying expense does not mean a duplicate service already offered as part of a student's enrollment in school.

Scholarship application process, criteria, selection, exemption acknowledgement

SECTION 2. Section 59-8-115 of the S.C. Code is amended to read:

Section 59-8-115. (A) The department shall create a standard application process and timeline for parents to establish the eligibility of their student for the Education Scholarship Trust Fund program. Beginning November first of every year, an early application window will be opened for current participants of this program who continue to meet the criteria of an eligible student, and their siblings. The department shall continue to accept applications for the ESTF program on a rolling basis until capacity is met and then shall maintain a waitlist to maximize program participation.

(B) Pursuant to the timeline established pursuant to subsection (A), the department shall ensure the following:

(1) applications must be processed in the order in which they are received, within each of the priority and general application windows;

(2) after the conclusion of the application window for current participants and their siblings, a priority application window for new

program participants must be open for students who meet the following criteria:

(a) has a parent or guardian who is an active-duty member of the Armed Forces of the United States and will be living in South Carolina as a result of their duty station;

(b) has a household income that does not exceed three hundred percent of the federal poverty guidelines; or

(c) attended a public school in the previous academic year;

(3) once the priority application windows have closed, the general application window must open for any student who did not meet the early application window criteria; and

(4) within thirty days of submission of all required documentation, award letters must be enrolled and issued, and the student's online account must be created.

(C) Before awarding a scholarship, the department must obtain evidence of all other student eligibility criteria set forth in Section 59-8-110.

(D) The department shall approve an initial application for scholarship if:

(1) the parent submits an application for a scholarship in accordance with the application and procedures established by the department;

(2) the student on whose behalf the parent is applying is an eligible student;

(3) funds are available for the ESTF; and

(4) the parent annually attests to the following:

(a) to provide, at a minimum, a program of academic instruction for the eligible student in at least the subjects of English/language arts to include writing, mathematics, social studies, and science;

(b) to ensure the scholarship student takes assessments as referenced in Section 59-8-150 or provides assessments in a similar manner through other means if the scholarship student does not receive full-time instruction from an education service provider;

(c) to use the scholarship for qualifying expenses only for an approved provider to educate the scholarship student, subject to penalty;

(d) not to enroll their scholarship student in a public school as a full-time student in the resident school, as defined in this chapter;

(e) not to participate in a home instruction program under Section 59-65-40, 59-65-45, or 59-65-47;

(f) that includes parental acknowledgement that the nonpublic school education service providers are not subject to IDEA and are not required to offer the same services as the public school system to which their child is zoned for attendance. A parent does have the ability to

request an evaluation and determination of possible eligibility from their resident school district; and

(g) to confirm that, if the parent's child is a student with disabilities, the parent has received notice from the department that participation in the ESTF program is a parental placement of the scholarship student under IDEA, along with an explanation of the rights that parentally placed students possess under IDEA and any applicable state laws and regulations, including the consultation process provided for in 20 U.S.C. Section 1412(a)(10) and the Individual Education Program requirements described in Section 1414(d) of IDEA.

(E) The department shall make available on its website in a conspicuous location information in conformity with 34 C.F.R. Sections 300.130 through 300.144, Assistance to States for the Education of Children with Disabilities, explaining to parents the rights of children with disabilities under IDEA both in public schools and as parentally placed students in private schools.

(F) Personal deposits into an ESTF account are prohibited.

(G) Funds received pursuant to this section do not constitute taxable income to the parent of the scholarship student or to the student.

(H) A parent's signed agreement under subsection (D)(4) satisfies the state's compulsory attendance law pursuant to Section 59-65-10.

(I) The State Board of Education may promulgate regulations for the administration of the program as may be applicable.

(J) The department may contract with qualified organizations to administer the program application process or specific functions, maintenance, and monitoring of the program application process as required above.

(K) Students must be considered enrolled in the program until the parent notifies the department of a decision to terminate participation or the department determines that the student is no longer eligible.

Education Scholarship Trust Fund, establishment, corpus, trustee created

SECTION 3. Section 59-8-120 of the S.C. Code is amended to read:

Section 59-8-120. (A)(1) There is established at the department, the "South Carolina Education Scholarship Trust Fund" that is separate and distinct from the general fund, consisting of monies appropriated to the department to provide scholarships to eligible students for qualifying expenses. The funds and assets of the South Carolina Education Scholarship Trust Fund are not funds of the State but are instead held in

trust. The monies placed into and accumulated in the fund constitute the trust corpus, to be used only for the purposes outlined in this act; the scholarship recipients are the trust beneficiaries who hold equitable title to the scholarship funds allocated to them from the fund and are the direct beneficiaries of the trust; and the trustee selected by the State Superintendent of Education as described in this section is the trustee of the trust who may distribute funds only in a way consistent with this act and as directed by a beneficiary. The fund must receive and hold all monies allocated for it as well as all earnings until disbursed as provided in this section. Monies deposited in the South Carolina Education Scholarship Trust Fund may not revert to the general fund or be appropriated by the General Assembly for any other purpose. If the South Carolina Education Scholarship Trust Fund program ceases for any reason, then the trustee shall deposit all remaining amounts in the trust fund to a specific education account separate from the general fund designated by the General Assembly.

(2) The State Superintendent of Education shall appoint the Trustee of the South Carolina Education Scholarship Trust Fund to serve at will. The trustee may not be a public entity or an employee of any public entity. The trustee may be either an individual or entity and shall have, in the state superintendent's sole discretion, the necessary expertise and good reputation to serve as the trustee. The trustee must have, at a minimum, at least five years' experience as a trustee of a registered nonprofit organization, public trust or nonfamilial trust whose assets exceed five million dollars or a master's degree in accounting, public administration, or other related field. The trustee must not have filed for bankruptcy pursuant to Title 11, Chapters 7 or 13 of the United States Bankruptcy Code or been convicted of criminal fraud, tax fraud, embezzlement, conversion, money laundering, theft crimes, or any crime that is recognized as a felony under state or federal law. The trustee shall file a statement of economic interest pursuant to Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws. The trustee shall be bound by all duties of trustees under South Carolina law, unless such duties conflict with the requirements of this chapter, in which case the requirements of this chapter control. The state superintendent shall have the authority to remove the trustee. Upon removal the State Superintendent of Education shall provide notification to the Chairman of the Senate Education Committee, the Chairman of the Senate Finance Committee, the Chairman of the House Education and Public Works Committee, and the Chairman of the House Ways and Means Committee.

(B) The trustee shall hold, manage, control, and administer the monies

placed into or accruing within the fund and disburse scholarships awarded pursuant to this section and as directed by the parent. Information contained in or produced from a tax return, document, or magnetically or electronically stored data used by the department in the exercise of its duties as provided in this chapter must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. Personally identifiable information, as described in the Family Educational Rights and Privacy Act, of children applying for or receiving scholarships must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

(C) Upon request of the department, the State Treasurer shall transfer seven thousand five hundred dollars per scholarship student for the 2025-2026 School Year to the Education Scholarship Trust Fund. For all subsequent school years, the allocation must be equivalent to the allocation used in the previous year, increased by the percentage increase in the average per pupil funding from state sources as provided by the Office of Revenue and Fiscal Affairs for the prior fiscal year, unless an increased or decreased limit is authorized in the annual general appropriations act.

(D) The department shall create an individual online ESTF account for each scholarship student.

(1) The parent must be able to access the individual online account for the scholarship student using a secure portal.

(2) The individual scholarship student's account must be created within thirty days of the application approval.

(E) The trustee shall make payments to an individual scholarship student's account from the ESTF on a quarterly basis with the first payment being distributed by July thirty-first of each year.

(F) Prior to depositing each payment into the student's online account, the department shall verify that the student is not enrolled as a full-time student in his resident school using the forty-five, ninety, one hundred thirty-five, and one hundred seventy day student counts and provide that information to the trustee.

(G) Education service providers may not refund, rebate, or share a student's scholarship funds directly with a parent or the scholarship student. The funds in an account may only be used for qualifying expenses as defined in this chapter and provided by the department.

(H) Neither the South Carolina Education Scholarship Trust Fund nor an individual student's account constitutes a debt of the State or any political subdivision thereof, including school districts. The South Carolina Education Scholarship Trust Fund and individual student accounts must be held and apply solely toward carrying out the purposes

of this chapter.

Education Scholarship Trust Fund payments

SECTION 4. Section 59-8-125 of the S.C. Code is amended to read:

Section 59-8-125. (A) The department shall develop an online electronic system for payment for services authorized by participating parents pursuant to this chapter and the guidelines provided by the department. Parents may not be reimbursed for out-of-pocket expenses.

(B) The trustee shall transfer to the department an amount from the ESTF to cover the costs of overseeing the accounts, administering the program, and the payment of the trustee's fee as provided in this section, up to a limit of five percent. Annually, on or before December thirty-first, the department shall notify the respective Chairmen of the Senate Finance Committee and House of Representatives Ways and Means Committee regarding the amount deducted for administrative costs and an itemization of the costs incurred to administer the program for the previous fiscal year.

(C) The department shall enter into a contract with the trustee to perform the services contemplated by this act. The contract shall include terms of its performance and the fee or the method of calculating the fee that the department will pay to the trustee. The contract's terms and fee structure shall, in the state superintendent's sole discretion, be commercially reasonable. The department shall pay the trustee's fee upon receipt of the invoice from the trustee.

(D) Payments made by the department must remain in force until a parent or scholarship student is proven to have participated in a prohibited activity specified in this chapter, a scholarship student returns to a public school in his resident public school, a scholarship student no longer is an eligible student, or a scholarship student graduates from high school or attains twenty-two years of age, whichever occurs first. A scholarship student who enrolls in his resident public school is considered to have returned to a public school for the purpose of determining the end of the term.

(E) The trustee may suspend or deactivate an account for substantial misuse or the scholarship student leaves the program for any reason, at which time any remaining funds must revert to the ESTF.

(F) Unused funds must be rolled over to the following school year for a scholarship student who applies and continues to meet eligibility requirements to participate in the program.

(G) Only one account may be established for a scholarship student.

Scholarship terminations, parental notice obligation

SECTION 5. Section 59-8-130 of the S.C. Code is amended to read:

Section 59-8-130. If a scholarship student's program of academic instruction is terminated for any reason before the end of the semester or school year and the student does not resume instruction within thirty days, then the parent shall notify the department and remaining funds in the account revert to the ESTF.

Scholarship participants, number limits, increases, review eliminated

SECTION 6. Section 59-8-135 of the S.C. Code is amended to read:

Section 59-8-135. Beginning with the 2024-2025 School Year, the annual number of eligible students is limited by the following capacity:

(1) in School Year 2025-2026, the program is limited to ten thousand scholarship students; and

(2) in School Year 2026-2027, and for all subsequent school years, the program shall be made available to at least fifteen thousand scholarship students but may be increased through an allocation in the general appropriations act at the direction of the General Assembly, based upon previously unmet demand for scholarships as evidenced by the prior year's applications.

Education service providers, participation requirements

SECTION 7. Section 59-8-140 of the S.C. Code is amended to read:

Section 59-8-140. (A)(1) The department must develop an application approval process for participation in the ESTF program for education service providers, including eligible schools.

(2) The department must require an independent school that applies to be an education service provider to be located in the State, to have an educational curriculum that includes courses set forth in the state's diploma requirements and to meet the compulsory attendance and State Board of Education approval requirements in Section 59-65-10.

(3) An education service provider that participated in the program in the previous school year and desires to participate in the program in the current school year shall reapply to the department. The education service provider reapplying shall certify to the department that it

continues to meet all program requirements. An education service provider required to administer academic testing shall provide to the department test score data from the previous school year. If individual student test score data is not submitted, then the department shall remove the education service provider from the program.

(4) An education service provider that is denied approval pursuant to this section may seek review by filing a request for a contested case hearing with the administrative law court in accordance with the court's rules of procedure.

(5) The department shall publish on its website a comprehensive list of approved education service providers. The list must include the name, address, telephone number, and website address for each education service provider.

(B) New education service providers may be added to the list of approved providers on a rolling basis. The providers will be added to the comprehensive list available on the department's website.

(C) The department may bar an education service provider from the program if the department establishes that the education service provider has:

(1) failed to comply with the accountability standards established in this section; or

(2) failed to provide the scholarship student with the educational services funded by the account.

(D) The department shall create procedures to ensure that a fair process exists to determine whether an education service provider should be barred from receiving payments from accounts.

(1) If the department decides to bar an education service provider from the program, it shall notify affected students and their parents of this decision as quickly as possible.

(2) Education service providers may appeal the department's decision to bar the education service provider from receiving payments from accounts pursuant to the Administrative Procedures Act.

(E) All employees at an online education service provider who are employed in same or similar roles as defined in Section 63-7-310 shall be considered persons required to report and must complete the training programs required pursuant to Section 63-7-310(A) and hold all the same rights, responsibilities, and potential penalties as defined in Sections 63-7-315, 63-7-320, 63-7-350, 63-7-360, 63-7-370, 63-7-380, 63-7-390, 63-7-400, 63-7-430, 63-7-440, and receive information pursuant to Section 63-7-450.

State Department of Education, administrative requirements

SECTION 8. Section 59-8-145 of the S.C. Code is amended to read:

Section 59-8-145. (A) The department shall adopt procedures to inform students and their parents annually of their eligibility for the program.

(B) The department shall adopt procedures to annually inform scholarship students and their parents of the approved education service providers.

(C) The department shall provide to parents of a scholarship student written instructions for the allowable uses of an account and the responsibilities of parents and the duties of the department.

(D) The department may declare that a student is ineligible for continuation in the program due to substantial misuse of their account funds.

(E) The department may conduct or contract for the auditing of accounts, and shall, at a minimum, conduct random audits of education service providers, education trust fund, and scholarship accounts on an annual basis

(F) The department may refer cases of substantial misuse of funds to law enforcement agencies for investigation.

(G) The department shall maintain a record of the number of applications received annually for the program, the number of students accepted into the program each fiscal year, and the number of students not accepted into the program each fiscal year with a corresponding explanation as to why the student was not accepted into the program. The department shall compile this information and provide a report on the previous fiscal year to the General Assembly by December thirty-first of each year.

State Department of Education, information posting and applicant support duties

SECTION 9. Chapter 8, Title 59 of the S.C. Code is amended by adding:

Section 59-8-147. (A) The department shall prominently post, on the main page of the South Carolina Department of Education website, advertisement of and access to the application for the program. The department shall be responsible for facilitating access to the application and supporting applicants throughout the application process.

(B) In the event that an application is submitted and is substantially complete but found to contain errors including, but not limited to, errors of minor omission and misspelling, the submitting party must be notified and given two weeks to correct the errors before a final decision is made regarding the acceptance or denial of the application. If space in the program is limited, preference will be given to applicants whose applications are on hold due to error until the two weeks allotted for correction have passed.

Education service providers, background checks, bond requirements

SECTION 10. Section 59-8-150 of the S.C. Code is amended to read:

Section 59-8-150. (A) To ensure equitable treatment and personal safety of all scholarship students, all education service providers shall:

(1) comply with all applicable health and safety laws or codes;

(2) hold a valid occupancy permit if required by the municipality in which the education service provider is located;

(3) not unlawfully discriminate on the basis of race, color, or national origin. This item shall not be interpreted to preclude any independent or religious educational provider from exercising an exemption allowed under federal law;

(4) conduct and maintain records of completed criminal background checks on employees. An education service provider that is not an accredited or licensed school must submit documentation of completed background checks to the department as part of their initial application. All education service providers must exclude from employment anyone who:

(a) is not permitted by state law to work in a school;

(b) reasonably might pose a threat to the safety of students; or

(c) is listed on federal, state, or other central child abuse registries.

(B) To ensure that funds are spent appropriately, all education service providers shall:

(1) provide parents with an invoice, for services purchased, or a receipt for goods purchased for all qualifying expenses; and

(2) demonstrate their financial viability by filing a surety bond with the department prior to the start of the school year if they are to receive fifty thousand dollars or more during the school year. After their first school year of participation the surety bond is required of education service providers who exceed fifty thousand dollars in qualifying

expenses received in the previous school year.

(C) In order to allow parents and the public to measure the achievements of the program, academic progress must be documented annually for each scholarship student. Students with an Individualized Education Plan that cannot be accommodated with standardized testing are excluded from the requirements of item (1). Education service providers that provide academic instruction must monitor the progress of students with significant cognitive disabilities through alternative assessments including portfolios.

(1) Education service providers that provide full-time academic instruction shall:

(a) ensure that each scholarship student in grades three through eight takes the annual state summative assessment or alternative summative assessment required of students in public schools in this State;

(b) in lieu of the assessments required by subitem (a) ensure that each scholarship recipient in grades three through eight takes a nationally norm-referenced summative assessment annually or a formative assessment at the beginning of the school year, at the end of the first semester, and at the end of the school year. The assessment must be approved by the department, aligned with state standards, and include a linking study;

(c) ensure that each scholarship student in grades nine through twelve takes a department-approved, nationally norm-referenced assessment, formative assessment, or assessment that demonstrates the student's college or career readiness. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;

(d) collect high school graduation information of scholarship students for reporting to the department as required in this section; and

(e) ensure that the parent or guardian of a scholarship student taking the assessments above receives a written report of the student's performance on each assessment. The report must include the student's score on the assessment and an indication of how the student's assessment performance compares to other South Carolina students.

(2) The department shall ensure that the education service provider has access to and is trained in administering the state assessments required in item (1)(a) and (b). The department shall assume any costs associated with training, administering, or taking assessments with no charges to the provider or students.

(3) For the purpose of evaluating program effectiveness, education service providers that provide full-time academic instruction shall ensure that results in item (1) are:

(a) provided to the parent of a scholarship student and must be provided to the department on an annual basis, beginning with the first year of program implementation; and

(b) disaggregated by grade level, gender, family income level, race, and English-learner status.

(4) The department, or the appropriate organization chosen by the department, if any, must be informed of the scholarship student's graduation from high school.

(D) The department shall:

(1) comply with all student privacy laws;

(2) collect all test results; and

(3) annually provide individual student assessment results and information to the Education Oversight Committee. The transmission of the information must be made in a manner that safeguards the data to ensure student privacy.

(E) The Education Oversight Committee shall:

(1) comply with all student privacy laws;

(2) report on and publish associated learning gains and graduation rates to the public by means of a state website with data aggregated by grade level, gender, family income level, number of years participating in the program, and race and a report for any participating school if at least fifty-one percent of the total enrolled students in the private school participated in the program in the prior school year or if there are at least thirty participating students who have scores for tests administered. If the Education Oversight Committee determines that the thirty participating-student cell size may be reduced without disclosing the personally identifiable information of a participating student, the Education Oversight Committee may reduce the participating-student cell size, but the cell size may not be reduced to fewer than ten participating students;

(3) evaluate and report the academic performance of scholarship students compared to similar public school populations; and

(4) collaborate with the department to develop and administer an annual parental satisfaction survey for all parents of scholarship students on issues relevant to the program, to include effectiveness and length of the program participation. Results of this survey must be provided to the General Assembly by December thirty-first of each year.

(F) An education service provider, not a public school, is not an agent of the state or federal government, therefore:

(1) the department or any other state agency may not regulate the educational program beyond what is set forth in this chapter of an approved education provider that accepts funds from an account;

(2) the creation of the program does not expand the regulatory authority of the State, its officers, or a school district to impose regulation of education service providers beyond those necessary to enforce the requirements of the program;

(3) the freedom of education service providers to provide for the educational needs of scholarship students without governmental control must not be abridged;

(4) an education service provider that accepts payment from an ESTF account pursuant to this chapter is not an agent of the state or federal government; and

(5) education service providers shall not be required to alter their creeds, practices, admissions policy, or curriculum in order to accept payments from an ESTF account.

(G) A person paid by, contracted with, employed by, or having a financial interest in an education service provider shall not be allowed to serve on the board of an organization contracting for services with the department as defined in Section 59-8-115(J), serve on the board of a vendor or private management firm contracted to manage accounts as defined in Section 59-8-125(C), on the board of any other provider of contracted-for services under Section 59-8-110(12) or under Section 59-8-120(H), or on the ESTF Review Panel. Any education service provider violating this subsection shall be barred from participating in the program for two years and shall return any funds received under the program to the ESTF.

(H) A person serving as a board member or director of an education service provider shall have a fiduciary duty to the provider and shall avoid any conflicts of interest with the provider.

(I) No member of the General Assembly or their immediate family, as defined by Section 8-13-100(18), may have a financial interest in an education service provider. This does not prevent a member or their immediate family from qualifying under the provisions of this chapter to participate in the ESTF program.

(J) A person shall not serve in a position of leadership with an education service provider who has been convicted of a financial crime.

Education Scholarship Trust Fund review panel

SECTION 11. Section 59-8-160 of the S.C. Code is amended to read:

Section 59-8-160. (A) There is created the “ESTF Review Panel” that shall serve as an advisory panel to the department.

(B) The review panel shall consist of ten members, pursuant to the

following:

(1) the Governor, or his designee, who shall serve as the chair of the panel;

(2) three members to be appointed by the Governor;

(3) one member appointed by the Speaker of the House of Representatives;

(4) one member appointed by the President of the Senate;

(5) one member appointed by the Chairman of the House of Representatives Education and Public Works Committee;

(6) one member appointed by the Chairman of the Senate Education Committee; and

(7) two parents of scholarship students to be appointed by the Governor.

(C) The review panel may advise the department on whether certain expenses meet the requirements to be considered a qualified expense under this chapter when requested by the department. The review panel periodically may make recommendations to the General Assembly about improving the program.

(D) Members shall serve at the pleasure of their appointing authority. In making appointments to the panel, the appointing authorities, as appropriate, shall consider legal, financial, accounting, and marketing experience and race, gender, and other demographic factors to ensure nondiscrimination, inclusion, and representation of all segments of the State to the greatest extent possible.

(E) Members may not receive mileage or per diem.

Interdistrict student transfer policies

SECTION 12. Section 59-8-165 of the S.C. Code is amended to read:

Section 59-8-165. The department shall develop model guidelines for interdistrict transfers to assist local boards of trustees in establishing an interdistrict enrollment policy. The model guidelines shall serve as the minimum standard, ensuring a baseline of expectations for all districts. Each local policy shall be based on an evaluation of available data reflecting student, school, district, and community needs to ensure access and efficient resource allocation. The policy must include and describe the application requirements, timelines, communication plans, capacity standards, approval and denial criteria, priorities of acceptance, and transportation. Capacity standards are required to be based on objective measures such as facility constraints, staffing levels, and class size limits. A school district may, but is not required to, expand capacity

at a school or in a program to accommodate increased demand for interdistrict transfers. Each district shall review and publicly post available capacity for interdistrict student transfers on its website and update this information at least annually. School districts are not required to provide transportation but must disclose their transportation policy. Districts may establish cost-sharing agreements for interdistrict students who require transportation. All school districts must have an interdistrict policy in place within one hundred twenty days of the publication of the model guidelines by the department. Any school district with an existing interdistrict policy must review and ensure compliance with this section within sixty days of its enactment. The department shall review all local interdistrict transfer policies to ensure alignment with the model guidelines. If a district fails to meet minimum standards, the department may withhold administrative funding until the district demonstrates full compliance. The provisions of this chapter do not restrict a school district's ability to enact or enforce an intradistrict student transfer policy.

Interdistrict student transfer policies, High School League transfer eligibility exemption

SECTION 13. Section 59-8-170 of the S.C. Code is amended to read:

Section 59-8-170. A student transferring from one public high school to another public high school in grades nine through eleven or from one public middle school to another public middle school in grades six through eight pursuant to this program is not subject to any prohibition by the South Carolina High School League on a transfer student from participating in an interscholastic sport upon transfer. After the initial transfer, any subsequent transfer by a student to another public school shall be subject to the South Carolina High School League eligibility rules.

Education Lottery fund allocation recipients, Education Scholarship Trust Fund included

SECTION 14. Section 59-150-350(D) of the S.C. Code is amended to read:

(D) At the beginning of the first fiscal year after the state lottery becomes operational, the Comptroller General shall certify the amount of net proceeds including investment earnings on the net proceeds

credited to and accrued in the Education Lottery Account during the preceding fiscal year. The sum of certified net proceeds and investment earnings must be designated as annual lottery proceeds. Appropriations from the Education Lottery Account must be allocated only for educational purposes and educational programs by the General Assembly in its annual general appropriations bill or any bill appropriating monies for previous or current fiscal years. Funds made available from the Education Lottery Account must be used to provide Palmetto Fellows Scholarships to all eligible applicants, to provide LIFE Scholarships for eligible resident students attending four-year public institutions in those amounts provided by law; to the South Carolina State Library for public library state aid, to be distributed to county public libraries on a per capita basis and to be used for educational technology delivery, upgrade, and maintenance; to the Commission on Higher Education for tuition assistance at state technical colleges and two-year public institutions; for the SC HOPE Scholarship Program; to the Department of Education for school-based grants for pilot programs, to include programs providing deregulation as requested by school districts with an overall absolute or improved designation of average or better, with first priority given to schools reported as average, below average, or unsatisfactory in accordance with the Education Accountability Act; to the Department of Education to fund homework centers, and these funds must be allocated to the local school districts based on a per pupil basis and may be used for salaries for certified teachers and for transportation costs, provided that priority in the distribution of funds must be given to schools designated as below average or unsatisfactory in accordance with the Education Accountability Act; to the Commission on Higher Education for higher education assistance, including need-based grants, grants to teachers for advanced education with priority to annual grants earmarked for teachers working toward their masters' degrees or advanced education in their areas of certification, or both; for the National Guard Tuition Repayment Program; and funding for elementary and secondary public education as determined pursuant to the Education Accountability Act of 1998 and education improvement legislation enacted into law after the effective date of this chapter; new programs enacted by the General Assembly for public institutions of higher learning, including public four-year colleges and universities and their branches and two-year colleges, as defined in Section 59-103-5, and state technical colleges, which programs may include the creation of endowed chairs at the state's universities, with an emphasis in the areas of, but not limited to, engineering, computer science, and the sciences; to the State Department of Education for the

purchase or repair of school buses; to the South Carolina Educational Television Commission for digitalization; to the South Carolina Education Scholarship Trust Fund; to the Commission on Higher Education to administer a construction and renovation fund for the historically black colleges and universities, and to the Higher Education Tuition Grants Commission to administer tuition grants. The proportion of total recurring general fund and special fund revenues of the State expended for the total of public elementary, secondary, and higher education allocations in any fiscal year must not be less than the proportions in the fiscal year immediately before the fiscal year in which education revenues are first received from a state lottery, and must not be reduced or supplanted later by revenues received from a state lottery.

Severability

SECTION 15. 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 16. This act takes effect upon approval by the Governor. Current eligible participants may continue receiving benefits under the Education Scholarship Trust Fund, until the end of the 2024-2025 School Year.

Ratified the 6th day of May, 2025

Approved the 7th day of May, 2025

No. 12

(R41, H3196)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "EDUCATOR ASSISTANCE ACT" BY ADDING SECTION 59-101-145 SO AS TO AUTHORIZE THE USE OF DATA BEING COLLECTED UNDER CURRENT PROCEDURES TO REPORT ON CERTAIN POSTSECONDARY MATTERS CONCERNING GRADUATES OF SOUTH CAROLINA PUBLIC SCHOOLS, AND TO REQUIRE THE STREAMLINING OF DATA COLLECTION TIMELINES AND PROCESSES; BY AMENDING SECTION 59-25-47, RELATING TO POLICIES AUTHORIZING PAYMENTS FOR UNUSED TEACHER LEAVE, SO AS TO REQUIRE ADDITIONAL POLICIES THAT ALLOW TEACHERS TO DONATE SUCH UNUSED LEAVE TO A LEAVE BANK FOR OTHER EMPLOYEES, AND TO PROVIDE REQUIREMENTS FOR THE POLICIES; BY AMENDING SECTION 59-25-410, RELATING TO ANNUAL NOTIFICATION OF SCHOOL TEACHER EMPLOYMENT AND ASSIGNMENTS, SO AS TO PROVIDE THE NOTIFICATION MUST INCLUDE CERTAIN SALARY INFORMATION REQUIREMENTS IN THE REQUIRED NOTICE, TO PROVIDE NOTICE OF TENTATIVE TEACHER ASSIGNMENTS MUST BE PROVIDED NO LATER THAN FOURTEEN CALENDAR DAYS BEFORE THE START OF THE SCHOOL YEAR, AND TO PROHIBIT LIMITATIONS ON TEACHER REASSIGNMENTS; BY AMENDING SECTION 59-1-425, RELATING TO REQUIRED DAYS FOR COLLEGIAL PROFESSIONAL DEVELOPMENT IN THE ANNUAL SCHOOL CALENDAR, SO AS TO INCREASE THE NUMBER OF DAYS TO FOUR, TO PROVIDE DISTRICTS MUST VERIFY COMPLETING OF THE REQUIRED COLLEGIAL PROFESSIONAL DEVELOPMENT IN A CERTAIN MANNER, TO PROVIDE TEACHERS AND INSTRUCTIONAL ASSISTANTS MUST BE PROVIDED SELF-DIRECTED FREE TIME TO EVALUATE STUDENT ACADEMIC DATA, INSTRUCTIONAL PLANNING, AND CLASSROOM PREPARATION, AND TO REMOVE A TWO-DAY MAXIMUM LIMITATION ON USE OF THESE COLLEGIAL PROFESSIONAL DEVELOPMENT DAYS FOR THE PREPARATION AND OPENING OF SCHOOLS; BY

AMENDING SECTION 59-25-160, RELATING TO ACTIONS CONSTITUTING JUST CAUSE GROUNDS FOR TEACHER CERTIFICATE REVOCATION OR SUSPENSION PURPOSES, SO AS TO INCLUDE BREACH OF CONTRACT; BY AMENDING SECTION 59-25-530, RELATING TO UNPROFESSIONAL CONDUCT AND BREACH OF CONTRACT BY TEACHERS, SO AS TO RECHARACTERIZE CERTAIN ACTIONS AS BEING BREACH OF CONTRACT INSTEAD OF UNPROFESSIONAL CONDUCT, TO REVISE THE PENALTIES AND CONSEQUENCES FOR SUCH BREACHES OF CONTRACT, AND TO PROVIDE AN EXEMPTION FROM BREACH OF CONTRACT FINDINGS FOR TEACHERS WHO MOVE TO BONA FIDE RESIDENCES IN NONCONTIGUOUS COUNTIES DURING THE CONTRACT TERM, AMONG OTHER THINGS; BY AMENDING SECTION 59-26-40, RELATING TO CONTINUING CONTRACT STATUS FOR TEACHERS, SO AS TO REQUIRE COMPLETION OF COLLEGIAL PROFESSIONAL DEVELOPMENT, AND TO PROVIDE EMPLOYING DISTRICTS SHALL AWARD CREDITS FOR PROFESSIONAL TEACHING CERTIFICATE RENEWAL TO CONTINUING CONTRACT TEACHERS WHO SUCCESSFULLY COMPLETE SUCH COLLEGIAL PROFESSIONAL DEVELOPMENT; BY AMENDING SECTION 59-26-45, RELATING TO RETIRED EDUCATOR TEACHING CERTIFICATES, SO AS TO MAKE SUCH CERTIFICATES LIFETIME IN DURATION INSTEAD OF RENEWABLE, TO PROVIDE SUCH TEACHERS MAY TEACH ON A FULL-TIME BASIS OR PART-TIME BASIS, AND TO EXEMPT SUCH TEACHERS FROM CERTIFICATE RENEWAL REQUIREMENTS; BY REPEALING SECTION 59-101-130 RELATING TO HIGH SCHOOLS REPORTING TO THE SUPERINTENDENT OF EDUCATION, AND INSTITUTIONS OF HIGHER LEARNING REPORTING TO HIGH SCHOOLS; AND BY REPEALING SECTION 59-101-140 RELATING TO TABULATION OF REPORTS.

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

Citation

SECTION 1. This act may be cited as the “Educator Assistance Act.”

Data collection and reporting

SECTION 2. Article 1, Chapter 101, Title 59 of the S.C. Code is amended by adding:

Section 59-101-145. The State Department of Education, in collaboration with the Education Oversight Committee, is authorized to use data that is already being collected through current processes to report on the in-state and out-of-state college enrollment, college persistence, and postsecondary completion of South Carolina's high school graduates. The department shall work to streamline data collection timelines and processes to reduce the burden and increase the efficiency of such data collection and reporting.

Unused leave

SECTION 3. Section 59-25-47 of the S.C. Code is amended to read:

Section 59-25-47. (A) A local school district board of trustees or, in the case of a charter school, the governing body of a charter school, is authorized to adopt a policy consistent with the school district or, in the case of a charter school, the school budget, providing that all certified and noncertified public school teachers identified in the Professional Certified Staff listing, certified special school classroom teachers, certified school librarians, certified school counselors, and career specialists who are employed by a school district or a charter school who earn, but do not use sick and annual leave in excess of ninety days, may be eligible to receive payment at the end of each fiscal year for these earned days in excess of ninety days for each excess day at a district's or charter school's established rate of substitute pay for their individual job classification, or another amount, subject to approval by the local school board, or, in the case of a charter school, the governing body of the charter school. This provision applies only to sick leave and annual leave in excess of ninety days that is accrued after July 1, 2018.

(B) A local school district board of trustees or, in the case of a charter school, the governing body of a charter school, must adopt a policy enabling all district or charter school employees to contribute any unused sick or annual leave in excess of sixty days to a sick leave bank that is made available to all district or charter school employees. Such policy must include criteria for employee eligibility to apply for use of the sick leave bank, procedures for review of applications for use of the sick leave bank, and criteria for the maximum number of days an employee

may access from the sick leave bank during a single fiscal year.

(C) Notwithstanding any provision contained in this section, this section does not and may not be construed to amend or to repeal:

(1) the rights of a school district, charter school, or legislative delegation to set or restrict any existing teacher incentive payment programs; or

(2) any existing teacher incentive payment programs provided by current law or any existing limitation on the fiscal autonomy of a school district or charter school that is more restrictive than any incentives provided in subsection (A).

(D) A local district, prior to the effective date of this act, who has implemented a leave bank policy or a policy that advances the full annual leave balance to a new employee with the first payroll disbursement shall be exempt from the requirements of this section.

Teacher assignment notification requirements

SECTION 4. Section 59-25-410 of the S.C. Code is amended to read:

Section 59-25-410. (A) The boards of trustees of the several school districts annually before May first shall decide and notify, in writing through the superintendent, a teacher, whom the district employs concerning his employment for the ensuing year. If a board of trustees fails to provide notification as provided in this section, the Department of Education shall assess a penalty of ten thousand dollars to be deducted from a district's state allocated funding per occurrence. If the board of trustees fails to notify a teacher who has been employed by a school district for a majority of the current school year of his status for the ensuing year, the teacher is considered to be reemployed for the ensuing year and the board shall issue a contract to him as though the board had reemployed him in the usual manner. The board of trustees must comply with the reporting requirements created by the Department of Education to ensure compliance with this section.

(B) The written notification of reemployment must include a projected minimum salary schedule for the district for the coming school year as well as an agreement to provide a final salary schedule as soon as practicable upon completion of annual state and local appropriations processes. The district upon request shall provide a teacher with the factors used to determine their pay category on the salary schedule. The written notification of employment should indicate downward adjustments to the projected minimum salary schedule only in the event of a loss or reduction in the amount of state, local, or federal funding

anticipated by the district at the time of adoption of the projected minimum salary schedule.

(C) No later than fourteen calendar days before students are scheduled to return to school at the start of the school year, the superintendent, principal, where applicable, or supervisor shall notify the teacher of his tentative assignment for the ensuing school year. Once assigned to a school, the teacher shall not be reassigned to work at another location in the district unless the superintendent can demonstrate the need for reassignment. A teacher must be afforded written notice of at least five school days in advance of the reassignment unless the superintendent demonstrates that advance notice cannot be accomplished because of a critical student need or the teacher requested the reassignment. The local board of trustees must be notified in writing of all teacher reassignments.

(D) This section does not apply to a teacher whose contract of employment or dismissal is under appeal under Section 59-25-450.

(E) For purposes of this article, "teacher" means an employee possessing a professional certificate issued by the State Department of Education, except an employee working pursuant to a multiyear contract, employed by any school district to teach students in an academic setting.

Teacher professional development and staff workdays

SECTION 5. Section 59-1-425(A) of the S.C. Code is amended to read:

(A) A local school district board of trustees of the State has the authority to establish an annual school calendar for teachers, staff, and students. The statutory school term is one hundred ninety days annually and must consist of a minimum of one hundred eighty instructional days covering at least nine calendar months. A local school district board of trustees may offer the required instructional days at any time during the school year, consistent with the law. Except as may be waived in this section or accompanying regulations, a local school district shall provide at least one thousand eighty instructional hours over the statutory school term. The opening date for students must not be before the third Monday in August, except for schools operating on a year-round modified school calendar. Four days must be used for collegial professional development based upon the educational standards as required by Section 59-18-300. The professional development must address, at a minimum, academic achievement standards including strengthening teachers' knowledge in their content area, teaching techniques, and assessment. Districts must verify completion of the professional development required in this section annually when reporting the number of days worked by each

certified employee to the Department of Education. At least two days must be designated as staff workdays for the preparation of opening of schools. On these days, teachers and instructional assistants must be afforded time that is self-directed and free from assigned meetings or training in order to evaluate student academic data and to plan and prepare instructional materials and classroom spaces for the start of the school year. The remaining four days may be used for teacher planning, academic plans, and parent conferences. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.

"Just cause" basis for teacher certificate suspension or revocation

SECTION 6. Section 59-25-160 of the S.C. Code is amended to read:

Section 59-25-160. "Just cause" may consist of any one or more of the following:

(1) incompetence;

(2) wilful neglect of duty;

(3) wilful violation of the rules and regulations of the State Board of Education;

(4) unprofessional conduct;

(5) drunkenness;

(6) cruelty;

(7) crime against the law of this State or the United States;

(8) immorality;

(9) any conduct involving moral turpitude;

(10) dishonesty;

(11) evident unfitness for position for which employed;

(12) sale or possession of narcotics; or

(13) breach of contract.

Breach of contract, exclusions

SECTION 7. Section 59-25-530 of the S.C. Code is amended to read:

Section 59-25-530. (A) Any educator who fails to comply with the provisions of his contract without the written consent of the school board is considered to be in breach of contract. Notwithstanding Section 59-25-150, a breach of contract resulting from the execution of an employment contract with another board within the State without the consent of the board first employing the educator makes void any

subsequent contract with any other school district in South Carolina. Upon the formal complaint of the school board, substantiated by conclusive evidence, the state board may suspend or revoke the educator's certificate. The state board shall not hear a complaint from a school board pursuant to this section unless it is received within sixty days of the breach of contract. The period for educator certificate suspension due to breach of contract must begin on the date such contract is breached with the district and run for a period of time deemed appropriate by the State Board of Education, not to exceed six months from the date of breach. During this suspension period, the educator may not be signed to an employment contract by any public school board in South Carolina. The department shall provide notification of the suspension to other state educator licensing authorities.

(B) An educator who has a bona fide residence change to a noncontiguous county during the term of the educator's contract is not considered to be in breach of contract as provided in this section. An educator has the burden of proving a bona fide residence change to the local school board. Factors to consider in determining a bona fide residence change shall include, but are not limited to, the following:

(1) address on legal documents and bank accounts;

(2) qualification for the reduced four percent property tax assessment on a primary residence;

(3) address on driver's license or official identification cards; and

(4) voter registration address.

Continuing contract level teachers, professional development

SECTION 8. Section 59-26-40(J) of the S.C. Code is amended to read:

(J) After successfully completing an induction contract period, not to exceed three years, and an annual contract period, a teacher shall become eligible for employment at the continuing contract level. This contract status is transferable to any district in this State. A continuing contract teacher shall have full procedural rights that currently exist under law relating to employment and dismissal. A teacher employed under a continuing contract must be evaluated on a continuous basis and complete annual collegial professional development as required under Section 59-1-425(A). At the discretion of the local district and based on an individual teacher's needs and past performance, the evaluation may be formal or informal. Formal evaluations must be conducted with a process developed or adopted by the local district in accordance with State Board of Education regulations. The formal process also must

include an individualized professional growth plan established by the school or district. Professional growth plans must be supportive of district strategic plans and school renewal plans. Informal evaluations which should be conducted for accomplished teachers who have consistently performed at levels required by state standards, must be conducted with a goals-based process in accordance with State Board of Education regulations. The professional development goals must be established by the teacher in consultation with a building administrator and must be supportive of district strategic plans and school renewal plans. The employing district must award credits toward renewal of a professional teaching certificate for a teacher employed at the continuing contract level who successfully completes the annual professional development activities required under this section and Section 59-1-425(A), consistent with State Board of Education regulations for the renewal of a professional certificate.

Lifetime retired educator certificates

SECTION 9. Section 59-26-45 of the S.C. Code is amended to read:

Section 59-26-45. (A) A retired educator certificate is a lifetime certificate established in regulation by the State Board of Education that allows a retired South Carolina educator to be eligible to maintain certification for the purpose of returning to employment with a school district on a temporary or full-time basis. A person is initially eligible for a South Carolina retired educator certificate if he:

(1) held a valid South Carolina renewable, professional educator certificate at the time of retirement;

(2) is either a:

(i) retired member of the South Carolina Retirement System; or

(ii) current or former participant in the State Optional Retirement Program who would have met the eligibility requirements for retirement under the South Carolina Retirement System had he participated in that system rather than the State Optional Retirement Program;

(3) does not hold another valid South Carolina educator certificate and has never held a valid South Carolina educator certificate that has been suspended, revoked, or voluntarily surrendered; and

(4) meets all other qualifications to serve as a certified educator as specified in state statute, regulation, and guidelines.

(B) An individual meeting the eligibility requirements and desirous of a retired educator certificate must submit the request in the manner specified in regulation and guidelines.

(1) A retired educator certificate approved and issued is valid for five years from the date of each issuance.

(2) Once issued, a retired educator in good standing must provide written notification of their desire to continue an active certificate to the department at the end of every five-year period.

(3) Department guidelines shall include the timeline, forms, and a process for submitting a request to maintain an active retired educator certificate.

(C) Any new certificate is invalidated upon issuance of any other South Carolina educator certificate.

(D) An educator who works under the retired certificate must work under the agreement and rate of pay established for this purpose by the hiring district. Section 59-25-150 shall apply to any retired educator certificate.

(E) A retired educator certificate is not subject to requirements for professional certificate renewal established by regulations of the State Board of Education.

(F) Nothing in this section exempts an educator from taking part in professional development that is required by a local school district.

(G) The State Board of Education shall develop regulations for, and the department shall establish guidelines and procedures for, the implementation of this section.

Repeals

SECTION 10. Sections 59-101-130 and 59-101-140 of the S.C. Code are repealed.

Severability

SECTION 11. 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, delayed implementation

SECTION 12. This act takes effect July 1, 2025. Section 59-25-410(A) shall have a delayed implementation date of July 1, 2026.

Ratified the 6th day of May, 2025

Approved the 7th day of May, 2025

No. 13

(R29, S164)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 1-23-115, 1-23-120, AND 1-23-125, ALL RELATING TO THE REQUIREMENTS AND PROCEDURES FOR REGULATIONS, ALL SO AS TO PROVIDE FOR THE TOLLING OF THE PERIOD OF LEGISLATIVE REVIEW FROM THE SECOND FRIDAY IN MAY THROUGH THE SECOND MONDAY THE FOLLOWING JANUARY, AND TO PROVIDE FOR A ONE-HUNDRED-TEN-DAY LEGISLATIVE REVIEW PERIOD.

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

Regulations, one-hundred-ten-day legislative review period

SECTION 1. Section 1-23-115(A) of the S.C. Code is amended to read:

(A) Upon written request by two members of the General Assembly, made before submission of a promulgated regulation to the General Assembly for legislative review, a regulation that has a substantial economic impact must have an assessment report prepared pursuant to this section and in accordance with the procedures contained in this article. In addition to any other method as may be provided by the General Assembly, the legislative committee to which the promulgated regulation has been referred, by majority vote, may send a written notification to the promulgating agency informing the agency that the

committee cannot approve the promulgated regulation unless an assessment report is prepared and provided to the committee. The written notification tolls the running of the one-hundred-ten-day legislative review period, and the period does not begin to run again until an assessment report prepared in accordance with this article is submitted to the committee. Upon receipt of the assessment report, additional days must be added to the days remaining in the one-hundred-ten-day review period, if less than twenty days, to equal twenty days. A copy of the assessment report must be provided to each member of the committee.

Regulations, one-hundred-ten-day legislative review period

SECTION 2. Section 1-23-120(C) and (D) of the S.C. Code is amended to read:

(C) Upon receipt of the regulation, the President and Speaker shall refer the regulation for review to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. A copy of the regulation or a synopsis of the regulation must be given to each member of the committee, and Legislative Council shall notify all members of the General Assembly when regulations are submitted for review either through electronic means or by addition of this information to the website maintained by the Legislative Services Agency, or both. The committees to which regulations are referred have one hundred ten days from the date regulations are submitted to the General Assembly to consider and take action on these regulations. However, if a regulation is referred to a committee and no action occurs in that committee on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting.

(D) If a joint resolution to approve a regulation is not enacted within one hundred ten days after the regulation is submitted to the General Assembly or if a joint resolution to disapprove a regulation has not been introduced by a standing committee to which the regulation was referred for review, the regulation is effective upon publication in the State Register. Upon introduction of the first joint resolution disapproving a regulation by a standing committee to which the regulation was referred for review, the one-hundred-ten-day legislative review period for automatic approval is tolled. A regulation may not be filed under the emergency provisions of Section 1-23-130 if a joint resolution to disapprove the regulation has been introduced by a standing committee

to which the regulation was referred. Upon a negative vote by either the Senate or House of Representatives on the resolution disapproving the regulation and the notification in writing of the negative vote to the Speaker of the House of Representatives and the President of the Senate by the Clerk of the house in which the negative vote occurred, the remainder of the period begins to run. If the remainder of the period is less than ninety days, additional days must be added to the remainder to equal ninety days. The introduction of a joint resolution by the committee of either house does not prevent the introduction of a joint resolution by the committee of the other house to either approve or disapprove the regulations concerned. A joint resolution approving or disapproving a regulation must include:

(1) the synopsis of the regulation as required by subsection (B)(4);

(2) the summary of the final assessment report prepared by the office pursuant to Section 1-23-115 or, as required by subsection (B)(5), the statement or explanation that an assessment report is not required or is exempt.

Regulations, one-hundred-ten-day legislative review period

SECTION 3. Section 1-23-120(E) of the S.C. Code is amended to read:

(E) The one-hundred-ten-day legislative review period begins on the date the regulation is filed with the President and Speaker. The legislative review period is tolled from the second Friday in May through the second Monday the following January.

Regulations, one-hundred-ten-day legislative review period

SECTION 4. Section 1-23-120(F) of the S.C. Code is amended to read:

(F) Any member of the General Assembly may introduce a joint resolution approving or disapproving a regulation thirty days following the date the regulations concerned are referred to a standing committee for review and no committee joint resolution approving or disapproving the regulations has been introduced and the regulations concerned have not been withdrawn by the promulgating agency pursuant to Section 1-23-125, but the introduction does not toll the one-hundred-ten-day legislative review period for automatic approval.

Regulations, one-hundred-ten-day legislative review period

SECTION 5. Section 1-23-125(C) of the S.C. Code is amended to read:

(C) The notification tolls the one-hundred-ten-day legislative review period for automatic approval, and when an agency withdraws regulations from the General Assembly prior to the time a committee resolution to approve or disapprove the regulation has been introduced, the remainder of the period begins to run only on the date the regulations are resubmitted to the General Assembly. Upon resubmission of the regulations, additional days must be added to the days remaining in the legislative review period for automatic approval, if less than twenty days, to equal twenty days, and a copy of the amended regulation must be given to each member of the committee. If an agency decides to take no action pursuant to subsection (B)(3), it shall notify the committee in writing, and the remainder of the period begins to run only upon this notification.

Application

SECTION 6. The provisions of Chapter 23, Title 1, as amended by this act, are applicable to regulations filed with the President of the Senate and Speaker of the House of Representatives on and after January 14, 2025.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 14

(R28, S103)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 47-17-510, RELATING TO THE PROHIBITION AGAINST MISLEADING OR DECEPTIVE PRACTICES, LABELING, OR MISREPRESENTING PRODUCTS THAT ARE CELL-CULTURED MEATS, SO AS TO DEFINE "CELL-CULTIVATED FOOD PRODUCT" AND REQUIRE THE ACCURATE LABELING OF CELL-CULTIVATED FOOD PRODUCTS.

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

Definitions, prohibitions

SECTION 1. Section 47-17-510 of the S.C. Code is amended to read:

Section 47-17-510. (A) For the purposes of this section:

(1) "artificial or cell-cultivated food product" means any food product developed in a laboratory or facility and grown from a biopsy of living animal cells including, but not limited to, livestock, poultry, fish, crustaceans, or other animal protein; and

(2) "sells, or holds or offers for sale" does not include retail sales except under the circumstances where a retailer is also the manufacturer.

(B) It shall be unlawful for any person to label any artificial or cell-cultivated food product as beef, poultry, fish, crustacean, or any other animal protein that the artificial or cell-cultivated food product may resemble for the purposes of advertising, manufacturing, selling, or holding or offering for sale in this State.

(C) No person who advertises, manufactures, sells, or holds or offers for sale any artificial or cell-cultivated food product in this State shall engage in a misleading or deceptive practice related to an artificial or cell-cultivated food product including, but not limited to, misrepresenting an artificial or cell-cultivated food product as being derived from harvested production beef, poultry, fish, crustacean, or other animal protein. The front of all artificial or cell-cultivated food product packaging must contain a conspicuous label that indicates that the artificial or cell-cultivated food product is not beef, poultry, fish, crustacean, or any other animal protein that the artificial or cell-cultivated food product may resemble.

(D) Each package that violates a provision of this section shall be a separate and distinct offense.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 15

(R30, S165)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA CONSERVATION EDUCATION ACT" BY ADDING SECTION 50-9-980 SO AS TO ESTABLISH THE SOUTH CAROLINA CONSERVATION EDUCATION FUND AND THE PURPOSE FOR WHICH REVENUES IN THE FUND MAY BE EXPENDED.

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

Citation

SECTION 1. This act may be cited as the "South Carolina Conservation Education Act."

South Carolina Conservation Education Fund

SECTION 2. Article 9, Chapter 9, Title 50 of the S.C. Code is amended by adding:

Section 50-9-980. (A) The South Carolina Conservation Education Fund is established for the purpose of connecting youth with nature through classroom and outdoor natural resource conservation education.

(B) The fund is eligible to receive appropriations of state general

funds, federal funds, local government funds, donations, gifts, and grants.

(C) Revenues for the fund must be remitted to the State Treasurer and credited to an account that is separate and distinct from the general fund. Balances in the fund must be retained and carried forward annually and interest earned on balances in the fund must be credited to the fund.

(D) Revenues from the fund must only be used by the department for the purpose of connecting youth with nature through classroom and outdoor natural resource conservation education programs approved by the department, to include, but is not limited to:

(1) funding for natural resource conservation education classes and programs approved by the department; and

(2) funding for youth to attend outdoor natural resource conservation education programs approved by the department.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 16

(R32, S219)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-5-2730, RELATING TO THE APPLICABILITY OF FEDERAL FISHING REGULATIONS IN STATE WATERS, SO AS TO PROVIDE FOR THE SEASON, CATCH LIMITS, AND MINIMUM SIZES FOR CERTAIN SPECIES UNDER THE SNAPPER-GROUPER FISHERY MANAGEMENT PLAN.

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

Federal fishing regulations declared to be law of State, exceptions

SECTION 1. Section 50-5-2730 of the S.C. Code is amended to read:

Section 50-5-2730. (A) Unless otherwise provided by law, any regulations promulgated by the federal government under the Fishery Conservation and Management Act (PL 94-265) or the Atlantic Tuna Conservation Act (PL 94-70) which establishes seasons, fishing periods, gear restrictions, sales restrictions, or bag, catch, size, or possession limits on fish are declared to be the law of this State and apply statewide including in state waters.

(B) This provision does not apply to:

(1) black sea bass (Centropristis striata) whose lawful catch limit is five fish per person per day or the same as the federal limit for black sea bass, whichever is higher. The lawful minimum size for black sea bass is thirteen inches total length and there is no closed season;

(2) red snapper (Lutjanus campechanus) whose lawful catch limit is two fish per person per day. The lawful minimum size for red snapper is twenty inches total length and there is no closed season; or

(3) all other species under the Snapper-Grouper Fishery Management Plan. The lawful catch limit for a species under that plan is the limit as published in the 2024-2025 South Carolina Hunting and Fishing Laws and Regulations Guide, or the federal limit for the species, whichever is higher. The lawful minimum size limit for a species under that plan is the size as published in the 2024-2025 South Carolina Hunting and Fishing Laws and Regulations Guide, or the federal limit for the species, whichever is lower. There is no closed season.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 17

(R33, S220)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-21-10, RELATING TO DEFINITIONS, SO AS TO DEFINE TERMS; BY AMENDING SECTION 38-21-30, RELATING TO THE AUTHORITY OF INSURERS TO INVEST IN SECURITIES OF SUBSIDIARIES, SO AS TO INCLUDE HEALTH MAINTENANCE ORGANIZATIONS; BY AMENDING SECTION 38-21-70, RELATING TO CONTENTS OF STATEMENTS, SO AS TO FURTHER EXPLAIN THE REQUIREMENTS OF REPORTING THE DESCRIPTION OF TRANSACTIONS; BY AMENDING SECTION 38-21-90, RELATING TO APPROVAL BY COMMISSIONERS OF ACQUISITION OF CONTROL, SO AS TO REQUIRE THE PERSON ACQUIRING CONTROL OF A DOMESTIC INSURER TO MAINTAIN OR RESTORE CAPITAL; BY AMENDING SECTION 38-21-160, RELATING TO INFORMATION WHICH NEED NOT BE DISCLOSED IN REGISTRATION STATEMENTS, SO AS TO DESIGNATE THAT THE DEFINITION DOES NOT APPLY FOR OTHER PURPOSES; BY AMENDING SECTION 38-21-225, RELATING TO THE ANNUAL ENTERPRISE RISK REPORT, SO AS TO IDENTIFY EXEMPTIONS FOR FILING THE GROUP CAPITAL CALCULATION AND TO REQUIRE FILING RESULTS OF THE LIQUIDITY STRESS TEST FOR SOME INSURERS; BY AMENDING SECTION 38-21-250, RELATING TO STANDARDS FOR TRANSACTIONS WITHIN INSURANCE SYSTEMS, SO AS TO OUTLINE RESPONSIBILITIES OF THE DIRECTOR, AMONG OTHER THINGS; BY AMENDING SECTION 38-21-290, RELATING TO CONFIDENTIAL INFORMATION, SO AS TO REQUIRE THE DIRECTOR TO KEEP GROUP CAPITAL CALCULATIONS, GROUP CAPITAL RATIO AND LIQUIDITY STRESS TEST RESULTS, AND SUPPORTING DISCLOSURES CONFIDENTIAL, AND TO ADD REFERENCES TO THIRD-PARTY CONSULTANTS; BY AMENDING SECTION 38-12-30, RELATING TO DEFINITIONS, SO AS TO ADD AFFILIATES AND SUBSIDIARIES TO THE DEFINITION OF "PERSON"; TO AMEND SECTION 38-12-220, RELATING TO RESTRICTIONS ON INVESTMENTS, SO AS TO INCLUDE AFFILIATES AND SUBSIDIARIES; AND BY AMENDING

SECTION 38-12-430, RELATING TO ASSET LIMITATIONS FOR INSURER HOLDINGS, SO AS TO INCLUDE AFFILIATES AND SUBSIDIARIES.

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

Definitions

SECTION 1. Section 38-21-10 of the S.C. Code is amended to read:

Section 38-21-10. In this chapter, unless the context otherwise requires:

(1) An "affiliate" of, or person "affiliated" with, a specific person means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

(2) The term "control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly, or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 38-21-220 that control does not exist in fact. The director or his designee may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support his determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) The term "director" means the Director of the South Carolina Department of Insurance or his designee.

(4) The term "group-wide supervisor" means the regulatory official authorized to engage in conducting or coordinating group-wide supervision activities who is determined or acknowledged by the director pursuant to Section 38-21-295 to have sufficient significant contacts with the internationally active insurance group.

(5) "Group Capital Calculation instructions" means the Group Capital Calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by

the NAIC.

(6) An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer.

(7) The term "insurer" has the same meaning as set forth in Section 38-1-20 except that it does not include (a) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state or (b) nonprofit medical and hospital service associations.

(8) The term "internationally active insurance group" means an insurance holding company system that includes an insurer registered pursuant to Sections 38-21-143 through 38-21-240 and meets the following criteria:

(a) premiums written in at least three countries;

(b) the percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system's total gross written premiums; and

(c) based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company systems are at least ten billion dollars.

(9) "NAIC" means the National Association of Insurance Commissioners.

(10) "NAIC Liquidity Stress Test Framework" is a separate NAIC publication which includes a history of the NAIC's development of regulatory liquidity stress testing, the Scope Criteria applicable for a specific data year, and the Liquidity Stress Test instructions and reporting templates for a specific data year, such Scope Criteria, instructions and reporting template being as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(11) A "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but does not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(12) "Scope criteria," as detailed in the NAIC Liquidity Stress Test Framework, are the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC Liquidity Stress Test Framework for that data year.

(13) A "securityholder" of a specified person is one who owns any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(14) A "subsidiary" of a specified person is an affiliate controlled by that person directly, or indirectly through one or more intermediaries.

(15) The term "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

(16) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, likely is to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as provided in Section 38-9-330 or would cause the insurer to be in hazardous financial condition as provided in Section 38-5-120.

(17) A "supervisory college" is a meeting or joint meeting of insurance regulators or supervisors with company officials where the topic of discussion is regulatory oversight of one specific insurance group that is writing significant amounts of insurance in other jurisdictions. It may involve detailed discussions about financial data, corporate governance, and enterprise risk management functions. Supervisory colleges are intended to facilitate the oversight of internationally active insurance companies at the group level.

Authority of insurers to invest in securities of subsidiaries

SECTION 2. Section 38-21-30 of the S.C. Code is amended to read:

Section 38-21-30. In addition to investment in common stock, preferred stock, debt obligations, and other securities permitted under this title, a domestic insurer may also:

(1) invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders if, after these investments, the insurer's surplus as regards policyholders must be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations must be excluded, and there must be included (a) total net monies or other consideration expended and obligations

assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and (b) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary after its acquisition or formation;

(2) invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the total investment of the insurer to exceed any of the investment limitations specified in item (1) or in the investment laws or regulations of this State. For the purpose of this item, "the total investment of the insurer" includes (a) any direct investment by the insurer in an asset, and (b) the insurer's proportionate share of any investment in an asset by a subsidiary of the insurer, which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary;

(3) with the approval of the director or his designee, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries if after such investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Contents of statement

SECTION 3. Section 38-21-70(A)(2) of the S.C. Code is amended to read:

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for this purpose, (including pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates), and the identity of persons furnishing the consideration. Where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests.

Approval by commissioners of acquisition of control, hearing

SECTION 4. Section 38-21-90(C) of the S.C. Code is amended to read:

(C)(1) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing provided in subsections (A) and (B) may be held on a consolidated basis upon request of the person filing the statement referred to in Section 38-21-60 if he files the statement with the National Association of Insurance Commissioners (NAIC) within five days after making the request for a public hearing. The director or his designee may opt out of a consolidated hearing, but shall provide notice of its decision of the opt out to the applicant within ten days after receipt of the statement. A hearing conducted on a consolidated basis must be public and held within the United States before the commissioners of the states in which the insurers are domiciled. These commissioners shall hear and receive evidence. The director or his designee may attend the hearing in person or by means of telecommunication.

(2) In connection with a change of control of a domestic insurer, any determination by the director or his designee that the person acquiring control of the insurer is required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this State must be made no later than sixty days after the date of notification of the change in control submitted pursuant to Section 38-21-60.

(3) For purposes of this subsection, "commissioner" means the:

(a) insurance commissioner, director, or other chief insurance official of a state, territory, or the District of Columbia;

(b) deputy of a commissioner; and

(c) Insurance Department of a state, territory, or District of Columbia, as appropriate.

Information which need not be disclosed in registration statement

SECTION 5. Section 38-21-160 of the S.C. Code is amended to read:

Section 38-21-160. No information need be disclosed on the registration statement filed pursuant to Section 38-21-140 if the information is not material for the purposes of this chapter. Unless the department by regulation or by order of the director or his designee provides otherwise, sales, purchases, exchanges, loans or extension of credit, investments, or guarantees involving one-half of one percent or

less of an insurer's admitted assets as of the previous December thirty-first are not considered material for purposes of Sections 38-21-140 through 38-21-240. The definition of materiality provided in this section does not apply for purposes of the Group Capital Calculation or the Liquidity Test Framework.

Annual enterprise risk report

SECTION 6. Section 38-21-225 of the S.C. Code is amended to read:

Section 38-21-225. (A) The ultimate controlling person of an insurer subject to registration also shall file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

(B) Except as provided below, the ultimate controlling person of every insurer subject to registration must file concurrently with the registration an annual group capital calculation as directed by the lead state commissioner. The report must be completed in accordance with NAIC Group Capital Calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the director in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC. The following insurance holding company systems are exempt from filing the group capital calculation:

(1) an insurance holding company system that has only one insurer within its holding company structure, that only writes business in its domestic state, and assumes no business from any other insurer;

(2) an insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board. The lead state commissioner must request the calculation from the Federal Reserve Board under the terms of information-sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the group capital calculation filing;

(3) an insurance holding company system whose non-U.S. group-wide supervisor is located within a reciprocal jurisdiction as described in Section 38-9-200 that recognizes the U.S. state regulatory approach to group supervision and group capital;

(4) an insurance holding company system:

(a) that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook, and

(b) whose non-U.S. group-wide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified by the director in regulation, the Group Capital Calculation as the worldwide group capital assessment for U.S. insurance groups who operate in that jurisdiction.

(5) Notwithstanding the provisions of this subsection, a lead state commissioner must require the group capital calculation for U.S. operations of any non-U.S.-based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(6) Notwithstanding the exemptions from filing the group capital calculation stated in this section, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the director in regulation.

(7) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system must file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(C) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC Liquidity Stress Test Framework must file the results of a specific year's Liquidity Stress Test. The filing must be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures

within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners. The NAIC Liquidity Stress Test Framework includes Scope Criteria applicable to a specific data year. These Scope Criteria are reviewed at least annually by the Financial Stability Task Force or its successor. Any change to the NAIC Liquidity Stress Test Framework or to the data year for which the Scope Criteria are to be measured must be effective on January first of the year following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the Scope Criteria are considered scoped into the NAIC Liquidity Stress Test Framework for the specified data year unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the Scope Criteria are considered scoped out of the NAIC Liquidity Stress Test Framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the framework for that data year.

(1) The lead state commissioner, in consultation with the Financial Stability Task Force or its successor, and as part of the annual determination for an insurer, will consider the insurer's recent status to avoid having insurers scoped in and out of the NAIC Liquidity Stress Test Framework on a frequent basis.

(2) The performance of, and filing of the results from, a specific year's Liquidity Stress Test must comply with the NAIC Liquidity Stress Test Framework's instructions and reporting templates for that year and any lead state insurance commissioner determinations, in consultation with the Financial Stability Task Force or its successor, provided within the framework.

Standards for transactions within insurance holding company system

SECTION 7. Section 38-21-250 of the S.C. Code is amended to read:

Section 38-21-250. (A) Transactions within an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(1) The terms must be fair and reasonable.

(2) Agreements for cost-sharing services and management must include provisions required by regulation promulgated by the

department.

(3) Charges or fees for services performed must be reasonable.

(4) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(5) The books, accounts, and records of each party to all transactions must be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.

(6) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(7) If an insurer subject to this act is deemed by the director to be in a hazardous financial condition as defined by Sections 38-5-120 and 38-9-330 or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, then the director may require the insurer to secure and maintain either a deposit, held by the director, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of the contracts or agreements, or the existence of the condition for which the director required the deposit or the bond. In determining whether a deposit or a bond is required, the director should consider whether concerns exist with respect to the affiliated person's ability to fulfill the contracts or agreements if the insurer were to be put into liquidation. Once the insurer is deemed to be in a hazardous financial condition or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, and a deposit or bond is necessary, the director has discretion to determine the amount of the deposit or bond, not to exceed the value of the contracts or agreements in any one year, and whether such deposit or bond should be required for a single contract, multiple contracts, or a contract only with a specific person.

(8) All records and data of the insurer held by an affiliate are and remain the property of the insurer, are subject to control of the insurer, are identifiable, and are segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurer, in whatever form maintained including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records, or similar records within the possession,

custody, or control of the affiliate. At the request of the insurer, the affiliate must provide that the receiver can obtain a complete set of all records of any type that pertain to the insurer's business; obtain access to the operating systems on which the data is maintained; obtain the software that runs those systems either through assumption of licensing agreements or otherwise; and restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate must provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.

(9) Premiums or other funds belonging to the insurer that are collected by or held by an affiliate are the exclusive property of the insurer and are subject to the control of the insurer. Any right of offset in the event an insurer is placed into receivership must be subject to Chapter 27, Title 38.

(B) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in items (1) through (7) may not be entered into unless the insurer has notified the department in writing of its intention to enter into the transaction at least thirty days prior, or such shorter period as the director or his designee may permit, and the director or his designee has not disapproved it within such period. The notice for amendments or modifications must include the reasons for the charge and the financial impact on the domestic insurer. Informal notice must be reported within thirty days after termination of a previously filed agreement to the director or his designee for determination of the type of filing required, if any.

(1) Sales, purchases, exchanges, loans, or extensions of credit, guarantees, or investments if the transactions are equal to or exceed:

(a) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders as of the thirty-first day of December next preceding;

(b) with respect to life insurers, three percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to purchase assets of, or make investments in, any affiliate of

the insurer making the loans or extensions of credit as long as such transactions are equal to or exceed:

(a) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(b) with respect to life insurers, three percent of the insurer's admitted assets, each as of the thirty-first day of December next preceding.

(3) Reinsurance agreements or modifications, including:

(a) all reinsurance pooling agreements; and

(b) agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change to the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the thirty-first day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(4) All management agreements, service contracts, tax allocation agreements, and all cost-sharing arrangements.

(5) Guarantees when made by a domestic insurer; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this item unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of the thirty-first day of December next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this item.

(6) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to Sections 38-21-20 through 38-21-50, or authorized under any other section of this chapter, or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter, are exempt from this requirement.

(7) Any material transactions, specified by regulation of the department, which the director or his designee determines may adversely affect the interests of the insurer's policyholders. Nothing herein authorizes or permits any transactions which, in the case of an insurer, not a member of the same insurance holding company system, would be

otherwise contrary to law.

(C) A domestic insurer may not enter into transactions, which are part of a plan or series of like transactions with persons within the insurance holding company system, if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the director or his designee determines that such separate transactions were entered into over any twelve-month period for such purpose, he may exercise his authority under Section 38-21-340.

(D) The director or his designee, in reviewing transactions pursuant to subsection (B), shall consider whether the transactions comply with the standards set forth in subsection (A) and whether they may adversely affect the interests of policyholders.

(E) The department must be notified within thirty days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

(F) Any affiliate that is party to an agreement or contract with a domestic insurer that is subject to subsection (B)(4) is subject to the jurisdiction of any supervision, seizure, conservatorship, or receivership proceedings against the insurer and to the authority of any supervisor, conservator, rehabilitator, or liquidator for the insurer appointed pursuant to Chapters 26 and 27, Title 38 for the purpose of interpreting, enforcing, and overseeing the affiliate's obligations under the agreement or contract to perform services for the insurer that:

(1) are an integral part of the insurer's operations including, but not limited to, management, administrative, accounting, data processing, marketing, underwriting, claims handling, investment, or any other similar functions; or

(2) are essential to the insurer's ability to fulfill its obligations under insurance policies.

(G) The director may require that an agreement or contract pursuant to subsection (B)(4) for the provision of services described in subsection (F)(1) and (2) specify that the affiliate consents to the jurisdiction as set forth in subsection (F).

Confidential information

SECTION 8. Section 38-21-290 of the S.C. Code is amended to read:

Section 38-21-290. (A) Documents, materials, or other information in the possession or control of the department that are obtained by or

disclosed to the director or his designee or any other person in the course of an examination or investigation made pursuant to Section 38-21-280 and all information reported pursuant to Section 38-21-70(A)(13) and (14) and Sections 38-21-130 through 38-21-270 are recognized by the State as being proprietary and must be confidential by law and privileged, shall not be subject to disclosure, may not be subject to subpoena, and may not be disclosed under the Freedom of Information Act and may not be subject to discovery or admissible in evidence in any private civil action. However, the director or his designee may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of his official duties. The director or his designee otherwise shall not make the documents, materials, or other information public without obtaining the prior written consent of the insurer to which it pertains unless the director or his designee, after giving the insurer and its affiliates who would be affected by it, notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication of it, in which event the director or his designee may publish all or any part.

(1) For purposes of the information reported and provided to the department pursuant to Section 38-21-225(C), the director must maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the Federal Reserve Board or any U.S. group-wide supervisor.

(2) For purposes of the information reported and provided to the department pursuant to Section 38-21-225(C) the director must maintain the confidentiality of the Liquidity Stress Test results and supporting disclosures and any Liquidity Stress Test information received from an insurance holding company supervised by the Federal Reserve Board and non-U.S. group-wide supervisors.

(B) Neither the director or his designee nor a person who received documents, materials, or other information while acting under the authority of the director or his designee or with whom such documents, materials, or other information are shared pursuant to this chapter may be permitted or required to testify in a private civil action concerning any confidential documents, materials, or information subject to subsection (A).

(C) In order to assist in the performance of the director or his designee's duties, the director or his designee:

(1) may share documents, materials, or other information, including the confidential and privileged documents, materials, or information

subject to subsection (A), including proprietary and trade secret documents and materials with other state, federal, and international regulatory agencies, with the NAIC and any third-party consultants designated by the director or his designee, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 38-21-285, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) only may share confidential and privileged documents, material, or information reported pursuant to Section 38-21-225 with commissioners of states having statutes or regulations substantially similar to subsection (A) and who have agreed in writing not to disclose such information;

(3) may receive documents, materials, or information, including proprietary and trade secret information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(4) must enter into written agreements with the NAIC and any third-party consultant designated by the director or his designee governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(a) specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant designated by the director or his designee pursuant to this chapter, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information and has verified in writing the legal authority to maintain such confidentiality;

(b) specify that ownership of information shared with the NAIC or third-party consultant pursuant to this chapter remains with the director or his designee and the NAIC's use of the information is subject to the direction of the director or his designee;

(c) excluding documents, materials, or information reported pursuant to Section 38-21-225(C) prohibit the NAIC or third-party consultant designated by the commissioner from storing the information

shared pursuant to this act in a permanent database after the underlying analysis is completed;

(d) require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or third-party consultant designated by the director or his designee pursuant to this chapter is subject to a request or subpoena to the NAIC or a third-party consultant designated by the director or his designee for disclosure or production;

(e) require the NAIC or third-party consultant designated by the director or his designee to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this chapter; and

(f) for documents, materials, or information reporting pursuant to Section 38-21-255(C), in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurers.

(D) The sharing of information by the director or his designee pursuant to this chapter may not constitute a delegation of regulatory authority or rulemaking, and the director or his designee is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

(E) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the director or his designee under this section or as a result of sharing as authorized in subsection (C).

(F) Documents, materials, or other information in the possession or control of the NAIC pursuant to this chapter shall be confidential by law and privileged, may not be disclosed under the Freedom of Information Act, may not be subject to subpoena, and may not be subject to discovery or admissible in evidence in a private civil action.

(G) The Group Capital Calculation and resulting Group Capital Ratio required pursuant to Section 38-21-225(B) and the Liquidity Stress Test along with its results and supporting disclosures required pursuant to Section 38-12-225(C) are regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and are not intended as a means to rank insurers or insurance holding company systems generally. Therefore, except as otherwise may be required under the provisions of this act, the making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the

public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the Group Capital Calculation, Group Capital Ratio, the Liquidity Stress Test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited; provided, however, that if any materially false statement with respect to the Group Capital Calculation, resulting Group Capital Ratio, an inappropriate comparison of any amount to an insurer's or insurance group's Group Capital Calculation or resulting Group Capital Ratio, Liquidity Stress Test result, supporting disclosures for the Liquidity Stress Test, or an inappropriate comparison of any amount to an insurer's or insurance group's Liquidity Stress Test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the director with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Definitions

SECTION 9. Section 38-12-30(64) of the S.C. Code is amended to read:

(64) "Person" means an individual, a business entity, a multilateral development bank, or a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise, and the affiliates and subsidiaries of any such individual, business entity, bank, or governmental or quasi-governmental body.

Restrictions on investments

SECTION 10. Section 38-12-220(A)(1) and (2) of the S.C. Code is amended to read:

(1) Except as otherwise provided in this chapter, an insurer may not acquire an investment pursuant to this chapter if as a result of and after giving effect to the investment the insurer holds more than five percent

of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person, including its affiliates and subsidiaries. This limitation applies to aggregate amounts invested in or held directly or indirectly in a single person or business entity by an insurer, its affiliates, and subsidiaries.

(2) This limitation does not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

Asset limitations for insurer holdings

SECTION 11. Section 38-12-430(A)(1) of the S.C. Code is amended to read:

(1) Except as otherwise provided in this chapter, an insurer may not acquire an investment pursuant to this chapter if as a result of and after giving effect to the investment the insurer holds more than five percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person, including its affiliates and subsidiaries. This limitation applies to aggregate amounts invested in or held directly or indirectly in a single person or business entity by an insurer, its affiliates, and subsidiaries.

Time effective

SECTION 12. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 18

(R34, S275)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-27-10, RELATING TO ELECTRIC VEHICLE DEFINITIONS, SO AS TO ADD DEFINITIONS FOR "DIRECT-CURRENT-FAST-CHARGING STATION," "ELECTRIC VEHICLE," AND "ELECTRIC VEHICLE CHARGING PROVIDER"; AND BY AMENDING SECTION 58-27-1060, RELATING TO ELECTRIC VEHICLE CHARGING STATIONS, SO AS TO PROVIDE THAT ELECTRIC UTILITIES OR OTHER PROVIDERS THAT OFFER ELECTRIC VEHICLE CHARGING STATIONS DIRECTLY TO THE PUBLIC SHALL DO SO ON A FAIR, REASONABLE, AND NONDISCRIMINATORY BASIS AND SHALL NOT PROVIDE AN UNREASONABLE ADVANTAGE FOR DIRECT-CURRENT-FAST-CHARGING STATIONS; AND TO REGULATE REVENUE.

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

Definitions

SECTION 1. Section 58-27-10 of the S.C. Code is amended by adding:

(12) "Direct-current-fast-charging station" means an electric vehicle charging system capable of delivering electricity at a minimum of fifty kilowatts or greater direct current to an electric vehicle's rechargeable battery at a voltage of two hundred volts or greater and is separate and distinct from make-ready infrastructure.

(13) "Electric vehicle" means a motor vehicle that is propelled by one or more electric motors using energy stored in the form of a rechargeable battery.

(14) "Electric vehicle charging provider" means the owner of an electric vehicle charging station.

Electric vehicle charging stations

SECTION 2. Section 58-27-1060 of the S.C. Code is amended to read:

Section 58-27-1060. (A) A person or corporation who uses an

electric vehicle charging station to resell electricity to the public for compensation is not an electrical utility if:

(1) the person or corporation has procured the electricity from an electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an electric cooperative that is authorized to engage in the retail sale of electricity within the territory in which the electric vehicle charging service is provided;

(2) the person or corporation furnishes electricity exclusively for the charging of plug-in electric vehicles; and

(3) the charging station is immobile.

(B) Nothing in this section shall be construed to limit the ability of an electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an electric cooperative to provide and appropriately charge for the make-ready infrastructure required to serve the electrical load of electric vehicle charging stations to furnish electricity to electric vehicle charging providers for charging electric vehicles, or to utilize any state or federal grant funding. Any increases in customer demand or energy consumption associated with transportation electrification shall not constitute found revenues for an electrical utility.

(C) An electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an electric cooperative that provides, owns, operates, or maintains a direct-current-fast-charging station for direct public use shall offer fair, reasonable, and nondiscriminatory rates and services to all entities providing similar services and shall not act in a manner that provides an unreasonable advantage for its direct-current-fast-charging stations.

(D) Revenue received by an electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an electric cooperative or its subsidiary or affiliate from electric services other than direct-current-fast-charging stations, shall not, directly or indirectly, subsidize investments in direct-current-fast-charging stations owned or operated by such entities.

(E) Nothing in subsection (C) or (D) shall be construed to apply to a direct-current-fast-charging station that was constructed, provided by, owned, operated, or maintained by an electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an electric cooperative prior to the effective date of this act.

(F) Nothing in subsection (D) shall be construed to apply to direct-current-fast-charging stations that are not public facing and located on the premises of an electrical utility, a municipality, a consolidated political subdivision, the Public Service Authority, or an

electric cooperative for the sole purpose of serving its own electric vehicles or electric vehicles owned by its employees.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 19

(R35, S276)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 63-11-400, 63-11-410, AND 63-11-420, ALL RELATING TO THE SOUTH CAROLINA CHILDREN'S ADVOCACY MEDICAL RESPONSE SYSTEM ACT, SO AS TO RENAME THE ACT THE "SOUTH CAROLINA CHILD ABUSE AND NEGLECT NETWORK" AND TO MAKE CONFORMING CHANGES.

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

South Carolina Child Abuse and Neglect Network

SECTION 1. Sections 63-11-400 through 63-11-420 of the S.C. Code are amended to read:

Section 63-11-400. This article may be cited as the "South Carolina Child Abuse and Neglect Network."

Section 63-11-410. There is created the South Carolina Child Abuse and Neglect Network, a program to provide coordination and administration of medical service resources to those entities responding to cases of suspected child abuse or neglect. The program is administered by the University of South Carolina School of Medicine.

Section 63-11-420. For purposes of this article:

(1) "Child" has the same meaning as provided for in Section 63-7-20.

(2) "Child abuse or neglect" has the same meaning as provided for in Section 63-7-20.

(3) "Children's advocacy centers" has the same meaning as provided for in Section 63-11-310.

(4) "Program" means the South Carolina Child Abuse and Neglect Network, created pursuant to this article.

(5) "Healthcare provider" means a physician, advanced practice registered nurse, or physician assistant licensed to practice in this State pursuant to Article 1, Chapter 47, Title 40, Article 1, Chapter 33, Title 40, and Article 7, Chapter 47, Title 40, respectively.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 20

(R36, S307)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 36 TO TITLE 56 SO AS TO DEFINE CERTAIN TERMS, TO ESTABLISH GUIDELINES FOR THE OPERATION OF PEER-TO-PEER CAR SHARING PROGRAMS, AND TO ESTABLISH INSURANCE AND LIABILITY PROCEDURES; AND TO PROVIDE THE DEPARTMENT OF INSURANCE SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ACT.

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

Peer-to-Peer car sharing

SECTION 1. Title 56 of the S.C. Code is amended by adding:

CHAPTER 36

Peer-to-Peer Car Sharing

Section 56-36-10. As used in this chapter:

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location for transfer of possession of the shared vehicle pursuant to the agreement.

(2) "Car sharing period" means the period of time from:

(a) the car sharing delivery period until the car sharing termination time; or

(b) if there is no car sharing delivery period, the car sharing start time until the car sharing termination time.

(3) "Car sharing program agreement" or "agreement" means the terms and conditions that govern the use, duration of time, and location for transfer of possession of a shared vehicle through a peer-to-peer car sharing program.

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

(5) "Car sharing termination time" means the earliest of the following events:

(a) the expiration of the agreed-upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement, provided that the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(b) when the shared vehicle is returned to a location as alternately agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program, which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

(c) when the shared vehicle owner or owner's designee takes possession and control of the shared vehicle.

(6) "Peer-to-peer car sharing" means the authorized use of a shared vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program pursuant to the provisions of this chapter.

(7) "Peer-to-peer car sharing program" or "program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

(8) "Peer-to-peer car sharing transaction" means the payment of monetary consideration from a shared vehicle driver in exchange for the use of a shared vehicle for peer-to-peer car sharing.

(9) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program.

(10) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle pursuant to a valid car sharing program agreement.

(11) "Shared vehicle owner" means the registered owner of a shared vehicle or his designee.

Section 56-36-20. (A) Except as provided in subsection (B), a peer-to-peer car sharing program shall assume liability of a shared vehicle owner for any death, bodily injury, or property damage to third parties or uninsured motorist losses that are proximately caused by the operation of a shared vehicle during the car sharing period in the amounts stated in the car sharing program agreement. These amounts shall not be less than the amounts specified in Section 38-77-140 and Section 38-77-150.

(B) Notwithstanding the definition of "car sharing termination time" in Section 56-36-10, the assumption of liability pursuant to subsection (A) does not apply if:

(1) the shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the program before the car sharing period in which the loss occurred; or

(2) the shared vehicle driver and shared vehicle owner conspire to have the driver fail to return the shared vehicle in violation of the agreement.

(C) Notwithstanding the definition of "car sharing termination time" in Section 56-36-10, the assumption of liability under subsection (A) applies to death, bodily injury, and property losses by damaged third parties required by Section 38-77-140 and uninsured motorist losses by damaged third parties required by Section 38-77-150.

(D) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are each insured under a motor vehicle insurance policy that provides insurance coverage in amounts no less than the minimum amounts set forth in Section 38-77-140; and

(1) recognizes that the shared vehicle insured under the policy is

made available and used through a peer-to-peer car sharing program; or

(2) does not exclude the use of a shared vehicle by a shared vehicle driver.

(E) The insurance coverage required under subsection (D) may be satisfied by motor vehicle liability insurance maintained by:

(1) a shared vehicle owner;

(2) a shared vehicle driver;

(3) a peer-to-peer car sharing program; or

(4) any combination of a shared vehicle owner, shared vehicle driver, or a peer-to-peer car sharing program.

(F) The insurance described in subsection (E) that is satisfying the insurance requirement of subsection (D) shall be primary during each car sharing period. If a claim occurs in another state with minimum financial responsibility limits higher than those set forth in Section 38-77-140 and Section 38-77-150 during the car sharing period, then the coverage maintained under subsection (E) shall satisfy the difference in minimum coverage amounts up to the applicable policy limits.

(G) The insurer or peer-to-peer car sharing program providing the coverage under subsection (D) or (E) shall assume primary liability for a claim when:

(1) a dispute exists regarding who was in control of the shared vehicle at the time of the loss and the peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by subsection (M); or

(2) a dispute exists regarding whether the shared vehicle was returned to the alternatively agreed upon location as required under Section 56-36-10(6)(b).

(H) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (E) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (D) beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances as set forth in subsection (B).

(I) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

(J) Nothing in this chapter limits:

(1) the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program that results in injury to any person as a result of the use of a shared vehicle through a

peer-to-peer car sharing program; or

(2) the ability of the peer-to-peer car sharing program, by contract, to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the car sharing program agreement.

(K) When a shared vehicle owner registers with a peer-to-peer car sharing program and before the shared vehicle owner makes the shared vehicle available for sharing, the peer-to-peer car sharing program shall notify the owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

(L)(1) An authorized insurer that writes motor vehicle liability insurance in this State may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy including, but not limited to:

(a) liability coverage for death, bodily injury, and property damage;

(b) uninsured and underinsured motorist coverage;

(c) medical payments coverage;

(d) comprehensive physical damage coverage; and

(e) collision physical damage coverage.

(2) Nothing in this chapter invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(3) Nothing in this chapter invalidates, limits, or restricts an insurer's ability under existing law to underwrite any insurance policy. Nothing in this chapter invalidates, limits, or restricts an insurer's ability under existing law to cancel and non-renew policies.

(M)(1)(a) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a shared vehicle including, but not limited to:

(i) times used;

(ii) car sharing period pickup and drop off locations;

(iii) fees paid by the shared vehicle driver; and

(iv) revenues received by the shared vehicle owner.

(b) Upon request, the program shall provide that information to facilitate a claim coverage investigation, settlement, negotiation, or litigation to:

(i) the shared vehicle owner;

(ii) the shared vehicle owner's insurer; and

(iii) the shared vehicle driver's insurer.

(2) The peer-to-peer car sharing program shall retain the records for no less than the duration of the applicable personal injury statute of limitations.

(N) A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C. Section 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

(O) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

(1) made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and

(2) excluded under the terms of its policy.

(P)(1) A peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period.

(2) Nothing in this section requires a peer-to-peer car sharing program to maintain the coverage mandated by this section.

(3) A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(a) liabilities assumed by the peer-to-peer car sharing program under a car sharing program agreement;

(b) any liability of the shared vehicle owner;

(c) damage or loss to the shared motor vehicle; or

(d) any liability of the shared vehicle driver.

Section 56-36-30. (A) Each car sharing program agreement made in this State shall disclose to the shared vehicle owner and the shared vehicle driver:

(1) any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) that a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) that the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) the daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) that the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(6) an emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(7) whether there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

(B)(1) A peer-to-peer car sharing program may not enter into a car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(a) holds a valid driver's license issued under the provisions of Chapter 1, Title 56, that authorizes the driver to operate vehicles of the class of the shared vehicle; or

(b) is a nonresident who:

(i) is at least the same age as that required of a resident to drive; and

(ii) has a driver's license issued by the driver's resident state or country that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle.

(2) A peer-to-peer car sharing program shall keep record of:

(a) the name and address of the shared vehicle driver;

(b) the number of the driver's license of the shared vehicle driver and each other person who will operate the shared vehicle; and

(c) the place of issuance of the driver's license.

(C) A peer-to-peer car sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing

period.

(D)(1) When a vehicle owner registers as a shared vehicle owner with a peer-to-peer car sharing program and before the shared vehicle owner makes the shared vehicle available on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(a) verify that the shared vehicle does not have any safety recalls for which repairs have not been made; and

(b) notify the owner of the requirement under subsection (D)(2), (3), and (4).

(2) If the shared vehicle owner has actual notice of a safety recall on the shared vehicle, then the shared vehicle owner may not make the shared vehicle available on the peer-to-peer car sharing program until the safety recall repair is complete.

(3) If a shared vehicle owner receives actual notice of a safety recall on the shared vehicle while the shared vehicle is available on the peer-to-peer car sharing program and in the shared vehicle owner's possession, then the owner shall remove the shared vehicle as available on the peer-to-peer car sharing program as soon as practicably possible after receiving notice and until the safety recall repair is complete.

(4) If a shared vehicle owner receives actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, then the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall as soon as practicably possible after receiving notice of the safety recall so that the shared vehicle owner may address the safety recall repair.

Section 56-36-50. The provisions of Section 38-43-500 and Chapter 31, Title 56 are not applicable to this chapter.

Department of Insurance regulations

SECTION 2. The Department of Insurance shall promulgate any regulations as may be necessary to implement the provisions of this act.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 21

(R37, S345)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-510, RELATING TO THE PROHIBITION AGAINST BAITING WILD TURKEYS, SO AS TO EXEMPT CERTAIN PERSONS WHO ARE TWO HUNDRED YARDS OR MORE FROM A BAITED AREA MANAGED FOR THE RESTORATION AND SUSTAINABILITY OF WILD BOBWHITE QUAIL.

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

Prohibition against baiting wild turkeys, definitions, exception

SECTION 1. Section 50-11-510 of the S.C. Code is amended to read:

Section 50-11-510. (A) It is unlawful for a person to:

(1) hunt or take or attempt to hunt or take a wild turkey by means of, or aid or use of, bait or baiting; or

(2) hunt or take or attempt to hunt or take a wild turkey on or over any baited area.

(B) As used in this section:

(1) "bait" or "baiting" means placing salt, corn, grain, or other foodstuffs that constitute a lure, attraction, or enticement for wild turkeys over an area where hunters are attempting to take them; and

(2) "baited area" means an area where salt, corn, grain, or other foodstuffs capable of luring, attracting, or enticing wild turkeys is placed. The area remains a baited area for ten days following complete

consumption or removal of all bait.

(C) It is not a violation of this section if a person hunts or takes or attempts to hunt or take a wild turkey over a baited area for wild bobwhite quail, and is located on a property that is permitted by the department for the restoration and sustainability of wild bobwhite quail. The property must not be leased for turkey hunting, and there must be no commercial hunts for wild turkey on the property. A permit issued by the department for the restoration and sustainability of wild bobwhite quail:

(1) must contain conditions in conformance with best practices for managing wild bobwhite quail habitat; and

(2) is contingent on the receipt and approval of a wild bobwhite quail management plan that must be updated no less than every five years.

(D) The department may revoke a permit issued under subsection (C) if a permit condition is violated.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 22

(R38, S367)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 2 TO CHAPTER 21, TITLE 50 ENTITLED "ABANDONED VESSELS, DERELICT VESSELS, AND SUNKEN VESSELS" SO AS TO PROVIDE THAT ABANDONED VESSELS, DERELICT VESSELS, AND SUNKEN VESSELS ARE PUBLIC NUISANCES; TO DEFINE TERMS; TO ESTABLISH THE PENALTIES FOR A PERSON THAT CAUSES OR ALLOWS A VESSEL TO BECOME AN ABANDONED VESSEL OR A DERELICT VESSEL AND THE PENALTIES FOR

INTENTIONALLY OR RECKLESSLY CAUSING A VESSEL TO SINK; TO EXTEND THE CORPORATE LIMITS OF CERTAIN MUNICIPALITIES FOR THE PURPOSE OF ENFORCING THE ARTICLE; TO ESTABLISH THE PROCEDURE FOR DECLARING CERTAIN VESSELS ABANDONED OR DERELICT; TO REQUIRE THE REMOVAL OF A DERELICT VESSEL WITHIN FOURTEEN DAYS AND TO PROVIDE FOR ITS REMOVAL; AND TO REQUIRE THE DEVELOPMENT AND MAINTENANCE OF A WEBSITE AND APPLICATION FOR THE REPORTING OF CERTAIN VESSELS; BY REPEALING SECTION 50-21-190 RELATING TO ABANDONED WATERCRAFT; BY REPEALING SECTION 50-23-205 RELATING TO THE SEIZURE OF CERTAIN WATERCRAFT; AND BY REPEALING SECTION 50-21-10(1) RELATING TO THE DEFINITION OF ABANDON.

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

Abandoned vessels, derelict vessels, and sunken vessels

SECTION 1. Chapter 21, Title 50 of the S.C. Code is amended by adding:

Article 2

Abandoned Vessels, Derelict Vessels, and Sunken Vessels

Section 50-21-200. Abandoned vessels, derelict vessels, and sunken vessels are declared to be public nuisances that must be abated as provided in this article.

Section 50-21-210. (A) For the purposes of this article:

(1) "Abandoned vessel" means a vessel that:

(a) is wrecked or junked;

(b) does not have a visible identifier; and

(c) remains on the waters of the State, or on public property adjacent thereto, for at least ten consecutive days from the day an abandoned vessel notice is posted on the vessel.

(2) "Derelict vessel" means a vessel that:

(a) is wrecked or junked;

(b) has a visible identifier; and

(c) remains on the waters of the State, or on public property

adjacent thereto, for at least twenty-one consecutive days from the day a derelict vessel notice is posted on the vessel.

(3) "Junked" means substantially stripped of vessel components, or spaces on the vessel that are designed to be enclosed are open to the elements.

(4) "Registered owner" means a person listed as the owner on a state's vessel registration records or on a United States Coast Guard certificate of documentation.

(5) "Responsible party" means a person who has the rights to the possession and use of a vessel.

(6) "Visible identifier" means:

(a) a hull identification number;

(b) a vessel registration number of this State or another state; or

(c) a vessel name and home port.

(7) "Wrecked" means listing due to water intake or hull damage, or aground and cannot be extracted without mechanical assistance.

Section 50-21-220. (A) It is unlawful for a person to cause or allow a vessel to become an abandoned vessel or a derelict vessel. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars, imprisoned for not more than sixty days, or both. In addition, the person is liable for all costs arising from the removal and disposal of the vessel from the waters of the State, or public property adjacent thereto.

(B) It is unlawful for a person to intentionally or recklessly cause a vessel to sink on the waters of the State. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars, imprisoned for not more than sixty days, or both. In addition, the person is liable for all costs arising from the removal and disposal of the vessel from the waters of the State. This subsection does not apply to a person who sinks a vessel pursuant to the department's artificial reef program.

(C) Fines collected under this section must be used by the department for the removal and disposal of abandoned vessels, derelict vessels, and sunken vessels.

(D) The magistrate court is vested with jurisdiction for cases arising under this article.

Section 50-21-230. Notwithstanding Section 5-7-140(B), the corporate limits of a municipality bordering on the high-water mark of a navigable body of water are extended outward by one mile for the purpose of enforcing this article.

Section 50-21-240. (A) The department, or a local law enforcement agency with jurisdiction, upon locating a vessel that is wrecked or junked, must determine whether the vessel has a visible identifier.

(1) If the vessel has a visible identifier, then the department or local law enforcement agency must:

(a) post a derelict vessel notice that contains the information provided in subsection (B);

(b) take reasonable steps within twenty-four hours of the posting of the notice to identify the registered owner, and if identified, must provide written notice to the registered owner's last known address, and notice by telephone or e-mail, if known to the department. The notice must include, but is not limited to, the information provided on the derelict vessel notice and a brief description of the vessel's location; and

(c) submit a derelict vessel report within twenty-four hours of the posting of the notice using the application or website maintained by the Department of Environmental Services under Section 50-21-290.

(2) If the vessel does not have a visible identifier, then the department or local law enforcement agency must:

(a) post an abandoned vessel notice that contains the information provided in subsection (C); and

(b) submit an abandoned vessel report within twenty-four hours of the posting of the notice using the application or website maintained by the Department of Environmental Services under Section 50-21-290.

(B) A derelict vessel notice posted in accordance with this section must provide at least:

(1) a citation to this article;

(2) the date the notice is posted;

(3) a statement that the vessel must be removed within twenty-one days from the date the notice is posted, or it will be declared a derelict vessel and be subject to removal and disposal by any person; and

(4) the date the vessel will be declared a derelict vessel.

(C) An abandoned vessel notice posted in accordance with this section must provide at least:

(1) a citation to this article;

(2) the date the notice is posted;

(3) a statement that the vessel must be removed within ten days from the date the notice is posted, or it will be declared an abandoned vessel and be subject to removal and disposal by any person; and

(4) the date the vessel will be declared an abandoned vessel.

(D) A vessel that is listing or taking on water at the time a notice is to be posted on the vessel may be relocated by the department or a local law enforcement agency without liability to a responsible party.

Section 50-21-250. The department, or a local law enforcement agency with jurisdiction, must remove a derelict vessel notice if within fourteen days of the posting of the notice a responsible party provides a bona fide plan of removal to the department. If the vessel remains wrecked or junked thirty days from the date the notice was posted, then another derelict vessel notice must be posted on the vessel, and no additional bona fide plan of removal may be submitted.

Section 50-21-260. (A) An abandoned vessel or a derelict vessel is subject to removal at any time by any person without liability to a responsible party. A person who removes and disposes of an abandoned vessel or a derelict vessel may commence a civil action against a responsible party within three years of the removal and disposal to recover:

(1) the cost of the removal and disposal; and

(2) the attorney's fees and court costs incurred in bringing the action.

(B) The civil action provided in this section is in addition to and supplemental of any rights of salvage that may be available under maritime law.

Section 50-21-270. (A) A sunken vessel in the waters of the State must be removed by a responsible party:

(1) before the date the vessel will be declared a derelict vessel or an abandoned vessel, as appropriate, if the vessel received an abandoned vessel notice or a derelict vessel notice prior to sinking; or

(2) within twenty-one days of the day the vessel sunk, or within forty-five days if a bona fide plan of removal is provided to the department within twenty-one days of the day the vessel sunk, if the vessel did not receive an abandoned vessel notice or a derelict vessel notice prior to sinking.

(B) A sunken vessel that remains in the waters of the State after the applicable time period for its removal by a responsible party expires is subject to removal at any time by any person without liability to a responsible party. A person who removes and disposes of a sunken vessel after the expiration of the applicable time period may commence a civil action against a responsible party within three years of the removal and disposal to recover:

(1) the cost of the removal and disposal; and

(2) the attorney's fees and court costs incurred in bringing the action.

(C) The civil action provided in this section is in addition to and

supplemental of any rights of salvage that may be available under maritime law.

(D) The provisions of this section do not apply to a vessel that is submerged archaeological historic property, as defined in Section 54-7-620.

Section 50-21-290. The Department of Environmental Services, in cooperation with the department, must develop and maintain an application and website for law enforcement and the public to report vessels that are wrecked, junked, or that have sunk.

Repeal

SECTION 2. Sections 50-21-190 and 50-23-205 of the S.C. Code are repealed.

Repeal

SECTION 3. Section 50-21-10(1), providing for the definition of "abandon," is repealed.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 23

(R39, S425)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-63-795 SO AS TO PROVIDE EACH PUBLIC SCHOOL DISTRICT ANNUALLY SHALL IDENTIFY THE NUMBER OF ITS STUDENTS WHO LIVE IN POVERTY AND INCREASE ACCESS TO FREE SCHOOL

BREAKFASTS AND LUNCHES FOR THESE STUDENTS, TO PROVIDE CRITERIA FOR DETERMINING ELIGIBILITY, TO PROVIDE RELATED REQUIREMENTS OF SCHOOL DISTRICTS, SCHOOLS, AND SCHOOL BOARDS, AND TO PROVIDE THE REQUIREMENTS OF THIS ACT SHALL BE SUSPENDED IF CERTAIN FEDERAL FUNDING IS SUSPENDED OR DISCONTINUED.

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

Expanded access, school district requirements, suspension mechanism

SECTION 1. Article 7, Chapter 63, Title 59 of the S.C. Code is amended by adding:

Section 59-63-795. (A) Each public school district annually shall identify the number of its students who live in poverty and increase access to free school breakfasts and lunches for these students. This number must be obtained from the annual State Aide to Classrooms formulation in the annual state budget. For purposes of this section, "students in poverty" means students who:

(1) qualify for Medicaid benefits;

(2) qualify for the Supplemental Nutrition Assistance Program (SNAP) benefits;

(3) qualify for Temporary Assistance for Needy Families (TANF) benefits; or

(4) are homeless, transient, or in foster care.

(B) The local board of trustees of a district in which all schools are eligible to receive the free federal reimbursement rate for all reimbursable school breakfasts and lunches served, pursuant to the Community Eligibility Provision (CEP) in Section 1759(a) of Title 42 of the United States Code, shall adopt a resolution indicating its degree of participation, if any, in CEP. If a district is unable to participate in CEP because participation would cause a financial hardship, its board shall adopt a resolution stating that it is unable to participate in CEP and demonstrate the financial hardship. The resolution must be published on a public meeting agenda concurrently with the proposed district budget as an action item. A majority of the board members is required to approve any resolution under this subsection. The requirements of this subsection shall be suspended if CEP is suspended or discontinued by federal action.

(C) A district shall ensure that the parents or guardians of students eligible for free and reduced lunch receive the necessary applications and instructions and, upon request, are provided with assistance in completing the paperwork. If a student is unable to pay for a meal or accrues meal debt, the student's district or school may not publicly identify or penalize the student in any way including, but not limited to, denying meals, serving alternative meals, discarding meals after serving them to the student, requiring chores or work in exchange for meals, prohibiting participation in extracurricular activities, denying participation in graduation, withholding diplomas, or refusing transcript requests. Communications from the district or school regarding any meal debt owed only may be directed to the parent or guardian of the student and may be sent home through the student.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 24

(R42, H3333)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 31-12-30, RELATING TO REDEVELOPMENT OF FEDERAL MILITARY INSTALLATIONS DEFINITIONS, SO AS TO PROVIDE THAT A REDEVELOPMENT PROJECT INCLUDES CERTAIN AFFORDABLE HOUSING PROJECTS; AND BY AMENDING SECTION 31-12-210, RELATING TO ISSUANCE OF OBLIGATIONS FOR REDEVELOPMENT PROJECTS BY MUNICIPALITY, SO AS TO PROVIDE WHEN CERTAIN OBLIGATIONS MUST BE ISSUED.

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

Redevelopment projects

SECTION 1. Section 31-12-30(6) of the S.C. Code is amended to read:

(6) "Redevelopment project" means buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities. A project or undertaking authorized under Section 6-21-50 also may qualify as a redevelopment project under this chapter. All such projects may be owned by the authority, the municipality, the county, or other appropriate public body. This term includes portions of the redevelopment project located outside the redevelopment project area so long as they provide needed infrastructure support for the redevelopment project area or the municipality makes specific findings of benefit to the redevelopment project area. A redevelopment project for purposes of this chapter also includes affordable housing projects where all or a part of new property tax revenues generated in the tax increment financing district are used to provide or support publicly and privately owned affordable housing in the district or is used to provide infrastructure projects to support publicly and privately owned affordable housing in the district. The term "affordable housing" as used herein means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

Obligations

SECTION 2. Section 31-12-210(F) of the S.C. Code is amended to read:

(F) The obligations must be issued not later than thirty-five years after the adoption of an ordinance by the municipality pursuant to Section 31-12-280 concurring in an authority's redevelopment plan.

Time effective

SECTION 3. This act takes effect July 1, 2025.

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 25

(R43, H3432)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 27-6-20, RELATING TO NONVESTED PROPERTY INTEREST OR POWER OF APPOINTMENT, SO AS TO INCREASE THE TIME AN INTEREST CAN VEST FROM NINETY YEARS TO THREE HUNDRED SIXTY YEARS; BY AMENDING SECTION 27-6-40, RELATING TO REFORMATION OF PROPERTY DISPOSITIONS, SO AS TO INCREASE THE TIME LIMIT FROM NINETY YEARS TO THREE HUNDRED SIXTY YEARS; BY AMENDING SECTION 62-7-504, RELATING TO DISCRETIONARY TRUSTS, SO AS TO PROVIDE CERTAIN SITUATIONS IN WHICH A BENEFICIARY OF A TRUST MAY NOT BE CONSIDERED A SETTLOR; BY AMENDING SECTION 62-7-505, RELATING TO CREDITORS' CLAIMS AGAINST A SETTLOR, SO AS TO PROVIDE THAT CERTAIN AMOUNTS PAID TO TAXING AUTHORITIES MAY NOT BE CONSIDERED AN AMOUNT THAT MAY BE DISTRIBUTED FOR THE SETTLOR'S BENEFIT; AND BY ADDING SECTION 62-7-508 SO AS TO PROVIDE FOR CERTAIN GRANTOR TRUST REIMBURSEMENTS.

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

Nonvested property interests

SECTION 1. Section 27-6-20 of the S.C. Code is amended to read:

Section 27-6-20. (A) A nonvested property interest is invalid unless:

(1) when the interest is created, it is certain to vest or terminate no later than twenty-one years after the death of an individual then alive; or

(2) the interest either vests or terminates within three hundred sixty years after its creation.

(B) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) when the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than twenty-one years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within three hundred sixty years after its creation.

(C) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) when the power is created, it is certain to be irrevocably exercised or to terminate no later than twenty-one years after the death of an individual then alive; or

(2) the power is irrevocably exercised or terminates within three hundred sixty years after its creation.

(D) In determining whether a nonvested property interest or a power of appointment is valid under subsection (A)(1), (B)(1), or (C)(1), the possibility that a child will be born to an individual after the individual's death is disregarded.

(E) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to disallow the vesting or termination of any interest or trust beyond, seeks to postpone the vesting or termination of any interest or trust until, or seeks to operate in effect in any similar fashion upon, the later of: (1) the expiration of a period of time not exceeding twenty-one years after the death of a specified life or the survivor of specified lives, or upon the death of a specified life or the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (2) the expiration of a period of time that exceeds or might exceed twenty-one years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds twenty-one years after the death of the survivor of the specified lives.

Reformation of property dispositions

SECTION 2. Section 27-6-40 of the S.C. Code is amended to read:

Section 27-6-40. Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the three hundred sixty years permitted by this chapter if:

(1) a nonvested property interest or a power of appointment becomes invalid under Section 27-6-20;

(2) a class gift is not but may become invalid under Section 27-6-20 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

(3) a nonvested property interest that is not validated by Section 27-6-20(A)(1) can vest but not within three hundred sixty years after its creation.

Discretionary trusts

SECTION 3. Section 62-7-504 of the S.C. Code is amended by adding:

(g) With respect to an irrevocable trust, whether created on, before, or after January 1, 2025, a beneficiary of a trust may not be considered to be a settlor, to have made a voluntary or involuntary transfer of the beneficiary's interest in the trust, or to have the power to make a voluntary or involuntary transfer of the beneficiary's interest in the trust merely because the beneficiary, in any capacity, holds or exercises a testamentary power of appointment.

Spendthrift provisions

SECTION 4. Section 62-7-505 of the S.C. Code is amended to read:

Section 62-7-505. (a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(2) With respect to an irrevocable trust, whether created on, before, or after January 1, 2025:

(A) except as otherwise provided in this section, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may

reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution; and

(B) notwithstanding subitem (A), the trustee's discretionary authority to pay directly to the taxing authorities or to reimburse the settlor for any tax on trust income or trust principal that is payable by the settlor under the law imposing the tax may not be considered to be an amount that can be distributed to or for the settlor's benefit.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, and except to the extent state or federal law exempts any property of the trust from claims, costs, expenses, or allowances, the property held in a revocable trust at the time of the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances, unless barred by Section 62-3-801, et seq.

(b) For purposes of this section:

(1) a beneficiary who is a trustee of a trust, but who is not the settlor of the trust, cannot be treated in the same manner as the settlor of a revocable trust if the beneficiary-trustee's power to make distributions to the beneficiary-trustee is limited by an ascertainable standard related to the beneficiary-trustee's health, education, maintenance, and support;

(2) the assets in a trust that are attributable to a contribution to an inter vivos marital deduction trust described in either Section 2523(e) or (f) of the Internal Revenue Code of 1986, after the death of the spouse of the settlor of the inter vivos marital deduction trust are deemed to have been contributed by the settlor's spouse and not by the settlor;

(3) that portion of a trust, whether created on, before, or after January 1, 2025, that can be distributed to or for the settlor's benefit solely because the settlor's interest in the trust was created by the settlor's spouse or by any third party, whether through the exercise of a power of appointment or otherwise is considered to have been contributed to the trust by the person exercising the power of appointment or otherwise creating the interest and not by the settlor.

Grantor trust reimbursements

SECTION 5. Chapter 7, Title 62 of the S.C. Code is amended by adding:

Section 62-7-508. (A)(1) Except as otherwise provided under the

terms of a trust, if all or any portion of the trust is treated as being owned by a person under Section 671 of the Internal Revenue Code or any similar federal, state, or other tax law, the trustee of such trust may, in the trustee's sole discretion, reimburse the person being treated as the owner for any amount of the person's personal federal, state, or other income tax liability which is attributable to the inclusion of the trust's income, capital gains, deductions, or credits in the calculation of the person's taxable income. In the trustee's sole discretion, the trustee may pay such tax reimbursement amount, determined without regard to any other distribution or payment made from trust assets, to the person directly or to the appropriate taxing authority.

(2) A life insurance policy held in the trust, the cash value of any such policy, or the proceeds of any loan secured by an interest in the policy may not be used for such reimbursement or such payment if the person being treated of the owners of such trust is an insured of such policy.

(B) This section applies to all trusts that are governed by the laws of this State or that have a principal place of administration within this State, whether created on, before, or after January 1, 2025, unless:

(1) the trust contains a provision prohibiting the trustee from reimbursing the grantor or paying taxes on behalf of the grantor;

(2) the trustee provides written notification that the trustee intends to irrevocably elect out of the application of this section at least ninety days before the effective date of such election which notice period may be waived by the persons to whom notice is required to the person treated as the owner of all or a portion of the trust under Section 671 of the Internal Revenue Code or any similar federal, state, or other tax law and to all persons who have the ability to remove and replace the trustee; or

(3) applying this section would prevent a contribution to the trust from qualifying for, or would reduce, a federal tax benefit, including a federal tax exclusion or deduction, which was originally claimed or could have been claimed for the contribution, including:

(a) an exclusion under Sections 2503(b) or 2503(c) of the Internal Revenue Code;

(b) a marital deduction under Sections 2056, 2056A, or 2523 of the Internal Revenue Code;

(c) a charitable deduction under Sections 170(a), 642(c), 2055(a), or 2522(a) of the Internal Revenue Code; or

(d) direct skip treatment under Section 2642(c) of the Internal Revenue Code.

(C) A trustee may not exercise, or participate in the exercise of, the powers granted by this section with respect to any trust if any of the

following applies:

(1) the trustee is treated as the owner of all or part of such trust under Section 671 of the Internal Revenue Code or any similar federal, state, or other tax law;

(2) the trustee is a beneficiary of such trust; or

(3) the trustee is a related or subordinate party, as defined in Section 672(c) of the Internal Revenue Code, with respect to a person described in item (1) or (2) who is treated as the owner of all or part of such trust under Section 671 of the Internal Revenue Code or any similar federal, state, or other tax law or with respect to a beneficiary of such trust.

(D) If the terms of a trust require the trustee to act at the direction or with the consent of a trust advisor, a protector, or any other person, or that the decisions addressed in this section be made directly by a trust advisor, a protector, or any other person, the powers granted by this section to the trustee must instead or also be granted, as applicable under the terms of the trust, to the advisor, protector, or other person subject to the limitations set forth in subsection (C), which must be applied as if the advisor, protector, or other person were a trustee.

(E) A person may not be considered a beneficiary of a trust solely by reason of the application of this section, including for purposes of determining the elective share.

(F) The provisions of Section 62-7-109 regarding notices and the sending of documents to persons under this article apply for the purposes of notices and the sending of documents under this section.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 26

(R44, H3472)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62-3-1201, RELATING TO COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT, SO AS TO INCREASE THE LIMIT OF ESTATES TO FORTY-FIVE THOUSAND DOLLARS; BY AMENDING SECTION 62-3-1203, RELATING TO SMALL ESTATES AND SUMMARY ADMINISTRATIVE PROCEDURES, SO AS TO INCREASE THE LIMIT OF ESTATES TO FORTY-FIVE THOUSAND DOLLARS; BY AMENDING SECTION 62-3-1204, RELATING TO SMALL ESTATES AND CLOSING BY SWORN STATEMENT OF PERSONAL REPRESENTATIVES, SO AS TO INCREASE THE LIMIT OF ESTATES TO FORTY-FIVE THOUSAND DOLLARS; AND BY AMENDING SECTION 62-2-401, RELATING TO EXEMPT PROPERTIES, SO AS TO INCREASE THE LIMIT OF EXEMPT PROPERTIES TO FORTY-FIVE THOUSAND DOLLARS.

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

Collection of personal property by affidavit

SECTION 1. Section 62-3-1201 of the S.C. Code is amended to read:

Section 62-3-1201. (a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or the instrument evidencing the debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. Before this affidavit may be presented to collect the decedent's personal property, it must:

(1) state that the value of the entire probate estate (the decedent's property passing under the decedent's will plus the decedent's property passing by intestacy), wherever located, less liens and encumbrances, does not exceed forty-five thousand dollars;

(2) state that thirty days have elapsed since the death of the decedent;

(3) state that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(4) state that the claiming successor, which for the purposes of this section includes a person who remitted payment for reasonable funeral expenses, is entitled to payment or delivery of the property;

(5) be approved and countersigned by the probate judge of the county of the decedent's domicile at the time of his death, or if the decedent was not domiciled in this State, in the county in which the property of the decedent is located, and only upon the judge's satisfaction that the successor is entitled to payment or delivery of the property; and

(6) be filed in the probate court for the county of the decedent's domicile at the time of his death, or, if the decedent was not domiciled in this State, in the county in which property of the decedent is located.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

Small estates, summary administrative procedure

SECTION 2. Section 62-3-1203 of the S.C. Code is amended to read:

Section 62-3-1203. (a) If it appears from the inventory and appraisal that the value of the entire probate estate (the decedent's property passing under the decedent's will plus the decedent's property passing by intestacy), less liens and encumbrances, does not exceed forty-five thousand dollars and exempt property, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, after publishing notice to creditors pursuant to Section 62-3-801, but without giving additional notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in Section 62-3-1204.

(b) If it appears from an appointment proceeding that (1) the appointed personal representative, individually or in the capacity of a fiduciary, is either the sole devisee under the probated will of a testate decedent or the sole heir of an intestate decedent, or (2) the appointed personal representatives, individually or in their capacity as a fiduciary, are the sole devisees under the probated will of a testate decedent or the sole

heirs of an intestate decedent, the personal representative, after publishing notice to creditors as under Section 62-3-801, but without giving additional notice to creditors may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in Section 62-3-1204.

Small estates, closing by sworn statement of personal representative

SECTION 3. Section 62-3-1204 of the S.C. Code is amended to read:

Section 62-3-1204. (a) Unless prohibited by order of the court and except for estates being administered under Part 5 (Sections 62-3-501 et seq.), after filing an inventory with the court, and paying any court fees due, the personal representative may close an estate administered under the summary procedures of Section 62-3-1203 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) either

(i) to the best knowledge of the personal representative, the value of the entire probate estate (the decedent's property passing under the decedent's will plus the decedent's property passing by intestacy), less liens and encumbrances, did not exceed forty-five thousand dollars and exempt property, costs, and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent; or

(ii) the estate qualifies for summary administration according to the provisions of subsection (b) of Section 62-3-1203;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto;

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative is aware and whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no unresolved claims, actions or proceedings involving the personal representative are pending in any court one year after the date of the decedent's death, the appointment of the personal representative terminates.

Exempt property

SECTION 4. Section 62-2-401 of the S.C. Code is amended to read:

Section 62-2-401. The surviving spouse of a decedent who was domiciled in this State is entitled from the estate to a value not exceeding forty-five thousand dollars in excess of any security interests therein in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, minor or dependent children of the decedent are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than forty-five thousand dollars, or if there is not forty-five thousand dollars worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the forty-five thousand dollar value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate except claims described in Section 62-3-805(a)(1). These rights are in addition to any right of homestead and personal property exemption otherwise granted by law but are chargeable against and not in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession, or by the elective share. Any surviving spouse or minor or dependent children of the decedent who fails to survive the decedent by one hundred twenty hours is deemed to have predeceased the decedent for purposes of this section.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 27

(R45, H3947)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-57-340, RELATING TO BIENNIAL CONTINUING EDUCATION REQUIREMENTS FOR LICENSURE RENEWAL BY THE REAL ESTATE COMMISSION, SO AS TO PROVIDE NONRESIDENT BROKERS AND NONRESIDENT ASSOCIATES WHO SUCCESSFULLY SATISFY CONTINUING EDUCATION REQUIREMENTS OF THEIR JURISDICTION OF RESIDENCE MAY BE EXEMPT FROM THE CONTINUING EDUCATION REQUIREMENTS OF THIS STATE WITH APPROVAL OF THE COMMISSION; AND BY ADDING SECTION 40-57-345 SO AS TO PROVIDE CERTAIN LICENSEES WITH AN EXPIRED LICENSE MAY APPLY FOR LICENSE RENEWAL IF THEY WERE IN GOOD STANDING, WERE LICENSED IN THIS STATE FOR AT LEAST TWENTY-FIVE YEARS, AND WERE AT LEAST SIXTY-FIVE YEARS OF AGE AT THE TIME OF EXPIRATION, TO PROVIDE SUCH APPLICANTS FOR RENEWAL MUST PAY A RENEWAL FEE, AND TO EXEMPT LICENSEES MEETING THESE REQUIREMENTS FROM CONTINUING EDUCATION REQUIREMENTS.

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

Continuing education requirements for nonresident brokers and associates

SECTION 1. Section 40-57-340(B)(1) of the S.C. Code is amended to read:

(1) Exempt from the biennial continuing education required by subsection (A) are:

(a) an associate who successfully completes a post-licensing course or takes a broker course is exempt for the renewal period during which the course was taken;

(b) a licensee while on inactive status;

(c) a broker or associate with twenty-five years or more of licensure in South Carolina who is sixty-five years of age or more may apply for an age and experience-based full continuing education waiver,

and upon granting of the waiver, is exempt from the continuing education requirements of this chapter;

(d) a broker or associate with a minimum of twenty-five years of licensure in South Carolina who may apply to be granted an experience-based partial continuing education waiver, and upon granting of the waiver, is required to complete only a mandatory four-hour core course biennially to maintain active licensure; or

(e) a nonresident broker or a nonresident associate who has successfully satisfied the continuing education requirements of their jurisdiction of residence may be exempt with approval of the commission.

Expired license renewals, fees, continuing education exemption

SECTION 2. Chapter 57, Title 40 of the S.C. Code is amended by adding:

Section 40-57-345. An individual with an expired license who, at the time of expiration, was in good standing, has twenty-five years or more of licensure in South Carolina, and who is sixty-five years of age, may apply to the Real Estate Commission for a renewal of the expired license. The applicant must pay the renewal fee as provided by law. Upon renewal, the licensee is exempt from continuing education requirements as provided by law.

Time effective

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

Ratified the 6th day of May, 2025

Approved the 8th day of May, 2025

No. 28

(R46, S77)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-19-85 SO AS TO PROMOTE PUBLIC ACCESS TO SCHOOL BOARD MEETINGS BY REQUIRING SCHOOL BOARDS TO ADOPT AND IMPLEMENT POLICIES THAT PROVIDE LIVESTREAM OR ALTERNATE ELECTRONIC MEANS TRANSMISSION OF SUCH MEETINGS, AND TO PROVIDE RELATED REQUIREMENTS OF THE STATE BOARD OF EDUCATION; AND TO REQUIRE THE PROVISIONS OF THIS ACT MUST BE IMPLEMENTED BEFORE JANUARY 1, 2026.

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

School board meeting livestream mandate, policies, funding

SECTION 1. Chapter 19, Title 59 of the S.C. Code is amended by adding:

Section 59-19-85. (A) Each public school governing body, including the governing bodies of charter schools and special schools, must make reasonable efforts to ensure the entirety of all meetings subject to the provisions of the South Carolina Freedom of Information Act are open and accessible to the public and also available by means of live video and audio electronic access, hereafter referred to as livestream access, except during a lawful executive session.

(B) If a governing body cannot provide such livestream access to the public despite making reasonable efforts to restore livestream access during the meeting, it must make a clear audio and video recording of the meeting in its entirety available on its website as soon as practicable and in no more than seven days after the meeting.

(C) The State Board of Education shall adopt, and revise as necessary, a model livestream meeting policy suitable for governing bodies of public schools, including charter and special schools, to comply with provisions in this section. The policy must include, at a minimum:

(1) resources, recommendations, and best practices facilitating requirements for all portions of livestreamed meetings to be visible and audible in real time and subsequently posted on applicable websites no more than two business days of the meeting;

(2) suggested approaches for developing and implementing ability and expanding or improving existing livestream capacity;

(3) publicizing availability of livestreamed meetings;

(4) allowances for executive sessions;

(5) penalties for policy violations or noncompliance not to exceed one percent of state funds to the district, charter school, or special school, with escalating tiers based on frequency, duration, and severity; and

(6) the process for allowing a governing body with evidence of limited or no broadband access to request approval from the State Board of Education for up to an additional twelve months to comply with provisions in this section.

(D)(1) Each public school governing body, including the governing bodies of charter schools and special schools, shall adopt a local policy applicable to its meetings within three months after adoption of the model policy by the State Board of Education. A local policy must include, at a minimum, the State Board of Education model policy.

(2) If the State Board of Education adopts a revision to the model policy, then the public school governing body shall adopt and incorporate the revision into its local policy within three months after the adoption of the revision by the State Board of Education.

(3) A public school governing body only may adopt or revise its local policy at a regularly scheduled meeting, which must be successfully livestreamed.

(4) A public school governing body may not adopt or follow a livestream policy that prevents or impedes in-person participation by the public.

(5) Within thirty days after adoption of a local policy or revision to the policy, a public school governing body shall submit a copy of the policy or revision to the State Superintendent of Education for State Board of Education approval.

(E) Funding by the State will be provided to those school districts without streaming capabilities as of the beginning of the 2024-2025 school year.

Implementation deadline

SECTION 2. The provisions of this act must be implemented by January 1, 2026.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 29

(R47, S78)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-25-60 SO AS TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL AWARD YEARS OF EXPERIENCE CREDIT FOR CERTAIN RELEVANT NON-TEACHING OCCUPATIONAL EXPERIENCE TO CERTIFICATES OF EDUCATORS WHO SATISFY CERTAIN REQUIREMENTS, AND TO PROVIDE SUCH EXPERIENCE CREDIT MAY BE AWARDED SOLELY FOR THE PURPOSE OF ADVANCEMENT ON THE TEACHER SALARY SCHEDULE, TO PROVIDE OTHER EXISTING CERTIFICATION REQUIREMENTS REMAIN UNCHANGED BY THIS ACT; AND TO PROVIDE DIRECTIVES TO THE STATE DEPARTMENT OF EDUCATION CONCERNING THE IMPLEMENTATION OF THIS ACT.

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

Non-teaching occupational experience credit, requirements, eligibility, scope limitations

SECTION 1. Chapter 25, Title 59 of the S.C. Code is amended by adding:

Section 59-25-60. (A) When reviewing an application by an individual for an educator certificate, the State Department of Education shall award years of experience on the educator certificate for

non-teaching occupational experience in, or related to, the content field of the certificate for which the individual qualifies. One year of experience credit may be awarded for every two years of full-time relevant occupational experience completed by the individual. Years of experience shall be awarded solely for the purpose of advancement on the teacher salary schedule. Except for individuals seeking work-based certification, educator experience credit and relevant occupational experience eligible for educator experience credit must have been earned after the conferral of a bachelor's degree from a college or university meeting State Board of Education accreditation requirements. To be eligible for years of experience on the educator certificate, the individual must complete and submit a verification of relevant occupational experience form developed by the State Department of Education with the application for an educator certificate.

(B) Individuals who entered the teaching profession prior to July 1, 2025, with non-teaching occupational experience in, or related to, the content field of their teaching certificate may complete and submit the verification of relevant occupational experience form to the State Department of Education to have additional years of experience added to their certificate for the purposes of advancing on the teacher salary schedule. If additional years of experience are awarded, the eligible individual is entitled to have his pay adjusted at the beginning of the next school year, from the effective date of the adjustment, to reflect the new experience step on the employing district's salary schedule. However, the individual is not entitled to retroactive pay for the increased years of experience during prior years of teaching or for any purpose other than advancement on the teacher salary schedule.

(C) Nothing in this section alters any existing requirements for receiving an educator certificate. Individuals with the occupational experience identified in subsection (A) must still meet all other existing requirements in order to receive an educator certificate.

(D) Nothing in this section shall be interpreted as allowing additional years of experience to be awarded for purposes other than advancement on the teacher salary schedule. Years of experience awarded pursuant to this section for relevant occupational experience are not considered service credit for the purposes of the state retirement or state health plans administered by PEBA.

State Department of Education directive

SECTION 2. The State Department of Education shall not add a full-time equivalent (FTE) position or partial FTE to evaluate and

process certification requests as required to implement the provisions of this act.

State Department of Education directive

SECTION 3. The State Department of Education shall develop guidelines for purposes of implementation of this act and make available the non-teaching occupational experience verification form described in this act no later than one hundred eighty days after the approval by the Governor.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 30

(R48, S79)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-18-1115 SO AS TO ESTABLISH A FIVE-YEAR PILOT PROGRAM TO PERMIT PUBLIC SCHOOL DISTRICTS TO HIRE NONCERTIFIED TEACHERS IN A RATIO UP TO TEN PERCENT OF THE ENTIRE TEACHING STAFF OF THE DISTRICT, AND TO PROVIDE RELATED PARTICIPATION AND IMPLEMENTATION REQUIREMENTS, AMONG OTHER THINGS; AND BY ADDING SECTION 23-3-90 SO AS TO PROVIDE REQUIREMENTS FOR STATE AGENCY REQUESTS OF CRIMINAL HISTORY RECORD CHECKS.

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

Noncertified Teacher Pilot Program, requirements, duration, implementation

SECTION 1. Chapter 18, Title 59 of the S.C. Code is amended by adding:

Section 59-18-1115. (A) The Department of Education is directed to establish a five-year pilot program by May 1, 2025, that will permit a school to hire noncertified teachers in a ratio of up to ten percent of its entire teaching staff. This pilot does not include individuals seeking employment as work-based, career, and technical education teachers. The State Board of Education, through the Department of Education, shall approve guidelines that at a minimum include the following:

(1) the requirement that a noncertified teacher must possess a suitable baccalaureate or graduate degree for the position he is hired to teach and must have at least five years of relevant workplace experience;

(2) procedures for requiring noncertified teachers to participate in the evaluation process pursuant to Section 59-26-30(B)(4) and (5);

(3) initial and ongoing training and support requirements; and

(4) the requirement that a noncertified teacher must demonstrate enrollment in an educator certification program within three years of employment, including any state-approved alternative or traditional route program.

(B) Participation in the pilot program is optional, and the decision to participate rests solely with the Department of Education and the school principal, upon approval of the district superintendent. Participating schools and districts are encouraged to collaborate on recruitment, training, and implementation of the pilot program and to assist the Department of Education with establishing best practices.

(C) The Department of Education shall establish a separate code in the professional coding system to capture noncertified teachers and shall continue to report this information on school report cards.

(D) Beginning November 1, 2026, the Department of Education shall submit an annual report that includes recommendations for improving, expanding, or continuing the pilot program to the General Assembly. The annual status report submitted by November 1, 2029, shall include a recommendation regarding continuance of the program beyond June 30, 2030.

(E)(1) The Department of Education shall establish procedures for the registration, clearance, and approval of all noncertified teachers working in any public school pursuant to this section. Teachers shall submit the required documentation and fees to the Department of Education, which

shall include, but are not limited to:

(a) a completed registration form;

(b) any associated fee; and

(c) transcripts, which shall be subject to review.

(2) An individual applying for registration as a noncertified teacher must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal record checks must be reported to the Department of Education. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The Department of Education shall keep information received pursuant to this section confidential, except that such information may be disclosed to the State Board of Education as may be necessary. The results of these criminal record checks must not be shared outside the department.

(3) An individual whose South Carolina educator certificate has been suspended or revoked shall not be employed as a noncertified teacher during the term of suspension or revocation. If a noncertified teacher is dismissed, resigns, or is otherwise separated from employment with a district following allegations of misconduct, the district superintendent shall report to the Chair of the State Board of Education and the State Superintendent of Education the educator's name and registration information. Upon a finding of just cause as defined in Section 59-25-160, the State Board of Education is authorized to revoke the noncertified teacher's registration.

(F) The Department of Education shall not add a full-time equivalent (FTE) position or partial FTE position to implement the provisions of this section.

State agency criminal history record check requests

SECTION 2. Chapter 3, Title 23 of the S.C. Code is amended by adding:

Section 23-3-90. (A) Notwithstanding any other provision of law, this section governs the authorizations and procedures that apply when an agency in this State is authorized by statute to request state and federal criminal history record checks to be conducted by the State Law

Enforcement Division (SLED) and the Federal Bureau of Investigations (FBI), supported by fingerprints.

(B) SLED is authorized to retain these fingerprints and to provide notification to authorized recipients of any criminal history record changes. Retained fingerprints may be searched by future submissions to SLED, including latent fingerprint searches, and appropriate responses may be sent to authorized recipients.

(C) SLED, upon the request of an authorized recipient, may submit fingerprints collected to the FBI's Next Generation Identification (NGI) system and the FBI is authorized to retain these fingerprints within the NGI system. Retained fingerprints may be searched by future submissions to the NGI system, including latent fingerprint searches, and appropriate responses may be sent to SLED and authorized recipients.

(D) The results of these criminal history record checks and notifications must only be reported to SLED and authorized recipients and cannot be further disseminated.

(E) SLED may charge a reasonable fee for the collection and retention of fingerprints. SLED may charge an additional reasonable fee to agencies who elect to receive notifications from the NGI system.

(F) The following definitions apply to this section:

(1) "Agency" means offices, departments, bureaus, and other subdivisions associated with a particular government agency's organizational structure.

(2) "Authorized recipients" means the agency authorized to receive criminal history record information (CHRI) by a statute that has been approved by the FBI pursuant to Pub. L. 92-544 or any other applicable federal law.

Construction of act

SECTION 3. Nothing contained in this section may be construed to repeal, replace, or preclude application of any other statute.

Time effective, Pilot Program expiration

SECTION 4. This act takes effect upon approval by the Governor. SECTION 1 of this bill shall remain in effect until June 30, 2030, unless extended by the General Assembly.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 31

(R49, S89)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-11-100, RELATING TO SOUTH CAROLINA MILITARY BASE TASK FORCE, SO AS TO RENAME THE TASK FORCE THE SOUTH CAROLINA MILITARY AFFAIRS ADVISORY COUNCIL, TO REVISE THE COUNCIL'S MISSON, TO INCREASE THE MEMBERSHIP ON THE COUNCIL, TO MANDATE THAT THE COUNCIL MEETS AT LEAST ONE TIME EACH CALENDAR YEAR, AND TO MAKE CONFORMING CHANGES.

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

Military Affairs Advisory Council

SECTION 1. Section 25-11-100 of the S.C. Code is amended to read:

Section 25-11-100. (A) There is hereby established the South Carolina Military Affairs Advisory Council for the purpose of sustaining and expanding the military presence in South Carolina. The council shall coordinate with military communities to support mission readiness for installations and improve the quality of life for service members and their families. The council shall coordinate efforts among the public and the private sectors to maintain the significant presence of the United States Department of Defense and the United States Department of Homeland Security in South Carolina. The council shall advise the secretary, Governor, and the General Assembly on any issues and strategies related to military base closures, realignments, and mission changes.

(B)(1) The council shall be comprised of the following members or their designees:

(a) South Carolina Adjutant General;

(b) Secretary of the South Carolina Department of Commerce;

(c) Executive Director of the South Carolina Chamber of Commerce;

(d) Chief Executive Officer of the Aiken Chamber of Commerce;

(e) Chief Executive Officer of the Beaufort Chamber of Commerce;

(f) Chief Executive Officer of the Charleston Metro Chamber of Commerce;

(g) Chief Executive Officer of the Columbia Chamber of Commerce;

(h) Chief Executive Officer of the Sumter Chamber of Commerce;

(i) Chairperson of the Aiken County Council;

(j) Chairperson of the Beaufort County Council;

(k) Chairperson of the Berkeley County Council;

(l) Chairperson of the Dorchester County Council;

(m) Chairperson of the Charleston County Council;

(n) Chairperson of the Richland County Council;

(o) Chairperson of the Sumter County Council;

(p) Chairperson of the Edgefield County Council;

(q) Mayor of North Augusta;

(r) Mayor of Beaufort;

(s) Mayor of Charleston;

(t) Mayor of Columbia;

(u) Mayor of North Charleston;

(v) Mayor of Port Royal;

(w) Mayor of Sumter;

(x) one or more members of the Senate or the House of Representatives appointed by the Governor; and

(y) six at-large members appointed by the Governor who have demonstrated experience in one or more of the following areas: economic development, defense industry, military installation operation, environmental issues, finance, local government, or senior military leadership, of whom:

(i) five shall represent, respectively, the five military counties of Aiken, Beaufort, Charleston, Richland, and Sumter, and each shall reside in the military county that he is appointed to represent; and

(ii) the sixth at-large member shall serve as the task force chairman.

(2) The secretary may designate any one of the members of the council as its vice chairman.

(C) Staff support and other resources as necessary may be provided through funding by the General Assembly and/or other resources, which shall be administered by the department to assist the council in carrying out the directives of this section.

(D) The council's executive committee shall consist of the chairman; vice chairman, if any; Adjutant General, or his designee; Secretary of Commerce, or his designee; and the five at-large council members who represent the five military counties of Aiken, Beaufort, Charleston, Richland, and Sumter.

(E) The council executive committee shall also act as an executive advisory committee to the secretary and the General Assembly on various military matters that affect this State and shall coordinate an annual meeting between the secretary, Governor, military commanders, and General Assembly members geographically representing military communities to discuss items of interest to all parties and exchange pertinent information on the current climate and challenges facing our state's military installations and their personnel.

(F) Upon the approval of the secretary, the council may pursue specialists to provide information and assistance, develop strategic plans, and assist in executing strategies to support military installations and their related military communities to maximize the potential for increased investment by the United States Department of Defense or other defense-related federal agencies and defense-related businesses in this State.

(G) The council shall convene no less than once every calendar year at such times as requested by the council's chairperson, secretary, or the Governor.

(H) Members of the executive committee shall be recommended by the county legislative delegation to the Governor for consideration for appointment.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 32

(R50, S101)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-80-10, RELATING TO DEFINITIONS IN THE SOUTH CAROLINA FIREFIGHTERS EMPLOYMENT AND REGISTRATION ACT, SO AS TO REVISE THE DEFINITION OF "FIRE DEPARTMENT"; BY AMENDING SECTION 40-80-40, RELATING TO FIREFIGHTER REGISTRATION REQUIREMENTS, SO AS TO MAKE A TECHNICAL CLARIFICATION; AND BY AMENDING SECTION 40-80-50, RELATING TO FIREFIGHTER REGISTRATION INFORMATION AND DOCUMENTATION REQUIREMENTS, SO AS TO DELETE THE REQUIREMENT THAT A DRIVER'S LICENSE REQUIRED FOR DOCUMENTATION MUST BE ISSUED BY THIS STATE.

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

Definitions

SECTION 1. Section 40-80-10(B) of the S.C. Code is amended to read:

(B) For purposes of this chapter:

(1) "Employer" means any fire department which puts an individual or employee in service as a firefighter or assigns any person to work or to official duties as a firefighter whether or not the firefighter receives financial compensation.

(2) "Employment date" means the date the fire chief certifies the firefighter has been added to the fire department's roster as a recruit or is trained and prepared to perform firefighting duties.

(3) "Fire chief" means the highest ranking officer or official in charge of a fire department, whether or not called by some other title.

(4) "Fire department" means any legally organized fire department or fire service in this State that:

(a) engages in fire suppression and other related fire service activities;

(b) provides fire protection to a dedicated response district, other than their own property, and must be officially recognized, created, or chartered by a town, municipality, county, or the State;

(c) has a Public Protection Classification (PPC) rating through the Insurance Services Office (ISO). This rating may be as an individual department or in conjunction with neighboring districts;

(d) is dispatched by a 911 dispatch center or a local government-owned Public Safety Answering Point (PSAP). Effective no later than July 1, 2026, the fire department must be verified by the State Fire Marshal's Office and issued a valid South Carolina Fire Department (SCFD) number and is eligible for a National Emergency Response Information System (NERIS) number; and

(e) is registered and maintains a roster of its members with both the State Fire Marshal and the South Carolina State Firefighters' Association.

(5) "Firefighter" means any person, male or female, paid or unpaid, who engages in rescue, fire suppression, or related activities under the supervision of a fire chief or fire department.

(6) "Firefighting duties" means duties relating to rescue, fire suppression, public safety, and related activities as assigned by a fire chief.

Registration requirements

SECTION 2. Section 40-80-40(C) of the S.C. Code is amended to read:

(C) A firefighter who works for or serves more than one fire department must be registered by each fire department.

Registration information and documentation requirements

SECTION 3. Section 40-80-50 of the S.C. Code is amended to read:

Section 40-80-50. Upon recommendation of a fire chief or other employer, the Office of the State Fire Marshal must register each firefighter subject to the provisions of Sections 40-80-30 and 40-80-40. The Office of the State Fire Marshal must maintain as minimum information on each firefighter the complete name, the date of birth, the social security number, a valid driver's license number, the employer, and the date of employment or membership. The Office of the State Fire Marshal must notify the chief of the employing fire department or other employer of the registration. This notification may be transmitted electronically or in written form. The fire chief must utilize forms as required and provided by the Office of the State Fire Marshal.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 33

(R51, S171)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 3 TO CHAPTER 75, TITLE 39 SO AS TO PROVIDE REQUIREMENTS FOR WASTE TIRE MANIFESTS AND RELATED PROVISIONS; BY ADDING ARTICLE 5 TO CHAPTER 75, TITLE 39 SO AS TO PROHIBIT THE INSTALLATION OF UNSAFE USED TIRES, AND RELATED PROVISIONS; BY AMENDING SECTION 44-96-170, RELATING TO WASTE TIRES, SO AS TO PROVIDE THAT A COUNTY MAY CHARGE UP TO FOUR HUNDRED DOLLARS AS A TIPPING FEE; BY AMENDING SECTION 44-96-170, RELATING TO WASTE TIRES, SO AS TO AMEND THE COLLECTION OF THE FEE TO INCLUDE USED TIRES, TO PROVIDE FOR THE APPLICATION OF THE WASTE TIRE FEE AND RELATED WASTE TIRE FUNDS, TO REMOVE THE REBATE PROVISIONS, AND TO PROVIDE FOR THE DEVELOPMENT OF A STATEWIDE MARKET INFRASTRUCTURE FOR TIRE-DERIVED PRODUCTS; AND TO DIRECT THE CODE COMMISSIONER TO MAKE CONFORMING CHANGES.

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

Waste tire hauling and unsafe tires

SECTION 1. Chapter 75, Title 39 of the S.C. Code is amended by adding:

Article 3

Waste Tire Hauling

Section 39-75-100. For the purposes of this chapter:

(1) "Department" means the Department of Environmental Services.

(2) "Manifest" means a record that contains all information required by the department including, but not limited to, an accurate measurement of the number of tires being transported, the type or types of tires, the date the tires originated from or reached their destination, and the origin and intended final destination of the tires, in a format approved by the department.

(3) "Waste tire" has the same meaning as in Section 44-96-40(67).

(4) "Waste tire facility" means a waste tire collection, disposal, processing, or recycling facility as defined in Section 44-96-40(68), waste tire site as defined in Section 44-96-40(70), or a waste tire treatment site as defined in Section 44-96-40(71).

(5) "Waste tire generator" means any person whose action or process produces a waste tire.

(6)(a) "Waste tire hauler" means a person engaged in picking up or transporting fifteen or more waste tires at a time for the purpose of collection, storage, processing, or disposal at a waste tire facility. A waste tire hauler must comply with the manifest requirements contained in this article and display a decal as provided in Section 39-75-140.

(b) "Waste tire hauler" does not apply to a person hauling waste tires pursuant to a municipality's sanctioned tire clean-up event, to a county's waste tire clean-up enforcement efforts, as provided in Section 44-96-170(D), the South Carolina Department of Transportation, or to a person hauling regrooved or regroovable tires as provided in Article 1, Chapter 39 of this title.

Section 39-75-110. (A) A waste tire hauler transporting waste tires for handling, altering, storage, recycling, or disposal must complete a manifest and submit it to the department as provided in subsection (B)(2) of this section. The manifest must also be readily accessible in the transporting vehicle during transportation by paper copy or electronic means. The manifest shall be shown upon demand to any representative of the department or law enforcement.

(B)(1) For each load of waste tires, a waste tire hauler shall provide the completed manifest in a format approved by the department to the waste tire generator, or to the waste tire facility, at the time of transfer.

(2) A waste tire hauler must maintain a copy of each completed

manifest or the completed manifest information in a manner approved by the department for a period of time required by the department, and shall submit to the department a legible copy of each manifest or the manifest information, in a format required by the department including, but not limited to, an electronic format, no later than sixty days after the completed waste tire transfer on a schedule determined by the department. The manifest or manifest information submitted to the department shall contain the signed acknowledgment of the waste tire facility from or to which waste or used tires were transferred.

Section 39-75-120. (A) A waste tire generator or a waste tire facility that transfers or receives waste tires from a waste hauler that was transported with a manifest pursuant to this article shall maintain copies of the manifest or manifest information in a format required by the department, and any other information the department deems necessary to track the flow of waste tires through the State, for each load of waste tires transferred or received. This information must be retained for a period of three years and must be made available to the department for review at the department's request. The copy submitted to the department shall contain the approval of each transporter and the generator or facility operator.

(B) Each waste tire generator or facility that transfers waste tires to a waste tire hauler or that receives waste tires from a waste tire hauler that were transported with a manifest pursuant to this section shall check that the information on the manifest or in the manifest information recorded by the waste tire hauler is correct at the time of transfer in a manner required by the department.

Section 39-75-130. (A) The department shall develop and implement a system for auditing manifests submitted to the department pursuant to this article, for the purpose of enforcing this article. The department shall continuously conduct random sampling and matching of manifests submitted by any person generating waste, hauling waste, or operating waste tire facilities, to assure compliance with this section.

(B)(1) The department may require any waste tire generator, waste tire hauler, or operator of a waste tire facility who is subject to the manifest requirements of this section to record, maintain, and submit the required manifest information in an electronic format, in lieu of maintaining and submitting a paper copy of the manifest.

(2) A waste tire generator, waste tire hauler, or operator of a waste tire facility who is subject to this article may submit the electronic manifest reports to the department on a schedule determined by the

department.

Section 39-75-140. (A) A waste tire hauler must affix to its hauling vehicle a decal displaying the waste tire hauler's registration or identification number and the decal's expiration date. The decal must be conspicuously displayed on the rear of the vehicle. The decal shall be designed and issued by the department to the waste tire haulers upon approval of applications for registration or renewal as provided in regulation. The department may charge a fee to defray the cost of the decal.

(B) A waste tire hauler transferring waste tires with an expired decal shall be subject to a delinquency penalty fee to the department of:

(1) if the waste tire hauler is delinquent less than fifteen days, ten dollars;

(2) if the waste tire hauler is delinquent by fifteen days but less than thirty days, twenty-five dollars;

(3) if the waste tire hauler is delinquent by more than thirty days but less than ninety days, fifty dollars; or

(4) if the waste tire hauler is delinquent by more than ninety days, seventy-five dollars.

Section 39-75-150. The department and the Department of Revenue shall work collaboratively to share data regarding fee collection, waste tire hauling, and disposal practices to ensure compliance with waste tire hauling requirements.

Article 5

Unsafe Used Tires

Section 39-75-200. It is unlawful for a person to install an unsafe used tire onto a passenger car or light truck in this State.

Section 39-75-210. (A) For the purposes of this article, "unsafe" means an inspection of the exterior or inner lining of the tire reveals:

(1) tread depth is worn to two thirty-seconds of an inch or less on any area of the tire;

(2) damage exposing the reinforcing plies of the tire, including cuts, cracks, bulges, or punctures;

(3) an improper repair that includes any repair to the tire in the belt edge area, a repair to the sidewall or bead area of the tire, or a puncture repair of damage that is larger than three-eighths of an inch in size;

(4) evidence of prior use of a temporary tire sealant without evidence of a subsequent properly-performed repair;

(5) a defaced or removed United States Department of Transportation tire identification number usually located on the sidewall of the tire;

(6) inner liner or bead damage, such as a blistered liner or inner cracks; or

(7) indication of internal separation, such as bulges, carcass-to-belt, or belt-to-belt separation.

(B) A recalled tire whose sale is prohibited by federal law is also considered "unsafe" for the purposes of this article.

Section 39-75-220. The provisions of this article do not apply to:

(1) a business selling used tires for retreading;

(2) a business or individual buying and selling motor vehicles or its parts, when the tires were mounted on the motor vehicle at the time the motor vehicle was bought, unless they are also engaged in the business of installing unmounted used tires onto a passenger car or light truck; or

(3) tires intended solely for agricultural use or for off the road use.

Section 39-75-230. The provisions contained in this article do not limit the liability pursuant to Chapter 73, Title 15 for businesses that sell used tires in violation of this chapter.

Section 39-75-240. Nothing in this article may be construed to create a private cause of action for negligence per se nor may it be construed to impair, limit, or affect common law rights or other statutory theories.

Waste tire fees

SECTION 2. Section 44-96-170(E) and (F) of the S.C. Code are amended to read:

(E) Counties are prohibited from imposing an additional fee on waste tires generated within the county. However, a county may impose an additional fee on waste tires, heavy equipment tires, and oversized tires that have a greater diameter than the largest tire with a Department of Transportation number. A fee may be charged on waste tires generated outside of South Carolina. Counties may require fleets to provide documentation for proof of purchase on in-state tires. For tires not included in documentation, an additional tipping fee may be charged. Counties may charge a tipping fee of up to four hundred dollars a ton for

waste tires originating outside of the State, for non-USDOT tires, and for those tires submitted to the county for disposal for which no fee has been paid otherwise.

(F) Counties may charge a tipping fee of up to four hundred dollars per ton for waste tires sold or used in the county when, by local ordinance, the county prohibits the acceptance of tires with documentation. When waste tires are accepted by a county, and proper documentation is provided, counties may charge a tipping fee of up to one hundred fifty dollars per ton for tires.

Used tire fees

SECTION 3. Section 44-96-170(N) through (S) of the S.C. Code are amended to read:

(N)(1) There is imposed a fee of two dollars for each new and used tire sold with a Department of Transportation number to the ultimate consumer, whether or not the tire is mounted by the seller. This fee is applicable to all unmounted tire sales. The wholesaler or retailer receiving new tires from unlicensed wholesalers is responsible for paying the fee imposed by this subsection. This fee shall not be collected on farm or agricultural tires, including tires designed for use in the production of farm products as defined in Section 46-1-75(E)(1).

(2) The Department of Revenue shall administer, collect, and enforce the tire recycling fee in the same manner that the sales and use taxes are collected pursuant to Chapter 36 of Title 12. The fee imposed by this subsection must be remitted on a monthly basis.

(3) The department shall deposit all fees collected to the credit of the State Treasurer who shall establish a separate and distinct account from the state general fund.

(4) The State Treasurer shall distribute one and one-half dollars for each tire sold, less applicable credit, refund, and discount, to each county based upon the population in each county according to the most recent United States Census. The county shall use these funds for collection, processing, or recycling of waste tires generated within the State.

(5) The remaining portion of the tire recycling fee is to be credited to the Solid Waste Management Trust Fund by the State Treasurer for the Waste Tire Grant Trust Fund, established under the administration of the Department of Environmental Services.

(6) The General Assembly shall review the waste tire disposal recycling fee every five years.

(7) For purposes of this subsection, “tire wholesaler” means any

person who sells or offers to sell new or used tires or tubes to tire retailers or other volume buyers for passenger and commercial vehicles to retailers. A tire wholesaler shall not engage in retail sales.

(O)(1) The department shall maintain the list of facilities known as the Waste Tire Facility List.

(2) The Waste Tire Facility List shall include department-permitted waste tire processing facilities that fulfill the requirements of a waste tire recycling facility, as defined in Section 44-96-40(68)(d), and facilities located outside of South Carolina that are permitted or approved by the host state and that also fulfill the requirements of a waste tire recycling facility, as defined in Section 44-96-40(68)(d).

(3) The department shall remove from the Waste Tire Facility List any facility whose permit has been revoked or suspended, until the permit has been reinstated by the department or host state. Retailers may contract with a waste tire hauler to collect, transport, and deliver waste tires to a department-permitted waste tire facility in accordance with the manifest requirements as provided in Article 3, Chapter 75 of Title 39.

(P)(1) The Office of Solid Waste Reduction and Recycling of the Department of Environmental Services may provide grants from the Waste Tire Trust Fund to counties which have exhausted all funds remitted to counties under Section 44-96-170(N), to regions applying on behalf of those counties and to local governments within those counties to assist in:

(a) constructing, operating, or contracting with waste tire processing or recycling facilities;

(b) removing or contracting for the removal of waste tires for processing or recycling;

(c) performing or contracting for the performance of research designed to facilitate waste tire recycling;

(d) the purchase or use of recycled products or materials made from waste tires generated in this State; or

(e) recruiting industries that utilize waste tires for alternative productive uses including, but not limited to, rubber modified asphalt to keep waste tires out of the solid waste stream.

(2) Grants from the Waste Tire Trust Fund may also be awarded to businesses or manufacturers that generate or process waste tires to develop, create, or otherwise utilize waste tires for alternative productive uses or tire-derived products including, but not limited to, rubber modified asphalt.

(3) Any business or manufacturer awarded a grant from the Waste Tire Fund must also satisfy relevant job creation requirements included in Section 12-6-3360.

(Q)(1) Waste tire grants must be awarded on the basis of written grant request proposals submitted to and approved, not less than annually, by the committee consisting of ten members appointed by the director of the department representing:

(a) the South Carolina Tire Dealers and Retreaders Association;

(b) the South Carolina Association of Counties;

(c) the South Carolina Association of Regional Councils;

(d) the Department of Environmental Services;

(e) the South Carolina Tire Manufacturers Council;

(f) the South Carolina Department of Commerce;

(g) a public interest environmental organization;

(h) the South Carolina Department of Natural Resources;

(i) the Office of the Governor; and

(j) the South Carolina Municipal Association.

(2) Members of the committee shall serve for terms of three years and until their successors are appointed and qualify.

(3) Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. The representative of the department shall serve as chairman. The committee shall review grant requests and proposals and make recommendations on grant awards to the State Solid Waste Advisory Council. Grants must be awarded by the State Solid Waste Advisory Council.

(R)(1) Notwithstanding subsection (N), the department may use funds from the Waste Tire Trust Fund to fund activities of the department to implement provisions of this section to promote the recycling of waste tires and to develop a sustainable statewide market infrastructure for tire-derived products as provided in item (2).

(2) The department shall collaborate with the South Carolina Department of Commerce to identify, pursue, and develop a statewide market infrastructure for tire-derived products. The departments shall:

(a) develop a state plan for the efficient and effective management of waste tires with priority focus on market development;

(b) develop a comprehensive and diversified approach to market development for targeting higher end uses for waste tires and a circular tire economy in consultation with representatives from:

(i) the South Carolina Department of Transportation;

(ii) the state’s asphalt paving industry;

(iii) the Recycling Market Development Advisory Council pursuant to Section 13-1-380;

(iv) county governments;

(v) state public colleges and universities;

(vi) waste tire recyclers;

(vii) new tire retailers and processors;

(viii) South Carolina's tire manufacturers;

(ix) United States' tire manufacturers; and

(x) other appropriate stakeholders as determined by the department.

(c) promote the economic and environmental benefits of waste tire recycling; and

(d) establish specific goals and objectives for the State to achieve to align with national percentages in reuse markets.

(3) The use of these funds must be reviewed annually by the Waste Tire Committee and the Solid Waste Advisory Council. The Recycling Market Development Advisory Council and the Solid Waste Advisory Council also may make recommendations to the department for use of these funds.

(S) The department shall establish by regulation recordkeeping and reporting requirements for waste tire haulers, as provided in Sections 39-75-110 and 39-75-140, and collection, processing, recycling, and disposal facilities.

Code Commissioner note

SECTION 4. The Code Commissioner is directed to change the following headings in the S.C. Code:

(1) Chapter 75, Section 39-75-10 through 39-75-50, shall be styled as "Article 1, Regrooved and Regroovable Tires"; and

(2) Chapter 75, Title 39 shall be styled as "Tires."

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 34

(R52, S176)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-2-30, RELATING TO REQUIREMENTS FOR USE OF PROFESSIONAL DESIGNATIONS FOR CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTS, SO AS TO APPLY THESE REQUIREMENTS TO USAGES IN ELECTRONIC FILES AND METADATA; BY AMENDING SECTION 40-2-35, RELATING TO REQUIREMENTS FOR LICENSURE BY THE BOARD OF ACCOUNTANCY, SO AS TO REVISE THE EDUCATIONAL AND EXPERIENCE REQUIREMENTS, TO REVISE REQUIREMENTS CONCERNING THE UNIFORM CERTIFIED PUBLIC ACCOUNTANT EXAM REQUIREMENTS; BY AMENDING SECTION 40-2-40, RELATING TO ENTITIES REQUIRED TO REGISTER WITH THE BOARD TO PRACTICE AS CERTIFIED PUBLIC ACCOUNTING FIRMS, SO AS TO REQUIRE SUCH REGISTRATION OF FIRMS THAT PERFORM COMPILATION SERVICES, AND TO PROVIDE OWNERSHIP OF SUCH FIRMS MAY BE HELD THROUGH A REVOCABLE GRANTOR TRUST; BY AMENDING SECTION 40-2-70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO ADD REVIEW AND PROVIDE INPUT ON PROPOSED LEGISLATIVE CHANGES RELATED TO THE PRACTICE OF ACCOUNTING AS A POWER OF THE BOARD; BY AMENDING SECTION 40-2-80, RELATING TO INVESTIGATIONS OF COMPLAINTS OR OTHER INFORMATION SUGGESTING VIOLATIONS, SO AS TO PROVIDE INSPECTOR-INVESTIGATORS MUST HAVE BEEN LICENSED AS CERTIFIED PUBLIC ACCOUNTANTS FOR AT LEAST THE PREVIOUS FIVE YEARS; BY AMENDING SECTION 40-2-240, RELATING TO REQUIREMENTS FOR PERSONS LICENSED IN OTHER JURISDICTIONS TO OBTAIN LICENSURE BY THE BOARD, SO AS TO PROVIDE RECIPROCITY LICENSURE REQUIREMENTS; BY AMENDING SECTION 40-2-245, RELATING TO REQUIREMENTS FOR PERSONS LICENSED IN OTHER JURISDICTIONS TO PRACTICE IN THIS STATE WITHOUT LICENSURE BY THE BOARD, SO AS TO REVISE THE REQUIREMENTS; AND BY REPEALING SECTION 40-2-20(18)

RELATING TO DEFINITIONS CONCERNING THE BOARD OF ACCOUNTANCY, SECTION 40-2-35(H) RELATING TO REQUIREMENTS FOR LICENSURE BY THE BOARD OF ACCOUNTANCY, AND SECTION 40-2-35(I) RELATING TO REQUIREMENTS FOR LICENSURE BY THE BOARD OF ACCOUNTANCY.

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

Definition, erroneous cross-reference corrected

SECTION 1. Section 40-2-20(2) of the S.C. Code is amended to read:

(2)(a) "Attest" means providing the following services:

(i) any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(ii) any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(iii) any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(iv) any engagement to be performed in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards; or

(v) any examination, review, or agreed upon procedure to be performed in accordance with the SSAE, other than an examination described in subsubitem (iii).

(b) Any standards specified in this definition shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by national accountancy organizations, such as the AICPA or the PCAOB.

Definition revised

SECTION 2. Section 40-2-20(23) of the S.C. Code is amended to read:

(23) "Practice of accounting" means:

(a) issuing a report on financial statements of a person, firm, organization, or governmental unit or offering to render or rendering any attest or compilation service. This restriction does not prohibit any act of a public official or public employee in the performance of that

person's duties or prohibit the performance by a nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(b) using or assuming the title "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, electronic file, metadata tag, or any other device tending to indicate that the person is a certified public accountant.

Definition deleted, reserved

SECTION 3. Section 40-2-20(33) of the S.C. Code is amended to read:

(33) Reserved.

Professional designation usage requirements

SECTION 4. Section 40-2-30(E) of the S.C. Code is amended to read:

(E) A firm may not provide attest services or assume or use the title "Certified Public Accountants," "Public Accountants," or the abbreviations "CPAs" and "PAs," or any other title, designation, words, letters, abbreviation, sign, card, electronic file, metadata tag, or any other device indicating the firm is a CPA firm unless:

(1) the firm holds a valid registration issued under this chapter or is exempt from the registration requirement by operation of subsection (I);

(2) ownership of the firm is in accordance with Section 40-2-40(C) and implementing regulations promulgated by the board, unless the firm is exempt from the registration requirement by operation of subsection (I); and

(3) owners who are not certified public accountants must be permitted to use the titles "principal," "partner," "owner," "officer," "member," or "shareholder" but must not hold themselves out to be certified public accountants.

Educational and experience requirements for licensure

SECTION 5. Section 40-2-35(C) of the S.C. Code is amended to read:

(C) To meet the educational requirement for licensure, the applicant must:

(1) have a baccalaureate degree or higher from an accredited

institution;

(2) in addition to, or concurrently with, the degree in item (1), complete at least twenty-four semester credit hours, or the equivalent, of accounting courses at the junior level or above, that cover some or all of the following subject matter content:

(a) financial accounting for business organizations;

(b) financial statement and auditing and attestation services;

(c) taxation;

(d) accounting information systems;

(e) managerial or cost accounting;

(f) mergers and acquisitions;

(g) data analytics;

(h) information systems or technology;

(i) accounting ethics; and

(j) other courses the board approves through a regulation;

(3) in addition to, or concurrently with, the degree in item (1), complete at least twenty-four semester credit hours, or the equivalent, of business-related courses, other than accounting, that cover some or all of the following subject matter content:

(a) business law;

(b) economics;

(c) management;

(d) marketing;

(e) finance;

(f) business communications;

(g) data analytics;

(h) information systems or technology;

(i) business ethics; and

(j) other subject matter content the board approves through a regulation; and

(4) in addition to meeting the combined requirements of items (1), (2), and (3), the experience requirements in Section 40-2-35(G) must be satisfied based on the applicant's highest level of education attained:

(a) Applicants who have completed a baccalaureate degree, the applicant must also satisfy the experience requirements in Section 40-2-35(G)(1)(a), which requires two years of relevant professional experience.

(b) Applicants who have completed a post-baccalaureate degree, or a baccalaureate degree with at least one hundred fifty total semester credit hours, must also satisfy the experience requirements in Section 40-2-35(G)(1)(b), which requires one year of relevant experience.

Educational and experience requirements for licensure

SECTION 6. Section 40-2-35(E)(3) of the S.C. Code is amended to read:

(3) in addition to the requirements of subsections (C)(2) and (C)(3), the applicant must have on record with the board official transcripts demonstrating successful completion of either:

(a) at least one hundred twenty semester hours of credit; or

(b) a conferred baccalaureate degree.

Uniform Certified Public Accounting Examination

SECTION 7. Section 40-2-35(F) of the S.C. Code is amended to read:

(F) To meet the exam requirement, a candidate must pass all sections of the Uniform CPA Examination.

(1) A candidate may take the required test sections individually and in any order. Credit for each test section passed is valid for thirty-six months from the date the passing score is released to the candidate or the board by the National Association of State Boards of Accountancy (NASBA). The validity of credit for a section that is passed is not contingent upon the candidate achieving a minimum score on any failed section, nor is it dependent on the order in which other sections are taken.

(a) A candidate must successfully pass all sections of the Uniform CPA Examination within a rolling thirty-six-month period, which begins on the date that the NASBA releases the first passing score to the candidate or the board, as applicable. The thirty-six-month period concludes on the date the candidate sits for the final section required for licensure, regardless of when the NASBA releases the score.

(b) The board may grant an extension of time to a candidate if the extension is justified by extenuating circumstances or hardship.

(c) The board shall accommodate any hardship that results from the conditions of administration of the exam.

(2) A candidate may transfer credits for passed sections of the Uniform CPA Examination from another state or territory of the United States transferred to this State. Credits transferred for less than all sections of the examination are subject to the same conditional credit rules as if the examination had been taken in South Carolina.

Educational and experience requirements for licensure

SECTION 8. Section 40-2-35(G) of the S.C. Code is amended to read:

(G)(1) In addition to meeting the requirements of Section 40-2-35 (C)(1), (2), and (3), an applicant shall attain the following experience:

(a) applicants who have completed a baccalaureate degree must complete two years of relevant professional experience;

(b) applicants who have completed a post-baccalaureate degree, or a baccalaureate degree with at least one hundred fifty total semester credit hours, must complete one year of relevant experience;

(c) applicants must present evidence of meeting the accounting experience requirement in a manner prescribed by the board; and

(d) applicants who present evidence of experience obtained seven or more years before the date of application must obtain and document an additional six months of experience within the prior two years of the date of application.

(2) The board may promulgate regulations to require that the accounting experience required pursuant to item (1) must be completed according to a competency framework developed by a recognized national accounting organization. The framework must be administered in accordance with rules established by the board.

(3) The experience required pursuant to item (1) should primarily involve providing a service or advice in one or more of the following areas:

(a) accounting;
(b) attestation;
(c) compilation;
(d) management advisory;
(e) financial advisory;
(f) tax;
(g) consulting skills; or
(h) other qualifying experiences outlined in items (4) and (7).

(4)(a) The accounting experience required pursuant to this subsection may also be satisfied by:

(i) teaching experience taught at the intermediate accounting level or above that includes at least twenty-four semester hours of teaching courses that apply to a baccalaureate, masters, or postgraduate degree and which may cover subject matters including, but not limited to, financial accounting, taxation, auditing, technology, and other areas that fall within the scope of the Uniform CPA Examination; or

(ii) any combination of experience that the board determines

to be equivalent to the types of experience provided for in items (3) and (4)(a)(i) of this subsection.

(b) The teaching experience may not accrue more rapidly than elapsed time. An applicant who intends to use teaching experience to meet his accounting experience requirement must not be given credit for teaching more than twenty-four semester hours in less than one academic year and credit for semester hours taught must not be given for teaching subjects outside the scope of the Uniform CPA Examination.

(5) The accounting experience required pursuant to this subsection may be supervised by a non-licensee but must be verified by a CPA who is licensed in any state or territory of the United States or the District of Columbia who has direct knowledge of the experience attained.

(6) The accounting experience required pursuant to this subsection may be attained in either full-time or part-time employment, but not more rapidly than forty hours per week. Two thousand hours of part-time accounting experience is equivalent to one year.

(7) The board may accept experience other than accounting experience to satisfy the accounting experience required pursuant to this section but only to the extent that the board determines that the non-accounting experience contributes to competence in public accounting. The board may require information related to the non-accounting experience to determine how it contributes to competence in public accounting.

(8) The accounting experience required by this subsection may begin upon successful completion of subsections (C)(2) and (C)(3), and:

(a) at least one hundred twenty semester hours of credit; or

(b) a conferred baccalaureate degree.

CPA firms, registration required for compilation services

SECTION 9. Section 40-2-40(B) of the S.C. Code is amended to read:

(B) The following must hold a registration issued pursuant to this section:

(1) a firm with an office in this State performing attest services as defined in Section 40-2-20(2) or engaging in the practice of accounting;

(2) a firm with an office in this State that uses the title “CPA” or “CPA firm”; or

(3) a firm that does not have an office in this State but performs attest services described in Section 40-2-20(2), or performs compilation services as defined in Section 40-2-20(6), for a client in this State, unless it is exempt from registration pursuant to Section 40-2-30(I).

CPA firms, ownership by revocable trusts

SECTION 10. Section 40-2-40(C) of the S.C. Code is amended to read:

(C) Qualifications for registration as a certified public accountant firm are as follows:

(1) A simple majority of the firm ownership in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers must belong to certified public accountants currently licensed in some state. Although firm ownership may include non-CPA owners, the firm and its owners must comply with regulations promulgated by the board. All non-CPA owners must be active individual participants in the firm or affiliated entities.

(2) Partners, officers, shareholders, members, or managers whose principal place of business is in this State, and who also perform professional services in this State, must hold a valid license issued pursuant to this section. An individual who has practice privileges under Section 40-2-245 must not be required to obtain a license from this State pursuant to Section 40-2-35.

(3) For firms registering under subsection (B), there must be a designated resident manager in charge of each office in this State who must be a certified public accountant licensed in this State.

(4) Non-CPA owners must not assume ultimate responsibility for any financial statement, attest, or compilation engagement.

(5) Non-CPA owners shall abide by the code of professional ethics adopted pursuant to this chapter.

(6) Owners shall at all times maintain ownership equity in their own right and must be the beneficial owners of the equity capital ascribed to them. Ownership may also be held through a revocable, not irrevocable, grantor trust, provided that the trust is established for the sole benefit of the owner, and provided that the owner retains full control and the ability to revoke the trust. Provision must be made for the ownership to be transferred to the firm or to other qualified owners if the noncertified public accountant or the beneficial owner of the revocable grantor trust ceases to be an active individual participant in the firm.

(7)(a) This section applies only to non-CPA owners who are residents of this State.

(b) Non-CPA owners must complete the same number of hours of continuing professional education as licensed certified public accountants in this State, including the annual ethics requirement pursuant to Section 40-2-250(C)(6).

(c) Non-CPA owners who are licensed professionals subject to

continuing education requirements applicable to that profession may complete the required number of continuing professional education hours in courses offered or accepted by organizations or regulatory bodies governing that profession, and also must complete the same number of hours of continuing professional education as licensed certified public accountants in this State.

(8) A certified public accounting firm and its designated resident manager under item (3) are responsible for the following in regard to a noncertified public accountant owner:

(a) a non-CPA owner shall comply with all applicable accountancy statutes and regulations; and

(b) a non-CPA owner shall be of good moral character and shall not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.

Board of Accountancy powers and duties

SECTION 11. Section 40-2-70(A) of the S.C. Code is amended by adding:

(15) review and provide input on proposed legislative changes related to the practice of accounting.

Inspector-investigator qualifications

SECTION 12. Section 40-2-80(B) of the S.C. Code is amended to read:

(B)(1) An investigation of a licensee pursuant to this chapter must be performed by an inspector-investigator who has been licensed as a certified public accountant for at least the previous five years. The inspector-investigator must report the results of his investigation to the board no later than one hundred fifty days after the date upon which he initiated his investigation. If the inspector-investigator has not completed his investigation by that date, then the board may extend the investigation for a period defined by the board. The board may grant subsequent extensions to complete the investigation as needed. The inspector-investigator may designate additional persons of appropriate competency to assist in an investigation.

(2) The department shall annually post a report related to the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.

Licensure for persons licensed in other jurisdictions

SECTION 13. Section 40-2-240 of the S.C. Code is amended to read:

Section 40-2-240. (A) A CPA licensed in another jurisdiction who moves his principal place of business to this State may obtain a license through reciprocity. The board shall issue a license pursuant to this section to an applicant who:

(1) has successfully passed the Uniform CPA Examination;

(2) holds an active certificate, license, or permit issued pursuant to the laws of any state or territory of the United States, the District of Columbia, or any foreign licensing authority that is recognized by the International Qualifications Appraisal Board and subject to Mutual Recognition Agreements;

(3) is legally authorized to practice in the jurisdiction where his existing certificate, license, or permit is held; and

(4) certifies that he is in compliance with the continuing professional education requirements in the jurisdiction where his existing certificate, license, or permit is held.

(B) To apply for a license pursuant to this section an applicant must:

(1) identify all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy or in which any applications have been denied; and

(2) file an application with the board together with the application fee prescribed by the board.

(C) Each person issued a license pursuant to this section shall notify the board in writing within thirty days after any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action against the licensee by any jurisdiction.

Authorization to practice of persons licensed in other jurisdictions

SECTION 14. Section 40-2-245 of the S.C. Code is amended to read:

Section 40-2-245. (A) An individual whose principal place of business is outside this State is presumed to have qualifications equivalent to this state's requirements if the individual:

(1) has successfully passed the Uniform CPA Examination;

(2) holds an active certificate, license, or permit issued pursuant to the laws of any state, territory of the United States, the District of Columbia, or any foreign authority recognized by the International

Qualifications Appraisal Board under a Mutual Recognition Agreement; and

(3) is legally authorized to practice in the jurisdiction where the existing certificate, license, or permit is held.

(B) Such individual may exercise all privileges of a licensee in this State without obtaining a license pursuant to Section 40-2-35 if the individual meets the requirements contained in subsection (A).

(C) Notwithstanding any other provision of law, an individual offering or rendering professional services in this State, whether in person, by mail, telephone, or electronic means, shall be granted practice privileges in this State subject to the conditions contained in subsection (A). No notice, fee, or other submission is required for the individual to practice pursuant to these privileges.

(D) By exercising practice privileges pursuant to this section, an individual licensee or holder of a permit or certificate to practice from another jurisdiction, along with the firm employing that licensee or permit or certificate holder:

(1) consents to the personal and subject matter jurisdiction of the board and its disciplinary authority;

(2) agrees to comply with the regulations and provisions of this section;

(3) agrees to cease offering or rendering professional services in this State, individually or on behalf of a firm, if their license, permit, or certificate from his principal jurisdiction is no longer valid;

(4) consents to service of an administrative notice of hearing at the board in the individual's principal jurisdiction should any action or proceeding be initiated by that board against the licensee.

(E) A licensee of this State who offers or renders services or uses the CPA title in another state shall be subject to disciplinary action in this State for any act committed in the other state that would subject the licensee to discipline if committed in this State. The board shall investigate any complaint made by the Board of Accountancy, or equivalent regulatory agency, in another state.

Repealed subsections and items

SECTION 15. Section 40-2-20(18), Section 40-2-35(H), and Section 40-2-35(I) of the S.C. Code are repealed.

Severability

SECTION 16. 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 17. This act takes effect on June 30, 2025.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 35

(R53, S221)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA KRATOM CONSUMER PROTECTION ACT" BY ADDING ARTICLE 20 TO CHAPTER 53, TITLE 44 SO AS TO PROVIDE FOR THE REGULATION OF THE SALE OF KRATOM PRODUCTS BY RETAILERS AND PROCESSORS AND TO CREATE PENALTIES FOR VIOLATION OF THE PROVISIONS OF THE ARTICLE.

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

South Carolina Kratom Consumer Protection Act

SECTION 1. Chapter 53, Title 44 of the S.C. Code is amended by adding:

Article 20

South Carolina Kratom Consumer Protection Act

Section 44-53-2010. As used in this article:

(1) "Department" means the South Carolina Department of Public Health.

(2) "Food" means any food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption.

(3) "Kratom" means any part of the tropical evergreen plant mitragyna speciosa.

(4) "Kratom processor" means a person or entity that prepares, manufactures, distributes, or maintains kratom products or advertises, represents, or claims to sell, prepare, or maintain kratom products.

(5) "Kratom product" means any food or dietary ingredient, produced as a food, drink, powder, pill, capsule, or any other format intended for oral consumption that:

(a) contains any part of the leaf of the plant mitragyna speciosa, either on its native leaf or extracted form; or

(b) contains any kratom alkaloids or constituents, or synthesized metabolites of any kratom alkaloids or constituents.

(6) "Kratom retailer" means a person or entity that sells or advertises, represents, or claims to sell kratom products.

Section 44-53-2020. (A) It is unlawful for a kratom processor or kratom retailer to:

(1) distribute, dispense, or sell any kratom product to any individual under twenty-one years of age; or

(2) prepare, manufacture, distribute, dispense, or sell any kratom product that:

(a) is adulterated with a dangerous non-kratom substance that affects the quality or strength of the product to such a degree that it may injure a consumer;

(b) contains a poisonous or otherwise harmful non-kratom ingredient including, but not limited to, any substance listed in Section 44-53-190, 44-53-210, 44-53-230, 44-53-250, or 44-53-270;

(c) contains a fully synthetic alkaloid including, but not limited to, fully synthetic mitragynine, fully synthetic 7-hydroxymitragynine, or any other fully synthetically derived compound of the plant mitragyna speciosa;

(d) contains levels of residual solvents higher than the standards set forth in Chapter 467 of the U.S. Pharmacopeia-National Formulary (USP-NF); or

(e) does not meet the labeling requirements established pursuant to Section 44-53-2030 and a regulation promulgated to implement the provisions of that section.

(B) It is unlawful for a kratom retailer to display or store a kratom product in a retail location in a manner that would allow the product to be accessed by an individual under twenty-one years of age.

Section 44-53-2030. Every kratom product must be accompanied by a clear label that provides adequate information for safe and effective use by consumers including, but not limited to:

(1) a list of the ingredients used in the manufacture of the product;

(2) the amount of mitragynine and 7-hydroxymitragynine contained in the product;

(3) the recommended serving size of the product;

(4) the number of servings per container;

(5) the name and the principal street address of the vendor or the person responsible for distributing the product;

(6) any precautionary statements as to the safety and effectiveness of the product;

(7) a statement that the product is not intended to diagnose, treat, cure, or prevent any medical condition or disease; and

(8) a statement that the sale or transfer of the product to a person under twenty-one years of age is prohibited.

Section 44-53-2040. A retailer found to be in violation of Section 44-53-2020 or 44-53-2030, or a regulation promulgated pursuant to the provisions of this article, is subject to a civil penalty of not more than one thousand dollars for a first offense and a civil penalty of not more than two thousand dollars for a second or subsequent offense.

Time effective

SECTION 2. This act takes effect sixty days following approval by the Governor.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 36

(R54, S269)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-19-275 SO AS TO PROVIDE PUBLIC SCHOOL DISTRICTS WITH MORE THAN FIFTEEN THOUSAND STUDENTS MAY USE SECURITY PERSONNEL LICENSED AS A PROPRIETARY SECURITY BUSINESS; BY AMENDING SECTION 40-18-60, RELATING TO PROPRIETARY SECURITY BUSINESS LICENSE REQUIREMENTS AND QUALIFICATIONS, SO AS TO ADD PROVISIONS CONCERNING PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS APPLYING FOR LICENSURE, TO PROVIDE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION SHALL DEVELOP RELATED STANDARDS, GUIDELINES, AND APPLICANT REQUIREMENTS; BY AMENDING SECTION 40-18-80, RELATING TO SECURITY OFFICER REGISTRATION CERTIFICATE REQUIREMENTS AND QUALIFICATIONS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION SHALL IMPLEMENT CERTAIN RELATED TRAINING REQUIREMENTS; AND BY AMENDING SECTION 40-18-140, RELATING TO EXCEPTIONS FROM THE APPLICABILITY OF CHAPTER 18, TITLE 40, SO AS TO PROVIDE FOR THE APPLICABILITY OF THE CHAPTER TO PUBLIC SCHOOL DISTRICTS.

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

Private security services in public schools

SECTION 1. Chapter 19, Title 59 of the S.C. Code is amended by adding:

Section 59-19-275. Each public school district may use the services of personnel who are armed or delegated arrest authority to work on the premises of the district to promote safety and security on the premises, provided the district shall obtain proprietary security business licensure as provided in Section 40-18-60 and Section 40-18-80 and otherwise comply with the applicable requirements of those sections. The provisions of this section do not affect any requirement that a school district use the services of a school resource officer as provided by law. A school district, by obtaining proprietary security business licensure, may enhance school security and safety but shall not supplant the use of a school resource officer in a school, and security personnel hired under the authorization of this section shall not be used in the advisor and teacher roles authorized for school resource officers as provided in Section 5-7-12.

Proprietary security business licenses, school district requirements

SECTION 2. Section 40-18-60(A) of the S.C. Code is amended to read:

(A) An employer who uses a person who is armed, uniformed, or has been delegated arrest authority for work on the employer's premises in connection with the affairs of the employer must make application to SLED for a proprietary security business license and pay an annual license fee, set by SLED regulation.

(1) If the applicant is an association or corporation, then the chief executive officer of the association or corporation must be the applicant or must designate in writing the corporate officer or principal who is the applicant.

(2) If the applicant is a partnership, then all partners must complete an application form.

(3) If the applicant is a public school district, then the district board of trustees must designate in writing that the superintendent is the applicant. If the applicant is a charter school authorized by the South Carolina Public Charter School District or an approved public or independent institution of higher learning, the authorizer must designate in writing that the superintendent of the authorizer of the charter school is the applicant. SLED shall develop standards and guidelines applicable

to the provisions of private security in schools. SLED shall only approve those school districts or charter schools who have demonstrated that the applicant and all employees intended to be used in this capacity have the requisite training, background, and experience to successfully and safely provide private security and exercise law enforcement authority in a school setting and can operate in a manner that ensures public safety.

(4) The application for license must be made, under oath, on a form approved by SLED. The application must state the applicant's full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant's current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information as SLED may require. Each applicant must submit with the application one complete set of the applicant's fingerprints on forms specified and furnished by SLED and one color photograph of the applicant's full face, without head covering, taken within six months of the application.

Security officer registration certificates, training requirements concerning schools

SECTION 3. Section 40-18-80(A) of the S.C. Code is amended to read:

(A) Persons performing the duties of security officers must also obtain valid security officer registration certificates. Except as provided in Section 40-18-90, a licensee may not authorize a person to perform the duties of a security officer unless that person holds a valid security officer registration certificate or has applied for a security officer registration certificate and meets the requirements of Section 40-18-80(A)(2). A contract or proprietary security business licensee must verify that each security officer immediately upon hiring possesses a valid security officer registration certificate or has applied for one. The licensee may apply and pay the fee for the security officer registration certificate or may require the person to be employed as a security officer to apply and pay the fee. For purposes of the penalties provisions of this chapter, the licensee and the person to be employed as a security officer are both responsible for ensuring that the person performing duties of a security officer is registered or has made application to be registered.

(1) The application must be made on forms approved by SLED and, under oath, the applicant must furnish the applicant's full name, age, date and place of birth, current residence address, residence addresses for the

past ten years, employment for the past ten years, including names and addresses of employers, the applicant's current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information as SLED requires. The application must be accompanied by one set of fingerprints of the applicant and one photograph of the applicant in color, full face and without head covering, taken within six months prior to the application and certified results of a SLED-approved drug screen.

(2) Pending issuance of a registration certificate, a security officer may perform the duties of a security officer for up to thirty days after receipt by SLED of his application for registration; however, a person authorized to perform duties under this section has no arrest authority and must not carry a firearm until SLED issues a registration certificate. If SLED does not issue a registration certificate within thirty days of receipt of the application, a security officer must cease performing all security-related activities.

(3) SLED shall implement training requirements for the initial registration and renewal registration of applicants. These training requirements may impose additional training for persons working as security officers in the school setting to enhance accountability and compliance. School districts must not employ any person as a security officer in a school unless the person is at least twenty-one years of age and the school district also has:

(a) a full-time division solely dedicated to security and emergency management;

(b) a written agreement with the local law enforcement agency for shared, consistent joint training and continuous education in firearms, defensive tactics, active shooter or assailant scenarios, legal updates, and other areas addressed by the local law enforcement agency; and

(c) school district security officers recertified every two years.

(4) Upon being satisfied of the suitability of the applicant for employment and the applicant's successful completion of an approved training program, SLED must register the employee and notify the licensee.

(5) SLED may issue or renew a registration certificate to a person who:

(a) is employed by a licensed security business;

(b) is at least eighteen years of age;

(c) is a citizen of the United States;

(d) has not been convicted of a felony or crime involving moral turpitude;

(e) is of good moral character;

(f) does not unlawfully use drugs;

(g) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a security company licensee, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a security company licensee;

(h) has passed a SLED-approved pre-employment drug test;

(i) has not been discharged from the military service with other than honorable conditions; and

(j) has not been refused a license under this chapter for any reason other than minimum experience requirements and has not had a license under this chapter revoked or suspended.

(6) While on duty, a registered person must have his registration certificate in possession.

(7) A registered person who is arrested must report the arrest to SLED within seventy-two hours of the arrest.

(8) The licensee must notify SLED within ten days of the termination or hiring of a registered security officer.

(9) Registration is valid for one year; however, the registered person may perform the duties of a security officer only while employed by a person licensed under this chapter to provide security services or while working in a self-employed capacity provided that the officer is also a licensee.

(10) Application for renewal of registration must be made on a form approved by SLED.

(11) The initial and annual renewal registration fee for an employee registered in accordance with this section must be set by SLED by regulation.

Security officer registration certificates, exceptions, school districts

SECTION 4. Section 40-18-140(1) of the S.C. Code is amended to read:

(1) an officer or employee of the federal government, or of this State or a political subdivision of either, excluding school districts, or of a municipal corporation while the employee or officer is engaged in the performance of official duties;

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 37

(R56, H3058)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 16-15-330 SO AS TO DEFINE NECESSARY TERMS FOR THE OFFENSE OF UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES; AND BY ADDING SECTION 16-15-332 SO AS TO CREATE THE OFFENSE OF UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES, TO PROVIDE GRADUATED PENALTIES, AND TO PROVIDE AN EXCEPTION FOR LAW ENFORCEMENT UNDER CERTAIN CIRCUMSTANCES.

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

Definitions

SECTION 1. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16-15-330. For purposes of Section 16-15-332, the term:

(1) "Digitally forged intimate image" means any intimate image of an identifiable individual that appears to a reasonable person to be indistinguishable from an authentic visual depiction of the individual, and that is generated or substantially modified using machine-learning techniques or any other computer-generated or machine-generated means to falsely depict an individual's appearance or conduct, regardless of whether the visual depiction indicates, through a label or some other form of information published with the visual depiction, that the visual

depiction is not authentic.

(2) "Effective consent" means the affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization. The disclosure of the intimate image or digitally forged intimate image by the identifiable individual to another person is not sufficient effective consent under this section.

(3) "Identifiable individual" means the identity of the depicted person through an intimate image or digitally forged intimate image, or whose identity can be determined through any accompanying or subsequent information or material related to the visual material.

(4) "Intimate image" means any still or videographic image of an identifiable individual that depicts wholly or partially uncovered genitals, pubic area, anus, or postpubescent female nipple or areola of an individual, the display or transfer of semen or vaginal secretion, sexual activity, as defined in Section 16-15-375, or sexually explicit nudity, as defined in Section 16-15-375.

Unauthorized disclosure of intimate images

SECTION 2. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16-15-332. (A) A person who intentionally disseminates an intimate image or a digitally forged intimate image of another person without the effective consent of the depicted person is guilty of the unauthorized disclosure of intimate images. A person intentionally disseminates an intimate image or a digitally forged intimate image if he has knowledge that the image was obtained or created under circumstances when he knew or reasonably should have known the person depicted had a reasonable expectation of privacy. Any dissemination of multiple intimate images of the same individual as part of a common act is a single offense. The fact that the identifiable individual:

(1) provided affirmative consent for the creation of the intimate image shall not establish that the individual provided effective consent for the dissemination of the intimate image; and

(2) disclosed the intimate image to another individual shall not establish that the identifiable individual provided effective consent for the dissemination of the intimate image by the person alleged to have violated this section.

(B) A person who violates the provisions of this section, with the intent to cause physical, mental, economic, or reputational harm to the

individual portrayed in the image, or for the purpose of profit or pecuniary gain, is guilty of a felony and, upon conviction, for a:

(1) first offense, must be fined not more than five thousand dollars or imprisoned not more than five years, or both; or

(2) second or subsequent offense, after an intervening conviction or adjudication for a previous violation of the provisions of this section, must be fined not more than ten thousand dollars or imprisoned not less than one year but not more than ten years, or both. No part of the minimum sentence may be suspended nor probation granted.

(C) A person who violates the provisions of this section, without the intent to cause physical, mental, economic, or reputational harm to the individual portrayed in the image, or for the purpose of profit or pecuniary gain, for a:

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

(2) second or subsequent offense, after an intervening conviction or adjudication for a previous violation of the provisions of this section, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) Intimate images or digitally forged intimate images cannot be duplicated for the purpose of criminal discovery requests and motions.

(E) A violation of this section is not a lesser-included offense of any other applicable offense but is a separate offense and does not preclude charges under another applicable provision of law.

(F) The provisions of this section do not apply to any intimate image or digitally forged intimate image created by law enforcement pursuant to a criminal investigation which is otherwise lawful.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 38

(R57, H3127)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-750, RELATING TO FAILURE TO STOP MOTOR VEHICLES WHEN SIGNALED BY LAW ENFORCEMENT VEHICLES, SO AS TO REVISE THE PENALTIES FOR CERTAIN OFFENSES, TO CREATE AN ADDITIONAL FELONY OFFENSE WHEN A LAW ENFORCEMENT OFFICER IS LED ON A HIGH-SPEED PURSUIT, AND TO PROVIDE PENALTIES.

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

Failure to stop when signaled by law enforcement vehicles

SECTION 1. Section 56-5-750(A), (B), and (C) of the S.C. Code is amended to read:

(A) In the absence of mitigating circumstances, it is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State, to fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. An attempt to increase the speed of a vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

(B) A person who violates the provisions of subsection (A):

(1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or imprisoned for not more than three years. The Department of Motor Vehicles must suspend the person's driver's license for at least thirty days;

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years. The person's driver's license must be suspended by the department for a period of one year from the date of the conviction; or

(3) where the person is found to have led law enforcement upon a

high-speed pursuit, the person is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years and the person's driver's license must be suspended for a period of one year from the date of conviction. For the purposes of this section, a high-speed pursuit occurs when the driver of the vehicle increases speed or takes evasive actions to avoid the pursuing law enforcement vehicle.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than thirty years.

Time effective

SECTION 2. This act takes effect one year after approval of the Governor.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 39

(R58, H3175)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-3-1230, RELATING TO SPECIFICATIONS OF LICENSE PLATES, THE PERIODIC ISSUANCE OF NEW PLATES, AND THE ISSUANCE OF REVALIDATION STICKERS, SO AS TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES SHALL ISSUE LICENSE PLATES COMMEMORATING THE TWO HUNDRED FIFTIETH ANNIVERSARY OF THE AMERICAN REVOLUTION.

Whereas, on June 28, 1776, days before the signing of the Declaration of Independence, South Carolinians valiantly defended Charleston from imminent capture by the British, thereby slowing the British advance through the South; and

Whereas, Colonel William Moultrie commanded men such as William Jasper, a volunteer who hoisted the South Carolina flag, an indigo blue with a silver crescent in the upper-left hand corner, in the heat of battle at Sullivan's Island; and

Whereas, the triumph of the patriots at Sullivan's Island, due in part to the fort's spongy palmetto logs that repelled the cannonballs of the enemy, delayed the fall of Charleston into British captivity until 1780, four years later; and

Whereas, the State of South Carolina is indebted to war heroes such as Thomas Sumter, Andrew Pickens, Daniel Morgan, Frederick Hambright, Peter Horry, James Williams, William Thompson, and Francis Marion, also known as the "Swamp Fox"; and

Whereas, during the Revolutionary War, South Carolina witnessed more than two hundred skirmishes and battles, including battles at Stono Ferry, Eutaw Springs, Parker's Ferry, Fort Motte, as well as backcountry victories at Williamson's Plantation, Cedar Springs, Cowpens, Hammond's Store, Blackstock's Farm, King's Mountain, Earle's Ford, Flat Rock, Thicketty Fort, Hanging Rock, and more; and

Whereas, renowned historian Walter Edgar stated that "the American Revolution was won in the backcountry of South Carolina." Now, therefore,

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

Two hundred fiftieth anniversary of the American Revolution license plate

SECTION 1. Section 56-3-1230 of the S.C. Code is amended to read:

Section 56-3-1230. (A) License plates must be at least six inches wide and not less than twelve inches in length and must show in bold characters the year of registration, the serial number, the full name or the abbreviation of the name of the state, and other distinctive markings the

department may consider advisable to indicate the class of the weight of the vehicle for which the license plate was issued. The plate must be of a strength and quality to provide a minimum service of five years. A new license plate including personalized and special plates, but excluding license plates provided in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate, but at least every ten years. A new license plate for vehicles contained in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate. Beginning with the vehicle registration and license fees required by this title which are collected after July 1, 2002, except for the fees collected pursuant to Sections 56-3-660 and 56-3-670, two dollars of each biennial fee and one dollar of each annual fee collected from the vehicle owner must be placed by the Comptroller General in a special restricted account to be used solely by the Department of Motor Vehicles for the costs associated with the production and issuance of new license plates. The department is not authorized to use this set aside money for any other purpose. License plates issued for vehicles in excess of twenty-six thousand pounds must be issued biennially, and no revalidation sticker may be issued for the plates. License plates issued as permanent may be revalidated and replaced at intervals determined by the department.

(B) The face of the license plate must be treated completely with a retroreflective material which increases the nighttime visibility and legibility of the plate. The department shall prepare the specifications for the retroreflective material. In those years in which a metal plate is not issued, a revalidation sticker with a distinctive serial number or other suitable means prescribed by the department must be issued and affixed in the space provided on the license plate assigned to the vehicle upon payment of the fee prescribed for registration and licensing, including fees for personalized or special license plates.

(C) Notwithstanding another provision of law to the contrary, the regular license plate for private passenger vehicles and motorcycles issued by the Department of Motor Vehicles from January 1, 2026, until December 31, 2032, shall commemorate the two hundred fiftieth anniversary of the American Revolution. The South Carolina Revolutionary War Sestercentennial Commission shall submit to the department for approval the design, emblem, seal, logo, or other symbol it desires to be used on this license plate. The design, emblem, seal, logo, or other symbol submitted by the South Carolina Revolutionary War Sestercentennial Commission to the department must be imprinted with the words “Where the Revolutionary War Was Won” and shall include, at a minimum, a flag featuring the word LIBERTY in white against an

indigo background together with a gorget in an upper corner of the flag, also known as the Moultrie Flag.

(D) Fees for regular license plates shall not exceed the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 40

(R59, H3276)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA HANDS-FREE AND DISTRACTED DRIVING ACT" BY AMENDING SECTION 56-5-3890, RELATING TO UNLAWFUL USE OF WIRELESS ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING MOTOR VEHICLES, SO AS TO DELETE CERTAIN TERMS AND THEIR DEFINITIONS, TO DEFINE THE TERM "MOBILE ELECTRONIC DEVICE," TO PROVIDE THE CIRCUMSTANCES WHEN MOBILE ELECTRONIC DEVICES MAY NOT BE USED WHILE OPERATING A MOTOR VEHICLE, TO CREATE THE OFFENSE OF DISTRACTED DRIVING AND PROVIDE PENALTIES, TO PROVIDE FOR THE DISBURSEMENT OF FINES IMPOSED PURSUANT TO THIS SECTION, TO PROVIDE THE CIRCUMSTANCES UPON WHICH THIS SECTION MAY BE ENFORCED, TO PROVIDE FOR THE SHARING OF CERTAIN INFORMATION WITH THE DEPARTMENT OF PUBLIC SAFETY, AND TO PROVIDE THIS SECTION IS NOT SUBJECT TO PROVISIONS RELATED TO CITIZENS ARRESTS; BY AMENDING SECTION 56-1-720, RELATING TO POINTS THAT MAY BE ASSESSED AGAINST A PERSON'S DRIVING RECORD FOR MOTOR VEHICLE

DRIVING VIOLATIONS, SO AS TO PROVIDE THAT A SECOND OR SUBSEQUENT OFFENSE OF DISTRACTED DRIVING IS A TWO-POINT VIOLATION; TO PROVIDE THE DEPARTMENT OF TRANSPORTATION SHALL ERECT SIGNS ADVISING MOTORISTS OF THE PROVISIONS OF THIS ACT; TO PROVIDE ONLY WARNINGS MAY BE ISSUED FOR CERTAIN VIOLATIONS FOR A CERTAIN PERIOD; AND TO PROVIDE THE DEPARTMENT OF PUBLIC SAFETY SHALL FILE A REPORT WITH CERTAIN OFFICIALS CONTAINING INFORMATION ABOUT PERSONS STOPPED PURSUANT TO THIS ACT.

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

South Carolina Hands-Free and Distracted Driving Act

SECTION 1. This act may be referred to and cited as the "South Carolina Hands-Free and Distracted Driving Act."

Distracted driving

SECTION 2. Section 56-5-3890 of the S.C. Code is amended to read:

Section 56-5-3890. (A) For purposes of this section "mobile electronic device" means a cellular telephone, portable computer, GPS receiver, electronic game, or any substantially similar stand-alone electronic device used to communicate, display, or record digital content. "Mobile electronic device" does not include a citizens band radio, amateur radio, ham radio, commercial two-way radio or its functional equivalent, subscription-based emergency communication device, or prescribed medical device.

(B) While operating a motor vehicle on any public highway of this State, a person shall not:

(1) hold or support, with any part of the body, a mobile electronic device. This provision does not prohibit the use of an earpiece or device worn on a wrist to conduct voice-based communication;

(2) read, compose, or transmit any text including, but not limited to, a text message, email, application interaction, or website information on a mobile electronic device;

(3) watch motion including, but not limited to, a video, movie, game, or video call on a mobile electronic device.

(C) This section does not apply to a motor vehicle operator who is:

(1) lawfully parked or stopped;

(2) initiating a voice-based communication that is automatically converted by the device and sent as text, provided that the device is not held by the operator or supported with any part of the body by the operator;

(3) reporting an accident, emergency, or safety hazard to a public safety official;

(4) transmitting or receiving data as part of a digital dispatch system while performing occupational duties or while conducting network performance testing or testing required by the Federal Communications Commission;

(5) a first responder while performing official duties;

(6) using a mobile electronic device for the purpose of:

(a) navigation, listening to audio-based content, or obtaining traffic and road condition information in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator;

(b) using a mobile electronic device to initiate or end a cellular call in a manner that does not require the operator to type, provided that the device is not held by the operator or supported with any part of the body by the operator; or

(c) unlocking the device for a purpose listed in subitems (a) or (b), provided that the device is not held by the operator or supported with any part of the body by the operator; or

(7) using equipment or services installed by the original manufacturer of the vehicle.

(D)(1) A person who is adjudicated to be in violation of this section is guilty of distracted driving and, upon conviction:

(a) for a first offense, must be fined one hundred dollars, no part of which may be suspended;

(b) for a second or subsequent offense, must be fined two hundred dollars, no part of which may be suspended, and must have two points assessed against his motor vehicle operating record.

(2) Only those offenses which occurred within three years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this subsection.

(3) The Department of Public Safety must receive twenty-five percent of the fines imposed for violations of this section. Funds provided to the department pursuant to this section must be used to educate the public on the dangers of distracted driving and the provisions of this act.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has reasonable suspicion that a violation has occurred based on the officer's clear and unobstructed view of a person who is unlawfully using a wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State;

(2) seize, search, view, or require the forfeiture of a mobile electronic device because of a violation of this section;

(3) search or request to search a motor vehicle, operator, or passenger in a motor vehicle, solely because of a violation of this section; or

(4) make a custodial arrest solely because of a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Motor Vehicles shall maintain and provide citation information pursuant to this section to the Department of Public Safety. The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts ordinances, regulations, and resolutions adopted by political subdivisions regarding persons using mobile electronic devices while operating motor vehicles on the public highways of this State.

(H) The provisions of this section are not subject to the provisions contained in Section 17-13-10 and Section 17-13-20, both of which are related to what is commonly referred to as "citizens arrest."

Points system

SECTION 3. Section 56-1-720 of the S.C. Code is amended to read:

Section 56-1-720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION	POINTS			
Reckless driving	6			

Passing stopped school bus	6			
Hit-and-run, property damages only	6			
Driving too fast for conditions, or speeding:				
	(1)	No more than 10 m.p.h. above the posted limits	2	
	(2)	More than 10 m.p.h. but less than 25 m.p.h. above the posted limits	4	
	(3)	25 m.p.h. or above the posted limits	6	
Disobedience of any official traffic control device	4			
Disobedience to officer directing traffic	4			

Failing to yield right-of-way	4			
Driving on wrong side of road	4			
Passing unlawfully	4			
Turning unlawfully	4			
Driving through or within safety zone	4			
Shifting lanes without safety precaution	2			
Improper dangerous parking	2			
Following too closely	4			
Failing to dim lights	2			
Operating with improper lights	2			
Operating with improper brakes	4			

Distracted driving (second or subsequent offense)	2			
Operating a vehicle in unsafe condition	2			
Driving in improper lane	2			
Improper backing	2			
Endangerment of a highway worker, no injury	2			
Endangerment of a highway worker, injury results	4			

Signage

SECTION 4. At every interstate highway ingress, the Department of Transportation shall erect a sign advising motorists of this act.

Issuance of warnings

SECTION 5. During the first one hundred eighty days after the effective date of this act, law enforcement officers shall only issue warnings for violations of Section 56-5-3890, as amended by this act.

Reports

SECTION 6. At the end of each fiscal year, the Department of Public Safety shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate

Transportation Committee, and the Chairman of the House Education and Public Works Committee the age, gender, and race of every driver issued a citation, as well as every instance that a citation is not issued following a traffic stop made pursuant to this act. The data must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies shall combine the data collected by county and the municipal law enforcement agencies.

Savings clause

SECTION 7. 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 8. This act takes effect September 1, 2025.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 41

(R60, H3309)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA ENERGY SECURITY ACT" BY AMENDING SECTION 58-3-140, RELATING TO THE PUBLIC SERVICE COMMISSION'S POWERS TO REGULATE PUBLIC UTILITIES, SO AS TO ESTABLISH A SCHEDULE FOR CERTAIN TESTIMONY AND DISCOVERY IN CONTESTED PROCEEDINGS, TO PERMIT ELECTRICAL UTILITY CUSTOMERS TO ADDRESS THE COMMISSION AS PUBLIC WITNESSES, AND TO ESTABLISH REQUIREMENTS FOR AN INDEPENDENT THIRD-PARTY CONSULTANT HIRED BY THE COMMISSION; BY AMENDING SECTION 58-3-250, RELATING TO SERVICE OF ORDERS AND DECISIONS ON PARTIES, SO AS TO MAKE A TECHNICAL CHANGE; BY AMENDING SECTION 58-4-10, RELATING TO THE OFFICE OF REGULATORY STAFF AND ITS REPRESENTATION OF PUBLIC INTEREST BEFORE THE COMMISSION, SO AS TO ESTABLISH ITS CONSIDERATIONS FOR PUBLIC INTEREST; BY ADDING SECTION 58-4-150 SO AS TO REQUIRE THE OFFICE OF REGULATORY STAFF TO PREPARE A COMPREHENSIVE STATE ENERGY ASSESSMENT AND ACTION PLAN AND TO ESTABLISH REQUIREMENTS FOR THIS PLAN; BY ADDING SECTION 58-33-195 SO AS TO ENCOURAGE DOMINION ENERGY, THE PUBLIC SERVICE AUTHORITY, DUKE ENERGY CAROLINAS, AND DUKE ENERGY PROGRESS TO EVALUATE CERTAIN ELECTRICAL GENERATION FACILITIES AND PROVIDE FOR CONSIDERATIONS RELATED TO THESE FACILITIES; BY ADDING SECTION 58-31-205 SO AS TO PERMIT THE PUBLIC SERVICE AUTHORITY TO JOINTLY OWN ONE OR MORE NATURAL GAS-FIRED GENERATION FACILITIES AND RELATED TRANSMISSION FACILITIES WITH DOMINION

ENERGY SOUTH CAROLINA IN COLLETON COUNTY, AND TO PROVIDE REQUIREMENTS FOR JOINT OWNERSHIP; BY ADDING SECTION 6-29-1220 SO AS TO ESTABLISH REQUIREMENTS FOR SOLAR ENERGY SYSTEM PLANS IF A COUNTY DOES NOT HAVE RELATED RURAL ZONING OR ORDINANCES FOR THE DEVELOPMENT AND OPERATION OF SOLAR ENERGY SYSTEMS REQUIRING MORE THAN THIRTEEN ACRES OF LAND; BY AMENDING ARTICLE 9 OF CHAPTER 7, TITLE 13, RELATING TO THE GOVERNOR'S NUCLEAR ADVISORY COUNCIL, SO AS TO ESTABLISH THE COUNCIL IN THE SC NEXUS FOR ADVANCED RESILIENT ENERGY AT THE DEPARTMENT OF COMMERCE, TO PROVIDE FOR ITS DUTIES AND MEMBERSHIP, AND TO PROVIDE FOR THE COUNCIL'S DIRECTOR; BY ADDING ARTICLE 24 TO CHAPTER 27, TITLE 58 SO AS TO ALLOW ELECTRIC UTILITIES TO REQUEST THE PUBLIC SERVICE COMMISSION ADJUST THEIR RATES ANNUALLY, ADJUST UTILITY RATES, ESTABLISH THE BASELINE RATE ORDER AND REQUIREMENTS FOR ADJUSTMENTS IN RATES, TO PROVIDE PROTECTIONS FOR CUSTOMERS, AND TO AUTHORIZE ADDITIONAL POSITIONS FOR THE OFFICE OF REGULATORY STAFF; BY ADDING SECTION 58-33-196 SO AS TO ENCOURAGE CONSIDERATION OF DEPLOYMENT OF FUSION ENERGY AND ADVANCED NUCLEAR FACILITIES AND TO PROVIDE RELATED REQUIREMENTS; BY ADDING SECTION 58-37-70 SO AS TO PERMIT THE EVALUATION OF SMALL MODULAR NUCLEAR FACILITIES IN THIS STATE AND TO ESTABLISH REQUIREMENTS; BY ADDING ARTICLE 3 TO CHAPTER 37, TITLE 58 SO AS TO PROVIDE FOR STATE AGENCY REVIEW OF ENERGY INFRASTRUCTURE PROJECT APPLICATIONS, TO ESTABLISH REQUIREMENTS, TO PROVIDE A SUNSET PROVISION, AND TO DESIGNATE ALL SECTIONS CURRENTLY IN

CHAPTER 37 AS ARTICLE 1, ENTITLED "PLANNING FOR ENERGY SUPPLY"; BY AMENDING SECTION 58-40-10, RELATING TO THE DEFINITION OF "CUSTOMER-GENERATOR," SO AS TO ESTABLISH CHARACTERISTICS FOR A "CUSTOMER-GENERATOR"; BY AMENDING SECTION 58-41-30, RELATING TO VOLUNTARY RENEWABLE ENERGY PROGRAMS, SO AS TO PROVIDE ADDITIONAL REQUIREMENTS AND CONSIDERATIONS FOR THESE PROGRAMS; BY AMENDING SECTION 58-41-10, RELATING TO DEFINITIONS, SO AS TO ADD THE DEFINITION OF "ENERGY STORAGE FACILITIES"; BY AMENDING SECTION 58-41-20, RELATING TO THE REVIEW OF AND APPROVAL PROCEEDINGS FOR ELECTRICAL UTILITIES' AVOIDED COST METHODOLOGIES, STANDARD OFFERS, FORM CONTRACTS, AND COMMITMENT TO SELL FORMS, SO AS TO REITERATE THE SECTION; BY ADDING CHAPTER 42 TO TITLE 58 SO AS TO ESTABLISH COMPETITIVE PROCUREMENT PROGRAM STANDARDS FOR RENEWABLE ENERGY AND ENERGY STORAGE, AND TO REQUIRE THE PUBLIC SERVICE COMMISSION TO OPEN A DOCKET TO ESTABLISH A COMPETITIVE PROCUREMENT PROGRAM FOR ENERGY STORAGE FACILITIES; BY AMENDING SECTION 58-33-20, RELATING TO DEFINITIONS, SO AS TO ADD THE DEFINITION "LIKE FACILITY" AND AMEND THE DEFINITION OF "MAJOR UTILITY FACILITY," SO AS TO REITERATE THE DEFINITION; BY AMENDING ARTICLE 3 OF CHAPTER 33, TITLE 58, RELATING TO CERTIFICATION OF MAJOR UTILITY FACILITIES, SO AS TO PROVIDE FOR A LIKE FACILITY, TO ESTABLISH REQUIREMENTS AND CONSIDERATIONS FOR PROPOSED FACILITIES, TO PROVIDE WHAT ACTIONS MAY BE TAKEN WITHOUT PERMISSION FROM THE COMMISSION, AND TO MAKE TECHNICAL CHANGES; BY AMENDING SECTION 58-37-40,

RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO ADD CONSIDERATION OF A UTILITY'S TRANSMISSION REPORT, TO ESTABLISH PROCEDURAL REQUIREMENTS AND EVALUATION BY THE COMMISSION, AND REQUIRE PARTIES TO BEAR THEIR OWN COSTS; BY AMENDING SECTION 58-3-260, RELATING TO COMMUNICATIONS BETWEEN THE COMMISSION AND PARTIES, SO AS TO MODIFY REQUIREMENTS FOR ALLOWABLE EX PARTE COMMUNICATIONS AND BRIEFINGS, AND TO PERMIT COMMISSION TOURS OF UTILITY PLANTS OR OTHER FACILITIES UNDER CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 58-3-270, RELATING TO EX PARTE COMMUNICATION COMPLAINT PROCEEDINGS AT THE ADMINISTRATIVE LAW COURT, SO AS TO PERMIT AN ORDER TOLLING ANY DEADLINES ON A PROCEEDING SUBJECT TO A COMPLAINT IF TRUE TO THE EXTENT THE PROCEEDING WAS PREJUDICED SO THAT THE COMMISSION COULD NOT CONSIDER THE MATTER IMPARTIALLY; BY AMENDING SECTION 58-33-310, RELATING TO AN APPEAL FROM A FINAL ORDER OR DECISION OF THE COMMISSION ISSUED PURSUANT TO CHAPTER 33, TITLE 58, SO AS TO ESTABLISH A TIMELINE FOR A PETITION FOR REHEARING OR RECONSIDERATION, AND TO REQUIRE A FINAL ORDER BE IMMEDIATELY APPEALABLE TO THE SOUTH CAROLINA SUPREME COURT; BY AMENDING SECTION 58-33-320, RELATING TO JUDICIAL JURISDICTION, SO AS TO REITERATE THE SECTION; BY ADDING SECTION 58-4-160 SO AS TO REQUIRE THE OFFICE OF REGULATORY STAFF TO CONDUCT A STUDY TO EVALUATE VARIOUS THIRD-PARTY ADMINISTRATOR MODELS FOR ENERGY EFFICIENCY AND DEMAND-SIDE MANAGEMENT PROGRAMS; BY AMENDING SECTION 58-37-10, RELATING TO DEFINITIONS, SO AS TO ADD A REFERENCE TO "DEMAND-SIDE MANAGEMENT

PROGRAM" AND PROVIDE DEFINITIONS FOR "COST-EFFECTIVE" AND "DEMAND-SIDE MANAGEMENT PILOT PROGRAM"; BY AMENDING SECTION 58-37-20, RELATING TO COMMISSION PROCEDURES ENCOURAGING ENERGY EFFICIENCY PROGRAMS, SO AS TO EXPAND COMMISSION CONSIDERATIONS FOR COST-EFFECTIVE, DEMAND-SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS, REQUIRE EACH INVESTOR-OWNED ELECTRICAL UTILITY TO SUBMIT AN ANNUAL REPORT TO THE COMMISSION REGARDING ITS DEMAND-SIDE MANAGEMENT PROGRAMS, AND TO REQUIRE THE COMMISSION TO REVIEW THESE PORTFOLIOS ON AT LEAST A TRIENNIAL BASIS; BY AMENDING SECTION 58-37-30, RELATING TO REPORTS ON DEMAND-SIDE ACTIVITIES, SO AS TO MAKE TECHNICAL AND CONFORMING CHANGES; BY ADDING SECTION 58-37-35 SO AS TO PERMIT PROGRAMS AND CUSTOMER INCENTIVES TO ENCOURAGE OR PROMOTE DEMAND-SIDE MANAGEMENT PROGRAMS FOR CUSTOMER-SITED DISTRIBUTED ENERGY RESOURCES, AND TO PROVIDE CONSIDERATIONS FOR THESE PROGRAMS; BY AMENDING SECTION 58-37-50, RELATING TO AGREEMENTS FOR ENERGY EFFICIENCY AND CONSERVATION MEASURES, SO AS TO ESTABLISH CERTAIN TERMS AND RATE RECOVERY FOR AGREEMENTS FOR FINANCING AND INSTALLING ENERGY EFFICIENCY AND CONSERVATION MEASURES, AND FOR APPLICATION TO A RESIDENCE OCCUPIED BEFORE THE MEASURES ARE TAKEN; BY AMENDING SECTION 58-3-70, RELATING TO COMPENSATION OF PUBLIC SERVICE COMMISSION MEMBERS, SO AS TO ESTABLISH SALARIES IN AMOUNTS EQUAL TO NINETY PERCENT OF SUPREME COURT ASSOCIATE JUSTICES; BY ADDING SECTION 58-41-50 SO AS TO PROVIDE REQUIREMENTS AND CONSIDERATION FOR

CO-LOCATED RESOURCES BETWEEN AN ELECTRICAL UTILITY AND ITS CUSTOMER UNDER CERTAIN CIRCUMSTANCES; TO ENCOURAGE DEVELOPMENT OF A DIVERSE MIX OF LONG-LEAD, CLEAN GENERATION RESOURCES, AND TO PERMIT THE PUBLIC SERVICE COMMISSION TO FIND CERTAIN ACTIONS IN THE PUBLIC INTEREST TO PERMIT AN ELECTRICAL UTILITY TO CAPTURE AVAILABLE INCENTIVES FOR RATEPAYERS; TO PERMIT DEFERRAL OF CERTAIN REASONABLE AND PRUDENT COSTS FOR CONSIDERATION BY THE PUBLIC SERVICE COMMISSION; BY AMENDING SECTION 58-40-10, RELATING TO DEFINITIONS, SO AS TO AMEND THE DEFINITION OF "RENEWABLE ENERGY RESOURCE"; BY ADDING CHAPTER 43 TO TITLE 58, SO AS TO ESTABLISH CONSIDERATIONS FOR ELECTRICITY RATE AND CONDITIONS FOR CERTAIN ECONOMIC DEVELOPMENT PROJECTS; BY ADDING SECTION 58-37-135 SO AS TO TRANSFER A PENDING APPEAL REGARDING ENERGY INFRASTRUCTURE PERMITS TO THE SOUTH CAROLINA SUPREME COURT; BY AMENDING SECTION 58-3-530, RELATING TO THE PUBLIC UTILITIES REVIEW COMMITTEE'S DUTIES, SO AS TO REQUIRE AN ANNUAL REVIEW OF THE DIVISION OF CONSUMER ADVOCACY RELATED TO ITS REPRESENTATION OF CONSUMERS IN UTILITY MATTERS; BY ADDING SECTION 58-3-65 SO AS TO ESTABLISH THE PUBLIC SERVICE COMMISSION'S CHIEF CLERK'S SALARY BE BASED ON RECOMMENDATIONS BY THE AGENCY HEAD SALARY COMMISSION; BY ADDING SECTION 58-33-200 SO AS TO REQUIRE THE OFFICE OF REGULATORY STAFF TO RETAIN AN INDEPENDENT CONSTRUCTION ANALYST FOR ANY CONSTRUCTION PROJECT BUDGET OF AT LEAST FIVE HUNDRED MILLION DOLLARS; TO REQUIRE A REPORT BY THE OFFICE OF REGULATORY STAFF REGARDING THE

IMPLEMENTATION OF ARTICLE 24, CHAPTER 27, TITLE 58; TO REQUIRE DOMINION ENERGY TO EVALUATE CONVERTING THE WATEREE GENERATION STATION TO BIOMASS-FIRED GENERATION, AND TO PROVIDE A REPORT TO THE GENERAL ASSEMBLY AND THE PUBLIC SERVICE COMMISSION; AND BY AMENDING SECTION 58-4-50, RELATING TO OFFICE OF REGULATORY STAFF DUTIES, SO AS TO INCLUDE CONSIDERATION OF PUBLIC SERVICE COMMISSION REQUIREMENTS FOR SETTLEMENT NEGOTIATIONS.

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

Citation

SECTION 1. This act may be cited as the "South Carolina Energy Security Act."

Public Service Commission contested case proceedings, public witnesses, independent consultant

SECTION 2. Section 58-3-140 of the S.C. Code is amended to read:

Section 58-3-140. (A) Except as otherwise provided in Chapter 9 of this title, the commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.

(B) The commission must develop and publish a policy manual which must set forth guidelines for the administration of the commission. All procedures must incorporate state requirements and good management practices to ensure the efficient and economical utilization of resources.

(C) The commission must facilitate access to its general rate request orders in contested matters involving more than one hundred thousand dollars by publishing an order guide which indexes and cross-references orders by subject matter and case name. The order guide must be made available for public inspection.

(D) The commission must promulgate regulations to require the direct testimony of witnesses appearing on behalf of utilities and of witnesses

appearing on behalf of persons having formal intervenor status, such testimony to be reduced to writing and prefiled with the commission in advance of any hearing. In contested case proceedings, the applicant seeking relief from the commission shall have the right to prefile rebuttal testimony responsive to the direct prefiled testimony of other parties. The commission may allow supplemental testimony in cases where new matters arise after the filing of direct testimony, provided that parties shall have the right to respond to such supplemental testimony. The procedural schedule for each contested case proceeding shall include dates for completion of each phase of discovery, including discovery related to the application or other initial pleading as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, rebuttal testimony of the applicant, and surrebuttal testimony. Except upon showing of exceptional circumstances or surprise, all discovery must be completed not less than ten days prior to the hearing. The party with the burden of proof must be permitted to open and close its case, including the presentation of responsive witness testimony.

(E) The commission may convene public hearings to allow public utility customers to address the commission as public witnesses without intervening in the proceedings and without subjecting themselves to discovery or prefiling testimony. Public witnesses may address the commission on issues related to customer service, utility operations, reliability, economic hardship, affordability, environmental concerns, or other matters that affect them. The public utility and the Office of Regulatory Staff shall work to investigate and resolve individual service issues raised by public witnesses.

(F) Any other provision of law notwithstanding, to the extent the commission is authorized by the General Assembly to employ an independent third-party consultant to assist the commission in its duties with respect to a matter before the commission, such consultant may only rely upon evidence introduced by a party to that proceeding into the record subject to the requirements of the South Carolina Administrative Procedures Act. Further, the commission may not give any consultant employed by the commission party status in a proceeding before the commission.

(G) Nothing in this section may be interpreted to repeal or modify specific exclusions from the commission’s jurisdiction pursuant to Title 58 or any other title.

(H) When required to be filed, tariffs must be filed with the office of the chief clerk of the commission and, on that same day, provided to the Executive Director of the Office of Regulatory Staff.

Public Service Commission orders

SECTION 3. Section 58-3-250(B) of the S.C. Code is amended to read:

(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, or registered or certified mail, upon all parties to the proceeding or their attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order.

Office of Regulatory Staff public interest

SECTION 4. Section 58-4-10 of the S.C. Code is amended to read:

Section 58-4-10. (A) There is hereby created the Office of Regulatory Staff as a separate agency of the State with the duties and organizations as hereinafter provided.

(B) Unless and until it chooses not to participate, the Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission as it pertains to the matters below:

(1) the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer; and

(2) preservation of the continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

(C) The Office of Regulatory Staff is subject to the provision of Section 58-3-260 prohibiting ex parte communications with the commission, and any advice given to the commission by the regulatory staff must be given in a form, forum, and manner as may lawfully be given by any other party or person.

SC energy assessment and action plan

SECTION 5. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-150. (A) To further advance and expand upon Executive Order 2023-18 which established the PowerSC Energy Resources and Economic Development Interagency Working Group, the Office of Regulatory Staff, in consultation with a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations, natural gas and electrical utilities, the South Carolina Public Service Authority, and other affected state agencies, shall prepare a comprehensive South Carolina energy assessment and action plan, hereinafter referred to as "the plan." This plan must identify recommended actions over a ten-year period to ensure the availability of adequate, reliable, and economical supply of electric power and natural gas to the people and economy of South Carolina. For purposes of this section, natural gas and electrical utilities also includes any investor-owned electrical utility, a public utility as defined in Section 58-5-10, electric cooperatives, and any consolidated political subdivision that owns or operates in this State equipment or facilities for generating, transmitting, delivering, or furnishing electricity, but does not include an entity that furnishes electricity only to itself, its residents, or tenants when such current is not resold or used by others.

(B) The Office of Regulatory Staff, in collaboration with the electrical utilities and the South Carolina Public Service Authority, shall aggregate data and analyses from their most recent integrated resource plans approved by the commission, and include any updates or associated filings and other available data in order to create a statewide comprehensive view of the availability of an adequate, reliable, and economical supply of energy resources to the people and economy of South Carolina.

(C) The plan must detail factors, and make recommendations, essential to adequate, reliable, and economical supply of energy resources for the people and economy of South Carolina including, but not limited to:

(1) projections of energy consumption in South Carolina, including the use of fuel resources and costs of electricity and generation resources across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas used to serve the State;

(2) the adequacy of electricity generation, transmission, and distribution resources in this State to meet projections of energy

consumption;

(3) the adequacy of infrastructure utilized by natural gas industries in providing fuel supply to electric generation plants or otherwise for end-use customers;

(4) the overall needs of the South Carolina electric grid and transmission system and details from the plans of each electrical utility and the South Carolina Public Service Authority to meet current and future energy needs in a cost-effective, reliable, economic, and environmental manner;

(5) an assessment of state and local impediments to expanded use of generation or distributed resources and recommendations to reduce or eliminate such impediments;

(6) how energy efficiency, demand-side management programs, and conservation initiatives across the electrical utilities' and the South Carolina Public Service Authority's balancing authority areas may be expanded to lower bills and reduce electric consumption;

(7) details regarding potential siting of energy resource and transmission facilities in order to identify any disproportionate adverse impact of such activities on the environment, agricultural community, land use, and economically disadvantaged or minority communities;

(8) details regarding commercial and industrial consumer clean energy goals and options available to such customers to achieve these goals, including:

(a) an analysis of the barriers commercial and industrial consumers face in making such investments in this State;

(b) an analysis of any electric and natural gas regulatory barriers to the recruitment and retention of commercial and industrial customers in this State; and

(c) recommendations to address any barriers identified in items (a) and (b) in a manner that is consistent with the public interest and which is not duly impactful to nonparticipating customers as it pertains to rate and system impacts, and which is not unduly impactful to entities providing public utility services; and

(9) an analysis of the potential for the South Carolina Public Service Authority and the state's electric utilities to construct generation facilities utilizing domestic wood products from South Carolina as a primary or auxiliary fuel source.

(D) In preparing the plan the Office of Regulatory Staff may retain an outside expert to assist with compiling this report.

(E) In addition to the information required by this section, the plan must include recommendations for legislative, regulatory, or other public and private actions to best ensure a reliable and reasonably priced

energy supply in South Carolina that supports the continued growth and success of this State. In forming these recommendations, the Office of Regulatory Staff must confer with the stakeholder group to ensure the recommendations would likely achieve the intended result for the electric grid, electric generation, and natural gas resources serving South Carolina customers.

(F) The plan must be submitted to the Public Utilities Review Committee for approval.

(G) The provisions of this section are subject to funding.

Potential energy generation, storage projects

SECTION 6. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-195. (A) The General Assembly encourages Dominion Energy South Carolina, Inc. and the Public Service Authority to jointly complete evaluations related to construction of a joint resource or joint resources to address energy needs and advance the economy and general welfare of the State. If the entities pursue permitting and construction of a joint resource or joint resources, the entities are further encouraged to use existing rights of way to the greatest extent practicable.

(B) The General Assembly hereby encourages Duke Energy Carolinas, LLC to complete evaluations for expanding energy storage, including hydro pumped storage, and energy generation opportunities in South Carolina.

(C) The General Assembly hereby encourages Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to complete evaluations for constructing hydrogen capable natural gas generation or otherwise to place into service such natural gas generation within the utilities' balancing areas serving South Carolina.

(D) The General Assembly encourages the Public Service Authority and the state's electric utilities to complete evaluations for constructing generation facilities utilizing domestic wood products from South Carolina as a primary or auxiliary fuel source.

(E)(1) In the event any of the projects described in subsection (A), (B), or (C) are approved, the Office of Regulatory Staff, using its authority provided in Title 58, must continuously monitor the project or projects. This includes, but is not limited to, a review of the construction in progress, such as meeting projected timelines and financial projections are met. The Office of Regulatory Staff must provide monthly updates, in writing, to the commission and to the members of the General

Assembly. Each electrical utility and the Public Service Authority must cooperate to the fullest extent with the Office of Regulatory Staff.

(2) The commission may, on its own motion, schedule a hearing to address concerns raised by the Office of Regulatory Staff in its written monthly review to the commission.

(3) The commission shall consider the Office of Regulatory Staff's written monthly reviews in any future matters concerning any facility described in this section.

Joint project authorization at former Canadys site

SECTION 7. Article 1, Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-205. (A) The Public Service Authority shall have the power to jointly own, as tenants-in-common or through a limited liability company, with Dominion Energy South Carolina, Inc., one or more natural gas-fired generation facilities, and related transmission facilities, to be constructed on a site at or near Dominion Energy South Carolina, Inc.'s former Canadys coal-fired generation station in Colleton County, the power to plan, finance, acquire, own, operate, and maintain an interest in such plants and facilities necessary or incidental to the generation and transmission of electric power and the power to make plans and enter into such contracts as are necessary or convenient for the planning, financing, acquisition, construction, ownership, operation, and maintenance of such plants and facilities. However, the Public Service Authority shall own a percentage of such plants and facilities equal to the percentage of the money furnished or the value of property supplied by the Public Service Authority for the acquisition and construction of the plants and facilities. The Public Service Authority shall also own and control a like percentage of the electrical output thereof.

(B) The Public Service Authority shall be severally liable in proportion to its ownership share of such plants and facilities acquired pursuant to this section for the acts, omissions, or obligations performed, omitted, or incurred by the operator or other owners of the plants and facilities while acting as the designated agent of the Public Service Authority for the purposes of constructing, operating, or maintaining the plants and facilities, or any of them. However, the Public Service Authority shall not be otherwise liable, jointly or severally, for the acts, omissions, or obligations of other owners of the plants and facilities, nor shall any money or property of the Public Service Authority be credited or otherwise applied to the account of the operator or other owners of the

plants and facilities, or be charged with any debt, lien, or mortgage as a result of any debt or obligation of the operator or other owners of the plants and facilities.

County considerations, solar energy systems

SECTION 8.A. Chapter 29, Title 6 of the S.C. Code is amended by adding:

Section 6-29-1220. (A) For any county that has not adopted rural zoning or has not adopted ordinances establishing design and development standards for solar energy systems, and until such time as rural zoning or an ordinance for solar energy systems has been adopted, then the development and operation of solar energy systems that require a footprint of more than thirteen acres of land shall comply with the following design and development standards:

(1) Site plans shall be prepared by a licensed land surveyor, landscape architect, or engineer in the State of South Carolina. Plans must be sealed.

(2) Solar energy systems shall be set back fifty feet from adjoining property lines and road rights of way and two hundred feet from the nearest residence, church, or school. Setback distances are to the fence and are inclusive of the vegetation buffer.

(3) Solar structures shall not exceed fifteen feet in height. This provision shall not include the interconnection poles, substation equipment, or other devices necessary for the electricity to be delivered to the public utility station.

(4) Solar energy facilities shall be screened from adjacent public road rights of way, residences, churches, or schools with a vegetative buffer and fence or wall with the following specifications:

(a) a vegetative buffer shall be installed adjacent to the solar energy system farm;

(b) the vegetation shall be planted in two staggered rows at a spacing interval between eight feet and ten feet on center and reach at least six feet in height over a three-year growing season and not less than fifteen feet in height at maturity or two feet higher than the highest panel, whichever is greater; and

(c) the vegetation shall include low lying vegetation to fill gaps between taller vegetation.

(5) All lighting shall be shielded or directed in a downward position to prevent noxious glare. A light fixture is required at the ends of all turnarounds.

(6) Fencing shall be at least six feet in height to secure the perimeter. The fence shall be secure at all times.

(7) A warning sign concerning voltage must be placed at the main gate to include the address and name of the solar energy system operator and a twenty-four-hour phone number for the solar energy system in case of an emergency.

(8) Solar collectors shall be designed with anti-reflective coating to minimize glare. Textured glass is optional. Mirrors are prohibited.

(9) Submit and maintain an updated facility decommission plan consistent with the then current decommissioning requirements as required by the South Carolina Department of Environmental Services.

(B) Upon receipt of a completed solar energy system plan by a county subject to the provisions in (A), the county shall set a date for a public hearing and send, by first class mail, a notice of the application to all property owners within two thousand six hundred forty feet of the proposed solar energy system. The notification shall include the projected date of the public hearing to be held by the county. Public notification includes posting in the local newspaper and mail notice to residents postmarked at least thirty days prior to the public hearing.

(C) The Department of Environmental Services is charged with the enforcement of the provisions of this section. Upon the failure of the owner or operator that is given notice of violation of this section to remedy the violation within thirty days, the Department of Environmental Services may impose civil penalties and require remediation for violations of the provisions of this section. Penalties may be not less than one hundred dollars nor more than five thousand dollars for each day of noncompliance. Penalties may be waived by the department for good cause for noncompliance shown by the owner or operator.

B. This SECTION takes effect for projects approved by a county on or after January 1, 2026.

Nuclear Advisory Council, duties, membership

SECTION 9. Article 9, Chapter 7, Title 13 of the S.C. Code is amended to read:

Article 9

Governor’s Nuclear Advisory Council

Section 13-7-810. There is hereby established a Nuclear Advisory Council in the SC Nexus for Advanced Resilient Energy at the Department of Commerce, which shall be responsible to the Secretary of the Department of Commerce and the council shall report to the Governor. The council shall be referred to as the Governor's Nuclear Advisory Council.

Section 13-7-820. The duties of the council, in addition to such other duties as may be requested by the Governor, shall be:

(1) to provide advice and recommendations to the Governor on issues involving the use, handling, and management of the transportation, storage, or disposal of nuclear materials within South Carolina, or such use, handling, transportation, storage, or disposal of nuclear materials outside of the State which may affect the public health, welfare, safety, and environment of the citizens of South Carolina;

(2) to provide advice and recommendations to the Governor regarding matters pertaining to the Atlantic Compact Commission;

(3) to provide advice and recommendations to the Governor regarding the various programs of the United States Department of Energy pertaining to nuclear waste;

(4) to meet at the call of the chair or at a minimum twice a year;

(5) to engage stakeholders and develop a strategic plan to advance the development of nuclear generation, including advanced nuclear generation such as small modular reactors, molten salt reactors, fusion energy, and spent nuclear fuel recycling facilities and fusion energy to serve customers in this State in the most economical manner at the earliest reasonable time possible;

(6) to provide advice and recommendations to the Governor regarding the various emerging nuclear technologies;

(7) to provide advice and recommendations to the Governor regarding commercial applications for new nuclear projects;

(8) to develop a statewide strategy for implementation and advancement of nuclear energy in the state's energy profile;

(9) to provide advice and recommendations to the Governor regarding the statewide nuclear energy strategy; and

(10) to engage stakeholders and to monitor activities at the Department of Energy's Savannah River Site, electric utility company nuclear reactor facilities, and nuclear fuel manufacturing facilities in the State.

Section 13-7-830. The recommendations described in Section 13-7-820 shall be made available to the General Assembly and the

Governor.

Section 13-7-840. (A) The council shall consist of eleven members. One at-large member shall be appointed by the Speaker of the House of Representatives from the membership of House of Representatives and one at-large member shall be appointed by the President of the Senate from the membership of the Senate. Nine members shall be appointed by the Governor as follows: two shall be actively involved in the area of environmental protection; two shall have experience in the generation of power by nuclear means; one shall have experience in the field of nuclear activities other than power generation; two shall be scientists or engineers from the faculties of institutions of higher learning in the State; and two shall be from the public at large. The Governor shall select the chairman from the members of the board. The terms of the members of the council appointed by the Governor shall be coterminous with that of the appointing Governor, but they shall serve at the pleasure of the Governor.

(B) Vacancies of the council shall be filled in the manner of the original appointment.

Section 13-7-850. The Governor shall designate the chairman from the membership. When on business of the council, members shall be entitled to receive such compensation as provided by law for boards and commissions.

Section 13-7-860. Staff support for the council shall be provided by the SC Nexus for Advanced Resilient Energy at the Department of Commerce.

Electric rate stabilization

SECTION 10. Chapter 27, Title 58 of the S.C. Code is amended by adding:

Article 24

Electric Rate Stabilization

Section 58-27-2700. A public utility providing retail electric service, in its discretion and at any time, may elect to have the terms of this article apply to its rates and charges for retail electric service, on a prospective basis, by filing a notice of the election with the commission and on the

same day and by the same means serving a copy on the Office of Regulatory Staff. Upon receipt of notice of the election, the commission shall proceed to make the findings and establish the ongoing procedures required for adjustments in base rates to be made under this article. In carrying out the procedures established by this article with respect to such an election, the commission shall rely upon and utilize the approved rates, charges, revenues, expenses, capital structure, returns, and other matters established in the public utility's most recent general rate proceeding pursuant to Section 58-27-860; provided, however, that the most recent order must have been issued no more than five years prior to the initial election to come under the terms of this article and the utility must file an application for a general rate proceeding every five years after such election. A public utility may combine an election under this article with the filing of a rate proceeding pursuant to Section 58-27-860. The commission shall include the findings required by this article in its rate orders issued in the Section 58-27-860 proceedings, and the election shall remain in effect until the next general rate proceeding.

Section 58-27-2710. The election by a utility to have the terms of this article apply to its rates and charges for retail electric service once made shall remain in effect until the next general rate proceeding for the public utility under Section 58-27-860, at which time the public utility may then elect to continue the applicability of this article to its rates and charges or elect to opt out of the provisions of this article. The applicant may withdraw its request to come under the terms of this article at any time before the entry of a final order of the commission on the merits of the proceeding in which the election is made or on a petition for rehearing in the proceeding.

Section 58-27-2720. In issuing its order pursuant to Section 58-27-2710, and in addition to the other requirements of Section 58-27-2710, if a proceeding pursuant to that section is required, then:

(1) the commission shall specify a range for the utility's cost of equity that includes a band of fifty basis points (0.50 percentage points) below and fifty basis points (0.50 percentage points) above the cost of equity on which rates have been set; and

(2) the commission separately shall state the amount of the utility's net plant in service, construction work in progress, accumulated deferred income taxes, inventory, working capital, and other rate base components. It also shall state the utility's depreciation expense, operating and maintenance expense, income taxes, taxes other than income taxes, other components of income for return, revenues, capital

structure, cost of debt, overall cost of capital, and earned return on common equity. The figures stated shall be those which the commission has determined to be the appropriate basis on which rates were set in the applicable orders.

Section 58-27-2730. The utility shall file with the commission monitoring reports for each twelve-month period ending on March 31, June 30, September 30, and December 31 of each year, the filings to be made no later than the fifteenth day of the third month following the close of the period. The utility shall serve a copy of such reports on the Office of Regulatory Staff on the same day and by the same means as they are provided to the commission. These quarterly monitoring reports shall include:

(1) the utility's actual net plant in service, construction work in progress, accumulated deferred income taxes, inventory, working capital, and other rate base components. The report shall also show the utility's depreciation expense, operating and maintenance expense, income taxes, taxes other than income taxes, other components of income for return, revenues, capital structure, cost of debt, overall cost of capital, and earned return on common equity;

(2) all applicable accounting and pro forma adjustments historically permitted or required by the commission for the utility in question or for similarly situated utilities, authorized by general principles of utility accounting, or authorized by accounting letters or orders issued by the commission. This authorization may occur either in a general rate hearing or in any other type of filing or hearing that the commission considers appropriate. However, other parties shall be given sufficient opportunity to review and provide comments on any proposed accounting letter or order issued after the initial order allowing future base rate adjustments pursuant to this article;

(3) pro forma adjustments to annualize for the twelve-month period any rate adjustments imposed pursuant to this article or other events affecting only part of the period covered by the filing so that the annualization is required to show the effects of those events on the utility's earnings going forward; and

(4) pro forma or other adjustments required to properly account for atypical, unusual, or nonrecurring events.

Section 58-27-2740. (A) In the monitoring report filed for the twelve-month period ending December thirty-first of each year, the utility shall provide additional schedules indicating the following revenue calculations:

(1) if the utility's earnings exceed the upper end of the range established in the order, then the utility shall calculate the reduction in revenue required to lower its return on equity to the midpoint of the range established in the order; or

(2) if the utility's earnings are below the lower range established in the order, then the utility shall calculate the additional revenue required to increase its return on equity to the midpoint of the range established in the order.

(B) The utility also shall provide a schedule that specifies changes in its tariff rates required to achieve any indicated change in revenue.

(C) The proposed rate changes, filed by the utility, shall conform as nearly as is practicable with the revenue allocation principles contained in the most recent rate order.

Section 58-27-2750. The Office of Regulatory Staff shall review the monitoring report filed pursuant to Section 58-27-2730 and Section 58-27-2740 to determine compliance with its terms, taking into account the findings of any audit conducted by the Office of Regulatory Staff concerning compliance with Section 58-27-2730 and Section 58-27-2740. The Office of Regulatory Staff shall propose those adjustments it determines to be required to bring the report into compliance with Section 58-27-2740. Based upon that report and the findings of any audit conducted by the Office of Regulatory Staff, the commission shall order the utility to make the adjustments to tariff rates necessary to achieve the revenue levels indicated in Section 58-27-2740.

Section 58-27-2760. The procedures contained in this section shall apply to monitoring reports related to the quarter ending December 31.

(1) The utility shall file the monitoring reports annually with the commission and Office of Regulatory Staff on or before March 15.

(2) In cases where the monitoring report indicates rate adjustments are required, or where it otherwise appears to the commission or the Office of Regulatory Staff that an adjustment in rates may be warranted under this article, the commission shall issue a Notice of Filing annually on or before March 31 and require interested persons to file a petition to intervene annually on or before May 15. The commission shall maintain a register of parties who have notified the commission in writing that they wish to be provided with any Notice of Filing related to specified utilities and the commission shall use reasonable efforts to provide such parties with Notices of Filing by such utilities, provided that the failure to do so shall not invalidate any subsequent proceedings. Intervenors shall have discovery rights related to the matters set forth in Section

58-27-2730.

(3) The Office of Regulatory Staff shall conduct an audit of the monitoring report to ascertain the reasonableness and prudency of all matters contained therein and specify any changes that the Office of Regulatory Staff determines to be necessary to correct errors in the report or to otherwise bring the report into compliance with this article. The Office of Regulatory Staff's audit report shall be verified and provided to the commission and to the utility and made available annually to all parties of record no later than June 1. Other parties of record shall also be allowed until June 1 of each year to file verified written comments and submit documentary evidence to the commission and the Office of Regulatory Staff in response to the utility's monitoring report.

(4) The utility shall be allowed until June 15 of each year to file verified written comments and submit documentary evidence to the commission and the Office of Regulatory Staff related to the utility's monitoring report and may request a non-evidentiary hearing before the commission concerning the utility's monitoring report.

(5) On or before July 15 of each year, the commission shall issue an initial order setting forth any changes required in the utility's request to adjust rates under this article (the "Initial Order"). In the absence of such an Initial Order, the electric rate adjustment contained in the utility's filing shall be considered granted as filed.

(6) Any electric rate adjustments authorized under the terms of this article shall take effect for all bills rendered on or after the first billing cycle of August of that year.

Section 58-27-2770. In calculating its revenue requirement under Section 58-27-2730, and apart from the recovery of a return on construction work in progress, an electric utility may not include in plant service its investments in any new electric generating facility of more than two hundred fifty megawatts, or the costs associated with operating such a facility, except through a general electric rate proceeding under Section 58-27-860 and Section 58-27-870 or through a contested case proceeding for the limited purpose of establishing the prudence of the facility under this section.

Section 58-27-2780. Within thirty days of the issuance of an Initial Order pursuant to Section 58-27-2760, or within thirty days of the failure by the commission to issue an order as required pursuant to Section 58-27-2760, any aggrieved party may petition the commission for review of the Initial Order or failure to issue an order and all interested parties of record shall have a right to be heard at an evidentiary hearing

on the matter. The party shall serve a copy of such petition on the Office of Regulatory Staff and other parties of record on the same day and by the same means as it is provided to the commission.

Section 58-27-2790. (A) After conducting the hearing required by Section 58-27-2780, the commission shall issue a final order that:

(1) sets forth any changes that are required to the rates approved in the Initial Order issued under Section 58-27-2760(5);

(2) determines the amount of any overcollection or undercollection by the utility that resulted from collection of the rates authorized in the Initial Order as compared to the rates authorized in the final order issued under this section; and

(3) establishes a credit to refund the amount of any overcollection, or a surcharge to collect the amount of any undercollection that arose during the time that the rates approved in the Initial Order were collected, and requires the utility to apply the credit or surcharge until such time as the overcollection or undercollection is exhausted.

(B) The commission shall issue any final order required under this section by December 31 of the year in which the monitoring report was filed. The order shall make the corrected rates and the credit or surcharge, if any, effective as of the first billing cycle of May of that year.

(C) The provisions of Sections 58-27-2150 and 58-27-2310 concerning rehearing and appeal shall apply to the orders issued pursuant to this section.

Section 58-27-2800. The review of Initial Orders pursuant to Section 58-27-2780 and Section 58-27-2790 is limited to issues related to compliance with the terms of this article. Matters determined in orders issued pursuant to Section 58-27-2720 are not subject to review except in full rate proceedings pursuant to Section 58-27-2740. Any proceedings pursuant to this article are without prejudice to the right of the commission to issue, or any interested party to request issuance of, a rule to show cause why a full rate proceeding should not be initiated, nor does this article limit the right of a utility to file an application pursuant to Section 58-27-870 for an adjustment to its rates and charges, nor does it impose the restrictions on filings contained in Section 58-27-870(E).

Section 58-27-2810. (A) The Office of Regulatory Staff is authorized to create additional positions as the General Assembly may provide in the annual general appropriations act for the purpose of performing its duties under this article; however, no more than two positions for each

electric utility regulated pursuant to this article may be authorized. All salaries, benefits, expenses, and charges incurred by the Office of Regulatory Staff for these positions must be borne by the electric utilities regulated pursuant to this article.

(B) On or before the first day of July in each year, the Department of Revenue must assess each electric utility regulated pursuant to this article an equal portion of these salaries, benefits, expenses, and charges on June 30 preceding that on which the assessment is made which is due and payable on or before July 15. The assessments must be charged against the electric utilities by the Department of Revenue and collected by the department in the manner provided by law for the collection of taxes from the electric utilities, including the enforcement and collection provisions of Article 1, Chapter 54 of Title 12 and paid, less the Department of Revenue actual incremental increase in the cost of administration into the state treasury as other taxes collected by the Department of Revenue for the State. These assessments are in addition to any amounts assessed pursuant to Section 58-4-60. These assessments must be deposited in a special fund with the State Treasurer's Office from which the salaries, benefits, expenses, and charges shall be paid.

(C) The Office of Regulatory Staff must annually certify to the Department of Revenue on or before May 1 the amounts to be assessed.

Fusion energy and advanced nuclear facilities

SECTION 11. Article 3, Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-196. Electrical utilities and the Public Service Authority are encouraged to explore the potential for deploying fusion energy and advanced nuclear facilities including, but not limited to, small modular nuclear facilities at suitable sites. Suitable sites may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and other brownfield sites, such as coal-generation sites. Any utility pursuing deployment of such nuclear facilities must provide annual progress reports to the commission and the Public Utilities Review Committee; this report may be in writing or in the form of testimony in an appropriate proceeding. A utility whose rates are regulated by the commission must provide estimates of the cost of the studies including, but not limited to, planning, licensing, and project development to the commission. If the commission finds such estimated costs are reasonable, prudent, and in the public interest, such costs may be recoverable through rates as they are incurred. Nothing in

this section relieves an electrical utility of the burden of filing for a certificate under this article and obtaining appropriate approvals from the commission before commencing construction.

Evaluation of potential use, small modular nuclear reactors

SECTION 12. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-70. (A) It is the policy of this State to promote the development and operation of advanced nuclear facilities, including small modular nuclear reactors, in the most economical manner and at the earliest reasonable time possible. These facilities are intended to provide electricity that is reliable, resilient, secure, and free of carbon dioxide emissions, as well as promote this state's economic development and industry retention.

(B) As used in this section:

(1) "Electrical utility" has the same meaning as provided in Section 58-27-10(7).

(2) "Site" means the geographic location of one or more small modular nuclear reactors.

(3) "Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 500 megawatts per reactor.

(C)(1) Electrical utilities and the South Carolina Public Service Authority may evaluate the potential for deploying small modular nuclear facilities at suitable sites within this State. A "suitable site" may include sites of current nuclear facilities, sites where nuclear facilities have been proposed but not constructed, and brownfield sites, such as coal generation sites.

(2) Such an evaluation may include cost estimates of further studies related to a potential small modular nuclear facility to serve customers in South Carolina. This includes, but is not limited to, planning, licensing, and project development, the anticipated timeline of an early site permit, current possibilities or barriers to co-ownership of such facilities, and available federal benefits which may defray costs of these facilities.

(3) Electric utilities and the Public Service Authority must provide reports on such evaluations to the Public Utilities Review Committee, the Nuclear Advisory Council, and the Public Service Commission by December 31, 2027.

Agency review of energy infrastructure projects

SECTION 13.A. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Article 3

Energy Infrastructure Projects

Section 58-37-100. As used in this article:

(1) "Agency" means any agency, department, board, commission, or political subdivision of this State. However, it does not include the Public Service Commission, except for Sections 58-37-110 and 58-37-120.

(2) "Application" means a written request made to an agency for grant of a permit or approval of an action or matter within the agency's jurisdiction pertaining to an energy infrastructure project.

(3) "Brownfield energy site" means an existing or former electrical generating site or other existing or former industrial site.

(4) "Energy corridor" means a corridor in which a utility or the South Carolina Public Service Authority has:

(a) transmission lines with a rated voltage of at least 110 kilovolts, including the substations, switchyards, and other appurtenant facilities associated with such lines; or

(b) high pressure natural gas transmission pipelines and the metering, compression stations, valve station, and other appurtenant facilities associated with such lines.

(5) "Energy corridor project" means an energy infrastructure project that involves the expansion of electric or natural gas delivery capacity in whole or in principal part within an existing energy corridor.

(6) "Energy infrastructure project" means the construction, placement, authorization, or removal of energy infrastructure including, but not limited to, electric transmission and generation assets, natural gas transmission assets, and all associated or appurtenant infrastructure and activities, including communications and distribution infrastructure.

(7) "Permit" means a permit, certificate, approval, registration, encroachment permit, right of way, or other form of authorization.

(8) "Person" means an individual, corporation, association, partnership, trust, agency, or the State of South Carolina.

Section 58-37-110. (A) Given the importance of sufficient, reliable, safe, and economical energy to the health, safety, and well-being of the

citizens of South Carolina and to the state's economic development and prosperity, the General Assembly finds that the prompt siting, permitting, and completion of energy infrastructure projects, energy corridor projects, and brownfield electrical generation projects are crucial to the welfare of the State.

(B) All agencies are instructed to give expedited review of applications for energy infrastructure projects, to provide reasonable and constructive assistance to applicants to allow the applicants to comply with any law and regulatory requirements as expeditiously as possible, and to be guided by the policy goals established in subsection (A).

(C) All agencies are instructed to give due weight to the reduction in the environmental, aesthetic, and socioeconomic impacts that are incurred to support the safe, reliable, and economic provision of energy to the people of South Carolina when energy infrastructure projects can be located in existing energy corridors or on brownfield energy sites, and shall consider the relative reductions in such impacts compared to greenfield projects in evaluating projects in existing energy corridors or on brownfield energy sites.

Section 58-37-120. (A)(1) Any agency presented with an application for a permit for an energy infrastructure project shall promptly provide a public comment period if required by regulation and shall review and issue a decision on the application no later than six months after the date the application is received by the agency. If the agency fails to undertake review of and take final action upon the application within the six-month review period, as defined in subsection (A)(3), the application shall be deemed approved, and the agency shall promptly issue documentation of such approval.

(2) Within thirty days of receipt of an application, the agency shall determine if the application is complete. If the agency determines the application is incomplete, the agency will notify the applicant, and the applicant will have fifteen days to complete the application. The applicant and the agency may mutually agree in writing to extend the time period for completion of the application. After the fifteen days, or the mutually agreed upon date for completion, if the agency determines the application is incomplete, then the agency may deny the application.

(3) The six-month review period shall commence upon the date of filing unless the application is deemed incomplete pursuant to subsection (A)(2). In the event the application as submitted is determined by the agency to be incomplete, the six-month review period shall commence upon the date such application is determined by the agency to be complete, provided that such completion occurs within the period

provided for in subsection (A)(2).

(B) A permit applicant for an energy infrastructure project shall not submit an application for the project prior to conducting a preapplication meeting with the agency to establish milestones within the six-month review period.

(C) The applicant and agency may mutually agree in writing to extend the six-month review period. Such agreement shall be in writing and state a specific date on when the extension will end. The agency shall not stop, stay, or otherwise alter the review period without such written agreement with the applicant.

(D) Upon receipt of an application, the agency shall promptly review it for sufficiency and shall provide the applicant with a list of all technical and administrative deficiencies within thirty days of receipt, or if a public comment period is required, fifteen days from the end of the comment period. The identification by the agency of deficiencies in the application shall not toll the six-month period for agency determination.

Section 58-37-130. The applicant or any person affected by an agency decision or action on an application for a permit for any energy infrastructure project may appeal that decision or action to the South Carolina administrative law court for a contested case review pursuant to the administrative procedures act. The administrative law court shall issue its final order on the matter within one year, except in cases which the administrative law court determines the case should be extended beyond one year for good cause. The administrative law court's final order shall be immediately appealable to the South Carolina Supreme Court in accordance with South Carolina Appellate Court Rule 203.

Section 58-37-140. The provisions of this article shall expire ten years after its effective date.

B. All other sections of Chapter 37 may be cited as Article 1, entitled "Planning for Energy Supply."

Definition

SECTION 14. Section 58-40-10(C) of the S.C. Code is amended to read:

(C) "Customer-generator" means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive

electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a)(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(ii) after June 1, 2025, not more than the lesser of five thousand kilowatts (5,000kW AC) or one hundred percent of contract demand for a nonresidential customer, provided the customer-generator is on a time-of-use rate schedule and any excess energy produced by the customer-generator is credited and reset at the end of each monthly period; or

(iii) more than five thousand kilowatts (5,000kW AC) if agreed to by the customer-generator and the electrical utility, provided that the electrical utility submits the agreement to the commission for consideration and approval if the commission finds the agreement to contain appropriate ratemaking provisions and is in the public interest; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

Voluntary renewable energy programs

SECTION 15. Section 58-41-30 of the S.C. Code is amended to read:

Section 58-41-30. (A) The ability to utilize clean energy resources for electric power generation is important to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic growth in the State.

(B) The commission shall be responsive to the clean energy needs of

customers and the economic development and industry retention implications for the State when reviewing and approving voluntary clean energy programs. The commission shall consider updates to these voluntary renewable energy programs on an ongoing basis.

(C) Within one hundred–twenty days of the effective date of this chapter, each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the commission, unless as of July 1, 2025, the electrical utility already has a voluntary renewable energy program that conforms with the requirements of this section on file with the commission. The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties shall have the right to participate in the proceeding. The commission must periodically hold additional proceedings to evaluate whether updates to the programs are necessary. At a minimum, each electrical utility must submit to the commission a program for which:

(1) the participating customer shall have the right to select the renewable energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and clean energy environmental attributes of the renewable energy facility and the term of such agreement so long as such terms are consistent with the voluntary renewable program service agreement as approved by the commission;

(2) the renewable energy contract and the participating customer agreement must be of equal duration;

(3) in addition to paying a retail bill calculated pursuant to the rates and tariffs that otherwise would apply to the participating customer, reduced by the amount of the generation credit, a participating customer shall reimburse the electrical utility on a monthly basis for the amount paid by the electrical utility to the renewable energy supplier pursuant to the participating customer agreement and renewable energy contract, plus an administrative fee approved by the commission; and

(4) eligible customers must be allowed to bundle their demand under a single participating customer agreement and renewable energy contract and must be eligible annually to procure an amount of capacity as approved by the commission.

(D) The commission must approve voluntary renewable energy programs, in addition to those provided for in subsection (C), where the participating customer purchases clean energy environmental attributes of new or existing renewable energy facilities owned and operated and recovered on a cost-of-service basis by the electrical utility or otherwise supplies through the execution of agreements with third parties within

the utility's balancing authority area. Voluntary renewable energy programs shall also facilitate behind-the-meter options for customers and access to renewable energy resource generation.

(E) The commission may approve a program that provides for options that include, but are not limited to, both variable and fixed generation credit options.

(F) The commission shall limit the total portion of each electrical utility's voluntary renewable energy program that is eligible for the program at a level consistent with the public interest and shall provide standard terms and conditions for the participating customer agreement and the renewable energy contract, subject to commission review and approval.

(G) A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. Purchased power costs incurred by an electrical utility as a result of subsection (C) shall be recovered in the electrical utility's fuel clause pursuant to Section 58-27-865.

(H) A renewable energy facility may be located anywhere in the electrical utility's service territory within the utility's balancing authority.

Definition

SECTION 16. Section 58-41-10 of the S.C. Code is amended by adding:

(17) "Energy storage facilities" means any commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time including, but not limited to, electrochemical, thermal, and electromechanical technologies.

Proceedings for avoided cost methodologies, standard offers, and forms

SECTION 17. Section 58-41-20 of the S.C. Code is amended to read:

Section 58-41-20. (A) As soon as is practicable after the effective date of this chapter, the commission shall open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, the commission

shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within such proceeding the commission shall approve one or more standard form power purchase agreements for use for qualifying small power production facilities not eligible for the standard offer. Such power purchase agreements shall contain provisions, including, but not limited to, provisions for force majeure, indemnification, choice of venue, and confidentiality provisions and other such terms, but shall not be determinative of price or length of the power purchase agreement. The commission may approve multiple form power purchase agreements to accommodate various generation technologies and other project-specific characteristics. This provision shall not restrict the right of parties to enter into power purchase agreements with terms that differ from the commission-approved form(s). Any decisions by the commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent with PURPA and the Federal Energy Regulatory Commission's implementing regulations and orders, and nondiscriminatory to small power producers, and shall strive to reduce the risk placed on the using and consuming public.

(1) Proceedings conducted pursuant to this section shall be separate from the electrical utilities' annual fuel cost proceedings conducted pursuant to Section 58-27-865.

(2) Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(B) In implementing this chapter, the commission shall treat small power producers on a fair and equal footing with electrical utility-owned resources by ensuring that:

(1) rates for the purchase of energy and capacity fully and accurately reflect the electrical utility's avoided costs;

(2) power purchase agreements, including terms and conditions, are commercially reasonable and consistent with regulations and orders promulgated by the Federal Energy Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

(E)(1) Electrical utilities shall file with the commission power purchase agreements entered into pursuant to PURPA, resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer.

(2) The commission is authorized to open a generic docket for the purposes of creating programs for the competitive procurement of energy and capacity from renewable energy facilities by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

(a) termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including, but not limited to, a reduction in the contract price relative to the ten-year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to subsection (A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

(2) Once an electrical utility has executed interconnection agreements and power purchase agreements with qualifying small power production facilities located in South Carolina with an aggregate nameplate capacity equal to twenty percent of the previous five-year average of the electrical utility's South Carolina retail peak load, that electrical utility shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with the terms, conditions, rates, and terms of length for contracts as determined by the commission in a separate docket or in a proceeding conducted pursuant to subsection (A). The commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state's policy of encouraging renewable energy.

(G) Nothing in this section prohibits the commission from adopting various avoided cost methodologies or amending those methodologies in the public interest.

(H) Unless otherwise agreed to between the electrical utility and the small power producer, a power purchase agreement entered into pursuant to PURPA may not allow curtailment of qualifying facilities in any manner that is inconsistent with PURPA or implementing

regulations and orders promulgated by the Federal Energy Regulatory Commission.

(I) The commission is authorized to employ, through contract or otherwise, third-party consultants and experts in carrying out its duties under this section including, but not limited to, evaluating avoided cost rates, methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third-party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties. The qualified independent third party shall submit all requests for documents and information necessary to their analysis under the authority of the commission and the commission shall have full authority to compel response to the requests. The qualified independent third party's duty will be to the commission. Any conclusions based on the evidence in the record and included in the report are intended to be used by the commission along with all other evidence submitted during the proceeding to inform its ultimate decision setting the avoided costs for each electrical utility. The utilities may require confidentiality agreements with the independent third party that do not impede the third-party analysis. The utilities shall be responsive in providing all documents, information, and items necessary for the completion of the report. The independent third party shall also include in the report a statement assessing the level of cooperation received from the utility during the development of the report and whether there were any material information requests that were not adequately fulfilled by the electrical utility. Any party to this proceeding shall be able to review the report including the confidential portions of the report upon entering into an appropriate confidentiality agreement. The commission and the Office of Regulatory Staff may not hire the same third-party consultant or expert in the same proceeding or to address the same or similar issues in different proceedings.

(J) Each electrical utility's avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission. The commission may approve any confidentiality protections necessary to allow for independent review and verification of the avoided cost

filing.

Competitive procurement

SECTION 18. Title 58 of the S.C. Code is amended by adding:

CHAPTER 42

Competitive Procurement

Section 58-42-10. (A) The General Assembly finds that it is in the public interest for the state's electrical utilities to competitively procure targeted volumes of renewable energy and co-located energy storage resources. The General Assembly further finds that it is in the public interest for the state's electrical utilities to competitively procure certain stand-alone storage additions to be located in South Carolina. These procurements shall be consistent with the electric utilities' 2023 integrated resource plans as approved by the commission or the subsequent annual integrated resource plan updates as approved by the commission. The resources procured pursuant to this section are intended to be placed in service on or before January 1, 2035. The volumes of each procurement may be increased or decreased as provided in this section. If an electrical utility proposes an amount of solar or storage in a future integrated resource plan filing that is lower than the amount contained in the electrical utility's 2023 integrated resource plan as approved by the commission, the electrical utility shall include and analyze at least one scenario consistent with the electrical utilities' 2023 preferred resource portfolio that includes volumes of solar and storage consistent with that contained in the 2023 integrated resource plans as approved by the commission.

(B) The electrical utilities shall procure the resources referred to in subsection (A) through at least a biennial competitive procurement process consistent with the requirements of Sections 58-42-20 and 58-42-30, and in accordance with this section. The target volume in each competitive procurement shall be consistent with the volume of resources needed to be procured at that time to achieve the resource in-service dates specified in the electrical utility's 2023 integrated resource plan as approved by the commission or a subsequent integrated resource plan annual update as approved by the commission.

(C) The amount of renewable energy or energy storage resources required to be procured by each electrical utility pursuant to this section shall be reduced by the alternating current ("AC") nameplate capacity of

any facility of the same resource type for which such electrical utility enters into a power purchase agreement after the effective date of this section pursuant to the electrical utility's mandatory purchase obligation under Public Utility Regulatory Policies Act or pursuant to a prior competitive procurement which had not resulted in an executed power purchase agreement prior to the enactment date of this section, provided that the facility is placed in service in 2035 or earlier.

(D) The target resource volumes for each competitive procurement shall reflect any increases or decreases included in the electrical utility's most recently approved integrated resource plan or integrated resource plan update. The electric utility may, at its option, include the procurement of non-renewable generation resources as part of its procurement of renewable and storage resources pursuant to this section.

(E) The target resource volumes for competitive procurement shall take into account any changes in siting opportunities that may be affected by local permitting, zoning, or other regulatory or legal challenges.

(F) The target resource volumes for competitive procurement by the electrical utility shall be increased to account for replacing megawatts associated with:

(1) any inability by the electrical utility to reach target procurement volumes in prior procurement cycles;

(2) the inability of renewable energy or energy storage resources procured in any prior procurement cycles to be placed in service; and

(3) the expiration of any existing contracts with qualifying facilities pursuant to the Public Utility Regulatory Policies Act.

All target resource volumes referenced in this subsection shall be consistent with the needs identified in the most recently commission approved integrated resource plan or integrated resource plan update.

(G) Prior to making final awards in a competitive procurement, the electrical utility shall confirm that the resources selected are cost effective using methodologies and current inputs reflected in the applicable integrated resource plan or integrated resource plan update approved by the commission for that electrical utility.

(H) Notwithstanding the other subsections of this section, the results of competitive procurements within an electrical utility's balancing area outside of South Carolina that serve customers in the electrical utility's balancing area within South Carolina shall be approved or accepted by the commission as specified in Section 58-42-20(G).

(I) Notwithstanding Section 58-41-20(F)(2), electrical utilities shall continue to offer to qualifying small power production facilities power purchase agreements for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of up to ten

years, until the competitive procurement requirements of this section have been satisfied.

Section 58-42-20. (A) For purposes of this chapter:

(1) "Electrical utility" shall be defined as in Section 58-27-10; provided, however, that electrical utilities serving less than 100,000 customers shall be exempt from the provisions of this chapter unless otherwise provided.

(2) "Energy storage facility" means commercially available technology that can absorb energy and store it for later use including, but not limited to, electrochemical, thermal, and electromechanical technologies but not including pumped hydroelectric facilities.

(3) "Renewable energy facility" has the same meaning as defined in Section 58-39-120(E).

(4) "Renewable energy resource" has the same meaning as "renewable generation resource" as defined in Section 58-39-120(F).

(B) Unless an electrical utility makes an application pursuant to subsection (G), electrical utilities shall file for commission approval a program for the competitive procurement of renewable energy resources and such amount of associated co-located energy storage facilities as determined by the commission to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan or other planning process. A competitive procurement program may be used to procure any subset of energy, capacity, ancillary services, and environmental and renewable attributes. The commission may not grant approval of the program unless it finds that the electrical utility has satisfied all the requirements of this section and that the proposed program is in the best interests of the customers of the electrical utility. Co-located energy storage facilities, if included in the solicitation, must be associated equipment located at the same site as the renewable energy facility.

(C) Electrical utilities shall procure renewable energy resources and co-located energy storage facilities, or the output of such facilities, subject to the following requirements:

(1) Renewable energy and co-located energy storage resources, or their output, procured by electrical utilities shall be procured via a competitive solicitation process open to all market participants that meet minimum eligibility requirements.

(2) The electrical utility shall issue public notice of its intention to issue a competitive renewable energy and co-located energy storage solicitation, or both, at least ninety days prior to the commencement of each solicitation. This notice must include the proposed procurement

volume, process, and timeline.

(3) The electrical utility shall provide a reasonable period of time for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, and for commission approval, prior to finalization and issuance.

(4) Renewable energy facilities eligible to participate in a competitive procurement are those that use renewable energy resources.

(5) Energy storage facilities eligible to participate in a competitive procurement are those identified in Section 58-42-20(A)(2) installed and operated in conjunction with a renewable energy facility.

(6) The electrical utility shall be required to use an independent evaluator or independent administrator to oversee or manage the competitive procurement, as determined appropriate by the commission.

(7) The procurement of renewable energy facilities and co-located energy storage facilities and the output of such facilities shall result in a reasonable balance of electrical utility and independent third-party ownership of eligible facilities, as determined by the commission. The electrical utility and its affiliates may offer proposals into the competitive procurement provided that appropriate safeguards are in place to ensure that such proposals do not receive any advantage in the bid evaluation process.

(D) An electrical utility shall make publicly available at least forty-five days prior to each competitive solicitation:

(1) A commission-approved pro forma contract to inform prospective market participants of the procurement terms and conditions. The pro forma contract must: (i) include standardized and commercially reasonable requirements for contract performance security consistent with market standards; and (ii) define limits and compensation for resource dispatch and curtailment.

(2) A bid and portfolio evaluation methodology that: (i) ensures all bids are treated equitably, including price and nonprice evaluation criteria; and (ii) ensures electrical utility and independent third-party owned facilities are treated equitably with regards to resource dispatch and curtailments.

(3) Interconnection requirements including specification of how bids without existing interconnection studies must be treated for purposes of evaluation.

(E) After bids are submitted and evaluated, final winning bids will be selected based upon the published evaluation methodology.

(F) An electrical utility shall issue a public report summarizing the results of each competitive solicitation within sixty days of the award notifications. The report shall include, at minimum, a summary of the

submitted bids and an anonymized list of the project awards, including their size, location, average award price and tenor, and award price range. Electrical utilities are permitted to recover costs incurred through such competitive procurement through rates established pursuant to Section 58-27-865 or Section 58-27-870.

(G) Notwithstanding the requirements of Section 58-42-10 and this section, the commission shall approve an electrical utility's competitive procurement of energy storage facilities or renewable energy resources and the output of energy storage facilities or renewable energy resources within an electrical utility's balancing area outside of South Carolina that serve customers within South Carolina if eligible energy storage facilities or renewable energy resources located within South Carolina were allowed to participate in the competitive procurement and if the commission determines that the results of such procurement are in the public interest and enable the economic, reliable, and safe operation of the electric grid. Electrical utilities shall be permitted to recover costs incurred through such competitive procurements through rates established pursuant to Section 58-27-865 or Section 58-27-870. However, if the commission determines that the results of the procurement are not in the public interest for South Carolina, then the costs and benefits associated with such procurement shall be allocated away from South Carolina customers.

(H) The commission is authorized to adopt rules or procedures for conducting a procurement authorized by this section.

Section 58-42-30. (A) Within six months from the date of the enactment of this chapter, the commission shall open a docket to establish a competitive procurement program for each electrical utility for energy storage facilities to be located in South Carolina. Solicitations shall be subject to the following limitations:

(1) For transmission-connected energy storage (excluding pumped hydro) the electrical utilities shall conduct a competitive procurement for such resources, including utility-self developed projects. Each electrical utility shall file the proposed details of its competitive procurement process no later than twelve months after the date of the enactment of this chapter.

(2) The target procurement volume for stand-alone storage acquisition may not exceed the portion of stand-alone storage in the most recent commission approved integrated resource plan or integrated resource plan annual update that is equal to the portion of the respective electrical utility's peak load attributable to South Carolina customers.

(3) Stand-alone energy storage facilities with a design capacity less

than or equal to twenty megawatts and intended primarily to address local reliability improvements or local capacity constraints are not subject to the competitive procurement requirements of this section.

(4)(a) The procurement of stand-alone energy storage facilities shall result in a reasonable balance of the electrical utility and independent third-party ownership of eligible facilities, as determined by the commission.

(b) An electrical utility and its affiliates may offer proposals into the competitive procurement provided that appropriate safeguards are in place to ensure that such proposals do not receive any advantage in the bid evaluation process. Electrical utility costs associated with facilities owned by an independent third-party power producer shall be capitalized and included within the electrical utility's rate base for ratemaking purposes.

(B) Competitively procured stand-alone storage shall be subject to operational protocols, equipment specifications, and inspections established by the electric utility and which are necessary to ensure the reliability of the electrical utility system. Information regarding competitively procured stand-alone storage must be provided to the Office of Regulatory Staff.

(C) Electrical utilities may recover costs incurred through such competitive procurement through rates established pursuant to Section 58-27-870.

Definitions

SECTION 19.A. Section 58-33-20 of the S.C. Code is amended by adding:

(10) The term "like facility" with reference to generation facilities and without limitation, includes a facility or facilities that are proposed to provide capacity on a site currently or previously used for siting electric generation that replaces the capacity of a facility or facilities that are being retired, abandoned, brownfield, downrated, mothballed, or dedicated to standby or emergency service at the same site, limited to facilities no more than 300 megawatts for non-nuclear generation, so long as those new facilities will provide an amount of effective load-carrying capacity that in whole or in part will serve to replace the capacity to be lost as a result of retirement, capacity lost as a result of abandonment, or in the case of nuclear generation, will serve to provide the facility and includes associated transmission facilities needed to deliver power from that facility to customers. A "like facility" with

reference to transmission facilities and, without limitation, includes any facility that represents the rebuilding, reconductoring, paralleling, increasing voltage, adding circuits or otherwise reconfiguring of an existing transmission line or other transmission facilities including, without limitation, projects to increase the capacity of such facilities, provided such facilities are: (a) located materially within a utility right of way or corridor; or (b) substantially located on the property of a customer, prospective customer, or the State.

B. Section 58-33-20(2)(a) of the S.C. Code is amended to read:

(2) The term "major utility facility" means:

(a) electric generating plant and associated facilities designed for, or capable of, operation at a capacity of more than seventy-five megawatts.

Certification, major utility facilities

SECTION 20. Article 3, Chapter 33, Title 58 of the S.C. Code is amended to read:

Article 3

Certification of Major Utility Facilities

Section 58-33-110. (1) No person shall commence to construct a major utility facility without first having obtained a certificate issued with respect to such facility by the commission. The replacement of an existing facility with a like facility, as determined by the commission, shall not constitute construction of a major utility facility. Upon application for a determination by the commission that a proposed utility facility constitutes a like facility replacement, the commission must issue a written order approving or denying the application within sixty days of filing. Any facility, with respect to which a certificate is required, shall be constructed, operated, and maintained in conformity with the certificate and any terms, conditions, and modifications contained therein. A certificate may only be issued pursuant to this chapter; provided, however, any authorization relating to a major utility facility granted under other laws administered by the commission shall constitute a certificate if the requirements of this chapter have been complied with in the proceeding leading to the granting of such authorization.

(2) A certificate may be transferred, subject to the approval of the commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

(3) A certificate may be amended.

(4) This chapter shall not apply to any major utility facility:

(a) the construction of which is commenced within one year after January 1, 1972; or

(b) for which, prior to January 1, 1972, an application for the approval has been made to any federal, state, regional, or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in subsection (1) of Section 58-33-160; or

(c) for which, prior to January 1, 1972, a governmental agency has approved the construction of the facility and indebtedness has been incurred to finance all or part of the cost of such construction; or

(d) which is a hydroelectric generating facility over which the Federal Energy Regulatory Commission has licensing jurisdiction; or

(e) which is a transmission line or associated electrical transmission facilities constructed by the South Carolina Public Service Authority: (i) for which construction either is commenced within one year after January 1, 2022; (ii) which is necessary to maintain system reliability in connection with the closure of the Winyah Generating Station, provided that such transmission is not for generation subject to this chapter; or (iii) which is necessary to serve an identified commercial or industrial customer to promote economic development or industry retention as determined by the South Carolina Public Service Authority and agreed to by the Office of Regulatory Staff. In the event such an agreement is reached, the Office of Regulatory Staff shall provide a letter to the commission and the Public Utilities Review Committee with a description of the agreement.

(5) Any person intending to construct a major utility facility excluded from this chapter pursuant to subsection (4) or Section 58-33-20(10) of this section may elect to waive the exclusion by delivering notice of the waiver to the commission. This chapter shall thereafter apply to each major utility facility identified in the notice from the date of its receipt by the commission.

(6) The commission shall have authority to waive the normal notice and hearing requirements of this chapter and to issue a certificate on an emergency basis if it finds that immediate construction of a major utility facility is justified by public convenience and necessity; provided, that the Public Service Commission shall notify all parties concerned under Section 58-33-140 prior to the issuance of such certificate; provided,

further, that the commission may subsequently require a modification of the facility if, after giving due consideration to the major utility facility, available technology and the economics involved, it finds such modification necessary in order to minimize the environmental impact.

(7) The commission shall have authority, where justified by public convenience and necessity, to grant permission to a person who has made application for a certificate under Section 58-33-120 to proceed with initial clearing, excavation, dredging, and construction. Pending an application for determination of a like facility, no permission from the commission shall be required to proceed with initial clearing, excavation, dredging, and initial construction of any proposed like facility; provided that in engaging in such clearing, excavation, dredging, or construction, the person shall proceed at his own risk, and such early action in advance of a determination shall not in any way indicate approval by the commission of the proposed site or like facility.

(8)(a) In seeking a certificate, the applicant must provide credible information demonstrating that the facility to be built has been compared to other generation options in terms of cost, reliability, schedule constraints, fuel cost and availability, transmission constraints and costs, ancillary services capabilities, current and reasonably expected future environmental costs and restrictions, that the facility supports system efficiency and reliability in light of those considerations, and any other regulatory implications deemed legally or reasonably necessary for consideration by the commission. The commission is authorized to adopt rules for such evaluation of other generation options.

(b) The Office of Regulatory Staff may provide to the commission a report that includes any or all of the following:

(i) an assessment of an unbiased independent evaluator retained by the Office of Regulatory Staff as to reasonableness of any certificate sought under this section for new generation;

(ii) a report from the independent evaluator to the commission regarding the transparency, completeness, and integrity of bidding processes, if any;

(iii) an assessment of whether there was a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

(iv) an assessment of whether the facility is consistent with an integrated resource plan or update previously filed with the commission or is otherwise justified by generation planning modeling comparable to

that filed as part of the utility's integrated resource plan but updated with current data concerning system loads, fuel prices, environmental regulations, location-specific transmission costs, updated construction costs and updated construction timelines, updated costs of gas supply facilities, if any, and other relevant costs, schedules or inputs establishing that the facility in question supports system economy and reliability; and

(v) an assessment detailing the treatment of utility affiliates as compared to nonaffiliates participating in the request for proposal process, if any.

(9) The applicant may, but must not be required to, issue requests for proposals or otherwise conduct market procurement activities in support of the showings required pursuant to this chapter.

(10) Not withstanding any other provision in this section, an electrical utility serving customers in this state may seek a certificate of public convenience and necessity when building a major utility facility, as defined in Section 58-33-20(2), in another state but within the electrical utility's balancing area serving customers in South Carolina. In such a case, the provisions of Sections 58-33-120, 58-33-140, and 58-33-160(1)(b), (c), and (e) shall not apply, but all other requirements of this section affecting customers in this state shall apply. In addition:

(a) an applicant for a certificate shall file an application with the commission in such form as the commission may prescribe. The application must contain the following information:

(i) a description of the location and of the major utility facility to be built;

(ii) a summary of any studies which have been made by or for the applicant of the environmental impact of the major utility facility;

(iii) a statement explaining the need for the major utility facility;

(iv) any other information the applicant may consider relevant or as the commission may by regulation or order require. A copy of the report referred to in item (8)(b) must be filed with the commission, if ordered by the commission, and shall be available for public information.

(b) If the commission denies an application made pursuant to this section and the utility continues to build such major utility facility, the utility must allocate all costs and benefits associated with the major utility facility away from the utility's South Carolina customers.

(c) If the commission approves an application made pursuant to this subsection, the commission, for all future requests related to the major utility facility, shall utilize South Carolina law in determining costs and benefits for the utility's South Carolina customers.

Section 58-33-120. (1) An applicant for a certificate shall file an application with the commission, in such form as the commission may prescribe. The application must contain the following information:

(a) a description of the location and of the major utility facility to be built;

(b) a summary of any studies which have been made by or for applicant of the environmental impact of the facility;

(c) a statement explaining the need for the facility; and

(d) any other information as the applicant may consider relevant or as the commission may by regulation require. A copy of the study referred to in item (b) above shall be filed with the commission, if ordered, and shall be available for public information.

(2) Each application shall be accompanied by proof of service of a copy of the application on the Office of Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local government agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the facility is to be located. The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(3) Each application also must be accompanied by proof that public notice was given to persons residing in the municipalities entitled to receive notice under subsection (2) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in newspapers of general circulation as will serve substantially to inform such persons of the application.

(4) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies, or persons identified in subsections (2) and (3) of this section may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(5) An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of the application shall be given as set forth in subsections (2) and (3) of this section.

Section 58-33-130. (1) Upon the receipt of an application complying with Section 58-33-120, the commission shall promptly fix a date for the

commencement of a public hearing, not less than sixty nor more than ninety days after the receipt, and complete the hearing and issue an order on the merits within one hundred eighty days of receipt of the application.

(2) The testimony presented at the hearing may be presented in writing or orally, provided that the commission may make rules designed to exclude repetitive, redundant or irrelevant testimony; however, all expert testimony must be prefiled with the commission, with responsive expert testimony of non-applicants being received with enough time for the applicant to meaningfully respond, and in no case would expert testimony be filed less than twenty days before the hearing.

(3) On an application for an amendment of a certificate, the commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any significant increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility; provided, that the Public Service Commission shall forward a copy of the application to all parties upon the filing of an application.

Section 58-33-140. (1) The parties to a certification proceeding shall include:

(a) the applicant;

(b) the Office of Regulatory Staff, the Department of Environmental Services, the Department of Natural Resources, and the Department of Parks, Recreation and Tourism;

(c) each municipality and government agency entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120 if it has filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(d) any person residing in a municipality entitled to receive service of a copy of the application under subsection (2) of Section 58-33-120, any domestic nonprofit organization, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the facility is to be located; or any other person, if such a person or organization has petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by the commission for good cause shown.

(2) Any person may make a limited appearance in the sixty days after the date given in the published notice as the date for filing the application. No person making a limited appearance shall be a party or shall have the right to present oral testimony or argument or cross-examine witnesses.

(3) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for timely start of construction of the facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, government agency, person, or organization which is identified in paragraphs (b) or (c) of subsection (1) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene, as the case may be.

Section 58-33-150. A record shall be made of any hearing and of all testimony taken and the cross-examination thereon. The commission may provide for the consolidation of the representation of parties having similar interests.

Section 58-33-160. (1) The commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications of the construction, operation or maintenance of the major utility facility as the commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate. The commission must grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the commission, if it finds and determines that the applicant has shown:

(a) The basis of the need for the facility.

(b) The nature of the probable environmental impact.

(c) That the impact of the facility upon the environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

(d) That the facilities will serve the interests of system economy and reliability, and in the case of generating facilities, will do so considering reasonable available alternatives and their associated costs, risks, and operating attributes.

(e) That there is reasonable assurance that the proposed facility will conform to applicable state and local laws and regulations issued thereunder, including any allowable variance provisions therein, except

that the commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

(f) That public convenience and necessity require the construction of the facility.

(2) If the commission determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities and persons residing therein affected by the modification shall have been given reasonable notice.

(3) A copy of the decision and any order shall be served by the commission upon each party.

Section 58-33-170. In rendering a decision on an application for a certificate, the commission shall issue an order stating its reasons for the action taken. If the commission has found that any regional or local law or regulation, which would be otherwise applicable, is unreasonably restrictive pursuant to paragraph (e) of subsection (1) of Section 58-33-160, it shall state in its order the reasons therefor.

Section 58-33-180. (A) In addition to the requirements of Articles 1, 3, 5, and 7 of Chapter 33, Title 58, a certificate for the construction of a major utility facility shall be granted only if the Public Service Authority demonstrates and proves by a preponderance of the evidence and the commission finds:

(1) the construction of a major utility facility constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives; and

(2) energy efficiency measures; demand-side management; renewable energy resource generation; available long-term power supply alternatives, or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest.

(B) Available long-term power supply alternatives may include, but are not limited to, power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from

an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(C) The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's resource and fuel diversity, reasonably anticipated future operating costs, arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

(D) The Public Service Authority shall file an estimate of construction costs in such detail as the commission may require.

Section 58-33-185. (A) The Public Service Authority may not acquire a major utility facility without approval of the Public Service Commission of South Carolina, provided that the approval is required only to the extent the transaction is not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission or any other federal agency.

(B)(1) In acting upon any petition by the Public Service Authority pursuant to this section, the Public Service Authority must prove by a preponderance of the evidence that the proposed transaction constitutes a more cost-effective means for serving direct serve and wholesale customers than other feasibly available long-term power supply alternatives and provides less ratepayer risk while maintaining safe and reliable electric service than other feasibly available long-term power supply alternatives. The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority's arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power and other alternative methods for providing reliable, efficient, and economical electric service.

(2) Available long-term power supply alternatives may include, but not be limited to, power purchase agreements of a different duration than proposed, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof.

(C) Application for the approval of the commission shall be made by the Public Service Authority and shall contain a concise statement of the proposed action, the reasons therefor, and such other information as may be required by the commission.

(D) Upon the receipt of an application, the commission shall promptly fix a date for the commencement of a public hearing, not less than sixty nor more than ninety days after the receipt, and shall conclude the proceedings as expeditiously as practicable. The commission shall establish notice requirements and proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.

(E) The commission shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions or modifications as the commission may deem appropriate.

(F)(1) The commission may not grant approval unless it shall find and determine that the Public Service Authority satisfied all requirements of this section and the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

(2) The commission also may require compliance with any provision of Article 3, Chapter 33, Title 58 that the commission determines necessary to grant approval.

Section 58-33-190. (1) The Public Service Authority may not enter into a contract for the purchase of power with a duration longer than ten years without approval of the Public Service Commission of South Carolina, provided that the approval is required only to the extent the transaction is not subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission or any other federal agency. This section does not apply to purchases of renewable power through a commission approved competitive procurement process.

(2) The commission shall consider any previous analysis performed pursuant to Section 58-37-40 in acting upon any petition by the Public Service Authority pursuant to this section. The commission shall also take into account the Public Service Authority’s resource and fuel diversity, reasonably anticipated future operating costs, arrangements with other electric utilities for interchange of power, pooling of plants, purchase of power, and other alternative methods for providing reliable, efficient, and economical electric service.

(3) The commission may not grant approval unless it shall find and determine that the proposed transaction is in the best interests of the retail and wholesale customers of the Public Service Authority.

Integrated resource plan

SECTION 21. Section 58-37-40 of the S.C. Code is amended to read:

Section 58-37-40. (A) Electrical utilities, electric cooperatives, municipally owned electric utilities, and the South Carolina Public Service Authority must each prepare an integrated resource plan. An integrated resource plan must be prepared and submitted at least every three years. Nothing in this section may be construed as requiring interstate natural gas companies whose rates and services are regulated only by the federal government or gas utilities subject to the jurisdiction of the commission to prepare and submit an integrated resource plan.

(1) Each electrical utility with one hundred thousand or more customer accounts and the Public Service Authority must submit its integrated resource plan to the commission. The integrated resource plan must be posted on the electrical utility's website and on the commission's website.

(2) Electric cooperatives, electric utilities with less than one hundred thousand customer accounts, and municipally owned electric utilities shall each submit an integrated resource plan to the State Energy Office. Each integrated resource plan must be posted on the State Energy Office's website. If an electric cooperative, electric utility with less than one hundred thousand customer accounts, or municipally owned utility has a website, its integrated resource plan must also be posted on its website. For distribution, electric cooperatives that are members of a cooperative that provides wholesale service, the integrated resource plan may be coordinated and consolidated into a single plan provided that nonshared resources or programs of individual distribution cooperatives are highlighted. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to a distribution or wholesale cooperative or a municipally owned electric utility as a result of the cooperative or the municipally owned electric utility not owning or operating generation resources, the plan may state that fact or refer to the plan of the wholesale power generator. Where plan components listed in subsection (B)(1) and (2) of this section do not apply to an electrical utility with less than one hundred thousand customer accounts as a result of its own generation resources being comprised of more than seventy-five percent renewable energy or because it purchases wholesale load balancing generation services, then the plan may state that fact or refer to the plan of the wholesale power generator. For purposes of this section, a wholesale power generator does not include a municipally created joint agency if that joint agency receives at least seventy-five

percent of its electricity from a generating facility owned in partnership with an electrical utility and that electrical utility:

(a) generally serves the area in which the joint agency's members are located; and

(b) is responsible for dispatching the capacity and output of the generated electricity.

(3) The South Carolina Public Service Authority shall submit its integrated resource plan to the commission. The Public Service Authority shall develop a public process allowing for input from all stakeholders prior to submitting the integrated resource plan. The integrated resource plan must be developed in consultation with the electric cooperatives and municipally owned electric utilities purchasing power and energy from the Public Service Authority and consider any feedback provided by retail customers and shall include the effect of demand-side management activities of the electric cooperatives and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The integrated resource plan must be posted on the commission's website and on the Public Service Authority's website.

(4)(a) In addition to the requirements of Section 58-37-40(B), the Public Service Authority's integrated resource plan shall include an analysis of long-term power supply alternatives and enumerate the cost of various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and least ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service.

(b) In addition to the requirements of Section 58-37-40(B), the commission shall review and evaluate the Public Service Authority's analysis of long-term power supply alternatives and various resource portfolios over various study periods including a twenty-year study period and, by comparison on a net present value basis, identify the most cost-effective and lowest ratepayer-risk resource portfolio to meet the Public Service Authority's total capacity and energy requirements while maintaining safe and reliable electric service. The commission's evaluation shall include, but not be limited to:

(i) evaluating the cost-effectiveness and ratepayer-risk of self-build generation and transmission options compared with various long-term power supply alternatives, including power purchase agreements, competitive procurement of renewable energy, joint dispatch agreements, market purchases from an existing regional

transmission organization, joining or creating a new regional transmission organization, using best available technology for energy generation, transmission, storage and distribution, or any combination thereof. In evaluating and identifying the most cost-effective and least ratepayer-risk resource portfolio, the commission shall strive to reduce the risk to ratepayers associated with any generation and transmission options while maintaining safe and reliable electric service; and

(ii) an analysis of any potential cost savings that might accrue to ratepayers from the retirement of remaining coal generation assets.

(c) The authority's integrated resource plan must provide the information required in Section 58-37-40(B) and must be developed in consultation with the electric cooperatives, including Central Electric Power Cooperative, and municipally owned electric utilities purchasing power and energy from the Public Service Authority, and consider any feedback provided by retail customers and shall include the effect of demand-side management activities of the electric cooperatives, including Central Electric Power Cooperative, and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The Integrated Resource Plan of the South Carolina Public Service Authority shall include and evaluate at least one resource portfolio, which will reflect the closure of the Winyah Generating Station by 2028, designed to provide safe and reliable electric service while meeting a net zero carbon emission goal by the year 2050.

(B)(1) An integrated resource plan shall include all of the following:

(a) a long-term forecast of the utility's sales and peak demand under various reasonable scenarios;

(b) the type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including fuel cost sensitivities under various reasonable scenarios;

(c) projected energy purchased or produced by the utility from a renewable energy resource;

(d) a summary of the electrical transmission investments planned by the utility;

(e) several resource portfolios developed with the purpose of fairly evaluating the range of demand-side, supply-side, storage, and other technologies and services available to meet the utility's service obligations. Such portfolios and evaluations must include an evaluation of low, medium, and high cases for the adoption of renewable energy and cogeneration, energy efficiency, and demand response measures, including consideration of the following:

(i) customer energy efficiency and demand response programs;

(ii) facility retirement assumptions; and

(iii) sensitivity analyses related to fuel costs, environmental regulations, and other uncertainties or risks;

(f) data regarding the utility's current generation portfolio, including the age, licensing status, and remaining estimated life of operation for each facility in the portfolio;

(g) plans for meeting current and future capacity needs with the cost estimates for all proposed resource portfolios in the plan;

(h) an analysis of the cost and reliability impacts of all reasonable options available to meet projected energy and capacity needs;

(i) a forecast of the utility's peak demand, details regarding the amount of peak demand reduction the utility expects to achieve, and the actions the utility proposes to take in order to achieve that peak demand reduction; and

(j) a report addressing updates to the utility's transmission plan under the utility's open access transmission tariff pursuant to the federal jurisdictional planning process. In this report, the utility shall, when applicable, describe planned transmission improvements specific to siting of new resources expected to impact interconnection constraints or other operations of the systems. The utility shall also describe how it evaluated alternate transmission technologies when developing solutions for identified transmission needs for interconnecting resources. The utility's transmission report must include how the utility evaluates transmission investments, including:

(i) a description of how the utility evaluated a range of transmission solutions, including non-wires alternatives, joint projects with neighboring and other regional utilities, other upgrades to existing facilities, and other best practices. Modeling may consider, as appropriate, grid-enhancing technologies and alternate transmission technologies such as static synchronous compensators, static Volt-Ampere Reactive (VAR) compensators, advanced power flow control devices, transmission switching, synchronous condensers, voltage source converters, advanced conductors, switchable reactors, and tower lifting in a manner consistent with common utility practice;

(ii) a description of how transmission factored into the utility's evaluation of the range of future scenarios included in the fifteen-year time period of the utility's resource plan, including significant continued economic growth and the retirement of the utility's coal generation;

(iii) a discussion of transmission considerations for facilities included in the utility's preferred resource plan for which there are particular sites specified;

(iv) information such that intervenors and stakeholders can pursue participation in local transmission planning collaborative activities which are held pursuant to orders from the Federal Energy Regulatory Commission; and

(v) any other information that the utility believes is relevant to its resource plan or future transmission investments.

(2) An integrated resource plan may include distribution resource plans or integrated system operation plans.

(C)(1) The commission shall have a proceeding to review each electrical utility subject to subsection (A)(1) and the Public Service Authority's integrated resource plan. As part of the integrated resource plan filing, the commission shall allow intervention by interested parties. The procedural schedule shall include dates for completion of each phase of discovery, including discovery related to the integrated resource plan as filed, direct testimony of the applicant, direct testimony of the Office of Regulatory Staff and other parties and intervenors, and rebuttal testimony of the applicant. Except upon showing exceptional circumstances, all discovery shall be served in time to allow its completion, but not less than ten days prior to the hearing. The commission shall establish a procedural schedule to permit reasonable discovery after an integrated resource plan is filed in order to assist parties in obtaining evidence concerning the integrated resource plan, including the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties. No later than three hundred days after an electrical utility or the Public Service Authority files an integrated resource plan, the commission shall issue a final order approving, modifying, or denying the plan filed by the electrical utility or the Public Service Authority.

(2) The commission shall approve an electrical utility's or the Public Service Authority's integrated resource plan if the commission determines that the proposed integrated resource plan represents the most reasonable and prudent means of meeting the electrical utility's or the Public Service Authority's energy and capacity needs as of the time the plan is reviewed. In reviewing an integrated resource plan, the commission shall give due consideration as to the resources and actions necessary for the utility to fulfill compliance and reliability obligations pursuant to the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, the SERC Reliability Corporation, and the Nuclear Regulatory Commission requirements, as well as environmental requirements applicable to resources serving customers in this State. Matters related to the scope and sufficiency of an electrical utility's demand-side plans and activities shall be

considered exclusively in proceedings conducted pursuant to Section 58-37-20. In reviewing an integrated resource plan, the commission shall focus its review on the decisions which the applicant must make in the near term based on the triennial integrated resource plan under consideration at the time and shall approve a plan if it finds that the plan appropriately balances the following factors:

(a) resource adequacy and capacity to serve anticipated peak electrical load, including the need for electric capacity and energy required to support economic development and industry retention in the electrical utility's or the Public Service Authority's service territory and to meet applicable planning reserve margins;

(b) consumer affordability and least reasonable cost considering the resources needed to support economic development and industry retention, and other risks and benefits;

(c) compliance with applicable state and federal environmental regulations;

(d) power supply reliability;

(e) commodity price risks;

(f) diversity of generation supply;

(g) the efficiencies and optimum plans for any electrical utility system spanning state lines located within the electrical utility's or the Public Service Authority's balancing authority area; and

(h) other foreseeable conditions that the commission determines to be for the public's interest.

(3) In modifying or rejecting an electrical utility's or the Public Service Authority's integrated resource plan, the commission shall only require revisions that are reasonably anticipated to materially change resource procurement decisions to be made on the basis of the integrated resource plan under review. If the commission modifies or rejects an electrical utility's or the Public Service Authority's integrated resource plan, the electrical utility or the Public Service Authority, within sixty days after the date of the final order, shall submit a revised plan addressing concerns identified by the commission and incorporating commission-mandated revisions to the integrated resource plan to the commission for approval. Within sixty days of the electrical utility's or the Public Service Authority's revised filing, the Office of Regulatory Staff shall review the electrical utility's or the Public Service Authority's revised plan and submit a report to the commission assessing the sufficiency of the revised filing. Other parties to the integrated resource plan proceeding also may submit comments. No later than sixty days after the Office of Regulatory Staff report is filed with the commission, the commission at its discretion may determine whether to accept the

revised integrated resource plan or to mandate further remedies that the commission deems appropriate.

(4) The submission, review, and acceptance of an integrated resource plan by the commission, or the inclusion of any specific resource in an accepted integrated resource plan, shall not be determinative of the reasonableness or prudence of the acquisition or construction of any resource or the making of any expenditure. An electrical utility shall retain the burden of proof to show that all of its investments and expenditures are reasonable and prudent when seeking cost recovery in rates.

(D)(1) An electrical utility and the Public Service Authority shall each submit annual updates to its integrated resource plan to the commission. An annual update must include an update to the electric utility's or the Public Service Authority's base planning assumptions relative to its most recently accepted integrated resource plan, including, but not limited to: energy and demand forecast, commodity fuel price inputs, renewable energy forecast, energy efficiency and demand-side management forecasts, changes to projected retirement dates of existing units, along with other inputs the commission deems to be for the public interest. The electrical utility's or Public Service Authority's annual update must describe the impact of the updated base planning assumptions on the selected resource plan.

(2) The Office of Regulatory Staff shall review each electrical utility's or the Public Service Authority's annual update and submit a report within ninety days to the commission providing a recommendation concerning the reasonableness of the annual update. After reviewing the annual update and the Office of Regulatory Staff report, the commission may accept the annual update or direct the electrical utility or the Public Service Authority to make changes to the annual update that the commission determines to be in the public interest within sixty days from the submittal of the Office of Regulatory Staff's report.

(E) Intervenors shall bear their own costs of participating in proceedings before the commission except that the commission may order utilities to provide software licenses to intervenors who are participating in litigated proceedings before the commission, where doing so is in the public interest. If software licenses are provided to intervenors, the intervenors shall reimburse the utility for the cost of the software use. Nothing in this subsection permits the disclosure of any utility information deemed confidential by statute, regulation, or a determination by the commission or obviates the intervenor's obligation to enter into a non-disclosure agreement pertaining to disclosure of

confidential or trade secrets.

(F) The commission is authorized to promulgate regulations to carry out the provisions of this section.

Communication between commission, parties

SECTION 22. Section 58-3-260 of the S.C. Code is amended to read:

Section 58-3-260. (A) For purposes of this section:

(1) "Proceeding" means a contested case, generic proceeding, or other matter to be adjudicated, decided, or arbitrated by the commission.

(2) "Person" means a party to a proceeding pending before the commission, a member of the Office of Regulatory Staff, a representative of a party to a proceeding pending before the commission, individuals, corporations, partnerships, limited liability companies, elected officials of state government, and other public and elected officials.

(3) "Communication" means the transmitting of information by any mode including, but not limited to, oral, written, or electronic.

(4) "Allowable ex parte communication briefing" means any communication that is conducted pursuant to the procedure outlined in subsection (D)(6) of this section.

(5) "Communication of supplemental legal citation" means the submission, subsequent to the submission of post-hearing briefs or proposed orders in a proceeding, of statutes, regulations, judicial or administrative decisions that are enacted, promulgated, or determined after the submission of post-hearing briefs or proposed orders.

(B)(1) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.

(2) "Issue" does not include:

(a) general information concerning the operations, administration, planning, projects, customer service, storms or storm

response, accidents, outages, or investments of an entity regulated by the commission that is not confidential and proprietary and is available to the public; or

(b) any confidential information that affects energy security, such as physical or cybersecurity matters, provided that such information is also provided to the Executive Director of the Office of Regulatory Staff. Any communication pursuant to subitems (a) or (b) provided to the commission must also be provided in writing and must be posted on the commission's website with any confidential information redacted.

(C) Commissioners must limit their consideration of matters before them to the record presented by the parties and may not rely on material not presented in the record by the parties.

(D) The following communications are exempt from the prohibitions of subsection (B) of this section:

(1) a communication concerning compliance with procedural requirements if the procedural matter is not an area of controversy in a proceeding;

(2) statements made by a commission employee who is or may reasonably be expected to be involved in formulating a decision, rule, or order in a proceeding, where the statements are limited to providing publicly available information about pending proceedings;

(3) inquiries relating solely to the status of a proceeding, unless the inquiry: (a) states or implies a view as to the merits or outcome of the proceeding; (b) states or implies a preference for a particular party or which states why timing is important to a particular party; (c) indicates a view as to the date by which a proceeding should be resolved; or (d) is otherwise intended to address the merits or outcome or to influence the timing of a proceeding;

(4) a communication made by or to commission employees that concerns judicial review of a matter that has been decided by the commission and is no longer within the commission's jurisdiction; however, if the matter is remanded to the commission for further action, the provisions of this section shall apply during the period of the remand;

(5) where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized provided:

(a) the commissioner, hearing officer, or commission employee reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the commissioner, hearing officer, or commission employee makes provision promptly to notify all other parties of the substance of the ex parte communication and, where possible, allows an opportunity

to respond;

(6)(a) subject to the provisions of Chapter 4, Title 30, communications, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding for the purposes of an allowable ex parte communication briefing if:

(i) in the course of such briefing, no commissioner or commission employee shall make any commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding nor shall any person request any commitment, predetermination, or prediction to be given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;

(ii) the Executive Director of the Office of Regulatory Staff or his designee must attend the briefing and certify that the commissioners and commission employees complied with the provisions in subitem (i);

(iii) each commissioner or commission employee present at the allowable ex parte communication briefing grants to every other party or person requesting an allowable ex parte communication briefing on the same or similar matter that is or can reasonably be expected to become an issue in a proceeding, similar access and a reasonable opportunity to communicate, directly or indirectly, regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding under the provisions of subsection (D)(6) of this section and files a written, certified statement with the Executive Director of the Office of Regulatory Staff within forty-eight hours of the briefing stating that the commissioner or commission employee will comply with this provision;

(iv) the commission must post on its website, at least five business days prior to the proposed briefing, a notice of each request for an allowable ex parte communication briefing that includes the date and time of the proposed briefing, the name of the person or party who requested the briefing, the name of each commissioner and commission employee whom the person or party has requested to brief, and the subject matter to be discussed at the briefing;

(v) the commission must post on its website within three business days after the briefing, all nonconfidential materials and documents provided to the commission as part of the ex parte briefing and a statement signed by the chief clerk of the commission that the

provisions of this subsection have been followed, including the justification for actions taken to preserve the confidentiality of any confidential information provided to the commission;

(vi) the person or party initially seeking the briefing must request the briefing with sufficient notice, as required in subsubitem (iv), to allow the initial briefing to be held at least twenty business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and the initial briefing must be held at least twenty business days prior to the hearing in the proceeding; and

(vii) any person or party desiring to have a briefing on the same or similar matter as provided for in subsubitem (vi) shall be entitled to request a briefing so long as the request is made with sufficient time for notice, as required in subsubitem (iv), to allow the briefing to be held at least ten business days prior to the hearing in the proceeding at which the matter that is the subject of the briefing is or can reasonably be expected to become an issue, and any such briefing must be held at least ten business days prior to the hearing in the proceeding;

(b) nothing in subsection (D)(6) of this section requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing, except as provided in subsection (D)(6)(a)(iii) of this section;

(7) a communication of supplemental legal citation if the party files copies of such documents, without comment or argument, with the chief clerk of the commission and simultaneously provides copies to all parties of record;

(8) subject to the provisions of Chapter 4, Title 30, communications between and among commissioners regarding matters pending before the commission; provided, further, that any commissioner, hearing officer, or commission employee may receive aid from commission employees if the commission employees providing aid do not:

(a) receive ex parte communications of a type that the commissioner, hearing officer, or commission employee would be prohibited from receiving; or

(b) furnish, augment, diminish, or modify the evidence in the record.

(E) If before serving in a proceeding, a commissioner, hearing officer, or commission employee receives an ex parte communication of a type that may not properly be received while serving, the commissioner, hearing officer, or commission employee must disclose the communication in the following manner: a commissioner, hearing officer, or a commission employee who receives an ex parte

communication in violation of this section must promptly after receipt of the communication or, in the case of a communication prior to a filing, as soon as it is known to relate to a filing, place on the record of the matter all written and electronic communications received, all written and electronic responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner, hearing officer, or commission employee, as appropriate, received an ex parte communication and must advise all parties that these matters have been placed on the record. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. Parties affected by a violation may agree to a resolution of any claim regarding such violation, including the waiver of a hearing and the waiver of the obligation to report violations under subsection (J) of this section.

(F) Any person who makes an inadvertent ex parte communication must, as soon as it is known to relate to an issue in a proceeding, disclose the communication by placing on the record of the matter the communication made, if written or electronic, or a memorandum stating the substance of an inadvertent oral communication, and the identity of each person to whom the inadvertent ex parte communication was made or given. Within ten days after receipt of notice of the ex parte communication, any party who desires to rebut the contents of the communication must request and shall be granted the opportunity to rebut the contents. If no party rebuts the inadvertence of the ex parte communication within ten days after notice of the ex parte communication, the ex parte communication shall be presumed inadvertent. Parties affected by a violation may agree to a resolution of any claim regarding such violation, and the provisions of subsection (K) of this section shall not apply.

(G) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a commissioner, hearing officer, or commission employee who receives the communication may be disqualified by the commission, and the portions of the record pertaining to the communication may be sealed by protective order.

(H) Nothing in this section alters or amends Section 1-23-320(i).

(I) Nothing in this section prevents a commissioner, hearing officer, or commission employee from:

(1) attending educational seminars sponsored by state, regional, or national organizations and seminars not affiliated with any utility regulated by the commission; however, the provisions of this section

shall apply to any communications that take place outside any formal sessions of any seminars or group presentations; or

(2) conducting a site visit of a utility or Public Service Authority facility under construction or attending educational tours of utility or Public Service Authority plants or other facilities provided:

(a) the Executive Director of the Office of Regulatory Staff or his designee also attends the site visit or educational tour;

(b) a summary of the discussion is produced and posted on the commission's website, along with copies of any written materials utilized, referenced, or distributed; and

(c) each party, person, commission, and commission employee who participated in the site visit or educational tour, within forty-eight hours of the site visit or educational tour, files a certification with the Executive Director of the Office of Regulatory Staff that no commitment, predetermination, or prediction of any commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party, nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue.

(J) Subject to any privilege under Rule 501 of the South Carolina Rules of Evidence, any commissioner, hearing officer, commission employee, party, or any other person must report any wilful violation of this section on the part of a commissioner, hearing officer, or commission employee to the review committee.

(K) Any commissioner, hearing officer, commission employee, or person who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars or imprisoned for not more than six months. If a commissioner wilfully communicates with any party or person or if any person or party wilfully communicates with a commissioner regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten business days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the commissioner shall be removed from office. If a hearing officer or commission employee wilfully communicates with any party or person or any party or person wilfully communicates with a hearing officer or commission employee

regarding any fact, law, or other matter that is or can reasonably be expected to become an issue in a proceeding less than ten days prior to the scheduled hearing on the merits, during the hearing or after the hearing but prior to the issuance of a final order, including an order on rehearing, in a proceeding where such facts, law, or other matter is or can reasonably be expected to become an issue, the hearing officer or commission employee shall be terminated from employment by the commission. For purposes of this section: (1) "wilful" means an act done voluntarily and intentionally with the specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or disregard the law, and (2) a violation of the provisions of this section must be proved by clear and convincing evidence before a commissioner, hearing officer, or commission employee can be removed from office or terminated from employment.

Ex parte communication complaint relief

SECTION 23. Section 58-3-270(E) of the S.C. Code is amended to read:

(E) The administrative law judge assigned to the ex parte communication complaint proceeding by the administrative law court may issue an order tolling any deadlines imposed by any state statute for a decision by the commission on the proceeding that is the subject of the ex parte communication complaint but only to the extent that the allegations of the complaint are verified and if found to be true would indicate that the proceeding was prejudiced to the extent that the commission is unable to consider the matter in the proceeding impartially. The administrative law judge assigned to the ex parte communication complaint proceeding by the administrative law court must conduct a hearing and must issue a decision within sixty days after the complaint is filed.

Commission reconsideration, appeal from commission order

SECTION 24. Sections 58-33-310 through 58-33-320 of the S.C. Code are amended to read:

Section 58-33-310. (A)(1) If a party wishes to file for a petition for rehearing or reconsideration from all or any portion of an order or decision of the commission, that petition must be filed within fifteen days from the commission issuing the order or decision. A response to

the petition for rehearing or reconsideration must be filed within fifteen days from the filed date of the petition for rehearing or reconsideration. Failure to file for rehearing or reconsideration as required in this section constitutes a waiver of the party to further pursue the matter.

(2) The commission must issue its final order within thirty days from the date the response to the petition for rehearing or reconsideration is filed.

(B) Any party may appeal, in accordance with Section 1-23-380, from all or any portion of any final order or decision of the commission, including conditions of the certificate required by a state agency under Section 58-33-160 as provided by Section 58-27-2310.

(C) Any final order on the merits issued pursuant to this chapter shall be immediately appealable to the Supreme Court of South Carolina in accordance with South Carolina Appellate Court Rule 203. The commission must not be a party to an appeal.

Section 58-33-320. Except as expressly set forth in Section 58-33-310, no court of this State shall have jurisdiction to hear or determine any issue, case, or controversy concerning any matter which was or could have been determined in a proceeding before the commission under this chapter or to stop or delay the construction, operation, or maintenance of a major utility facility, except to enforce compliance with this chapter or the provisions of a certificate issued hereunder, and any such action shall be brought only by the Office of Regulatory Staff. Provided, however, nothing herein contained shall be construed to abrogate or suspend the right of any individual or corporation not a party to maintain any action which he might otherwise have been entitled.

Study of third-party administrator models for energy efficiency

SECTION 25. Chapter 4, Title 58 of the S.C. Code is amended by adding:

Section 58-4-160. (A)(1) The Office of Regulatory Staff must conduct a study to evaluate the potential costs and benefits of the various administrator models for energy efficiency programs and other demand-side management programs funded by, or potentially funded by, electrical utilities in this State. This study must be conducted on each electrical utility in this State. For purposes of this section, administrator models for energy efficiency programs shall include the following models: utility administrator, state or government agency administrator,

an independent third-party administrator, and a hybrid administrator.

(2) For purposes of this section only, "electrical utility" means an investor-owned electrical utility that serves more than 100,000 customers in this State.

(B) This study must consider which administrator model would most meaningfully improve programs offered by the electrical utility.

(C) The study must also evaluate which administrator model offers the best opportunities to increase cost and energy savings, improve the quality of services rendered, reduce ratepayer costs, or more effectively serve low-income customers, within a program portfolio that is cost effective overall, as compared to similar program administration by individual electrical utilities, or to increase the cost effectiveness of energy efficiency program portfolios. This study must consider, but is not limited to, the following:

(1) whether third-party administration subject to a pay for performance contract and independent third-party evaluation, measurement, and verification could reduce administrative costs, as compared to separate administration of energy efficiency programs by individual electrical utilities;

(2) whether a system benefit charge or other funding or financing mechanism would more efficiently, effectively, and fairly fund energy efficiency and other demand-side management programs through an administrator;

(3) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced lower historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(4) which administrator model provides the best mechanism to increase ratepayer energy savings in the case of electrical utilities that have experienced high historical performance in terms of annual and cumulative energy savings as a percentage of retail sales;

(5) the legal and practical implications of implementing the various administrator models for an electrical utility with a multistate balancing authority area;

(6) which administrator model could most enhance an electrical utility's delivery of nonenergy benefits, such as resiliency, reliability, health, economic development, industry retention, energy security, and pollution reduction; and

(7) which administrator model could most effectively pursue nonratepayer funding including, but not limited to, federal, state, or local governmental support, as a means of either reducing reliance of ratepayer funds or increasing the scope, reach, or effectiveness of energy

efficiency and demand-side management programs.

(D) This study must be conducted with public input from stakeholders through written comments and at least one public forum.

(E) The Office of Regulatory Staff is authorized to retain the services of an expert or consultant with expertise and experience in the successful implementation of energy efficiency administrator programs. The Office of Regulatory Staff is exempt from the procurement code for the purposes of retaining services for this study.

(F) The provisions of this section are subject to funding. However, the Office of Regulatory Staff must initiate the study within one year from receipt of necessary funding and complete its report within six months. Upon completion of this study, the Office of Regulatory Staff must provide its report to the General Assembly and the commission. This report may include a recommendation as to which administrator model should be established for each electrical utility, draft legislation, and requirements that should be established.

Definitions

SECTION 26. Section 58-37-10 of the S.C. Code is amended to read:

Section 58-37-10. As used in this chapter unless the context clearly requires otherwise:

(1) "Demand-side activity" or "demand-side management program" means a program conducted or proposed by a producer, supplier, or distributor of energy for the reduction or more efficient use of energy requirements of the producer's, supplier's, or distributor's customers, through measures including, but not limited to, conservation and energy efficiency, load management, cogeneration, and renewable energy technologies.

(2) "Integrated resource plan" means a plan which contains the demand and energy forecast for at least a fifteen-year period, contains the supplier's or producer's program for meeting the requirements shown in its forecast in an economic and reliable manner, including both demand-side and supply-side options, with a brief description and summary cost-benefit analysis, if available, of each option which was considered, including those not selected, sets forth the supplier's or producer's assumptions and conclusions with respect to the effect of the plan on the cost and reliability of energy service, and describes the external environmental and economic consequences of the plan to the extent practicable. For electrical utilities subject to the jurisdiction of the South Carolina Public Service Commission, this definition must be

interpreted in a manner consistent with the integrated resource planning requirements pursuant to Section 58-37-40 and any process adopted by the commission. For electric cooperatives subject to the regulations of the Rural Utilities Service, this definition must be interpreted in a manner consistent with any integrated resource planning process prescribed by Rural Utilities Service regulations.

(3) "Cost-effective" means that the net present value of benefits of a program or portfolio exceeds the net present value of the costs of the program or portfolio. A program or portfolio is cost-effective if it passes any two of the following tests:

(a) utility cost test;

(b) total resource cost test;

(c) participant cost test; or

(d) ratepayer impact measure test.

In evaluating the cost-effectiveness of a program or portfolio, a utility or program administrator must present the results of all four tests. The total resource cost test must include as part of customer benefits a reasonable estimate of all significant customer cost savings. In calculating cost-effectiveness, a utility must use a standard utility practice for determining the percentage of energy savings that would or would not have been achieved through customer adoption of an efficiency behavior or technology without any incentive allowed pursuant to this chapter to install and utilize the technology as part of the associated demand-side management program. The utility must designate the expected useful life of the measure and evaluate the costs and benefits of the measures over their useful lives in the program application based on industry accepted standards. Further, in calculating the cost-effectiveness, the commission must consider the efficiencies and scale of programs that are or may be available across a utility's balancing area, even if that balancing area extends outside of the State.

(4) "Demand-side management pilot program" means a demand-side management program that is of limited scope, cost, and duration and that is intended to determine whether a new or substantially revised program or technology would be cost-effective.

Demand-side management programs

SECTION 27. Section 58-37-20 of the S.C. Code is amended to read:

Section 58-37-20. (A) The General Assembly declares that expanding utility investment in and customer access to cost-effective demand-side management programs will result in more efficient use of existing resources, promote lower energy costs, mitigate the increasing need for new generation and associated resources, and assist customers in managing their electricity usage to better control their electric bill, and is therefore in the public interest.

(B) The commission may approve any program filed by a public utility if the program is found to be cost-effective. Furthermore, the commission may, in its discretion, approve any program filed by a public utility that is not cost-effective, so long as the proposed demand-side management program is targeted to low-income customers, provided that the public utility's portfolio of demand-side management programs is cost-effective as a whole.

(C) The South Carolina Public Service Commission must adopt procedures that require electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to plan for and invest in all reasonable, prudent, and available energy efficiency and demand-side resources that are cost-effective energy efficient technologies and energy conservation programs in an amount to be determined by the commission. If an electrical utility fails to meet the requirements of this section as determined by the commission, the commission is authorized to appoint a third-party administrator to carry out the residential low-income energy efficiency duties pursuant to this section on behalf of the electrical utility if the commission determines that having such a third-party administrator is in the public interest and consistent with law. Upon notice and hearings that the commission may require, the commission may issue rules, regulations, or orders pursuant to this chapter to implement applicable programs and measures under this section. If adopted, these procedures must: provide incentives and cost recovery for energy suppliers and distributors who invest in energy supply and end-use technologies that are cost-effective, environmentally acceptable, and reduce energy consumption or system or local coincident peak demand; allow energy suppliers and distributors to recover costs and obtain a reasonable rate of return on their investment in qualified demand-side management programs sufficient to make these programs at least as financially attractive as construction of new generating facilities; require the Public Service Commission to establish rates and charges that ensure that the net income of an electrical or gas utility regulated by the commission after implementation of specific cost-effective energy conservation measures is at least as high as the net income would have been if the energy conservation measures had not

been implemented.

(D) Each investor-owned electrical utility must submit an annual report to the commission describing the demand-side management programs implemented by the electrical utility in the previous year, provided the program has been operational for a reasonable period of time, as well as the results of such programs. The commission may require certain information including, but not limited to:

(1) achieved savings levels from the utility's portfolio of programs in the prior year, reported as a percentage of the utility's annual sales;

(2) program expenditures, including incentive payments;

(3) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(4) avoided costs and the techniques used to estimate those costs;

(5) estimated cost-effectiveness of the demand-side management programs;

(6) a description of economic benefits of the demand-side management programs;

(7) the number of customers eligible to opt-out of the electrical utility's demand-side management programs, the percentage of those customers that opted-out in the previous year, and the annual sales associated with those opt-out customers; and

(8) any other information required by the commission.

(E) To ensure prudent investments by an electrical utility in energy efficiency and demand response, as compared to potential investments in generation, transmission, distribution, and other supply related utility equipment and resources, the commission must review each investor-owned electrical utility's portfolio of demand-side management programs on at least a triennial basis to align the review of that utility's integrated resource plan pursuant to Section 58-37-40. The commission is authorized to order modifications to an electrical utility's demand-side management portfolio, including program budgets, if the commission determines that doing so in the public interest.

(F) The provisions of subsections (C), (D), and (E) do not apply to an electrical utility that serves less than 100,000 customers in this State.

Demand-side management reports

SECTION 28. Section 58-37-30 of the S.C. Code is amended to read:

Section 58-37-30. (A) The South Carolina Public Service Commission must report annually to the General Assembly on available data regarding the past, on-going, and projected status of demand-side

management programs and purchase of power from qualifying facilities, as defined in the Public Utilities Regulatory Policies Act of 1978, by electrical utilities and public utilities providing gas services subject to the jurisdiction of the Public Service Commission.

(B) Electric cooperatives providing resale or retail services, municipally-owned electric utilities, and the South Carolina Public Service Authority shall report annually to the State Energy Office on available data regarding the past, on-going, and projected status of demand-side management programs and purchase of power from qualifying facilities. For electric cooperatives, submission to the State Energy Office of a report on demand-side management programs in a format complying with then current Rural Utilities Service regulations constitutes compliance with this subsection. An electric cooperative providing resale services may submit a report in conjunction with and on behalf of any electric cooperative which purchases electric power and energy from it. The State Energy Office must compile and submit this information annually to the General Assembly.

(C) The State Energy Office may provide forms for the reports required by this section to the Public Service Commission and to electric cooperatives, municipally-owned electric utilities, and the South Carolina Public Service Authority. The office shall strive to minimize differing formats for reports, taking into account the reporting requirements of other state and federal agencies. For electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission, the reporting form must be in a format acceptable to the commission.

Customer-sited distributed energy resource programs

SECTION 29. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-35. (A) An electrical utility may propose programs and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited distributed energy resource, as defined in Section 58-39-120(C), or combination of such resources, to: (1) reduce the customer's electric consumption or demand from the electric grid, or (2) beneficially shape the customer's electric consumption or demand in a manner that reduces the customer's contribution to the electrical utility's system or local coincidental peak demand, subject to the associated load to utility management for reliability or economic purposes, or reduce future

electrical utility system costs to serve its customers. Programs authorized pursuant to this section may also include distributed energy resources that draw additional power from the electric grid including, but not limited to, electric heat pumps with programmable or utility controlled thermostats, electric heat pump water heaters controlled through utility programs, smart home panels, advanced inverters, and energy storage devices located on the customer's side of the meter, provided that any programs or customer incentives otherwise meet the requirements of this section. These programs may also include a combination of resources, including renewable energy microgrids, to provide economic benefits to the utility system or to help address specific transmission or distribution issues that would otherwise require significant capital investment.

(B) In evaluating a program or customer incentive proposed pursuant to this section to assure reasonableness, promotion of the public interest, and consistency with the objectives of Sections 58-27-845 and 58-37-20, the commission must apply the procedure approved pursuant to Section 58-37-20. An electrical utility must use standard utility practices for determining the percentage of customers that would or would not have adopted a distributed energy resource without any incentive allowed under this section to install and utilize the distributed energy resource as part of the associated demand-side management program. The electrical utility must designate the expected useful life of the distributed energy resource and evaluate the costs and benefits of demand-side measures over their useful lives in the program application based on industry-accepted standards. All initial program costs, benefits, and participation assumptions used in the electrical utility's cost-effectiveness evaluations must be reviewed by the commission to assure the electrical utility has presented a reasonable basis for its calculation. Electrical utilities must update the cost-effectiveness analysis based on the actual program costs, benefits, and participation as soon as practicably possible based on standard evaluation, measurement, and verification protocols, and the electrical utility's cost recovery must be reconciled accordingly.

(C) For demand-side programs or customer incentives proposed in this section, the electrical utility may recover costs through the procedures in Section 58-37-20. The prohibition in Section 58-40-20(I) against recovery of lost revenues associated with distributed energy resources pursuant to Chapter 39, Title 58 is inapplicable to recovery of net lost revenues associated with a distributed energy resource that is installed as a result of a demand-side program incentive pursuant to this section or Section 58-37-20.

(D) The commission may approve any program filed pursuant to this

section if the commission finds the program to be cost effective pursuant to Section 58-37-10(3). For any demand-side programs or customer incentives submitted under this section with projected annual customer incentive amounts less than five million dollars per year for each of the first two program years, the commission must issue an order as expeditiously as practicable on the written submissions of the electrical utility but may require an evidentiary hearing where novel or complex issues of fact require special review by the commission. Nothing in this section prevents the commission from ordering an electrical utility to modify or terminate a program approved pursuant to this section based on the results of standard evaluation, measurement, and verification protocols.

(E) The Energy Office must develop and publish materials intended to inform and educate the public regarding programs available to a customer pursuant to this section. The Energy Office must maintain a list of approved vendors who are qualified and in good standing to provide services associated with these programs.

Energy efficiency and conservation measure agreements

SECTION 30. Section 58-37-50 of the S.C. Code is amended to read:

Section 58-37-50. (A) As used in this section:

(1) "Electricity provider" means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

(2) "Natural gas provider" means an investor-owned natural gas utility or publicly owned natural gas provider.

(3) "Meter conservation charge" means the charge placed on a customer's account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

(4) "Notice of meter conservation charge" means the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a meter conservation charge.

(5) "Customer" means a homeowner or tenant receiving electricity or natural gas as a retail customer.

(6) "Community action agency" means a nonprofit eleemosynary corporation created pursuant to Chapter 45, Title 43 providing, among other things, weatherization services to a homeowner or tenant.

(B) Electricity providers and natural gas providers may enter into

written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer's electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

(C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year treasury bills as published by the Federal Reserve on the first business day of the calendar year in which the agreement is entered. An electrical utility entering into such an agreement whose rates are regulated by the commission must fix the interest rate over the term of the agreement to not exceed such utility's weighted average cost of equity and long-term debt as most recently approved by the commission at the time the agreement is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty.

(D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Recovery may be through a meter conservation charge to the account of the member or customer and any such charge must be shown by a separate line item on the account. A utility entering into such agreement whose rates are regulated by the commission shall recover all reasonable and prudent incremental costs incurred to implement agreements for financing and installing energy-efficiency and conservation measures in base rates. Incremental costs may include, but are not limited to, billing system upgrades, overhead, incremental labor, and all other expenses properly considered to be associated with ensuring the ongoing premise bill savings are

realized from offering during the terms of such agreements.

(E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. An electricity provider or natural gas provider shall assume no liability for energy audits performed by third parties and shall provide no warranty relating to any energy audit done by any third party. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

(F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

(G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must

be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30-5-10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

(H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

(1) The energy audit required by subsection (F) must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

(2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the account associated with the rental property occupied by the tenant. The agreement must provide notice to the landlord of the provisions contained in item (3).

(3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the account associated with the rental property occupied by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section 27-40-240. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

(I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Title 37 of the South Carolina Code of Laws.

(J) An electricity provider or natural gas provider may contract with

third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section. When an electricity or natural gas provider contracts with a third party to perform administrative or financing functions under this subsection, the liability of the third party is limited in the same manner as an electricity provider or natural gas provider is under subsection (E).

(K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied before the time the measures are taken. The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment, or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment, unless (1) the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider, or (2) an electric appliance used for home heating is being replaced by an appliance that operates primarily on electricity but which has the capability of also operating on a secondary fuel source.

(L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.

(M)(1) An electricity provider or natural gas provider must not obtain funding from the following federal programs to provide loans provided by this section:

(a) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005 which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies;

(b) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy

Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.

(2) Nothing in this section changes the exclusive administration of these programs by local community action agencies through the South Carolina Governor's Office of Economic Opportunity pursuant to its authority pursuant to the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(3) Nothing in this subsection prevents a customer or member of an electricity provider or natural gas provider from obtaining services under the Low Income Home Energy Assistance Program or the Weatherization Assistance Program.

Compensation of commission members

SECTION 31.A. Section 58-3-70 of the S.C. Code is amended to read:

Section 58-3-70. The commission members shall receive a salary in an amount equal to ninety percent of the salary fixed for Associate Justices of the Supreme Court of South Carolina. Each commissioner must devote full time to his duties as a commissioner and must not engage in any other employment, business, profession, or vocation during the normal business hours of the commission.

B. This section is effective beginning with the fiscal year immediately following the next Public Service Commission election after the effective date of this act.

Colocated resources for nonresidential customers

SECTION 32. Chapter 41, Title 58 of the S.C. Code is amended by adding:

Section 58-41-50. (A) The General Assembly encourages electrical utilities to explore cost effective, efficient bulk power solutions, particularly during periods of constrained capacity, for nonresidential customers with electric loads in excess of 25 megawatts.

(B)(1) An electrical utility may file a proposed agreement regarding co-located resources between the utility and a customer or multiple customers with an electric load in excess of 25 megawatts for the commission's consideration. The proposed agreement must contain at

least one of the following requirements:

(a) co-location of electric generation or storage on the customer's property provides bulk system benefits for all customers and benefits for the host customer;

(b) co-location of renewable electric generation resources on the customer's property provides bulk system benefits for all customers and the renewable attributes associated with such generation can be allocated to the host customer;

(c) co-location of electric generation on the customer's property would result in permitting and siting efficiencies to enable electric generation to come online earlier than otherwise could occur; or

(d) co-location of electric generation resources on the customer's property could be utilized as resiliency resources to serve the electric grid in times of need.

(2) In the filing with the commission, the electrical utility must include a description of:

(a) credit and ratepayer protections included in the agreement;

(b) the contractual terms that preserves the electrical utility's operation of resources; and

(c) how costs and benefits associated with the agreement would be allocated among the customer who is a party to the agreement and other customers in the electrical utility's balancing area.

(C) The commission must give a proposed agreement filed pursuant to this section expedited consideration. The commission may approve the proposed agreement if the commission finds:

(1) the proposed program was voluntarily agreed upon by the electrical utility and the customer or multiple customers;

(2) the filing meets the requirements of this section; and

(3) the proposed agreement is in the public interest.

(D) For purposes of this section, "co-located" or "co-location" includes electric generation, storage, renewables, and associated facilities on a customer's site as well as any location where the connection to the electrical utility enables resilient power supply to support the development of power supply to meet the customer's needs. An agreement regarding co-location may also include potential co-ownership of the electric generation and associate facilities by the electrical utility and the customer. A customer participating in a co-location or co-ownership agreement shall not be considered an electrical utility.

(E) Notwithstanding opportunities for co-located resources, the General Assembly also encourages electrical utilities to continue to facilitate service to new electric loads in excess of 50 megawatts and to

require operational and financial performance requirements for such customers to receive service pursuant to tariffed electrical utility rates or contracts approved by the commission, and to ensure appropriate protections and risk mitigation for the protection of the electrical utility's existing customers. The electrical utility may meet these objectives by: (1) filing form contracts with the commission; (2) tariff offerings or services regulations filed with the commission; or (3) performance and credit policies reviewed by the Office of Regulatory Staff.

Diverse electric generation resources

SECTION 33. (A) To foster economic development and future jobs in this State resulting from the supply chains associated with the same while supporting the significant and growing energy and capacity needs of the State, enhance grid resiliency, and maintain reliability, the General Assembly finds that the State of South Carolina should take steps necessary to encourage the development of a diverse mix of long-lead, clean generation resources that may include nuclear and advanced nuclear, biomass as defined in Section 12-63-20(B)(2) of the S.C. Code, hydrogen-capable resources, fusion energy, and other technologies, and should preserve the option of efficiency development of such long-lead resources with timely actions to establish or maintain eligibility for or capture available tax or other financial incentives or address operational needs.

(B) For an electrical utility to capture available tax or other financial or operational incentives for South Carolina ratepayers in a timely manner, the commission may find that actions by an electrical utility in pursuit of the directives in Section 58-37-35(A) are in the public interest, provided that the commission determines that such proposed actions are in the public interest and reasonably balance economic development and industry retention benefits, capacity expansion benefits, resource adequacy and diversification and potential risks, costs, and benefits to ratepayers and otherwise comply with all other legal requirements applicable to the electrical utility's proposed action. For the South Carolina Public Service Authority, the Office of Regulatory Staff and the Public Service Authority's board of directors shall apply the same principles described in this subsection in evaluating and approving actions proposed by the management of the Public Service Authority to achieve the objectives of this section.

Deferred costs considerations

SECTION 34. All reasonable and prudent costs incurred by an electrical utility necessary to effectuate this act, that are not precluded from recovery by other provisions of this act and that do not have a recovery mechanism otherwise specified in this act or established by state law, shall be deferred for commission consideration of recovery in any proceeding initiated pursuant to Section 58-27-870, and allowed for recovery if the commission determines the costs are reasonable and prudent.

Definition

SECTION 35. Section 58-40-10(F) of the S.C. Code is amended to read:

(F) "Renewable energy resource" means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources as defined in Section 12-63-20(B)(2).

Economic development project rates and terms

SECTION 36.A. The General Assembly hereby finds and declares that:

(1) the economic and financial well-being of South Carolina and its citizens depends upon continued economic development and industry retention and opportunities for job attraction and retention; and

(2) the cost of electricity and the availability of clean energy sources for electricity are important factors in the decision for a commercial and industrial entity to locate, expand, or maintain their existing establishments in South Carolina; and

(3) competitive electric rates, terms, and conditions and the ability to utilize clean energy sources for electric power generation are necessary to attract prospective commercial or industrial entities to invest in South Carolina and to encourage and incent robust economic development growth and industry retention in this State; and

(4) electrical utilities are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

B. Title 58 of the S.C. Code is amended by adding:

Section 58-43-10. Unless otherwise specified, for purposes of this chapter:

(1) "Commission" means the Public Service Commission.

(2) "Contract" has the same meaning as the term is used in Section 58-27-980.

(3) "Electrical utility" has the same meaning as provided in Section 58-27-10(7).

(4) "Marginal cost" means the electrical utility's marginal cost for producing energy.

(5) "Qualifying customer" means either:

(a) an existing commercial or industrial customer with a combined firm and interruptible contract demand greater than 20 megawatts that agrees to a new or extended electric service contract with a term of five years or more; or

(b) a commercial or industrial customer that agrees to locate its operations in South Carolina or expand its existing establishment, and such location or expansion results in the minimum of:

(i) 500 kilowatts at one point of delivery;

(ii) fifty new employees; and

(iii) capital investment of $400,000 following the electrical utility's approval for service.

(6) "Rate proposal" means a written document that identifies the rates, terms, and conditions for electric service offered by an electrical utility to a prospective customer.

(7) "Renewable energy facility" means a solar array or other facility constructed by or on behalf of a qualifying customer for the exclusive purpose of supplementing electrical power generation from a renewable energy source for its economic development location, expansion, or retention.

(8) "Transformational customer" means a commercial or industrial customer that agrees to locate its operations in South Carolina or expand its existing establishment, and such location or expansion results in the addition of a minimum of:

(a) 50 megawatts at one point of delivery;

(b) 500 new employees;

(c) capital investment of $100,000,000 following the electrical utility's approval for service; and

(d) who is designated by the South Carolina Department of Commerce as a business which will bring substantial benefit to the economy of South Carolina and its citizens, such that it is in the public

interest to have such transformational customer located in this State.

Section 58-43-20. (A) When considering whether the rates, terms, and conditions negotiated with economic development prospects are just and reasonable, the commission shall give full weight and consideration to the economic development benefits to the electrical utility's customers that result from prospective commercial or industrial entities locating or expanding their activities in South Carolina.

(B) Notwithstanding any other provision of law, an electrical utility may provide the South Carolina Department of Commerce or a prospective qualifying customer or transformational customer with a rate proposal containing terms and conditions to incentivize the prospective customer to make capital investments and employ additional workforce in the electrical utility's service territory. The rate proposal initially provided by an electrical utility may differ from the final contract, rate, terms, and conditions with the qualifying customer or transformational customer.

(C) An electrical utility may offer special rates, terms, and conditions to a qualifying customer or transformational customer, including rates that are lower than the rates the customer otherwise would be charged. The agreement with the customer must be for a term not exceeding ten years and the electrical utility may offer the customer interruptible and real-time pricing options and riders for other clean energy attributes which may support the qualifying customer's or transformational customer's needs. However, rates for qualifying customers may not be lower than the electrical utility's marginal cost of providing service to the customer and rates for transformational customers may not be lower than twenty-five percent less than the electrical utility's marginal cost of providing service to the customer.

(D) Rates, terms, and conditions negotiated with qualifying and transformational customers shall be deemed just and reasonable if:

(1) for qualifying customers, the terms of this section are met;

(2) for transformational customers, the commission determines that:

(a) the economic development rate offered significantly impacts the customer's decision to locate or expand in South Carolina;

(b) the financial value realized by the electrical utility's system from the transformational customer being on the electrical utility's system for ten years is greater than or equal to the financial value of the rate incentive given to the transformational customer;

(c) measures have been taken to avoid or reduce cross-customer class-subsidization; and

(d) the consequences of offering the economic development rate are beneficial to the system as a whole considering all customer classes. The commission must either approve or deny an application pursuant to this section within sixty days.

(E) Nothing in this chapter shall otherwise restrict the commission's authority to regulate rates and charges or review contracts entered into pursuant to this section or to otherwise supervise the operations of electrical utilities.

(F) The construction of a proposed renewable energy facility by or on behalf of a qualifying customer to support electric power generation at its location must comply with federal, state, and local laws and ordinances.

(G) Consistent with federal, state, and local laws and ordinances, the electrical utility may expedite interconnection of a proposed renewable energy facility to be constructed by a qualifying or transformational customer to support electrical power generation at its location where high-quality and reliable electric service are not adversely impacted.

(H) In the event a qualifying customer or transformational customer leaves this State or terminates its operations in this State during the ten-year contract period, such customer must reimburse the electrical utility and its customers the difference between standard rates and the rates paid during the term of the agreement between the electrical utility and its customers.

(I) An electrical utility shall not be required to adjust its cost of service in a rate proceeding as a result of a rate, agreement, or infrastructure provided pursuant to this section in any matter that would impute revenue at a level higher than received by the electrical utility from a qualifying customer or transformational customer or would otherwise reduce the electrical utility's revenue as a result of entering into contracts with qualifying customers or transformational customers pursuant to this section.

(J) If an electrical utility offers special rates, terms, and conditions to a qualifying customer or a transformational customer, any electrical utility in South Carolina may also offer all directly competing existing customers in its service territory in this State with similar special rates, terms, and conditions at the time the agreement is entered into with the qualifying customer or transformational customer to the extent the directly competing existing customer is able to substantiate its status as a directly competing existing customer. For purposes of this section, customers are "directly competing" if they make the same end-product, or offer the same service, for the same general group of customers. Customers that only produce component parts of the same end-product

are not directly competing customers.

Transfer of pending appeals to the SC Supreme Court

SECTION 37. Chapter 37, Title 58 of the S.C. Code is amended by adding:

Section 58-37-135. Any appeal of an order concerning a permit for an energy infrastructure project which appeal is not finally resolved on the effective date of this statute shall be immediately transferred to the South Carolina Supreme Court which shall have the exclusive jurisdiction of all proceedings related to that appeal.

Public Utilities Review Committee annual evaluation of Division of Consumer Advocacy

SECTION 38. Section 58-3-530 of the S.C. Code is amended by adding:

(16) to conduct an annual evaluation of the performance of the Division of Consumer Advocacy within the Department of Consumer Affairs related to the division's representation of consumers in utility matters, which must be submitted to the General Assembly. A proposed draft of the evaluation must be submitted to the Division of Consumer Advocacy prior to submission to the General Assembly, and the Division of Consumer Advocacy must be given an opportunity to be heard before the review committee prior to the completion of the evaluation and its submission to the General Assembly.

PSC chief clerk, salary

SECTION 39. Chapter 3, Title 58 of the S.C. Code is amended by adding:

Section 58-3-65. Beginning with Fiscal Year 2025-2026, the salary for the commission's chief clerk must be based on recommendations by the Agency Head Salary Commission to the General Assembly as provided in Sections 8-11-160 and 8-11-165.

ORS independent construction analyst

SECTION 40. Chapter 33, Title 58 of the S.C. Code is amended by adding:

Section 58-33-200. For any construction project with a project budget of at least five hundred million dollars and in order to maintain the financial integrity of significant expenditures affecting ratepayers, the Office of Regulatory Staff shall retain an independent construction analyst who shall monitor the construction project on a regular basis and who shall provide to the Office of Regulatory Staff, the Public Service Commission, the Public Utilities Review Committee, and the Joint Bond Review Committee regular reports as to the status of the construction efforts as needed, but at least on a quarterly basis.

ORS report

SECTION 41. (A) Five years after the effective date of this act, the Office of the Regulatory Staff shall prepare a report, to be filed with the Public Utilities Review Committee and the General Assembly, to address the implementation of Article 24, Chapter 27, Title 58 as it relates to the following areas:

(1) assessing the functioning of the procedures established by section with recommendation for any changes required to ensure their efficient functioning, to promote regulatory efficiency, and to make further the establishment of just, reasonable, and fair rates;

(2) assessing the effect of rates on ratepayers of all classes;

(3) assessing the reliability of the electric system and whether investments made by electric utilities increased reliability compared to any change in electric utility rates experienced by ratepayers within the same timeframe; and

(4) any other information requested by the General Assembly to be included within the report.

(B) The Office of Regulatory Staff may engage a qualified, independent third party to assist in preparation of the report.

(C) All expenses and charges incurred by the Office of Regulatory Staff in the performance of its duties within this section may be defrayed by assessments made by the Comptroller General against the regulated electrical utilities regulated and based upon twenty-five percent of the gross revenues collected by such electrical utilities from their business done wholly within this State in the manner set out in Section 58-4-60 for other corporations.

Evaluation of converting Wateree Generating Station to biomass-fired generation

SECTION 42. Upon passage of this act, Dominion Energy shall evaluate the process for converting the Wateree Generating Station from coal-fired generation to biomass-fired generation. Biomass-fired generation includes, but is not limited to, generation from the firing of wood pellets and wood chips. Dominion Energy must make a report concerning the conversion process to the Public Service Commission and General Assembly by no later than January 13, 2026.

ORS considerations in resolving disputes

SECTION 43. Section 58-4-50(A)(9) of the S.C. Code is amended to read:

(9) to serve as a facilitator or otherwise act directly or indirectly to resolve disputes and issues involving matters within the jurisdiction of the commission. In accordance with the mission of the Office of Regulatory Staff as provided for in Section 58-4-10 and in the context of settlement negotiations, the Office of Regulatory Staff shall consider any applicable requirements set out for the Public Service Commission pursuant to Section 58-3-140;

One subject

SECTION 44. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of regulation of electrical utilities, the provision of electricity, and economic development as clearly enumerated in the title. 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.

Severability clause

SECTION 45. 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 46. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 42

(R61, H3430)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 15-38-15, RELATING TO JOINT AND SEVERAL LIABILITY AND THE APPORTIONMENT OF PERCENTAGES OF FAULT AND ALCOHOLIC BEVERAGE OR DRUG EXCEPTIONS, AMONG OTHER THINGS, SO AS TO FURTHER MODIFY PROVISIONS RELATING TO JOINT AND SEVERAL LIABILITY, TO REMOVE THE EXCEPTION TO THE PROVISIONS OF THE SECTION APPLYING TO THE USE, SALE, OR POSSESSION OF ALCOHOL, TO PROVIDE PROCEDURES FOR THE INCLUSION OF ADDITIONAL TORTFEASORS IN A CAUSE OF ACTION AND FOR THE TRIER OF FACT TO ALLOCATE FAULT TO ADDITIONAL TORTFEASORS, AND TO PROVIDE CIRCUMSTANCES UNDER WHICH ADDITIONAL NONDEFENDANT TORTFEASORS SHALL BE ADDED TO A VERDICT FORM AND CIRCUMSTANCES UNDER WHICH THEY SHALL NOT BE ADDED; BY AMENDING SECTION 61-6-2220, RELATING TO ALCOHOL SALES, SO AS TO

PROHIBIT A PERSON FROM KNOWINGLY SELLING ALCOHOL TO AN INTOXICATED PERSON; BY ADDING CHAPTER 3 TO TITLE 61 SO AS TO ESTABLISH AN ALCOHOL SERVER TRAINING REQUIREMENT; BY AMENDING SECTION 61-2-60, RELATING TO REGULATIONS OF THE DEPARTMENT OF REVENUE, SO AS TO AUTHORIZE REGULATIONS FOR THE ALCOHOL SERVER TRAINING REQUIREMENTS; BY AMENDING SECTION 61-4-580, RELATING TO PROHIBITED ACTS BY HOLDERS OF PERMITS AUTHORIZING THE SALE OF BEER OR WINE, SO AS TO PROVIDE PENALTIES FOR VIOLATIONS; BY ADDING SECTION 61-4-523 SO AS TO PROVIDE PROCEDURES FOR THE SALE OF BEER AND WINE AT COLLEGIATE SPORTING EVENTS UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 38-73-550 SO AS TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO MAKE CERTAIN REPORTS REGARDING LIQUOR LIABILITY COVERAGE IN THIS STATE; BY AMENDING SECTION 38-90-20, RELATING TO LICENSING, REQUIRED INFORMATION AND DOCUMENTATION, FEES, AND RENEWAL, SO AS TO INCLUDE LIQUOR LIABILITY INSURANCE; BY AMENDING SECTION 61-2-145, RELATING TO THE REQUIREMENT OF LIABILITY INSURANCE COVERAGE, SO AS TO PROVIDE FOR LIQUOR LIABILITY RISK MITIGATION; AND BY ADDING SECTION 61-2-147 SO AS TO PROVIDE THAT TORTFEASORS CHARGED WITH CERTAIN DRIVING UNDER THE INFLUENCE OFFENSES SHALL APPEAR ON THE JURY VERDICT FORM UPON MOTION OF THE DEFENDANT UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE IF A VERDICT IS RENDERED AGAINST BOTH A LICENSEE AND A DEFENDANT CHARGED WITH CERTAIN DRIVING UNDER THE INFLUENCE OFFENSES THAT THE LICENSEE IS JOINTLY AND SEVERALLY LIABLE FOR FIFTY PERCENT OF THE PLAINTIFF'S ACTUAL DAMAGES.

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

Torts, apportionment of fault, additional tortfeasor inclusion, verdict form inclusion and exclusion

SECTION 1. Section 15-38-15 of the S.C. Code is amended to read:

Section 15-38-15. (A) In an action to recover damages resulting from personal injury, wrongful death, or damage to property or to recover damages for economic loss or for noneconomic loss such as mental distress, loss of enjoyment, pain, suffering, loss of reputation, or loss of companionship resulting from tortious conduct, if indivisible damages are determined to be proximately caused by more than one tortfeasor, joint and several liability does not apply to any defendant whose conduct is determined to be less than fifty percent of the total fault for the indivisible damages as compared with the total of: (i) the fault of all the defendants and tortfeasors; and (ii) the fault (comparative negligence), if any, of plaintiff. A defendant whose conduct is determined to be less than fifty percent of the total fault shall only be liable for that percentage of the indivisible damages determined by the jury or trier of fact.

(B) Apportionment of percentages of fault among defendants and tortfeasors is to be determined as specified in subsection (C).

(C) The jury, or the court if there is no jury, shall:

(1) specify the amount of damages;

(2) determine the percentage of fault, if any, of plaintiff under applicable rules concerning "comparative negligence"; and

(3) upon a motion by at least one defendant, where there is a verdict under items (1) and (2) above for damages for the same indivisible injury, death, or damage to property, specify in a separate verdict under the procedures described at subitem (b) below the percentage of liability that proximately caused the indivisible injury, death, damage to property, or economic loss from tortious conduct, as determined by item (1) above, that is attributable to each defendant and tortfeasor whose actions are a proximate cause of the indivisible injury, death, or damage to property. In determining the percentage attributable to each defendant and tortfeasor, any fault of the plaintiff, as determined by item (2) above, will be included so that the total of the percentages of fault attributed to the plaintiff and to the defendants and tortfeasors must be one hundred percent. In calculating the percentage of fault attributable to each defendant, inclusion of any percentage of fault of the plaintiff (as determined in item (2) above) shall not reduce the amount of plaintiff's recoverable damages (as determined under item (2) above).

(a) For this purpose, the court may determine that two or more persons are to be treated as a single party. Such treatment must be used

where two or more defendants acted in concert or where, by reason of agency, employment, or other legal relationship, a defendant is vicariously responsible for the conduct of another defendant.

(b) After the initial verdict awarding damages is entered and before the special verdict on percentages of liability is rendered, the parties shall be allowed oral argument, with the length of such argument subject to the discretion of the trial judge, on the determination of the percentage attributable to each defendant and tortfeasor. However, no additional evidence shall be allowed.

(D) A defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and/or may be liable for any or all of the damages alleged by any other party.

(E) Notwithstanding the application of this section, setoff from any settlement received from any potential tortfeasor not placed on the verdict form prior to the verdict shall be applied in proportion to each defendant's percentage of liability as determined pursuant to subsection (C).

(F) The provisions of subsection (A) do not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, or intentional or conduct involving the illegal or illicit use, sale, or possession of drugs, and such a defendant shall be jointly and severally liable for all damages described in subsection (A).

(G) In order for the trier of fact to allocate fault to a nondefendant tortfeasor for the purpose of apportioning damages, the following requirements apply:

(1) the tortfeasor must be disclosed within one hundred eighty days of the commencement of the action or at a later time for good cause shown, and the plaintiff may add the tortfeasor as a party defendant with the amended pleading relating back to the commencement of the action;

(2) the defendant bears the burden of proof that the added tortfeasor's breach of duty was a proximate cause of the plaintiff's injuries unless the plaintiff amends his pleadings to add the tortfeasor as a party;

(3) if the plaintiff does not add the tortfeasor in a direct action, the plaintiff may challenge the addition of the tortfeasor pursuant to South Carolina Rules of Civil Procedure Rule 56 and Rule 50. If those motions are denied then the tortfeasor appears on the verdict form; and

(4) notwithstanding the time requirement in item (1), a settling tortfeasor, whether or not a party, shall be added to the verdict form unless excluded by subsection (H).

(H) A nondefendant tortfeasor shall not be added to the verdict form

if:

(1) the nondefendant tortfeasor is immune from liability or prohibited from suit under statute or common law or otherwise not subject to suit in this action, not including settled or released tortfeasors who were or could have been parties in the civil action;

(2) the nondefendant tortfeasor's conduct is wilful, wanton, reckless, or intentional;

(3) the defendant's liability is imputed to or based upon fault of the tortfeasor;

(4) the causes of action involve strict liability;

(5) the causes of action involve asbestos; or

(6) an action is commenced by the State, a state agency, municipality, county, local government, regional public authority, special purpose district, public utility, or any other governmental entity or political subdivision including, but not limited to, claims seeking recovery of public funds, remediation costs, or other damages arising from acts or omissions of third parties that result in harm to public health, safety, infrastructure, or the environment, other than claims involving per- and polyfluoroalkyl substances.

Sale of alcoholic beverages, knowingly selling to intoxicated persons

SECTION 2. Section 61-6-2220 of the S.C. Code is amended to read:

Section 61-6-2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

Alcohol Server Training, regulations authorized

SECTION 3.A. Title 61 of the S.C. Code is amended by adding:

CHAPTER 3

Alcohol Server Training

Section 61-3-100. For the purposes of this chapter, the following definitions apply:

(1) "Alcohol" means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as

a beverage for human consumption.

(2) "Alcohol server" means an individual who sells alcohol for on-premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. "Alcohol server" does not include an individual employed or volunteering on a temporary basis for a one-time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink and does not include an individual transferring alcohol from one location to another as a distributor, wholesaler, or as otherwise lawfully authorized to transfer alcohol from one location to another by this title; and does not include an individual who cannot lawfully serve or deliver alcohol pursuant to Sections 61-4-90(D) and 61-6-2200.

(3) "Alcohol server certificate" means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on-premises consumption.

(4) "DBHDD" means the Department of Behavioral Health and Developmental Disabilities, Office of Substance Abuse.

(5) "Department" means the South Carolina Department of Revenue.

(6) "Division" means the South Carolina Law Enforcement Division.

(7) "Employee" means a person who is employed for at least ten hours a week by a permittee or a licensee.

(8) "Licensee" means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on-premises consumption.

(9) "Manager" means an individual permittee, an individual licensee, and any person employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on-premises consumption at the permitted or licensed premises.

(10) "Permittee" means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on-premises consumption.

(11) "Program" means an alcohol server training and education course and examination approved by the department with input from DBHDD and the division that is administered by authorized providers.

(12) "Provider" means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61-3-110. (A) An alcohol server or manager must complete alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. If an alcohol server or manager does not have a current alcohol server certificate at the time of employment in that capacity, then the licensee or permittee must provide alcohol server training within thirty calendar days of employment. An alcohol server shall not be mentally or physically impaired or intoxicated by alcohol, drugs, or controlled substances while serving alcohol on behalf of the licensee.

(B) A permittee or licensee shall maintain at all times on its permitted or licensed premises physical or electronic copies of the alcohol server certificates for its managers and alcohol servers for the duration of employment. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter:

(1) a permittee or licensee must also make available to the department or the division, when requested, the date a manager or alcohol server began employment in the capacity; and

(2) a permittee or licensee shall be excused for the failure to produce the alcohol server certificate if that failure is due to a provider's failure to report the successful completion of training and testing or the department's failure to issue a certificate to an applicant who has met the requirements of Section 61-3-130.

Section 61-3-120. (A)(1) The department shall approve alcohol server training programs offered by providers that are based on best evidence practice standards. The department may collaborate with DBHDD and the division to determine appropriate providers for the purposes of this chapter. The department shall approve or deny a program within sixty days of application by a provider. A provider may appeal a denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act.

(2) A provider may charge a licensee, permittee, or individual seeking training for the purpose of employment as an alcohol server or manager a fee not to exceed fifty dollars per participant.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages;

(b) the permitting and licensing of sellers of alcoholic beverages;

(c) impaired driving or driving under the influence of alcohol or

drugs;

(d) liquor liability issues;

(e) the carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages; and

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior including, but not limited to, its effect on an individual's ability to operate a motor vehicle when intoxicated;

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

(4) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(5) information on recognizing the signs of intoxication and methods for preventing intoxication;

(6) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty-one years of age and intoxicated individuals;

(8) methods for properly and effectively checking the identification of an individual, for identifying illegal identification, and for handling situations involving individuals who have provided illegal identification;

(9) South Carolina law enforcement information including, but not limited to, the most recently published official statistics on drunk driving accidents, injuries, and deaths in South Carolina; and

(10) other topics related to alcohol server education and training designated by the department, in collaboration with DBHDD and the division, to be included.

(C) The department shall approve only online designed training programs that meet each of the following criteria:

(1) a program must cover the content specified in subsection (B);

(2) the content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and must be developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible;

(3) a program shall be offered online;

(4) online training must be at least four hours, be available in English and Spanish, and include a test;

(5) online or computer based training programs must use linear navigation that requires the completion of a module before the course proceeds to the next module, with no content omitted, be interactive, have audio for content, and include a test;

(6) training and testing must be conducted online. All tests must be monitored by an online proctor. A passing grade for a test, as provided by the program, is required; and

(7) training certificates are issued by the provider only after training is complete and a test has been passed successfully.

(D) Within ten business days after a training is completed, each provider must give to the department a report of all individuals who have successfully completed the training and testing. The provider must also maintain these records for at least five years following the end of the training program for purposes of verifying certification validity by the department or the division.

(E) The department, in collaboration with DBHDD and the division, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of this chapter. If a provider's authorization is suspended or revoked, then that provider must cease operations in this State immediately and refund any money paid to it by individuals enrolled in that provider's program at the time of the suspension or revocation.

Section 61-3-130. (A)(1) The department must issue an alcohol server certificate to each applicant who completes an approved program or a recertification program and who provides other information as may be required by the department in an application form that is available on the department's website. An individual must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary alcohol server certificate, may issue a temporary alcohol server certificate that is valid for a period of no more than thirty calendar days.

(2) The department, in collaboration with DBHDD and the division, may issue an alcohol server certificate to an individual from outside of the State who applies for an alcohol server certificate if the individual has an alcohol server certificate from a nationally recognized or comparable, state recognized alcohol server certification program that the department, DBHDD, and the division find meets or exceeds the programs offered in this State.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to

whom it is issued and is transferrable among employers. An individual must reimburse a licensee or permittee that paid for the cost of alcohol server training if the individual leaves the employment of the licensee or permittee within six months of its issuance.

(D) Alcohol server certificates are valid for a period of three years from the date that the alcohol server certificate was issued. After the three-year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department.

(F) The department shall not charge a fee to issue and renew alcohol server certificates to qualifying applicants.

(G) An applicant must be deemed to be a qualifying applicant for the purpose of alcohol server certificate issuance and renewal if they have successfully completed all training and testing requirements as found in Section 61-3-120.

Section 61-3-140. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.

B.Section 61-2-60 of the S.C. Code is amended by adding:

(9) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training provisions.

Penalties for prohibited acts relating to the sale of beer or wine

SECTION 4. Section 61-4-580(B) of the S.C. Code is amended to read:

(B) In addition to civil liability as provided by law, a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit. A permittee or licensee who violates any provision of this section:

(1) for a first offense, shall be fined two thousand five hundred dollars by the department;

(2) for a second offense within two years of the first offense, shall

have its alcohol license or permit suspended for up to fourteen days as determined by the department; and

(3) for a third offense within three years of the first offense, shall have its alcohol license or permit revoked.

Sale of beer or wine at collegiate sporting venues

SECTION 5. Article 5, Chapter 4, Title 61 of the S.C. Code is amended by adding:

Section 61-4-523. (A) Notwithstanding any other provision of law, the sale of beer and wine at collegiate sporting venues pursuant to Section 61-4-520 is prohibited unless the holder of the permit:

(1) requires all sales personnel to complete mandatory alcohol server training approved by the department;

(2) utilizes internal, random checks of sales locations during an event of sufficient frequency to reasonably determine that sales procedures and identification verification procedures comply with established protocol;

(3) utilizes forensic digital identification systems, or other means acceptable to the department, to verify the authenticity of identification at the point of sale;

(4) prohibits sales of beer and wine in student sections with designated concession areas; and

(5) prohibits sales of beer and wine to customers presenting vertical identification cards.

(B) The department shall consider these preventative measures and other factors described in subsection (C) when assessing administrative penalties in the event violations of this chapter occur and may reduce any administrative penalty when the department finds the permit holder acted in good faith to prevent a violation.

(C) Notwithstanding Section 61-4-580(B), in administering the provisions of this section, the department shall develop and implement an alternate revenue and penalty structure for collegiate sporting venues which recognizes the unique characteristics of such venues including, but not limited to, the number of sales locations within the collegiate sporting venue, sales volume and number of patrons served per event held at such collegiate sporting venue, number of sales personnel necessary to staff sales locations within the collegiate sporting venue, and frequency of events held at such collegiate sporting venue during which sales of beer and wine occur. The department shall develop and implement the alternative revenue procedure and penalty structure for

collegiate sporting venues not later than August 31, 2025. The department shall determine the seating capacity necessary for a collegiate sporting venue to be subject to the alternate revenue procedure and penalty structure.

Reports regarding liquor liability coverage

SECTION 6. Chapter 73, Title 38 of the S.C. Code is amended by adding:

Section 38-73-550. (A) Due to the mandatory requirement for commercial casualty coverage contained in Section 61-2-145, the availability of affordable commercial casualty coverage, including liquor liability coverage, is found to be essential to South Carolina's hospitality industry and by South Carolina citizens.

(B) By January thirty-first of each year, the director must prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Banking and Insurance Committee, the Chairman of the House Labor, Commerce and Industry Committee, the Chairman of the Senate Judiciary Committee, and the Chairman of the House Judiciary Committee regarding the status of commercial general liability and liquor liability markets, including the insurance industry's participation and profitability in the commercial general liability and the liquor liability sub-line of that market. The report shall be posted in an electronic format on the department's website within five days of its submission. The report shall include, but not be limited to, the following:

(1) the number of policies written in South Carolina that provide coverage by insurers for liquor liability in South Carolina, whether as a stand-alone product or as another commercial liability insurance product;

(2) the volume of earned premiums associated with the coverage provided by the insurers for liquor liability in South Carolina and written in South Carolina;

(3) the number of claims closed with payments and the volume of those payments associated with liquor liability coverage written in South Carolina;

(4) the number of claims open and the volume of actual reserves on those claims associated with liquor liability coverage written in South Carolina;

(5) the volume of reserves for incurred but not reported claims associated with liquor liability coverage;

(6) the sum of subrogation and salvage associated with liquor liability coverage written in South Carolina;

(7) the volume of combined losses as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

(8) the amount of profit as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

(9) the number of insurers participating in commercial general liability market and the liquor liability sub-line of that market;

(10) the director's conclusions as to the availability of commercial general liability and liquor liability coverage and the trends in changes in the rates for that coverage; and

(11) the director's recommendations to continue to improve the availability of insurance coverage as mandated in Section 61-2-145 and the rates associated with that coverage.

Liquor liability coverage

SECTION 7. Section 38-90-20(A) of the S.C. Code is amended to read:

(A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers' compensation insurance written on a direct basis, authorized by this title; including, without limitation, liquor liability insurance; however:

(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;

(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage written on a direct basis;

(6) a captive insurance company may not accept or cede reinsurance

except as provided in Section 38-90-110;

(7) a captive insurance company may not issue eroding or declining liquor liability insurance coverage to any alcohol licensee or permittee in South Carolina whereby the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim.

Liquor liability risk mitigation

SECTION 8. Section 61-2-145 of the S.C. Code is amended to read:

Section 61-2-145. (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement with an annual aggregate limit of at least one million dollars during the period of the biennial permit or license, unless the person licensed or permitted to sell alcoholic beverages qualifies under the terms of a liquor liability risk mitigation program pursuant to subsection (E). Failure to maintain this coverage during the entire period of the biennial permit or license constitutes grounds for suspension or revocation of the permit or license and is sufficient grounds for the department to seek an emergency revocation order as provided in Sections 12-60-1340 and 1-23-370(c). An insurance policy issued pursuant to this section must provide for minimum coverage of at least fifty percent of the total aggregate limit, per occurrence, giving rise to the claim.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on-premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on-premises consumption after five

o'clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement within thirty days of the lapse or termination.

(D) For the purposes of this section, the term "alcoholic beverages" means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

(E) A person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, may qualify for liquor liability risk mitigation. A licensee or permittee qualifies if the licensee or permittee:

(1) stops serving alcohol by twelve o'clock a.m. for the entire policy period;

(2) has all employees who serve alcohol complete an alcohol server training course pursuant to Title 61, Chapter 3, within sixty days of employment in that capacity;

(3) has less than forty percent of its total sales deriving from alcohol sales;

(4) uses a forensic digital identification system that validates the identification of any person attempting to enter the premises between the hours of 12:00 a.m. and 4:00 a.m.; or

(5) is a nonprofit organization which is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of United States Code, as amended, or the entity is engaging in a single event for which a Beer and Wine Special Event License or Liquor Special Event Permit is obtained.

(6) A licensee or permittee meeting the requirement of item (1) may reduce the required annual aggregate limit by two hundred and fifty thousand dollars. A licensee or permittee meeting the requirements of item (2), (3) or (4) may reduce the required annual aggregate limit by one hundred thousand dollars per item satisfied. A licensee or permittee meeting the requirements of item (5) may reduce the annual aggregate limit by five hundred thousand dollars. A licensee or permittee who has met the requirements of any combination of items (1)-(5) must receive the permitted reduction in the required annual aggregate limit for each item the licensee or permittee complies with provided a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, must at all times maintain coverage with an annual aggregate limit of at least three hundred thousand dollars during the entire period of the biennial permit or license.

(7) Insurers must establish liquor liability mitigation measures and

offer reasonable premium discounts for compliance therewith that reduce the risk to the general public associated with the service of on-premises consumption of alcohol.

(F) Permittees and licensees selling alcoholic beverages for on-premises consumption at any time between the hours of 12:00 a.m. and 4:00 a.m. shall use a forensic digital identification system that validates the identification of any person attempting to enter the premises as a patron.

(G) For purposes of this section, the calculation of total sales shall include sales of alcohol sold for on-premises consumption and all food and nonalcoholic beverages sold on the premises where the alcohol is sold, including food and nonalcoholic beverages sold by third-party vendors.

Tortfeasors charged with certain driving under the influence offenses, verdict form inclusion, apportionment of liability

SECTION 9. Chapter 2, Title 61 of the S.C. Code is amended by adding:

Section 61-2-147. (A) Notwithstanding the provisions of Section 15-38-15, a tortfeasor charged under Section 56-5-2930, 56-5-2933, or 56-5-2945 shall appear on the jury verdict form upon motion of the defendant, provided such motion is made within one hundred eighty days of the commencement of the action or at a later time for good cause shown. The plaintiff may also add the tortfeasor charged under Section 56-5-2930, 56-5-2933, or 56-5-2945 as a party defendant with the amended pleading relating back to the commencement of the action. If a verdict is rendered against both a licensee and a defendant charged under Section 56-5-2930, 56-5-2933, or 56-5-2945, then the licensee is jointly and severally liable for fifty percent of the plaintiff's actual damages.

(B) Notwithstanding the time requirement in subsection (A), a settling tortfeasor, whether or not a party, shall be added to the verdict form.

Severability clause

SECTION 10. 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 11. This act takes effect January 1, 2026, and applies only to causes of action or claims arising or accruing after January 1, 2026, and applies to all policies issued after that date, other than Section 61-4-523 which takes effect upon approval by the Governor.

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 43

(R62, H3563)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-11-50, RELATING TO COUNTY VETERANS' AFFAIRS OFFICERS, SO AS TO PROVIDE THAT THE SECRETARY SHALL EVALUATE EACH COUNTY VETERANS' AFFAIRS OFFICE NO MORE THAN TWICE PER YEAR.

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

County veterans' affairs officers

SECTION 1. Section 25-11-50 of the S.C. Code is amended to read:

Section 25-11-50. (A) The secretary shall establish uniform methods and procedures for the performance of service work among the several county officers, maintain contact and close cooperation with such officers, and provide assistance, advice and instructions with respect to changes in law and regulations and administrative procedure in relation to the application of such laws and he may require from time to time

reports from such county veterans' affairs officers, reflecting the character and progress of their official duties.

(B) The secretary or his designee shall evaluate each county office no more than twice per year to determine the level of service being provided to veterans and to ensure compliance with established uniform methods and procedures. The department shall reevaluate any deficiencies noted no more than six months from the initial inspection. The department may assist a county in creating and executing a corrective action plan by the time of reinspection. The secretary shall report the results of final inspection, in writing, to the legislative delegation and the county administrator of each county within ninety days of the final evaluation. The secretary or his designee shall not have the authority to remove a county officer for any reason.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 44

(R63, H3632)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-149-15, RELATING TO REQUIREMENTS FOR ADDITIONAL LIFE SCHOLARSHIP STIPENDS, AND SECTION 59-104-25, RELATING TO REQUIREMENTS FOR ADDITIONAL PALMETTO FELLOWS SCHOLARSHIP STIPENDS, BOTH SO AS TO PROVIDE THAT CERTAIN COURSEWORK IN ECONOMICS AND BUSINESS STATISTICS MUST COUNT TOWARDS CERTAIN REQUIRED FRESHMAN YEAR COURSEWORK IN MATHEMATICS AND SCIENCE, AND TO CLARIFY THESE PROVISIONS APPLY BEGINNING WITH ACCOUNTING MAJORS WHO COMPLETED SUCH COURSEWORK AS FRESHMEN IN THE

2024-2025 SCHOOL YEAR.

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

LIFE Scholarship stipends

SECTION 1. Section 59-149-15(B) of the S.C. Code is amended to read:

(B) The Commission on Higher Education by regulation shall define what constitutes a science or mathematics major, applicable beginning with the 2024-2025 School Year to persons who did not receive a LIFE Scholarship stipend before the 2024-2025 School Year. This definition of a science or mathematics major must include, at a minimum, majors in science or mathematics disciplines, computer science or informational technology, engineering, accounting, and healthcare and related disciplines including medicine and dentistry; provided, that nothing herein prevents a student from changing majors within acceptable science or mathematics disciplines. For purposes of determining stipend eligibility of accounting majors, courses in microeconomics, macroeconomics, and business statistics completed by an accounting major in his freshman year must count towards the requirement in subsection (A) that the student shall complete at least fourteen credit hours of instruction in mathematics and science courses during the student's freshman year, and these provisions apply beginning with students who took microeconomics, macroeconomics, and business statistics courses as freshman accounting majors during the 2024-2025 School Year so as to enable them to have those courses count toward the fourteen-hour coursework requirement in subsection (A) for purposes of attaining LIFE Scholarship stipend eligibility.

Palmetto Fellows Scholarship stipends

SECTION 2. Section 59-104-25(B) of the S.C. Code is amended to read:

(B) The Commission on Higher Education by regulation shall define what constitutes a science or mathematics major, applicable beginning with the 2024-2025 School Year to persons who did not receive a Palmetto Fellows Scholarship stipend before the 2024-2025 School Year. This definition of a science or mathematics major must include, at a minimum, majors in science or mathematics disciplines, computer

science or informational technology, engineering, accounting, and healthcare and related disciplines including medicine and dentistry; provided, that nothing herein prevents a student from changing majors within acceptable science or mathematics disciplines. For purposes of determining stipend eligibility of accounting majors, courses in microeconomics, macroeconomics, and business statistics completed by an accounting major in his freshman year must count towards the requirement in subsection (A) that the student shall complete at least fourteen credit hours of instruction in mathematics and science courses during the student's freshman year, and these provisions apply beginning with students who took microeconomics, macroeconomics, and business statistics courses as freshman accounting majors during the 2024-2025 School Year so as to enable them to have those courses count toward the fourteen-hour coursework requirement in subsection (A) for purposes of attaining Palmetto Fellows Scholarship stipend eligibility.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 45

(R64, H3800)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-36-2120, RELATING TO THE SALES TAX EXEMPTION ON DURABLE MEDICAL EQUIPMENT, SO AS TO DELETE AN ELIGIBILITY REQUIREMENT THAT THE SELLER HAVE A PRINCIPAL PLACE OF BUSINESS IN THIS STATE.

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

Durable medical equipment

SECTION 1. Section 12-36-2120(74) of the S.C. Code is amended to read:

(74) durable medical equipment and related supplies:
(a) as defined under federal and state Medicaid or Medicare laws;
(b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the sale or use tax; and
(c) sold by a provider who holds a South Carolina retail sales license;

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 46

(R65, H3813)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-430, RELATING TO BEAR HUNTING, SO AS TO REMOVE REFERENCES TO A REGISTERED PARTY DOG HUNT IN GAME ZONE 1.

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

Bear hunting

SECTION 1. Section 50-11-430 of the S.C. Code is amended to read:

Section 50-11-430. (A)(1) The open season for hunting and taking bear in Game Zone 1 is as follows:

(a) for still gun hunts, October 11 through October 23 on private land and October 11 through October 16 on wildlife management areas; and

(b) for dog hunts, October 17 through October 30 on private land and on wildlife management areas.

(2) In all other game zones, the General Assembly finds it in the best interest of the State to allow the taking of black bear under strictly controlled conditions and circumstances. The department may establish a bear management program that allows for hunting and selective removal of bear in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must promulgate regulations to set the conditions for taking, including methods of take, areas, times, limits, and seasons, and other conditions to properly control the harvest of bear.

(B) In Game Zones 2, 3, and 4 where the department declares an open season, the department shall determine an appropriate quota of bear to be harvested in each game zone, or county within a game zone and shall further promulgate regulations necessary to properly control the harvest of the bear. The department may close an open season at any time, provided that the department gives at least twenty-four hours' notice to the public of the closure.

(C) In Game Zones 2, 3, and 4 where the department declares an open season for hunting and taking bears on wildlife management areas, and all other areas under the ownership, control, or lease of the department, the season will be set by the department. The department may close an open season at any time, provided that the department gives at least twenty-four hours' notice to the public of the closure.

(D) Any bear taken must be tagged with a valid bear tag and reported by midnight of the day of the harvest to the department as prescribed. The tag must be attached to the bear as prescribed by the department before being moved from the point of kill.

(E) It is unlawful to:

(1) hunt, take, or attempt to take a bear except during the open season;

(2) possess an untagged bear;

(3) take more than one bear per person during all seasons. In Game Zone 1 a person who has taken a bear during the season may participate in a dog hunt as long as the hunting license shows the bear tag endorsement, but the person may not take another bear;

(4) take or attempt to take a sow bear with cubs;

(5) possess or transport a freshly killed bear or bear part except during the open season for hunting and taking bear. This prohibition does not apply to bear lawfully taken in other jurisdictions. The department may issue a special permit for possession or transportation of a freshly killed bear or bear part outside of the season;

(6) possess a captive bear except pursuant to a permit issued by the department. A violation of the terms of the permit may result in revocation or a civil penalty of up to five thousand dollars, or both. An appeal must be made in accordance with the Administrative Procedures Act;

(7) pursue bear with dogs; except during the open season for hunting and taking bear with dogs;

(8) hunt or take bear by the use or aid of bait; or attempt to hunt or take bear by use or aid of bait; hunt or take bear on or over a baited area. As used in this item:

(a) "Bait" means salt or shelled, shucked, or unshucked corn, wheat or other grain, or other foodstuffs that could constitute a lure, attraction, or enticement for bear.

(b) "Baiting" or "to bait" means placing, depositing, exposing, distributing, or scattering bait.

(c) "Baited area" means an area where bait is directly or indirectly placed, exposed, deposited, distributed, or scattered, and the area remains a baited area for ten days following complete removal of all bait. Nothing in this section prohibits the hunting and taking of bear on or over lands or areas that are not otherwise baited and where:

(i) there are standing crops on the field where grown, including crops grown for wildlife management purposes; or

(ii) shelled, shucked, or unshucked corn, wheat or other grain, or seeds that have been distributed or scattered solely as the result of a normal agricultural practice as prescribed by the Clemson University Extension Service or its successor;

(9) buy, sell, barter, or exchange or attempt to buy, sell, barter, or exchange a bear or bear part;

(10) take or attempt to take a bear from a watercraft or other water conveyance or molest, take, or attempt to take a bear while the bear is swimming in a lake or river;

(11) fail to report a bear harvest in the manner provided by law.

(F)(1) Each of the acts provided for in subsection (E) is a violation of this section and is a separate offense.

(2) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than sixty days,

or both. Hunting and fishing privileges of a person convicted under the provisions of this section must be suspended for three years. In addition, each person convicted of a violation of this section shall pay restitution to the department of not less than one thousand five hundred dollars for each bear or bear part that is the subject of a violation of this section. The magistrates court retains concurrent jurisdiction for offenses contained in this section.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 47

(R66, H3862)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-40-50, RELATING TO CHARTER SCHOOL ADMISSIONS, SO AS TO REVISE ADMISSIONS PREFERENCE CRITERIA AND PROCEDURES, AND TO ADD PROVISIONS CONCERNING STUDENTS WITH MULTIPLE ENROLLMENT PREFERENCES.

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

Enrollment preference criteria revisions

SECTION 1. Section 59-40-50(B)(8) of the S.C. Code is amended to read:

(8)(a) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to

the school or as allowed by subitems (b) and (c).

(b) A charter school must give preference to students enrolled in the public charter school the previous year.

(c) A charter school may give enrollment preference to any of the following by enrolling the student without requiring participation in a lottery when a lottery is otherwise required under this chapter:

(i) a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year;

(ii) a child or children of any employee of the charter school or member of the charter school committee, provided that the number of students eligible for this preference may not exceed twenty percent of the school's total enrollment;

(iii) dependents of active-duty members of the military residing or stationed in this State, limited to not more than ten percent of the school's total enrollment except for schools meeting the provisions of subitem (f). Dependents of active-duty military members are subject to the enrollment provisions of Section 59-63-33.

(d) A student eligible for multiple enrollment preferences may be enrolled based on only one of the preferences, at the charter school's discretion. A student eligible for an enrollment preference that is denied the enrollment preference because the charter school has exceeded the number of enrollment preferences allowed must be permitted to participate in any enrollment lottery held by the school for the year the enrollment preference is denied.

(e) In the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59-40-111, mission-aligned preference may be given to educationally disadvantaged students as specifically defined in their charter and charter contract approved by their sponsor and as allowed by ESSA.

(f) In addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed fifty percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority;

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 48

(R72, H3996)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-47-1250, RELATING TO SUPERVISION OF ANESTHESIOLOGIST'S ASSISTANTS, SO AS TO INCREASE THE NUMBER OF ANESTHESIOLOGIST'S ASSISTANTS THAT AN ANESTHESIOLOGIST MAY SUPERVISE; AND BY AMENDING SECTION 40-47-1240, RELATING TO LICENSURE OF ANESTHESIOLOGIST'S ASSISTANTS, SO AS TO REMOVE THE REQUIREMENT THAT LICENSURE APPLICANTS MUST APPEAR BEFORE A MEMBER OF THE BOARD OF MEDICAL EXAMINERS AND PRESENT EVIDENCE OF CERTAIN RELEVANT ACADEMIC CREDENTIALS AND KNOWLEDGE.

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

Supervision limits increased

SECTION 1. Section 40-47-1250 of the S.C. Code is amended to read:

Section 40-47-1250. An anesthesiologist's assistant shall practice only under the supervision of a physician who is actively and directly engaged in the clinical practice of medicine and meets the definition of being a supervising anesthesiologist. An anesthesiologist may not supervise more than four anesthesiologist's assistants at any one time.

Board appearance requirement eliminated

SECTION 2. Section 40-47-1240 of the S.C. Code is amended to read:

Section 40-47-1240. Except as otherwise provided in this article, an individual must obtain a license in accordance with this article before the individual may practice as an anesthesiologist's assistant. The board shall grant a license as an anesthesiologist's assistant to an applicant who has:

(1) submitted a completed application on forms provided by the board;

(2) paid the nonrefundable application fees established in this article;

(3) certified that he or she is mentally and physically able to engage safely in practice as an anesthesiologist's assistant;

(4) submitted evidence to the board that the applicant has obtained a baccalaureate or higher degree from an institution of higher education accredited by an organization recognized by the Commission on Higher Education. This degree program must have included courses in these areas of study:

(a) general biology;

(b) general chemistry;

(c) organic chemistry;

(d) physics;

(e) calculus; and

(5) submitted evidence to the board that the applicant has obtained a graduate-level degree from a program accredited by the Commission on Accreditation of Allied Health Education Programs, or any of the commission's successor organizations, and the graduate degree program must have included the following:

(a) courses in the basic sciences of anesthesia, including general pharmacology, physiology, pathophysiology, anatomy, and biochemistry, and these courses must be presented as a continuum of didactic courses designed to teach students the foundations of human biological existence on which clinical correlations to anesthesia practice are based;

(b) pharmacology for the anesthetic sciences which must include instruction in the anesthetic principles of pharmacology, pharmacodynamics, pharmacokinetics, uptake and distribution, intravenous anesthetics and narcotics, and volatile anesthetics;

(c) physics in anesthesia; and

(d) fundamentals of anesthetic sciences, presented as a continuum of courses covering a series of topics in basic medical sciences with special emphasis on the effects of anesthetics on normal physiology and

pathophysiology;

(6) submitted evidence satisfactory to the board that the applicant holds current certification from the National Commission for Certification of Anesthesiologist's Assistants and that the requirements for receiving the certification included passage of an examination to determine the individual's competence to practice as an anesthesiologist's assistant;

(7) no licensure, certificate, or registration as an anesthesiologist's assistant under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant's practice as an anesthesiologist's assistant in any jurisdiction; and

(8) submitted to the board any other information the board considers necessary to evaluate the applicant's qualifications.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 49

(R75, H4067)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44-7-268 SO AS TO REQUIRE ALL HOSPITALS WITH EMERGENCY DEPARTMENTS TO HAVE AT LEAST ONE PHYSICIAN PHYSICALLY PRESENT ON SITE WHO IS RESPONSIBLE FOR THE EMERGENCY DEPARTMENT AT ALL TIMES THE EMERGENCY DEPARTMENT IS OPEN.

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

Emergency departments

SECTION 1. Article 3, Chapter 7, Title 44 of the S.C. Code is amended by adding:

Section 44-7-268. As a condition of licensing and relicensing, every hospital in the State with an emergency department, regardless of classification, must have at least one physician physically present on site who is responsible for the emergency department at all times the emergency department is open.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 50

(R76, H4160)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 14-5-610, RELATING TO THE DIVISION OF THE STATE INTO SIXTEEN JUDICIAL CIRCUITS, THE NUMBER OF JUDGES TO BE ELECTED FROM EACH CIRCUIT, AND THE ELECTION OF AT-LARGE JUDGES WITHOUT REGARD TO COUNTY OR CIRCUIT OF RESIDENCE, SO AS TO CONVERT NINE AT-LARGE CIRCUIT COURT SEATS TO RESIDENT SEATS IN THE THIRD, THIRTEENTH, TWELFTH, FIFTH, NINTH, ELEVENTH, AND SEVENTH CIRCUITS.

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

Division of judicial circuits, certain at-large judges converted to resident

SECTION 1. Section 14-5-610 of the S.C. Code is amended to read:

Section 14-5-610. (A) The State is divided into sixteen judicial circuits as follows:

(1) The first circuit is composed of the counties of Calhoun, Dorchester, and Orangeburg.

(2) The second circuit is composed of the counties of Aiken, Bamberg, and Barnwell.

(3) The third circuit is composed of the counties of Clarendon, Lee, Sumter, and Williamsburg.

(4) The fourth circuit is composed of the counties of Chesterfield, Darlington, Marlboro, and Dillon.

(5) The fifth circuit is composed of the counties of Kershaw and Richland.

(6) The sixth circuit is composed of the counties of Chester, Lancaster, and Fairfield.

(7) The seventh circuit is composed of the counties of Cherokee and Spartanburg.

(8) The eighth circuit is composed of the counties of Abbeville, Greenwood, Laurens, and Newberry.

(9) The ninth circuit is composed of the counties of Charleston and Berkeley.

(10) The tenth circuit is composed of the counties of Anderson and Oconee.

(11) The eleventh circuit is composed of the counties of Lexington, McCormick, Saluda, and Edgefield.

(12) The twelfth circuit is composed of the counties of Florence and Marion.

(13) The thirteenth circuit is composed of the counties of Greenville and Pickens.

(14) The fourteenth circuit is composed of the counties of Allendale, Hampton, Colleton, Jasper, and Beaufort.

(15) The fifteenth circuit is composed of the counties of Georgetown and Horry.

(16) The sixteenth circuit is composed of the counties of York and Union.

(B) One judge must be elected from the sixth circuit. Two judges must be elected from the first, second, fourth, eighth, tenth, and sixteenth circuits. Three judges must be elected from the third, seventh, eleventh,

twelfth, fourteenth, and fifteenth circuits. Five judges must be elected from the fifth, ninth, and thirteenth circuits.

(C) In addition to the above judges authorized by this section, there must be seven additional circuit judges elected by the General Assembly from the State at large for terms of office of six years. These additional judges must be elected without regard to county or circuit of residence. Each office of the at-large judges is a separate office and is assigned numerical designations of Seat No. 1 through Seat No. 7, respectively.

Certain at-large judges converted to resident

SECTION 2. (A) Upon the effective date of this act:

(1) At-large Circuit Court Seat 1 is converted to a resident seat and designated Third Circuit Court Seat 3;

(2) At-large Circuit Court Seat 4 is converted to a resident seat and designated Thirteenth Circuit Court Seat 5;

(3) At-large Circuit Court Seats 6 and 12 are converted to resident seats and designated Twelfth Circuit Court Seats 2 and 3, respectively;

(4) At-large Circuit Court Seats 8 and 10 are converted to resident seats and designated Fifth Circuit Court Seats 4 and 5, respectively;

(5) At-large Circuit Court Seat 9 is converted to a resident seat and designated Ninth Circuit Court Seat 5;

(6) At-large Circuit Court Seat 13 is converted to a resident seat and designated Eleventh Circuit Court Seat 3; and

(7) At-large Circuit Court Seat 14 is converted to a resident seat and designated Seventh Circuit Court Seat 3.

(B) Nothing in this act may be construed to require a judge currently serving in an at-large circuit court seat which is converted to a resident circuit court seat pursuant to this act to undergo additional screening until the end of the term for which they were screened and duly elected to an at-large circuit court seat.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 51

(R77, H4261)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-320 SO AS TO DESIGNATE THE MONTH OF SEPTEMBER AS "BLOOD CANCER AWARENESS MONTH."

Whereas, an estimated 1,698,339 people in the United States are living with or in remission from leukemia, lymphoma, myeloma, myelodysplastic syndromes or myeloproliferative neoplasms. Approximately every three minutes, one person in the US is diagnosed with leukemia, lymphoma, or myeloma; and

Whereas, leukemia, lymphoma, and myeloma are expected to cause the deaths of an estimated 57,260 people in the United States annually. These diseases are expected to account for 9.4 percent of the deaths from cancer, based on the estimated total of 611,720 cancer deaths, and survivors may experience long-term effects of treatment, potentially requiring lifelong follow-up care; and

Whereas, investments in cancer research and control have contributed to significant progress in understanding and treating some blood cancers, increasing survival rates for many blood cancer patients; and

Whereas, continued investment and innovation is necessary to promptly diagnose and effectively and safely treat all blood cancers; nonprofit and voluntary health organizations exist to find cures and ensure access to treatment for blood cancer patients; and

Whereas, the State of South Carolina is committed to the study, prevention, and eradication of blood cancers, and all South Carolinians are encouraged to support patients and their families, as well as efforts to better understand and find cures for these diseases. Now, therefore,

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

Blood Cancer Awareness Month

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

Section 53-3-320. The month of September of each year is designated as "Blood Cancer Awareness Month."

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 52

(R79, H4307)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-350, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO COMBINE CERTAIN PRECINCTS AND REDESIGNATE MAP NUMBERS ON WHICH THESE PRECINCTS ARE DESIGNATED.

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

Lancaster County voting precincts

SECTION 1. Section 7-7-350 of the S.C. Code is amended to read:

Section 7-7-350. (A) In Lancaster County there are the following voting precincts:

521 North
Antioch
Black Horse Run

Buford
Camp Creek
Carmel
Chesterfield Avenue
College Park
Douglas
Elgin
Erwin Farm
Flat Creek
Gold Hill
Harrisburg
Heath Springs
Hyde Park
Jim Wilson
Kershaw
McIlwain
Osceola
Pleasant Hill
Pleasant Valley
Possum Hollow
Rich Hill
River Road
Riverside
Six Mile Creek
Springdale
Sun City-Carolina Lakes
Tradesville
Unity
Van Wyck

(B) The precinct lines defining the above precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-57-25.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Lancaster County subject to approval by a majority of the Lancaster County Legislative Delegation.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 53

(R80, H4350)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-110, RELATING TO DESIGNATION OF VOTING PRECINCTS IN BEAUFORT COUNTY, SO AS TO SPLIT CERTAIN PRECINCTS AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS ARE DELINEATED.

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

Beaufort County voting precincts

SECTION 1. Section 7-7-110 of the S.C. Code is amended to read:

Section 7-7-110. (A) In Beaufort County there are the following voting precincts:

Beaufort 1
Beaufort 2
Beaufort 3
Belfair 1
Belfair 2
Bluffton 1A
Bluffton 1B
Bluffton 1C
Bluffton 1D
Bluffton 2A
Bluffton 2B

Bluffton 2C
Bluffton 2D
Bluffton 2E
Bluffton 2F
Bluffton 3
Bluffton 4A
Bluffton 4B
Bluffton 4C
Bluffton 4D
Bluffton 4E
Bluffton 4F
Bluffton 5A
Bluffton 5B
Bluffton 5C
Bluffton 5D
Bluffton 5E
Bluffton 6A
Bluffton 6B
Bluffton 7A
Bluffton 7B
Buckwalter 1
Buckwalter 2
Burton 1A
Burton 1B
Burton 1C
Burton 1D
Burton 2A
Burton 2B
Burton 2C
Burton 2D
Burton 3A
Burton 3B
Burton 4
Burton 5A
Burton 5B
Chechessee 1
Chechessee 2
Chechessee 3
Dale Lobeco
Daufuskie
Hilton Head 1A
Hilton Head 1B

Hilton Head 2A
Hilton Head 2B
Hilton Head 2C
Hilton Head 2D
Hilton Head 2E
Hilton Head 3
Hilton Head 4A
Hilton Head 4B
Hilton Head 4C
Hilton Head 4D
Hilton Head 5A
Hilton Head 5B
Hilton Head 5C
Hilton Head 6
Hilton Head 7A
Hilton Head 7B
Hilton Head 7C
Hilton Head 8
Hilton Head 9A
Hilton Head 9B
Hilton Head 9C
Hilton Head 9D
Hilton Head 10
Hilton Head 11
Hilton Head 12
Hilton Head 13
Hilton Head 14
Hilton Head 15A
Hilton Head 15B
Ladys Island 1A
Ladys Island 1B
Ladys Island 2A
Ladys Island 2B
Ladys Island 2C
Ladys Island 2D
Ladys Island 3A
Ladys Island 3B
Ladys Island 3C
Ladys Island 4A
Ladys Island 4B
Ladys Island 4C
Moss Creek 1

Moss Creek 2
Mossy Oaks 1A
Mossy Oaks 1B
Mossy Oaks 2
New River 1
New River 2
New River 3
Palmetto Bluff
Port Royal 1
Port Royal 2
Pritchardville 1
Riverbend 1
Riverbend 2
Rose Hill 1
Rose Hill 2
Sandy Pointe
Seabrook 1
Seabrook 2
Seabrook 3
Sheldon 1
Sheldon 2
Spanish Wells
St. Helena 1A
St. Helena 1B
St. Helena 1C
St. Helena 1D
St. Helena 2A
St. Helena 2B
St. Helena 2C
Sun City 1
Sun City 2
Sun City 3
Sun City 4
Sun City 5
Sun City 6
Sun City 7
Sun City 8
Sun City 9
Sun City 10

(B) The precinct lines defining the above precincts are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-13-25 and as shown on copies

provided to the Board of Voter Registration and Elections of Beaufort County by the Revenue and Fiscal Affairs Office.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Beaufort County subject to the approval of a majority of the Beaufort County Delegation.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 12th day of May, 2025

No. 54

(R69, H3910)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 3-1-150 AND 63-3-510, RELATING TO JURISDICTION OVER CERTAIN LANDS RELINQUISHED BY THE UNITED STATES AND THE EXCLUSIVE ORIGINAL JURISDICTION OF THE FAMILY COURT, RESPECTIVELY, SO AS TO PROVIDE FOR CONCURRENT JURISDICTION WITH THE UNITED STATES IN CERTAIN MATTERS INVOLVING JUVENILES WITHIN A MILITARY INSTALLATION AND EXCLUSIVE ORIGINAL JURISDICTION THEREAFTER FOR CERTAIN MATTERS.

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

Concurrent jurisdiction

SECTION 1. Section 3-1-150 of the S.C. Code is amended to read:

Section 3-1-150. (A)(1) Whenever a duly authorized official or agent of the United States, acting pursuant to authority conferred by the

Congress, notifies the State Fiscal Accountability Authority or any other State official, department or agency, that the United States desires or is willing to relinquish to the State the jurisdiction, or a portion thereof, held by the United States over the lands designated in such notice, the State Fiscal Accountability Authority may, in its discretion, accept such relinquishment. Such acceptance may be made by sending a notice of acceptance to the official or agent designated by the United States to receive such notice of acceptance. The State Fiscal Accountability Authority shall send a signed copy of the notice of acceptance, together with the notice of relinquishment received from the United States, to the Secretary of State, who shall maintain a permanent file of the notices.

(2) Upon the sending of the notice of acceptance to the designated official or agent of the United States, the State shall immediately have such jurisdiction over the lands designated in the notice of relinquishment as the notice shall specify.

(3) The provisions of this subsection shall apply to the relinquishment of jurisdiction acquired by the United States under the provisions of Sections 3-1-110 and 3-1-120.

(B)(1) Notwithstanding any other provision of this title, the State shall exercise concurrent jurisdiction with the United States over any military installation of the United States Department of Defense located or established within the State in the matter relating to a violation of federal law by a juvenile within the boundaries of that military installation if:

(a) the United States Attorney, or the United States District Court, for the applicable district in South Carolina, waives exclusive jurisdiction; and

(b) the violation of federal law is also a crime or infraction under state law.

(2) The provisions of this subsection shall apply to the relinquishment of jurisdiction acquired by the United States under the provisions of Sections 3-1-110, 3-1-120, and the specific grants the United States outlined in Chapter 3 of this title.

(C) Upon the establishment of concurrent jurisdiction, any state or local agency may enter into a reciprocal agreement with any agency of the United States for coordination and designation of responsibilities related to the concurrent jurisdiction.

Exclusive original jurisdiction

SECTION 2. Section 63-3-510 of the S.C. Code is amended by adding:

(5) When concurrent jurisdiction has been established pursuant to

Section 3-1-150(B), the court has exclusive original jurisdiction over any case involving a juvenile who is alleged to be delinquent as the result of an act committed within the boundaries of a military installation that is a crime or infraction under state law, except as provided in Section 63-19-1210 as it relates to waiver procedures to the circuit court.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 13th day of May, 2025

No. 55

(R78, H4296)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-1-90, RELATING TO SERVICE WITHIN THE STATE OF MILITARY FORCES FROM ANOTHER STATE, SO AS TO REMOVE A REFERENCE TO THE UNITED STATES ARMY; BY AMENDING SECTION 25-1-510, RELATING TO SOUTH CAROLINA NATIONAL GUARD APPOINTMENTS, SO AS TO REMOVE CERTAIN AGE REQUIREMENTS; BY AMENDING SECTION 25-1-1330, RELATING TO ANNUAL SETTLEMENTS FOR FEDERAL AND STATE PROPERTY, SO AS TO REMOVE REFERENCES TO FEDERAL PROPERTY; BY AMENDING SECTION 25-1-1370, RELATING TO ALLOWANCES FOR MAINTENANCE, SO AS TO REMOVE A REQUIREMENT THAT UNITS ARE ENTITLED TO CERTAIN MAINTENANCE FUND ALLOWANCES; BY AMENDING SECTION 42-7-40, RELATING TO APPLICATION TO THE STATE, SO AS TO PROVIDE FOR OTHER PERSONS CALLED INTO ACTIVE MILITARY SERVICE; BY AMENDING SECTION 42-7-65, RELATING TO AVERAGE WEEKLY WAGES DESIGNATED FOR CERTAIN CATEGORIES OF EMPLOYEES, SO AS TO

PROVIDE FOR OTHER PERSONS CALLED INTO ACTIVE MILITARY SERVICE; BY AMENDING SECTION 42-7-75, RELATING TO STATE AGENCIES' REQUIREMENT TO PAY WORKERS' COMPENSATION PREMIUMS, SO AS TO PROVIDE THAT THE ADJUTANT GENERAL MAY USE CERTAIN METHODS FOR PAYING WORKERS' COMPENSATION PREMIUMS IN CERTAIN CASES; BY REPEALING SECTION 25-1-360 RELATING TO RULES AND REGULATIONS; BY REPEALING SECTION 25-1-380 RELATING TO THE ASSISTANT ADJUTANT GENERAL FOR ARMY; BY REPEALING SECTION 25-1-390 RELATING TO THE ASSISTANT ADJUTANT GENERAL FOR AIR; BY REPEALING SECTION 25-1-410 RELATING TO AUDITS AND ALLOWANCES OF DEPARTMENT EXPENSES; BY REPEALING SECTION 25-1-560 RELATING TO PUBLICATIONS OF RELATIVE RANK LIST OF OFFICERS; BY REPEALING SECTION 25-1-580 RELATING TO OFFICERS IN COMMAND OF SUBORDINATE OR DETACHED UNITS OR DIFFERENT UNITS ON DUTY TOGETHER; BY REPEALING SECTION 25-1-810 RELATING TO PROMOTIONS UNDER THE FEDERAL PERSONNEL ACT; BY REPEALING SECTION 25-1-830 RELATING TO OFFICER SELECTION BOARDS; BY REPEALING SECTION 25-1-860 RELATING TO VACANCIES IN STAFF OF HEADQUARTERS AND HEADQUARTERS DETACHMENT; BY REPEALING SECTION 25-1-870 RELATING TO VACANCIES IN GRADE OF MAJOR GENERAL; BY REPEALING SECTION 25-1-880 RELATING TO VACANCIES IN GRADE OF BRIGADIER GENERAL; BY REPEALING SECTION 25-1-890 RELATING TO VACANCIES IN GRADE OF COLONEL; BY REPEALING SECTION 25-1-930 RELATING TO VACANCIES IN GRADE OF WARRANT OFFICER; BY REPEALING SECTION 25-1-1350 RELATING TO REQUIREMENTS FOR SHARING IN APPROPRIATIONS; AND BY REPEALING SECTION 25-1-3105 RELATING TO MEMBERS OF THE MILITARY FORCES TO SERVE AT THE PLEASURE OF THE ADJUTANT GENERAL.

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

Military duty

SECTION 1. Section 25-1-90 of the S.C. Code is amended to read:

Section 25-1-90. No armed military force from another state, territory or district shall be permitted to enter the State for the purpose of doing military duty therein without the permission of the Governor, unless such force is acting under the authority of the United States Government.

Commissioned officers

SECTION 2. Section 25-1-510 of the S.C. Code is amended to read:

Section 25-1-510. All commissioned and warrant officers of the South Carolina National Guard shall be appointed and commissioned or warranted by the Governor. No person must be appointed and commissioned or warranted unless he meets federal requirements for the appointment.

Annual settlements

SECTION 3. Section 25-1-1330 of the S.C. Code is amended to read:

Section 25-1-1330. State property. All property of a nonconsumable nature procured by the Adjutant General from state appropriated funds and like property purchased from unit maintenance funds must be accounted for as state property. Property donated from any sources for National Guard use must be considered state owned property. The Adjutant General shall maintain state property lists for all units and activities of the South Carolina National Guard. The Adjutant General shall cause state property accounts to be audited as he considers necessary. If the audit reflects shortages, the Adjutant General may cause an investigation to be made and take appropriate action. If such shortages are found to be due to the fault or negligence of the responsible party, the Adjutant General shall make demand on the responsible party for payment, to the military fund of South Carolina, for the specified amount.

Maintenance allowance

SECTION 4. Section 25-1-1370 of the S.C. Code is amended to read:

Section 25-1-1370. Facilities owned, leased, or under the control of the military department may be rented periodically. The Adjutant General shall promulgate regulations for a rental program and audit these funds.

Application of article

SECTION 5. Section 42-7-40 of the S.C. Code is amended to read:

Section 42-7-40. This article shall apply to the State including the State Guard, the National Guard, and other persons called into active military service of the State by the Governor or other authority.

Average weekly wages

SECTION 6. Section 42-7-65 of the S.C. Code is amended to read:

Section 42-7-65. Notwithstanding the provisions of Section 42-1-40, for the purpose of this title and while serving in this capacity, the total average weekly wage of the following categories of employees is the following:

(1) for all members of the State and National Guard, and to other persons called into active military service of the State by the Governor or other authority, regardless of rank, seventy-five percent of the average weekly wage in the State for the preceding fiscal year, or the average weekly wage the service member would be entitled to, if any, if injured while performing his civilian employment, if the average weekly wage in his civilian employment is greater;

(2) for all voluntary firemen of organized voluntary rural fire units and voluntary municipal firemen, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year;

(3) for all members of organized volunteer rescue squads, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year;

(4) for all volunteer deputy sheriffs, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year; and

(5) for all volunteer state constables appointed pursuant to Section

23-1-60, while performing duties in connection with their appointments and authorized by the State Law Enforcement Division, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year.

The wages provided in items (2), (3), (4), and (5) of this section may not be increased as a basis for any computation of benefits because of employment other than as a volunteer. Persons in the categories provided by items (2), (3), (4), and (5) must be notified of the limitation on average weekly wages prescribed in this section by the authority responsible for obtaining coverage under this title.

"Volunteer firemen" and "rescue squad members" mean members of organized units whose membership is certified to the municipal clerk or chairman of the council of the municipality or county in which their unit is based by the chief officer of the unit concerned. A "volunteer deputy sheriff" is a volunteer whose membership is certified by the sheriff to the governing body of the county. No volunteer deputy sheriff may be included under the provisions of this title unless approved by the governing body of the county or municipality. A voluntary constable appointed pursuant to Section 23-1-60 must be included under the provisions of this title only while performing duties in connection with his appointment and as authorized by the State Law Enforcement Division. The workers' compensation premiums for these constables must be paid from the state general fund upon warrant of the Chief of the State Law Enforcement Division. Notwithstanding any other provision of law, voluntary firemen of organized volunteer fire units and members of organized volunteer rescue squads are covered under this title by the county governing body unless the governing body of the county opts out of the coverage.

The average weekly wage for inmates of the State Department of Corrections as defined in Section 42-1-480 is forty dollars a week. However, the average weekly wage for an inmate who works in a federally approved Prison Industries Enhancement Certification Program must be based upon the inmate's actual net earnings after any statutory reductions. The average weekly wage for county and municipal prisoners is forty dollars a week. The average weekly wage for students of high schools, state technical schools, and state-supported colleges and universities while engaged in work study, marketing education, or apprentice programs on the premises of private companies or while engaged in the Tech Prep or other structured school-to-work programs on the premises of a sponsoring employer is fifty percent of the average weekly wage in the State for the preceding fiscal year.

Workers' Compensation premiums

SECTION 7. Section 42-7-75 of the S.C. Code is amended to read:

Section 42-7-75. All state agencies shall pay workers' compensation premiums according to Section 42-7-70, as determined by the State Accident Fund. As to the Adjutant General, he may use this method for the civilian employees of his agency and for members of the South Carolina National Guard and State Guard during those periods in which they perform duties relating to a request under the Emergency Management Assistance Compact or similar authority where the costs may be borne by the requesting state, and, with the approval of the State Accident Fund Director, he also may do so as to the department's military members in active service of the State. Absent such agreement between the Adjutant General and the State Accident Fund Director, calculation of premiums for the Adjutant General's Office must exclude losses arising out of service as a member of the South Carolina State and National Guard. In lieu of premiums for those losses the Adjutant General shall pay, at the beginning of each premium year, the amount estimated by the fund to be required to cover actual workers' compensation benefits to guard members during the premium year. If the amount actually paid as benefits differs from the estimated pay out advanced under this paragraph, the difference must be debited or credited to the Adjutant General's account in the same manner that an actual adjusted premium is handled.

The State Treasurer and the Comptroller General shall pay from the general fund of the State to the State Accident Fund any necessary funds to cover actual benefit claims paid during any fiscal year, which exceed the amounts paid in for this purpose by the various agencies, departments, and institutions. The State Accident Fund shall certify quarterly to the State Fiscal Accountability Authority the state's liability for the benefit claims actually paid to claimants who are employees of any agency or political subdivision of this State and who are entitled to such payment under state law. The amount certified must be remitted to the State Accident Fund.

If there are not sufficient funds in the State Accident Fund Trust Account to pay operating expenses and claims as they arise, the State Treasurer shall, from the general fund of the State, deposit in the account monthly sufficient funds to pay expenses and claims required by law to be paid, but the amount deposited may not exceed the amount of investment income which the account would have earned from its inception if all such earnings had been credited to the fund.

Repeals

SECTION 8. Sections 25-1-360, 25-1-380, 25-1-390, 25-1-410, 25-1-560, 25-1-580, 25-1-810, 25-1-830, 25-1-860, 25-1-870, 25-1-880, 25-1-890, 25-1-930, 25-1-1350, and 25-1-3105 of the S.C. Code are repealed.

Time effective

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

Ratified the 8th day of May, 2025

Approved the 13th day of May, 2025

No. 56

(R89, S214)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 1-31-10, RELATING TO THE COMMISSION FOR MINORITY AFFAIRS, SO AS TO RENAME THE COMMISSION AND TO REMOVE COMMISSION MEMBERSHIP REQUIREMENTS; BY AMENDING SECTION 1-31-20, RELATING TO SUBJECTS OF STUDY FOR THE COMMISSION, SO AS TO STUDY SOCIO-ECONOMIC DEPRIVATION OF COMMUNITIES; AND BY AMENDING SECTION 1-31-40, RELATING TO DUTIES OF THE COMMISSION, SO AS TO DELETE CERTAIN DUTIES.

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

State Commission for Community Advancement and Engagement

SECTION 1. Section 1-31-10 of the S.C. Code is amended to read:

Section 1-31-10. There is created a State Commission for Community Advancement and Engagement consisting of nine members and the

Governor ex officio. The Governor must appoint one person from each of the congressional districts of the State and two persons from the State at large upon the advice and consent of the Senate. The Governor shall designate the chairman. The members serve for a term of four years and until their successors are appointed and qualify. A vacancy must be filled in the same manner as original appointment for the remainder of the unexpired term. In making appointments, the Governor and Senate shall take all reasonable steps to ensure that members reflect the ethnic and racial diversity of the State.

Commission studies

SECTION 2. Section 1-31-20 of the S.C. Code is amended to read:

Section 1-31-20. The commission must meet quarterly and at other times as the chairman determines necessary to study the causes and effects of the socio-economic deprivation of communities in the State and to implement programs necessary to address socio-economic inequities confronting the State.

Commission duties

SECTION 3. Section 1-31-40 of the S.C. Code is amended to read:

Section 1-31-40. (A) The commission shall:

(1) provide the State with a single point of contact for statistical and technical assistance in the areas of research and planning for a greater economic future;

(2) work with elected officials on the state, county, and local levels of government in disseminating statistical data and its impact on their constituencies;

(3) provide for publication of a statewide statistical abstract on rural and under-resourced community affairs;

(4) provide statistical analyses for members of the General Assembly on the state of rural and under-resourced communities as the State experiences economic growth and changes;

(5) determine, approve, and acknowledge by certification state recognition for Native American Indian entities; however, notwithstanding their state certification, the tribes have no power or authority to take any action which would establish, advance, or promote any form of gambling in this State;

(6) establish advisory committees representative of the state's

geographic regions, as the commission considers appropriate to advise the commission;

(7) act as liaison with the business community to provide programs and opportunities to fulfill its duties under this chapter;

(8) seek federal and other funding on behalf of the State of South Carolina for the express purpose of implementing various programs and services for rural and under-resourced communities;

(9) promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina; and

(10) perform other duties necessary to implement programs.

(B) The commission may delegate these powers and duties as necessary.

(C) Nothing in this chapter recognizes, creates, extends, or forms the basis of any right or claim of interest in land or real estate in this State for any Native American tribe which is recognized by the State.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 20th day of May, 2025

No. 57

(R82, S28)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 16-15-390 SO AS TO CREATE THE OFFENSE OF OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE, DEFINE TERMS, AND ESTABLISH PENALTIES; BY AMENDING SECTION 23-3-430, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO ADD THE OFFENSE OF OBSCENE VISUAL REPRESENTATIONS OF CHILD SEXUAL ABUSE TO THE SEX

OFFENDER REGISTRY; AND BY AMENDING SECTION 23-3-462, RELATING TO TERMINATION OF REGISTRATION REQUIREMENTS, SO AS TO MAKE CONFORMING CHANGES.

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

Obscene visual representations of child sexual abuse, penalties

SECTION 1. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16-15-390. (A) As used in this section:

(1) "Obscene" has the same meaning as Section 16-15-305.

(2) "Visual depiction or representation" means and includes undeveloped film and videotape, and data stored on a computer disk or by electronic means that is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means.

(B) Any person who knowingly produces, distributes, solicits, or possesses with intent to distribute, a visual depiction or representation that depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity, and is obscene, or attempts or conspires to do so, is guilty of a felony and, upon conviction, must be imprisoned no more than ten years.

(C) Any person who knowingly possesses a visual depiction or representation that depicts a minor engaging in sexually explicit conduct, sexually explicit activity, or sexually explicit nudity, and is obscene, or attempts or conspires to do so is guilty of a felony and, upon conviction, must be imprisoned no more than ten years.

(D) The offense is a misdemeanor to be heard by the family court if the person charged under this section is a minor, and the minor has no prior adjudication under this section or for any offense for which a person may be included in the sex offender registry. The family court may order behavioral health counseling from an appropriate agency or provider, as a condition of adjudicating a minor.

(E) It is not a required element of any offense under this section that the minor depicted actually exists.

(F)(1) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a

prosecuting agency, including the South Carolina Attorney General's Office or the South Carolina Department of Corrections, who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation. An employee's official capacity in the course of such investigation or criminal proceeding includes making materials available for inspection to the defendant's counsel in response to discovery requests.

(2) This section does not apply to a provider of a telecommunications service or an information service, as those terms are defined in 47 U.S.C. Section 153, for content provided by another person.

(G) Any warrant for arrest for an alleged crime or offense under this section may only be issued upon:

(1) a return of a "true bill" of an indictment by the state grand jury; or

(2) a finding of probable cause following an investigation conducted by the Internet Crimes Against Children Task Force in conjunction with the Attorney General's Office.

Sex Offender Registry, addition

SECTION 2. Section 23-3-430(C) of the S.C. Code is amended to read:

(C)(1) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier I offender:

(a) criminal sexual conduct in the third degree (Section 16-3-654);

(b) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(c) incest (Section 16-15-20);

(d) buggery (Section 16-15-120);

(e) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, or who has been convicted or pled guilty or nolo contendere in a comparable court in the United States, or

who has been convicted or pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on the circumstances of the case, the convicted person should register as a sex offender;

(g) sexual intercourse with a patient or trainee (Section 44-23-1150);

(h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny;

(i) any other offense as described in Section 23-3-430(D);

(j) any other offense required by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA); or

(k) obscene visual representation of child sexual abuse (Section 16-15-390). If the person is under eighteen years of age and was adjudicated in the family court, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.

(2) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier II offender:

(a) criminal sexual conduct in the second degree (Section 16-3-653);

(b) engaging a child for sexual performance (Section 16-3-810);

(c) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(d) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(e) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(f) criminal sexual conduct with minors, third degree (Section 16-3-655(C)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(g) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(ii) perform a sexual activity in the presence of the person solicited (Section 16-15-342); or

(h) violations of Article 3, Chapter 15, Title 16 involving a minor, except as otherwise provided in this article.

(3) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier III offender:

(a) criminal sexual conduct in the first degree (Section 16-3-652);

(b) criminal sexual conduct with minors, first degree (Section 16-3-655(A));

(c) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(d) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(e) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(f) sexual battery of a spouse (Section 16-3-615); or

(g) any offense listed or described in this section committed after the offender becomes a Tier I or Tier II offender.

Sex Offender Registry, conforming changes

SECTION 3. Section 23-3-462(A) of the S.C. Code is amended to read:

(A) After successful completion of the requirements of this section, an offender may apply to the South Carolina Law Enforcement Division for the termination of the requirements of registration pursuant to this article. If it is determined that the offender has met the requirements of

this section, SLED shall remove the offender's name and identifying information from the sex offender registry and shall notify the offender within one hundred twenty days that the offender has been relieved of the registration requirements of this article.

(1) A Tier I offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least fifteen years; or

(b) has been discharged from incarceration without supervision for at least fifteen years for the charge requiring registration; or

(c) has had at least fifteen years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier I offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(2) A Tier II offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least twenty-five years;

(b) has been discharged from incarceration without supervision for at least twenty-five years for the charge requiring registration;

(c) has had at least twenty-five years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier II offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(3) An offender who was convicted as an adult, and who is required to register as a Tier III offender may not file a request for termination of registration with SLED nor shall any such request be granted pursuant to this subsection.

(4) The requesting offender must have successfully completed all sex offender treatment programs that have been required.

(5) The requesting offender must not have been convicted of failure to register within the previous ten years.

(6) The offender must not have been convicted of any additional sexual offense or violent sexual offense after being placed on the registry.

(7) A filing fee, as set by SLED but not to exceed two hundred fifty

dollars, shall be paid to file the request for termination of registration requirements. The initial application may be filed with SLED and the administrative review may begin one hundred twenty days prior to the date specified in subsection (A)(1); however, any removal may not occur prior to the date specified.

Educating students

SECTION 4. The State Department of Education, the South Carolina Law Enforcement Division, and the Attorney General's Office, as appropriate, shall develop and implement a policy to educate and notify students of the provision of this act. The State Department of Education must file a report as to the status of the adoption and implementation of the education policies under this act to the Governor, the President of the Senate, and the Speaker of the House of Representative, by July 1, 2026.

Severability clause

SECTION 5. 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 6. This act takes effect upon approval by the Governor.

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 58

(R83, S29)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-15-375, RELATING TO THE DEFINITIONS PERTAINING TO THE DISSEMINATION OF HARMFUL MATERIAL TO MINORS, SO AS TO DEFINE "IDENTIFIABLE MINOR" AND "MORPHED IMAGE"; BY AMENDING SECTION 16-15-395, RELATING TO THE DEFINITION OF FIRST DEGREE SEXUAL EXPLOITATION OF MINORS, SO AS TO INCLUDE MORPHED IMAGES OF IDENTIFIABLE MINORS; BY AMENDING SECTION 16-15-405, RELATING TO THE DEFINITION OF SECOND DEGREE SEXUAL EXPLOITATION OF MINORS, SO AS TO INCLUDE MORPHED IMAGES OF IDENTIFIABLE MINORS; BY AMENDING SECTION 16-15-410, RELATING TO THE DEFINITION OF THIRD DEGREE SEXUAL EXPLOITATION OF MINORS, SO AS TO INCLUDE MORPHED IMAGES OF IDENTIFIABLE MINORS; BY ADDING SECTION 16-15-412 SO AS TO PROVIDE PROCEDURES FOR ARREST WARRANTS WHEN THE OFFENSE INCLUDES MORPHED IMAGES OF IDENTIFIABLE MINORS; BY AMENDING SECTION 23-3-430, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO INCLUDE THOSE GUILTY OF CRIMINAL SEXUAL EXPLOITATION OF MINORS IN THE FIRST, SECOND, OR THIRD DEGREE ON THE APPROPRIATE TIERS OF THE REGISTRY; AND BY AMENDING SECTION 23-3-462, RELATING TO TERMINATION OF REGISTRATION REQUIREMENTS, SO AS TO MAKE CONFORMING CHANGES.

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

Definitions

SECTION 1. Section 16-15-375 of the S.C. Code is amended to read:

Section 16-15-375. The following definitions apply to Section 16-15-385, disseminating or exhibiting to minors harmful material or performances; Section 16-15-387, employing a person under the age of eighteen years to appear in a state of sexually explicit nudity in a public

place; Section 16-15-395, first degree sexual exploitation of a minor; Section 16-15-405, second degree sexual exploitation of a minor; Section 16-15-410, third degree sexual exploitation of a minor; Section 16-15-412, morphed image of an identifiable minor; arrest warrant; Section 16-15-415, promoting prostitution of a minor; and Section 16-15-425, participating in prostitution of a minor.

(1) "Harmful to minors" means that quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

(a) the average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and

(b) the average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and

(c) to a reasonable person, the material or performance taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(2) "Material" means pictures, drawings, video recordings, films, digital electronic files, computer-generated images or pictures, or other visual depictions or representations but not material consisting entirely of written words.

(3) "Minor" means an individual who is less than eighteen years old.

(4) "Prostitution" means engaging or offering to engage in sexual activity with or for another in exchange for anything of value.

(5) "Sexual activity" includes any of the following acts or simulations thereof:

(a) masturbation, whether done alone or with another human or animal;

(b) vaginal, anal, or oral intercourse, whether done with another human or an animal;

(c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;

(d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;

(e) excretory functions;

(f) the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

(6) "Sexually explicit nudity" means the showing of:

(a) uncovered, or less than opaquely covered human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast; or

(b) covered human male genitals in a discernibly turgid state.

(7) "Identifiable minor":

(a) means a person who:

(1) was a minor at the time the image was created, adapted, or modified, or whose image as a minor was used in the creating, adapting, or modifying of the image; and

(2) is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature;

(b) shall not be construed to require proof of the actual identity of the identifiable minor.

(8) "Morphed image" means any visual depiction or representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where such visual depiction or representation has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct or sexually explicit activity or appearing in a state of sexually explicit nudity.

First degree sexual exploitation of a minor, inclusion of morphed images of identifiable minors

SECTION 2. Section 16-15-395 of the S.C. Code is amended to read:

Section 16-15-395. (A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a

reasonable person would infer the purpose is sexual stimulation;

(2) permits a minor under his custody or control to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor or a morphed image of an identifiable minor engaged in sexual activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in a sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced.

(E) The offense is a misdemeanor to be heard by the family court if the person charged under the provisions of subsection (A)(4) is a minor and the offense is the minor's first offense related to a morphed image of an identifiable minor. The family court may order behavioral health counseling from an appropriate agency or provider, as a condition of adjudicating a minor.

Second degree sexual exploitation of a minor, inclusion of morphed images of identifiable minors

SECTION 3. Section 16-15-405 of the S.C. Code is amended to read:

Section 16-15-405. (A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor or a morphed image of an identifiable minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor or a morphed image of an identifiable minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

(E) The offense is a misdemeanor to be heard by the family court if the person charged under the provisions of subsection (A) is a minor and the offense is the minor's first charge related to a morphed image of an identifiable minor. The family court may order behavioral health counseling from an appropriate agency or provider, as a condition of adjudicating a minor.

Third degree sexual exploitation of a minor, inclusion of morphed images of identifiable minors

SECTION 4. Section 16-15-410 of the S.C. Code is amended to read:

Section 16-15-410. (A) An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor or a morphed image of an identifiable minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted as a minor through its title, text, visual representation, or otherwise, is a minor.

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

(D) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General's Office, or the South Carolina Department of Corrections who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation. The employee's official capacity in the course of such investigation or criminal proceeding includes making material available for inspection to the defendant's counsel in response to discovery requests.

(E) The offense is a misdemeanor to be heard by the family court if the person charged under the provisions of subsection (A) is a minor and the offense is the minor's first charge related to a morphed image of an identifiable minor. The family court may order behavioral health counseling from an appropriate agency or provider, as a condition of adjudicating a minor.

Warrants

SECTION 5. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16-15-412. Any warrant for arrest for an alleged crime or offense that concerns a morphed image or an identifiable minor under Section 16-15-395, first degree sexual exploitation of a minor; Section 16-15-405, second degree sexual exploitation of a minor; or, Section 16-15-410, third degree sexual exploitation of a minor may only be issued upon:

(1) a return of a "true bill" of an indictment by the state grand jury, or

(2) a finding of probable cause following an investigation conducted by the Internet Crimes Against Children Task Force in conjunction with the Attorney General's Office.

Sex offender registry, tiers

SECTION 6. Section 23-3-430(C)(1) of the S.C. Code is amended to read:

(1) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier I offender:

(a) criminal sexual conduct in the third degree (Section 16-3-654);

(b) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(c) incest (Section 16-15-20);

(d) buggery (Section 16-15-120);

(e) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, or who has been convicted or pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted or pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on

the circumstances of the case, the convicted person should register as a sex offender;

(g) sexual intercourse with a patient or trainee (Section 44-23-1150);

(h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny;

(i) any other offense as described in Section 23-3-430(D);

(j) any other offense required by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA);

(k) sexual exploitation of a minor, first degree (Section 16-15-395), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article;

(l) sexual exploitation of a minor, second degree (Section 16-15-405), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article; or

(m) sexual exploitation of a minor, third degree (Section 16-15-410); provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.

Sex offender registry, tiers

SECTION 7. Section 23-3-430(C)(2) of the S.C. Code is amended to read:

(2) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier II offender:

(a) criminal sexual conduct in the second degree (Section 16-3-653);

(b) engaging a child for sexual performance (Section 16-3-810);

(c) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(d) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(e) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(f) criminal sexual conduct with minors, third degree (Section 16-3-655(C)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(g) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(ii) perform a sexual activity in the presence of the person solicited (Section 16-15-342);

(h) violations of Article 3, Chapter 15, Title 16 involving a minor;

(i) sexual exploitation of a minor, first degree (Section 16-15-395), except as otherwise provided in this article;

(j) sexual exploitation of a minor, second degree (Section 16-15-405), except as otherwise provided in this article; or

(k) sexual exploitation of a minor, third degree (Section 16-15-410), except as otherwise provided in this article.

Conforming amendments

SECTION 8. Section 23-3-462(A) of the S.C. Code is amended to read:

(A) After successful completion of the requirements of this section, an offender may apply to the South Carolina Law Enforcement Division for the termination of the requirements of registration pursuant to this article. If it is determined that the offender has met the requirements of this section, SLED shall remove the offender's name and identifying information from the sex offender registry and shall notify the offender within one hundred twenty days that the offender has been relieved of the registration requirements of this article.

(1) A Tier I offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least fifteen years; or

(b) has been discharged from incarceration without supervision for at least fifteen years for the charge requiring registration; or

(c) has had at least fifteen years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier I offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(2) A Tier II offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least twenty-five years;

(b) has been discharged from incarceration without supervision for at least twenty-five years for the charge requiring registration;

(c) has had at least twenty-five years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier II offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the law of the jurisdiction where the conviction occurred.

(3) An offender who was convicted as an adult, and who is required to register as a Tier III offender may not file a request for termination of registration with SLED nor shall any such request be granted pursuant to this subsection.

(4) The requesting offender must have successfully completed all sex offender treatment programs that have been required.

(5) The requesting offender must not have been convicted of failure to register within the previous ten years.

(6) The offender must not have been convicted of any additional sexual offense or violent sexual offense after being placed on the registry.

(7) A filing fee, as set by SLED but not to exceed two hundred fifty dollars, shall be paid to file the request for termination of registration requirements. The initial application may be filed with SLED and the administrative review may begin one hundred twenty days prior to the date specified in subsection (A)(1); however, any removal may not occur prior to the date specified.

Severability

SECTION 9. 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 10. This act takes effect upon approval by the Governor.

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 59

(R84, S74)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17-13-142 SO AS TO AUTHORIZE A COURT OF COMPETENT JURISDICTION TO ISSUE ORDERS AND WARRANTS FOR CERTAIN ELECTRONIC COMMUNICATIONS, AND TO AUTHORIZE THE ATTORNEY GENERAL TO ISSUE A SUBPOENA FOR THE PRODUCTION OF CERTAIN STORED SUBSCRIBER OR CUSTOMER INFORMATION RELEVANT AND MATERIAL TO AN ONGOING INVESTIGATION BY THE INTERNET CRIMES AGAINST CHILDREN TASK FORCE.

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

Warrants and subpoenas, certain electronic records

SECTION 1. Chapter 13, Title 17 of the S.C. Code is amended by adding:

Section 17-13-142. (A) This section specifically authorizes a court of competent jurisdiction in this State, as defined by 18 U.S.C. Section 2711, to issue appropriate orders pursuant to the requirements and procedures of 18 U.S.C. Section 2703(d) for production of stored wire, digital, or electronic transactional records or subscriber information. These orders have statewide application and application to the extent provided by federal law.

(B) This section specifically authorizes a court of competent jurisdiction in this State, as defined by 18 U.S.C. Section 2711, to issue search warrants pursuant to the procedures established by Section 17-13-140, notwithstanding any jurisdictional limitations contained in that section, for production of stored wire, digital, or electronic communications and transactional records pertaining to them. Search warrants have statewide application to the extent provided by federal law.

(C) The Attorney General may issue a subpoena to an electronic communication service or remote computing service to compel disclosure or production of any stored subscriber or customer information pursuant to 18 U.S.C. Section 2703(c)(2). A subpoena may only be issued under the authority provided for in this section and must

demonstrate specific and articulable facts that there are reasonable grounds to believe the information is relevant and material to an ongoing criminal investigation conducted by the Internet Crimes Against Children Task Force of the Attorney General's Office. Subpoenas may not be issued under this section to the extent the subpoena is authorized under other federal or state statutes.

(D) Nothing herein expands the obligations of electronic communications service providers.

Savings clause

SECTION 2. 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 3. This act takes effect upon approval by the Governor.

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 60

(R85, S127)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 9-11-10, RELATING TO DEFINITIONS FOR THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO INCLUDE THE CATAWBA NATION WITHIN THE DEFINITION OF EMPLOYER; AND BY ADDING SECTION 9-11-43 SO AS TO PROVIDE THAT THE CATAWBA NATION IS ELIGIBLE FOR ADMISSION TO THE POLICE OFFICERS RETIREMENT SYSTEM AND TO PROVIDE FOR THE PROCESS FOR ADMISSION.

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

Catawba Nation inclusion in the Police Officers Retirement System

SECTION 1. Section 9-11-10(17) of the S.C. Code is amended to read:

(17) "Employer" means:

(a) the State;

(b) a political subdivision, agency, or department of the State which employs police officers and which has been admitted to the system as provided in Section 9-11-40;

(c) a service organization, the membership of which is composed solely of persons eligible to be members as defined by this section, if the compensation received by the employees of the service organization is provided from monies paid by the members as dues, or otherwise, or from funds derived from public sources and if the contributions prescribed by this chapter are to be paid from the funds of the service organization; and

(d) the Catawba Nation upon its admission to the system as provided in Section 9-11-43.

Catawba Nation

SECTION 2. Chapter 11, Title 9 of the S.C. Code is amended by adding:

Section 9-11-43. (A) The Catawba Nation may become an employer

for the purposes of this chapter by applying to the board for admission to the system pursuant to Section 9-11-40, complying with the requirements of Section 9-11-40, and complying with the board's rules and regulations. The application must set forth the requested date of admission, which must be the January first, the April first, the July first, or the October first next following receipt by the board of the application.

(B) An employee of the Catawba Nation may not become a member of the system unless substantially all of the employee's time is devoted solely to the performance of governmental service as a police officer pursuant to Section 27-16-70(C).

(C) Notwithstanding any other provision of law, as a condition to joining the system, the Catawba Nation agrees to be subject to all of the state laws, regulations, administrative policies, and plan provisions related to the administration and enforcement of the requirements of the system and agrees that any and all disputes arising pursuant to or by virtue of its participation in the system will be resolved in the appropriate state court or administrative tribunal, notwithstanding any sovereign immunity that might otherwise apply. Nothing in this subsection shall be construed to affect, modify, diminish, or otherwise impair any sovereign immunity enjoyed by the Catawba Nation with respect to any other provision of state law unrelated to the administration and enforcement of the requirements of the system.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 61

(R87, S156)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 16-3-80 SO AS TO CREATE THE OFFENSE OF FENTANYL-INDUCED HOMICIDE, TO PROVIDE A PENALTY FOR VIOLATIONS, TO PROHIBIT AN AFFIRMATIVE DEFENSE, AND TO PROVIDE CIRCUMSTANCES UNDER WHICH PERSONS SHALL NOT BE PROSECUTED UNDER THIS SECTION; AND BY AMENDING SECTION 16-1-10, RELATING TO A LIST OF EXCEPTIONS FOR FELONIES AND MISDEMEANORS, SO AS TO ADD FENTANYL-INDUCED HOMICIDE.

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

Fentanyl-induced homicide

SECTION 1. Article 1, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section 16-3-80. (A) A person who knowingly and unlawfully delivers, dispenses, or otherwise provides fentanyl or a fentanyl-related substance as defined in Section 44-53-190(B) and Section 44-53-210(c)(6) to another person, in violation of the provisions of Section 44-53-370, commits the felony offense of fentanyl-induced homicide if the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the fentanyl or fentanyl-related substance that was unlawfully delivered, dispensed, or otherwise provided.

(B) A person convicted of a fentanyl-induced homicide pursuant to the provisions of this section must be imprisoned not more than thirty years.

(C) It is not a defense pursuant to this section that a decedent contributed to his own death by his purposeful, knowing, reckless, or negligent injection, inhalation, absorption, or ingestion of the controlled substance or by his consenting to the administration of the controlled substance by another person, unless there exists clear and convincing evidence that the decedent intended to commit suicide. This section does not prohibit a person from being arrested, charged, or prosecuted for any other applicable offense, whether or not the offense arises from the same

circumstances as provided in this section.

(D) A person who knowingly injects, inhales, absorbs, or ingests any amount of fentanyl along with another consenting person, which is the proximate cause of the death of the consenting person, shall not be prosecuted under this section.

Felony classification

SECTION 2. Section 16-1-10(D) of the S.C. Code is amended by adding a new offense to read:

Section 16-3-80. Fentanyl-induced homicide

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 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 62

(R88, S210)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-90-10, RELATING TO DEFINITIONS, SO AS TO INCLUDE REFERENCES TO FOREIGN CAPTIVE INSURANCE COMPANIES AND TO ADD TERMS; BY AMENDING SECTION 38-90-20, RELATING TO REQUIREMENTS OF CAPTIVE INSURANCE COMPANIES, SO AS TO AMEND MEETING REQUIREMENTS AND OUTLINE COMPONENTS OF A PLAN OF OPERATION; BY AMENDING SECTION 38-90-40, RELATING TO CAPITALIZATION REQUIREMENTS, SO AS TO GIVE DISCRETION TO THE DIRECTOR; BY AMENDING SECTION 38-90-60, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS, SO AS TO INCLUDE FOREIGN CAPTIVE INSURANCE COMPANIES; BY AMENDING SECTION 38-90-70, RELATING TO REPORTS, SO AS TO CHANGE A DEADLINE AND INCLUDE REFERENCES TO FOREIGN CAPTIVE INSURANCE COMPANIES; BY AMENDING SECTION 38-90-75, RELATING TO DISCOUNTING OF LOSS AND LOSS ADJUSTMENT EXPENSE RESERVES, SO AS TO ALLOW A SPONSORED CAPTIVE INSURANCE COMPANY TO FILE ONE ACTUARIAL OPINION; BY AMENDING SECTION 38-90-80, RELATING TO INSPECTIONS AND EXAMINATIONS, SO AS TO MAKE THE EXAMINATION OF SOME CAPTIVE INSURANCE COMPANIES OPTIONAL AND TO INCLUDE REFERENCES TO FOREIGN CAPTIVE INSURANCE COMPANIES; BY AMENDING SECTION 38-90-140, RELATING TO TAX PAYMENTS, SO AS TO AMEND REQUIRED TAX PAYMENTS FOR A SPONSORED CAPTIVE INSURANCE COMPANY; BY AMENDING SECTION 38-90-165, RELATING TO DECLARATION OF INACTIVITY, SO AS TO ALLOW FOR THE SUBMISSION OF A WRITTEN APPROVAL; BY AMENDING SECTION 38-90-175, RELATING TO THE CAPTIVE INSURANCE REGULATORY AND SUPERVISION FUND CREATED, SO AS TO INCREASE THE ALLOWED TRANSFER OF COLLECTED TAXES; AND BY AMENDING SECTION 38-90-215, RELATING TO PROTECTED CELLS, SO AS TO REMOVE LICENSING REQUIREMENTS.

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

Definitions

SECTION 1. Section 38-90-10 (1), (6), and (21) of the S.C. Code is amended to read:

(1) "Alien or foreign captive insurance company" means an insurance company or protected cell, or its equivalent, of an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien or foreign jurisdiction which imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction, but may not include a corporation controlled by an alien adversary.

(6) "Branch captive insurance company" means an alien or foreign captive insurance company licensed by the director to transact the business of insurance in this State through a business unit with a principal place of business in this State.

(21) "Participant" means an entity as defined in Section 38-90-225, and any affiliates of that entity, that are insured by a sponsored captive insurance company, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

Definitions

SECTION 2. Section 38-90-10 of the S.C. Code is amended by adding:

(34) "Alien adversary" means any alien government or nongovernment person determined by the United States Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or the security and safety of United States citizens.

(35) "Corporation controlled by an alien adversary" means a legal entity engaged in commerce that:

(a) is wholly owned by an alien adversary;

(b) has an alien adversary as a dominant shareholder, directly or indirectly;

(c) is wholly owned by a citizen of an alien adversary; or

(d) has one or a number of citizens of an alien adversary whose

cumulative ownership is as a dominant shareholder.

(36) "Dominant shareholder" means the single owner of ten percent or more of a legal entity engaged in commerce's stock, securities, or other indicia of ownership; or multiple owners of twenty percent or more of a legal entity engaged in commerce's stock, securities, or other indicia of ownership.

Licensing, fees

SECTION 3. Section 38-90-20 of the S.C. Code is amended to read:

Section 38-90-20. (A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers' compensation insurance written on a direct basis, authorized by this title; however:

(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;

(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage written on a direct basis;

(6) a captive insurance company may not accept or cede reinsurance except as provided in Section 38-90-110.

(B) To conduct insurance business in this State a captive insurance company shall:

(1) obtain from the director a license authorizing it to conduct insurance business in this State;

(2) beginning the year immediately following the issuance of its license, annually hold at least one board of director's meeting, or in the case of a reciprocal insurer, a subscriber's advisory committee meeting, or in the case of a limited liability company a meeting of the managing board, at which a quorum is physically present in this State, provided that at least two board members or subscriber advisory committee

members, as applicable, must be physically present in this State;

(3) maintain its principal place of business in this State, or in the case of a branch captive insurance company, maintain the principal place of business for its branch operations in this State; and

(4) appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this State. In the case of a captive insurance company:

(a) formed as a corporation, a nonprofit corporation, or a limited liability company, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the director must be an agent of the captive insurance company upon whom any process, notice, or demand may be served;

(b) formed as a reciprocal insurer, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the director must be an agent of the captive insurance company upon whom any process, notice, or demand may be served.

(C)(1) Before receiving a license, a captive insurance company:

(a) formed as a corporation or a nonprofit corporation, shall file with the director a certified copy of its articles of incorporation and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the director;

(b) formed as a limited liability company, shall file with the director a certified copy of its articles of organization and operating agreement, a statement under oath by its managers showing its financial condition, and any other statements or documents required by the director;

(c) formed as a reciprocal shall:

(i) file with the director a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the director; and

(ii) submit to the director for approval a description of the coverages, deductibles, coverage limits, and rates and any other information the director may reasonably require. If there is a subsequent material change in an item in the description, the reciprocal captive insurance company shall submit to the director for approval an appropriate revision and may not offer any additional kinds of insurance until a revision of the description is approved by the director. The reciprocal captive insurance company shall inform the director of any

material change in rates within thirty days of the adoption of the change.

(2) In addition to the information required by item (1), an applicant captive insurance company shall file with the director evidence of:

(a) the amount and liquidity of its assets relative to the risks to be assumed;

(b) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) the overall soundness of its plan of operation;

(d) the adequacy of the loss prevention programs of its parent, member organizations, or industrial insureds as applicable; and

(e) such other factors considered relevant by the director in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) In addition to the information required by items (1) and (2) an applicant sponsored captive insurance company shall file with the director:

(a) a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the director, and how it will report the experience to the director;

(b) all contracts or sample contracts between the sponsored captive insurance company and any participants; and

(c) a statement that expenses will be allocated to each protected cell in an equitable manner.

(4) Information submitted pursuant to this section is confidential as provided in Section 38-90-35 except that information is discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a specific finding by the court that:

(a) the captive is a necessary party to the action and not joined only for the purposes of evading the confidentiality provisions of this chapter;

(b) the information sought is relevant, material to, and necessary for the prosecution or defense of the claim asserted in litigation; and

(c) the information sought is not available through another source.

(D)(1) A captive insurance company shall pay to the department a nonrefundable fee of two hundred dollars for processing its application for license. In addition, the director may retain legal, financial, and examination services from outside the department to examine and investigate the application, the reasonable cost of which may be charged against the applicant in an amount that is determined to be appropriate

by the director given the nature, scale, and complexity of the application being investigated.

(2) Section 38-13-60 applies to examinations, investigations, and processing conducted pursuant to the authority of this section.

(3) In addition, a captive insurance company shall pay a license fee for the year of registration of three hundred dollars and an annual renewal fee of five hundred dollars.

(E) If the director is satisfied that the documents and statements filed by the captive insurance company comply with the provisions of this chapter, the director may grant a license authorizing the company to do insurance business in this State until March first at which time the license may be renewed.

(F) A foreign or alien captive insurance company, upon approval of the director, may become a domestic captive insurance company by complying with all of the requirements of law relative to the organization and licensing of a domestic captive insurance company of the same or equivalent type in this State and by filing with the Secretary of State its articles of association, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this State bringing those articles of association, charter, or other organizational document into compliance with the laws of this State. After this is accomplished, the captive insurance company is entitled to the necessary or appropriate certificates and licenses to continue transacting business in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the director may waive any requirements for public hearings. It is not necessary for a company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.

(G)(1) A captive insurance company and any protected cell, upon approval of the director, may include within its plan of operation that it will:

(a) receive payments of premium in a specified non-U.S. currency and pay claims on insured losses in a specified non-U.S. currency;

(b) authorize the payment of claims in a specified non-U.S. currency; and

(c) hold a specified non-U.S. currency as capital, surplus, or net assets, or any combination thereof.

(d) The non-U.S. currency may only be the currency of the country in which the owner of insured of the captive insurance company or protected cell is located and may not be the currency of an alien

adversary.

(2) Notwithstanding the foregoing, all amounts paid to the department pursuant to this chapter must be paid in U.S. currency, and all reports and other information required to be submitted to the department pursuant to this chapter must be converted to U.S. currency, based on exchange rates as may be approved by the department.

(3) In determining the exchange rate between U.S. currency and the non-U.S. currency, the captive insurance company must use the applicable exchange rate as published by the U.S. Department of the Treasury as of the applicable date of conversion.

(4) For the purposes of calculating the amount of premium tax due under this chapter, a policy issued by a captive insurance company payable in non-U.S. currency is deemed to be of an equivalent value in U.S. currency based on the conversion date as may be approved by the department and is payable in U.S. currency when due.

Capitalization requirements

SECTION 4. Section 38-90-40(A)(1)(d) of the S.C. Code is amended to read:

(d) in the case of a sponsored captive insurance company, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature, scale, and complexity of the risks to be insured;

Incorporation options and requirements

SECTION 5. Section 38-90-60(C) of the S.C. Code is amended to read:

(C) In the case of a captive insurance company licensed as a branch captive insurance company, the alien or foreign captive insurance company must register to do business in this State after the certificate of authority has been issued.

Reports

SECTION 6. Section 38-90-70 of the S.C. Code is amended to read:

Section 38-90-70. (A) A captive insurance company may not be required to make an annual report except as provided in this chapter. The director has the authority to waive or grant an extension to the

requirements of this section.

(B)(1) A captive insurance company shall submit annually to the director a report of its financial condition, verified by oath of two of its executive officers. The report must be submitted no later than March first for risk retention groups and no later than July first for all other captive insurance companies.

(2) A captive insurance company, other than a risk retention group, may make a written application to file the annual report on a fiscal year end that is consistent with the parent company's fiscal year end. If an alternative date is granted, the:

(a) income statement and premium schedule of the annual report must be filed before March first of each year for each calendar year-end, verified by oath of two of its executive officers; and

(b) entire annual report must be filed no more than one-hundred-eighty days after the fiscal year end, except as otherwise approved by the director.

(C) In addition to the annual report, a branch captive insurance company shall file with the director a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien or foreign captive insurance company is formed, verified by oath of two of its executive officers. The reports and statements of the alien or foreign captive insurance company must be submitted within one-hundred-eighty days after the fiscal year end of the alien or foreign captive insurance company except as otherwise approved by the director. If the director finds that the reports and statements filed by the alien or foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien or foreign captive insurance company to satisfy the laws of this State, the director may waive the requirement for completion of the Captive Annual Report for business written in the alien or foreign jurisdiction.

(D) Except as provided in Section 38-90-40, a captive insurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company, an industrial insured group, and a risk retention group shall file its report in the form and manner required by Section 38-13-80, and each industrial insured group and each risk retention group shall comply with the requirements provided for in

Section 38-13-85. The director by regulation shall prescribe the forms in which all other captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38-90-35, except for reports submitted by a risk retention group.

Discounting of loss and lost adjustment expense reviews

SECTION 7. Section 38-90-75 of the S.C. Code is amended by adding:

(D) The director may allow a sponsored captive insurance company to file one actuarial opinion pursuant to this section on a consolidated basis covering the sponsored captive insurance company and its unincorporated protected cells and incorporated protected cells.

Inspections and examinations

SECTION 8. Section 38-90-80 of the S.C. Code is amended to read:

Section 38-90-80. (A)(1) At least once every five years, and whenever the director determines it to be prudent, the director personally, or by a competent person appointed by the director, shall thoroughly inspect and examine each risk retention group or industrial insured insurance company to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter. The director, at his discretion, may physically visit the risk retention group or industrial insured insurance company. The expenses and charges of the examination must be paid to the State by the company or companies examined and the department shall issue its warrants for the proper charges incurred in all examinations.

(2) A captive insurance company that is not a risk retention group or industrial insured captive insurance company may be examined at the discretion of the director.

(B) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies of documents produced by, obtained by, or disclosed to the director or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the director or an employee or agent of the director without the prior written consent of the company, except to the extent provided in this subsection.

(1) Nothing in this subsection prevents the director from using this information in furtherance of the director’s regulatory authority under

this title.

(2) The director may grant access to this information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this State or any other state or country or agency of the federal government at any time, so long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(3) The confidentiality provisions of this subsection do not extend to final reports produced by the director in inspecting or examining a risk retention group. In addition, nothing contained in this subsection limits the authority of the director to use and, if appropriate, make public a preliminary examination report, examiner or insurer work papers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or regulatory action which the director considers appropriate.

(C) This section applies to all business written by a captive insurance company; however, the examination for a branch captive insurance company must be of branch business and branch operations only, as long as the alien or foreign captive insurance company provides annually to the director, a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the alien or foreign captive insurance company is formed and demonstrates to the director's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction.

(D) To the extent that the provisions of Chapter 13 do not contradict the provisions of this section, Chapter 13 applies to captive insurance companies licensed under this chapter.

Tax payments

SECTION 9. Section 38-90-140(H) of the S.C. Code is amended to read:

(H) In the case of a sponsored captive insurance company, the aggregate taxes to be paid with respect to the sponsored captive insurance company and its unincorporated protected cells and incorporated protected cells, as calculated under subsections (A) and (B), must be calculated and paid on a consolidated basis as one captive insurance company.

Declaration of inactivity

SECTION 10. Section 38-90-165 of the S.C. Code is amended to read:

Section 38-90-165. (A) The director may declare inactive by written approval a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding insurance liabilities and agrees to cease providing insurance coverage.

(B) During the period the captive insurance company is inactive, the director may by written approval:

(1) reduce the minimum free and unimpaired paid-in capital or surplus, or combination thereof, to no less than twenty-five thousand dollars;

(2) modify the minimum premium tax applicable to the captive insurance company to an amount no less than two thousand dollars and the captive insurance company shall pay no other premium taxes; and

(3) exempt the captive insurance company from the requirement to file such reports as set forth in the written approval.

Captive Insurance Regulatory and Supervision Fund

SECTION 11. Section 38-90-175(A) of the S.C. Code is amended to read:

(A) There is created a fund to be known as the "Captive Insurance Regulatory and Supervision Fund" for the purpose of providing the financial means for the director to administer Chapter 87 and Chapter 90 of this title and for reasonable expenses incurred in promoting the captive insurance industry in the State. The transfer of forty percent of the taxes collected by the department pursuant to Chapter 90 of this title, and all fees and assessments received by the department pursuant to the administration of this chapter must be credited to this fund. All fees received by the department from reinsurers who assume risk only from captive insurance companies, must be deposited into the Captive Insurance Regulatory and Supervision Fund. All fines and administrative penalties must be deposited directly into the South Carolina general fund.

Protected cells

SECTION 12. Section 38-90-215(B)(2) and (C)(2) of the S.C. Code is amended to read:

(2) An unincorporated protected cell has the free and unimpaired paid-in capital and surplus in an amount determined by the director after giving due consideration to the protected cell's business plan, feasibility study, and pro formas, including the nature, scale, and complexity of the risks to be insured, and either:

(a) establish loss and loss expense reserves for business written through the unincorporated protected cell; or

(b) the business written through the unincorporated protected cell must be:

(i) fronted by an insurance company licensed pursuant to the laws of:

(A) any state; or

(B) any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by this State; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant's protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.

(2) Except as specifically set forth in this chapter, each incorporated protected cell of a sponsored captive insurance company shall have free and unimpaired paid-in capital and surplus in an amount determined by the director after giving due consideration to the protected cell's business

plan, feasibility study, and pro formas, including the nature, scale, and complexity of the risks to be insured.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 63

(R90, S507)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-40, RELATING TO APPLICATION OF FEDERAL INTERNAL REVENUE CODE TO STATE TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2024, AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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

Internal Revenue Code conformity

SECTION 1. Section 12-6-40(A)(1)(a) and (c) of the S.C. Code is amended to read:

(a) Except as otherwise provided, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2024, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which

expired or portions thereof expired on December 31, 2024, are extended, but otherwise not amended, by congressional enactment during 2025, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 64

(R92, H3292)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56-2-90 SO AS TO PROVIDE FOR THE REGISTRATION AND OPERATION OF GOLF CARTS ALONG THE STATE'S PUBLIC HIGHWAYS, TO PROVIDE MUNICIPALITIES AND COUNTIES MAY ADOPT ORDINANCES TO REGULATE THE OPERATION OF GOLF CARTS WITHIN THEIR JURISDICTIONS, AND TO PROVIDE CERTAIN PASSENGERS MUST WEAR SAFETY BELTS; AND TO REPEAL SECTION 56-2-105 RELATING TO THE REGISTRATION AND OPERATION OF GOLF CARTS.

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

Golf carts

SECTION 1. Article 1, Chapter 2, Title 56 of the S.C. Code is amended by adding:

Section 56-2-90. (A) To operate a vehicle commonly known as a golf cart on a public highway, the owner must obtain a permit decal and

registration certificate from the Department of Motor Vehicles. Proof of ownership, proof of liability insurance, and payment of a five-dollar fee must be provided. The permit decal must be replaced every five years, or at the time the owner changes his address, whichever is sooner.

(B) A person operating a golf cart on a public highway must be at least sixteen years of age, hold a valid driver's license, and have in his possession:

(1) the registration certificate;

(2) proof of liability insurance in conformance with Section 38-77-140; and

(3) his driver's license.

(C) A municipality or a county within its unincorporated portions, may:

(1) by ordinance stipulate the hours, methods, and locations of golf cart operations, provided that golf carts may be operated only on a highway where the speed limit is thirty-five miles per hour or less;

(2) by ordinance permit the operation of golf carts at night, provided that golf carts are equipped with working headlights and taillights, and provided that golf carts may be operated only on a highway where the speed limit is thirty-five miles per hour or less; and

(3) on the shoulder of primary highways, secondary highways, streets and roads, designate separate golf cart paths for the purpose of golf cart transportation, provided that:

(a) the municipality or county obtains the necessary approvals, if any, to create golf cart paths; and

(b) the golf cart path is:

(i) separated from the traffic lanes by a hard concrete curb;

(ii) separated from the traffic lanes by parking spaces; or

(iii) separated from the traffic lanes by a distance of four feet or more.

(4) not require proof of property ownership or proof of long-term rental agreement within the municipality or a county within its unincorporated portions as a requirement in which to receive a decal to operate a golf cart within its limits.

(D) In the absence of an ordinance enacted pursuant to subsection (C), a permitted golf cart may:

(1) be operated only during daylight hours;

(2) be operated only on a secondary highway where the speed limit is thirty-five miles per hour or less;

(3) be operated only within four miles of the address on the registration certificate, or only within four miles of a point of ingress and egress of a gated community if the address is within a gated community;

and

(4) cross a highway at an intersection where the speed limit is more than thirty-five miles an hour.

(E) Each golf cart passenger that is under the age of twelve years old, when it is being operated on the public streets and highways of this State, must wear a fastened safety belt.

Repeal

SECTION 2. Section 56-2-105 of the S.C. Code is repealed.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 65

(R93, H3571)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-36-20, RELATING TO DEFINITIONS, SO AS TO ADD DEFINITIONS FOR "COMMENCEMENT DATE," "LARGE PROJECT," "LARGE PROJECT FACILITY LOCATION AGREEMENT," "NOTICE," "PRE-MARKING," "PRIVATE FACILITY," "PROJECT INITIATOR," AND "SOFT DIGGING," AND TO AMEND THE DEFINITIONS OF "EXCAVATE," "EXCAVATOR," AND "OPERATOR"; BY AMENDING SECTION 58-36-50, RELATING TO THE OPERATORS ASSOCIATION NOTIFICATION CENTER, SO AS TO CLARIFY OPERATOR PENALTY FOR FAILURE TO BE A MEMBER OF THE ASSOCIATION, THE NOTIFICATION CENTER'S DUTIES, AND OTHER CHANGES; BY AMENDING SECTION 58-36-60, RELATING TO NOTICES OF INTENT TO EXCAVATE OR

DEMOLISH, SO AS TO CLARIFY CERTAIN NOTICE REQUIREMENTS, PROVIDE ADDITIONAL TIME FOR NOTICE FOR CERTAIN EXCAVATIONS OR DEMOLITIONS, AND OTHER CHANGES; BY AMENDING SECTION 58-36-70, RELATING TO INFORMATION SUPPLIED BY OPERATORS, SO AS TO REQUIRE NOTICE TO EXCAVATORS PRIOR TO THE COMMENCEMENT DATE, REQUIRE QUARTERLY REPORTS OF DAMAGES CAUSED BY EXCAVATIONS OR DEMOLITIONS, AND TO CLARIFY PAYMENTS OF CIVIL PENALTIES IN CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 58-36-80, RELATING TO EMERGENCY EXCAVATIONS OR DEMOLITIONS EXEMPT FROM NOTICE REQUIREMENTS AND LIABILITY FOR DAMAGES, SO AS ESTABLISH ADDITIONAL NOTIFICATION AND RESPONSE REQUIREMENTS IN THE EVENT OF AN EMERGENCY AND TO MAKE A FALSE CLAIM OF AN EMERGENCY A VIOLATION OF THIS CHAPTER; BY AMENDING SECTION 58-36-90, RELATING TO NOTICES OF DAMAGES, SO AS TO REQUIRE EXCAVATORS TO IMMEDIATELY REPORT ANY KNOWN DAMAGES TO THE NOTIFICATION CENTER AND FACILITY OPERATOR; BY AMENDING SECTION 58-36-100, RELATING TO DESIGN REQUESTS AND OPERATOR RESPONSES, SO AS TO ADD REFERENCES TO LARGE PROJECTS; BY AMENDING SECTION 58-36-110, RELATING TO EXEMPTIONS FROM NOTICE REQUIREMENTS, SO AS TO STRIKE CURRENT PROVISIONS; BY AMENDING SECTION 58-36-120, RELATING TO PENALTIES AND CIVIL REMEDIES, SO AS TO PROVIDE FOR A COMPLAINT PROCESS AND TO PROVIDE FOR PENALTIES; AND BY ADDING SECTION 58-36-75 SO AS TO PROVIDE A PROCESS FOR LARGE PROJECTS.

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

Underground facility damage prevention

SECTION 1. Sections 58-36-20 through 58-36-120 of the S.C. Code are amended to read:

Section 58-36-20. For purposes of this chapter, the following words and terms are defined as follows:

(1) “APWA” means the American Public Works Association or

successor organization or entity.

(2) "Association" means a group of operators, or their representatives, formed for the purpose of operating a notification center.

(3) "Business continuation plan" means a plan that includes actions to be taken in an effort to provide uninterrupted service during catastrophic events.

(4) "Commencement date" means the date that an excavator provides to the notification center of the excavator's intent to begin the excavation or demolition for which notice is being given.

(5) "Damage" means the substantial weakening of structural or lateral support of a facility, penetration or destruction of protective coating, housing, or other protective device of a facility and the partial or complete severance of a facility.

(6) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives.

(7) "Designer" means any architect, engineer, or other person who prepares or issues a drawing or blueprint for a construction or other project that requires excavation or demolition work.

(8) "Design request" means a communication to the notification center in which a request for identifying existing facilities for advance planning purposes is made. A design request may not be used for excavation purposes.

(9) "Emergency" means a sudden or unforeseen event involving a clear and imminent danger to life, health, or property; the interruption of essential existing utility services; or the blockage of transportation facilities, including highway, rail, water, and air, which require immediate action.

(10)(A) "Excavate" or "excavation" means an operation for the purpose of the displacement, movement, or removal of soil, earth, rock, or other materials in or on the ground by use of hand digging, mechanized equipment or by discharge of explosives. This includes, but is not limited to, augering, blasting, boring, backfilling, digging, ditching, drilling to include directional, horizontal, and vertical, driving, grading, marine construction, partial- and full-depth patching, piling, plowing-in, pulling-in, ripping, scraping, soft digging, spudding, staking, trenching, and tunneling.

(B) "Excavate" or "excavation" shall not include:

(1) activity by the owner of a single-family residential property on their own land when the excavation:

(a) does not encroach on any operator's known right-of-way, easement, or permitted use;

(b) is performed with nonmechanized equipment; and

(c) is less than twelve inches in depth;

(2) tilling or plowing of soil when less than twelve inches in depth for agricultural purposes;

(3) activity by an operator or an agent of an operator with nonmechanized equipment for the following purposes:

(a) locating for a valid notification request; or

(b) for the minor repair, connecting, or routine maintenance of an existing facility;

(4) road and right-of-way maintenance activities by a governmental entity responsible for the maintenance of those roads and rights-of-way, within the designated right-of-way of such entity, including resurfacing, milling, or emergency replacement of signs critical for maintaining safety, and the reshaping of shoulders and ditches to the original road profile; provided, however, this subsection shall not apply to contractors or subcontractors acting on behalf of an entity pursuant to this subsection, unless such contractor or subcontractor is performing a repair related to a gubernatorial declared emergency or an emergency declared by the Secretary of Transportation.

(11) "Excavator" means any entity or person engaged in excavation or demolition.

(12) "Extraordinary circumstances" means circumstances which make it impractical or impossible for the operator to comply with the provisions of this chapter. Extraordinary circumstances may include hurricanes, tornadoes, floods, ice, snow, and acts of God.

(13) "Facility" means any underground line, underground system, or underground infrastructure used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, potable and non-potable water, steam, or sewerage. Provided there is no encroachment on any operator's right-of-way, easement, or permitted use and for purposes of this chapter, the following are not considered as an underground "facility": petroleum storage systems subject to regulation pursuant to Chapter 2, Title 44; septic tanks as regulated by Chapter 55, Title 44; swimming pools and irrigation systems. For purposes of this chapter, and provided there is no encroachment on any operator's right-of-way, easement, or permitted use, liquefied petroleum gas "systems" as defined in Section 40-82-20(8) do not constitute an underground "facility" unless such a system is subject to Title 49 C.F.R. Part 192.

(14) "Large project" means excavation or demolition that:

(a) involves more work to locate underground facilities than can reasonably be completed within the requirements of Section 58-36-70;

(b) is reasonably expected to take more than ninety days to complete; and

(c) is either a:

(i) highway infrastructure project that is:

(A) greater than one mile measured linearly or encompasses more than a two-square-mile polygon; and

(B) proposed for areas in which existing underground facilities are located;

(ii) a development project that is located in areas in which existing underground facilities are located; or

(iii) utility infrastructure project that is:

(A) greater than one mile measured linearly or encompasses a two-square-mile polygon; and

(B) proposed for areas in which existing underground facilities are located.

(15) "Large project facility location agreement" means an agreement between the excavators, locators, and facility owners involved in a large project that meets the requirements in Section 58-36-75.

(16) "Locator" means a person that identifies and marks facilities for operators.

(17) "Mechanized equipment" means equipment operated by means of mechanical power, including, but not limited to, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, and other equipment used for plowing-in or pulling-in cable or pipe.

(18) "Non-mechanized equipment" means hand tools.

(19) "Notice" means the provision by an excavator of information to the notification center as required by Section 58-36-60(A).

(20) "Notification center" means an entity that administers a system through which a person can notify operators of proposed excavations or demolitions.

(21) "Operator" means any person, public utility, communications and cable service provider, provider of interactive fiber, municipality, electrical utility, electric and telephone cooperatives, and the South Carolina Public Service Authority as defined in Titles 5, 6, 33, and 58 of the S.C. Code of Laws, who owns or operates a facility for commercial purposes in the State of South Carolina. The term "operator" includes entities that own, maintain, or operate a facility that is used to provide utility service to third parties for commercial or multi-family residential purposes, even where no separate charge is imposed for such utility service.

(22) "Person" means any individual, owner, corporation, partnership, association, or any other entity organized under the laws of any state;

any subdivision or instrumentality of a state; and any authorized representative thereof.

(23) "Positive response" means an automated information system that allows excavators, locators, operators, and other interested parties to determine the status of a locate request until excavation or demolition is complete.

(24) "Pre-marking" means identifying the proposed excavation or demolition site by using APWA uniform color code rules for the proposed excavation. This includes, but is not limited to, utilization of white paint, flags, whiskers, stakes, digital or virtual drawings, prints, and other elements identifying the proposed excavation visually. If the locate notice indicates the existence of pre-marks, the location of those marks must be described on the notice.

(25) "Private facility" is a facility owned and operated by a person or entity that is not an operator.

(26) "Project initiator" means the person or entity that causes a large project to be initiated. The project initiator for large projects for highway infrastructure shall be the South Carolina Department of Transportation; the project initiator for large projects for development shall be the development owner; and the project initiator for a utility infrastructure project shall be the utility infrastructure project owner.

(27) "Soft digging" means any excavation using tools or equipment that utilizes air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

(28) "Subaqueous" means a facility that is under a body of water, including rivers, streams, lakes, waterways, swamps, and bogs.

(29) "Tolerance zone" means:

(a) if the diameter of the facility is known, the distance of one-half of the known diameter plus twenty-four inches on either side of the designated center line;

(b) if the diameter of the facility is not marked, twenty-four inches on either side of the outside edge of the mark indicating a facility; or

(c) for subaqueous facilities, a clearance of fifteen feet on either side of the indicated facility.

(30) "Working day" means every day, except Saturday, Sunday, and legal holidays as defined by South Carolina law.

Section 58-36-30. (A) The provisions in this chapter supersede and preempt any ordinance enacted by a local political subdivision that purports to:

(1) require operators to obtain permits from local governments in order to identify facilities;

(2) require pre-marking or marking of facilities;

(3) specify the types of paint or other marking devices that are used to identify facilities; or

(4) require removal of marks.

(B) Nothing in this chapter shall supersede or preempt any ordinance enacted by a municipality that purports to regulate the permitting and inspection of utility work being conducted within the public right-of-way.

(C) A permit issued pursuant to law authorizing an excavation or demolition shall not be deemed to relieve a person from the responsibility for complying with the provisions of this chapter.

Section 58-36-40. (A) Any costs or expenses associated with compliance by an excavator with the requirements in this chapter applicable to excavators shall not be charged to any operator. Any costs or expenses associated with compliance by an operator with the requirements in this chapter applicable to operators shall not be charged to any excavator. Neither the association nor the notification center may impose any charge on any person giving notice to the notification center.

(B) This section shall not excuse an operator or excavator from liability for any damage or injury for which it would be responsible under applicable law.

Section 58-36-50. (A) Operators must maintain an association that will operate a notification center providing for the receipt of notice of excavation or demolition in a defined geographical area. The notification center must be governed by a board of directors composed of operators and damage prevention stakeholders that are members of the association. The by-laws of the association must provide for a board of directors with the following membership:

(1) one representative from each of the six facility members that receive the highest annual notification transmission volumes from the notification center;

(2) one representative of a public water or sewer company;

(3) one representative of an electric cooperative;

(4) one representative of an investor-owned natural gas utility;

(5) one representative of a company that transports hazardous liquids as defined in 49 U.S.C. 60101(a)(4);

(6) one representative of a telephone cooperative;

(7) one representative of a rural water district;

(8) one representative of the South Carolina Association of Municipal Power Systems;

(9) one representative of the South Carolina Association of Counties;

(10) one representative of a company licensed in South Carolina for facility contract locating;

(11) one representative of the South Carolina Department of Transportation;

(12) one representative of a company licensed in South Carolina for construction of roads and highways;

(13) one representative of a company licensed in South Carolina for construction of facilities;

(14) one representative of a company licensed in South Carolina for landscaping or irrigation;

(15) one representative of a company licensed in South Carolina as a general contractor or as a subcontractor in the construction industry;

(16) three representatives employed by different facility operators in South Carolina; and

(17) one representative of a special purpose district providing natural gas.

In choosing members of the association to fill these board positions, the association will solicit nominations from the membership of the association and industry organizations representing entities designated by this subsection. The South Carolina 811 Board of Directors existing as of June 7, 2012, must elect the board as required by the provisions of this subsection within nine months following June 7, 2012.

(B)(1) All operators are required to join the association and utilize the services of the notification center.

(2) Beginning on January 1, 2026, every month that an operator is not a member of the association shall be a separate violation of this chapter.

(C) There shall be only one notification center for the State of South Carolina.

(D) The association shall provide for a reasonable way of apportioning the cost of operating the notification center among its members.

(E) The notification center shall receive notices from persons with the intention of performing excavation or demolition and transmit to the operators the following information:

(1) the name, address, and telephone number of the person providing the notice, and, if different, the excavator completing the proposed excavation or demolition;

(2) the commencement date of the proposed excavation or demolition;

(3) the anticipated duration of the proposed excavation or

demolition;

(4) the type of proposed excavation or demolition to be conducted;

(5) the location of the proposed excavation or demolition; and

(6) whether or not explosives are to be used in the proposed excavation or demolition.

(F) The notification center must maintain a record of the notices received pursuant to subsection (E), and information regarding operators failing to provide a response pursuant to subsection (E), and excavators failing to provide notice pursuant to Section 58-36-60(C). This record must be maintained for at least three years.

(G) The notification center shall receive and transmit notices.

(H) The notification center must have a business continuation plan.

(I) The notification center shall provide and maintain a positive response system.

(J) The notification center shall file with the South Carolina Public Service Commission the telephone number, email address, and physical address of the notification center and a list of the names and email addresses of each operator that received service from the notification center. This filing must be made no later than April fifteenth of each year.

(K) The notification center shall provide to the Chairman of the House of Representatives Labor, Commerce and Industry Committee and the Chairman of the Senate Judiciary Committee a report regarding the activities and operations of the notification center for the preceding calendar year. This report must include, but is not limited to, the following information:

(1) average speed of answer;

(2) abandoned call rate;

(3) transmit times;

(4) total number of locate requests;

(5) total number of transmissions to operators of locate requests; and

(6) business continuation plan.

This report must be made no later than April fifteenth of each year.

(L) The notification center must:

(1) establish and operate a damage prevention training program;

(2) establish large project facility location agreements that must include, but not be limited to, the notice and response requirements in Sections 58-36-60(A), (B), (C), and (E) and 58-36-70(B), (C), (E), and (F);

(3) develop systems and processes to assist project initiators, excavators, and facility operators with implementation of large project

procedures pursuant to Section 58-36-75;

(4) receive complaints forwarded from the Attorney General's Office pursuant to Section 58-36-120;

(a) review notification center records for information relating to such complaints;

(b) contact and obtain information from parties involved in the events giving rise to such complaints;

(5) investigate and mediate complaints within six months from receipt of the referral from the Attorney General's Office; however, the notification center may request that the Attorney General grant an extension of no more than six additional months;

(6) submit a recommendation to the Attorney General after mediation with terms for the resolution of such complaints and all documents and records in connection with the case; and

(7) provide any other assistance that the Attorney General may request in regards to the investigation and resolution of actions in violation of this chapter.

(M) The notification center is not a public body pursuant to Section 30-4-20(a).

Section 58-36-60. (A)(1) Before commencing any excavation or demolition, the excavator must provide timely notice to the notification center of his intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given within three to twelve full working days, not including the day upon which notice is given, before the proposed commencement date of the excavation or demolition. Notice for any excavation or demolition in the vicinity of a subaqueous facility must be made within ten to twenty full working days, not including the day upon which notice is given, before the proposed commencement date of the excavation or demolition.

(2) A subcontractor may rely on a general contactor's notice to the notification center if the notice specifically references the subcontractor by name.

(3) The notification number, as assigned by the notification center and provided to the excavator pursuant to this section, must be provided by the notification center to an operator or an agent working on the operator's behalf if requested, by physical or digital means.

(B) Notice given pursuant to subsection (A) shall expire within fifteen working days after the date and time for commencement of work as provided in the notice. No excavation or demolition may continue after this fifteen-day period unless the person responsible for the excavation or demolition provides a subsequent notice using the same method as

provided in subsection (A). This subsequent notice only extends the commencement date and does not require operators to re-mark facilities unless otherwise required pursuant to subsection (F)(7).

(C) The notice to the notification center must contain:

(1) the name, address, and telephone number of the person providing the notice;

(2) the commencement date of the proposed excavation or demolition;

(3) the anticipated duration of the proposed excavation or demolition;

(4) the type of proposed excavation or demolition to be conducted;

(5) the location of the proposed excavation or demolition, not to exceed one-quarter mile in geographical length, or five adjoining addresses, whichever is less; and

(6) whether or not explosives are to be used in the proposed excavation or demolition.

(D) When demolition of a building is proposed, operators shall be given reasonable time to remove or protect their facilities before demolition commences.

(E) For projects that do not meet the requirements of large projects as defined in Section 58-36-20(14), a notice must not cover an area greater than one linear mile. Notice for projects less than one linear mile but greater than one quarter mile must be reduced to sections not greater than one quarter mile or five adjoining addresses, whichever is less, for purposes of transmitting notice to operators. Notice for projects that do qualify as large projects must be provided as required by Section 58-36-75.

(F) An excavator must comply with the following:

(1) When the excavation site cannot be clearly and adequately identified within the area described in the notice, the excavator must designate the route, specific area to be excavated, or both, by pre-marking before the operator performs a locate.

(2) Check the notification center's positive response system prior to excavating or demolishing to ensure that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked.

(3) Plan the excavation or demolition to avoid damage to or minimize interference with facilities in and near the construction area.

(4) Excavation or demolition may commence prior to the commencement date provided in the notice required in this section if the excavator has confirmed that all operators responded with an appropriate positive response.

(5) If an operator declares extraordinary circumstances, the excavator must not excavate or demolish until after the time and date that the operator provided in its response.

(6)(a) An operator's failure to respond to the positive response system does not prohibit the excavator from proceeding, provided there are no visible indications of a facility, such as a pole where an aerial facility transitions to underground, marker, pedestal, or valve at the proposed excavation or demolition site. However, if the excavator is aware of or observes indications of an unmarked facility, the excavator must not begin excavation or demolition until an additional notice is provided to the notification center detailing the facility, and an arrangement is made for the facility to be marked by the operator within three hours from the time the additional notice is received by the notification center.

(b) If the three-hour notice is made pursuant to subitem (a) and an operator failed to give a positive response within the timeframe required in this section and the excavator has fully complied with this section, the excavator shall not be deemed liable for any damages to an underground facility that would have been located if the operator had complied with its duties as an operator. This item shall not apply to any underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws.

(7) Beginning on the date provided in the excavator's notice to the notification center, the excavator shall preserve the staking, marking, or other designation until no longer required. When a mark is no longer visible, but the work continues in the vicinity of the facility, the excavator must request a re-mark from the notification center to ensure the protection of the facility.

(8) The excavator shall notify the notification center's positive response system when the excavation or demolition is complete.

(9) An excavator may not perform any excavation or demolition within the tolerance zone, including work done in the tolerance zone below or above an existing facility, unless the following conditions are met:

(a) no use of mechanized equipment, except soft digging equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until:

(i) the excavator has visually identified the precise location of the facility, or has visually confirmed that no facility is present up to the depth of excavation; and

(ii) reasonable precautions are taken to avoid any substantial weakening of the facility's structural or lateral support, or both, or

penetration or destruction of the facilities or their protective coatings.

Mechanical means may be used, as necessary, for initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation and then only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at intervals not to exceed fifty feet along the line of excavation to avoid damages. When excavation involves crossing an existing marked facility, the excavator must visually verify minimum clearance of the tolerance zone above or below the existing facility using appropriate methods, such as hand digging or soft digging techniques to visually identify and protect existing facilities where the excavation crossing occurs. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities;

(b) maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such facility; and

(c) provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of such facilities.

Section 58-36-70. (A) An operator or designated representative must provide to an excavator the following information:

(1) The horizontal location and description of all of its facilities in the area of the proposed excavation or demolition. The location shall be marked by stakes, paint, flags, or any combination thereof as appropriate depending on the site conditions of the proposed excavation or demolition using the APWA Uniform Color Code. If the diameter or width of the facility is greater than three inches, the dimension of the facility will be indicated at least every twenty-five feet in the area of the proposed excavation or demolition. Operators who operate multiple facilities in the same trench shall locate each facility individually.

(2) Any other information that would assist the excavator to identify, and thereby avoid damage to, the marked facilities.

(B) The information in subsection (A) must be provided to the excavator prior to the commencement date provided in the notice or as otherwise provided by written agreement between the excavator and the operator or designated representative of the operator.

These timelines do not apply in the event the operator declares an extraordinary circumstance pursuant to subsection (F) below, or for a large project in which these timelines are modified in a large project facility location agreement.

(C) An operator may reject an excavation or demolition locate request due to homeland security considerations based upon federal statutes or federal regulations until the operator can confirm the legitimacy of the request. The operator must notify the person making the request of the denial and request additional information, through the positive response system, within the time frame established in subsection (B).

(D) An operator must provide a positive response to the notification center prior to the expiration of the required notice period. This response shall indicate the status of the required activities of the operator or designated representative in regard to the proposed excavation or demolition.

(E) If the operator determines that provisions for marking subaqueous facilities are required, the operator or their designated representative will provide a positive response to the notification center not more than three full working days after notice of the proposed excavation or demolition from the notification center.

(F) If extraordinary circumstances prevent the operator from marking the location in the required time period, the operator must notify the excavator either by contacting the notification center or by directly contacting the excavator. The operator must state the date and time when the location will be marked.

(G) All facilities installed by or on behalf of an operator as of June 7, 2012, must be electronically locatable using a generally accepted locating method by operators.

(H) A facility locator must notify the operator if the locator becomes aware of an error or omission in facility placement documentation. The operator must update its records to correct the error or omission.

(I) An operator must prepare, or cause to be prepared, installation records of all facilities installed on or after June 7, 2012, in a public street, alley, or right-of-way dedicated to public use, excluding service drops and services lines. The operator must maintain these records in its possession while the facility is in service.

(J) An operator that fails to become a member of the association as required by Section 58-36-50(B) may not recover for damages to a facility caused by an excavator that has complied with this chapter and has exercised reasonable care in the performance of the excavation or demolition.

(K) An operator must provide to the notification center a report, on a quarterly basis, of damage to its facilities caused by excavations and demolitions. The report must include the date of the incident and a brief summary of the extent of the damage. The board of the notification center must approve forms for use by operators in reporting damages.

These forms shall gather information to improve the protection of underground facilities in this State. Nothing in this section shall be construed to restrict or limit in any way the protections of Rule 407 of the South Carolina Rules of Evidence.

(L) In the event that an operator designates a representative to carry out its duties described in this section and the designated representative fails to carry out those duties, then the operator shall be responsible for payment of any civil penalty in accordance with Section 58-36-120.

Section 58-36-80. (A) An excavator performing an emergency excavation or demolition is exempt from the notice requirements in Section 58-36-60. However, the excavator must, as soon as practicable, provide notice of the emergency to the notification center and oral notice to any affected facility operators. The excavator must provide a description of the circumstances to the notification center and request emergency assistance from each affected operator in locating and providing immediate protection to the facilities.

(B) All operators within the delineated emergency excavation or demolition area are required to respond in the notification center's positive response system within three hours from the notification center's notice of the emergency.

(C) The person responsible for the emergency excavation or demolition shall either be on-site or in communication with the operator, their contract locator, or their representative through the notification center's positive response system. This communication must be made within three hours after the transmission of the notice of the emergency excavation or demolition by the notification center.

(D) The declaration of an emergency excavation or demolition does not relieve any party of liability for causing damage to an operator's facilities, even if those facilities are unmarked.

(E) Any person who falsely claims that an emergency exists requiring excavation or demolition shall have violated the provisions of this chapter.

Section 58-36-90. (A) The excavator performing an excavation or demolition that results in any damage to a facility must, immediately report the location and nature of the damage to the notification center and to the facility operator, if known. This report must be made on a form prepared by, and made available by, the notification center. The excavator must allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such facility. The excavator shall delay any

backfilling in the immediate area of the damaged facility until authorized by the operator. The repair of any damage shall be performed by the operator or by qualified personnel authorized by the operator.

(B) An excavator responsible for any excavation or demolition that results in damage to a facility where damage results in the escape of any flammable, toxic, or corrosive gas or liquid, or electricity, or endangers life, health, or property, immediately shall notify emergency services, including 911, the notification center and the operator, if known. The excavator must take reasonable measures to protect themselves, those in immediate danger, the general public, property, and the environment until the operator or emergency responders have arrived and completed their assessment.

Section 58-36-100. (A) A designer may submit a design request to the notification center. The design request shall describe the tract or parcel of land for which the design request has been submitted with sufficient particularity, as defined by policies developed and promulgated by the notification center, so that the operator can ascertain the precise tract or parcel of land involved.

(B) Within fifteen working days after a design request has been submitted to the notification center for a proposed project, the operator shall respond by one of the following methods:

(1) designate the location of all facilities within the area of the proposed excavation pursuant to Section 58-36-70(A); or

(2) provide to the person submitting the design request the best available description of all facilities in the area of proposed excavation, which may include drawings of facilities already built in the area, or other facility records that are maintained by the operator.

(C) An operator may reject a design request based on homeland security pending additional information confirming the legitimacy of the request. The operator must notify the person making the request of the denial and request additional information, through the positive response system, within the time frame set forth in Section 58-36-70(B).

(D) The provisions of this section may be used for a large project that follows the procedures established in Section 58-36-75. For excavations that are not large projects, the provisions of Sections 58-36-60 and 58-36-70 must be followed.

Section 58-36-110. Reserved.

Section 58-36-120. (A)(1) A party affected by an alleged violation of this chapter may file a complaint with the Attorney General’s Office

within forty-five days of the alleged violation. Upon receipt of the complaint, the Attorney General's Office must refer the complaint to the notification center for an investigation and mediation pursuant to Section 58-36-50(L). Each mediation recommendation proposed by the notification center must be submitted to the Attorney General's Office for approval or rejection.

(2) The Attorney General's Office, upon receipt of a mediation recommendation from the notification center, may approve or reject the mediation recommendation.

(3) If the notification center informs the Attorney General's Office that a mediation recommendation could not be reached or a mediation recommendation is rejected by the Attorney General's Office, the Attorney General's Office shall review the complaint and any additional information gathered by the notification center to determine whether there exists a prima facie case that a violation of this chapter has occurred. If the Attorney General's Office determines that there exists a prima facie case that a violation of this chapter occurred, the Attorney General's Office shall inform the complainant who shall then be authorized to file an action seeking the imposition of a civil penalty. Actions seeking the imposition of a civil penalty within the jurisdictional threshold of magistrate court pursuant to Section 22-3-10(3) may be brought in magistrate court. All other actions shall be filed in circuit court. If the Attorney General's Office determines that a prima facie case has not been established, the Attorney General's Office shall inform the complainant. A determination that a prima facie case has not been established by the Attorney General's Office shall preclude the complainant from filing an action seeking the imposition of a civil penalty. A determination that a prima facie case has not been established may be reviewed by the circuit court.

(4) Upon filing of an action pursuant to this section, the clerk of court shall forward a copy of the complaint to the notification center.

(5) In any action brought by a complainant seeking the imposition of penalties as authorized by this section, the complainant may seek penalties up to the statutory limit and may, during the litigation, resolve the action by a settlement within the statutory limits.

(6) An employee of the notification center who participated in the investigation of the complaint as provided in Sections 58-36-120(A)(1) and 58-36-50(L) may be called to testify in a proceeding brought to impose penalties pursuant to this section. However, that person may not testify to settlement discussions that would be protected by Rule 408 of the S.C. Rules of Evidence.

(7) Upon the finding by the court of a violation of this chapter, the

court shall award the person bringing such action under this section reasonable attorney's fees and costs.

(B)(1) Except as provided in item (2), the court may impose a civil penalty of up to $5,000 for each violation of this chapter.

(2) The court may impose a civil penalty of up to $25,000 for each violation of the following:

(a) operators who do not join the association to operate the notification center as required in Section 58-36-50(B);

(b) persons or entities who damage an underground facility as a result of gross negligence in excavation or demolition;

(c) persons or entities who damage an underground facility and fail to promptly notify the notification center;

(d) persons or entities who damage an underground facility and take actions to conceal the damage;

(e) persons or entities who wilfully remove or otherwise destroy stakes or other physical markings used to mark the approximate location of underground facilities prior to the completion of the excavation or demolition unless that removal or destruction occurs after the excavation or demolition;

(f) persons or entities who intentionally violate requirements of this chapter.

(C) This chapter does not affect any civil remedies for personal injury or property damage except as otherwise specifically provided for in this chapter. The penalty provisions of this chapter are cumulative to, and not in conflict with, provisions of law with respect to civil remedies for personal injury or property damage.

(D) All penalties recovered in any actions brought under this section shall be paid into the state's general fund.

Large projects

SECTION 2. Chapter 36, Title 58 of the S.C. Code is amended by adding:

Section 58-36-75. (A) All project initiators and affected operators, excavators, and locators must comply with the provisions of this section for large projects.

(B) Notwithstanding the notice timelines provided in Section 58-36-60, the project initiator or designee for a large project must provide notice to the notification center at least thirty days prior to the commencement of the large project.

(C) Within three days from receipt of a notice of a large project, the

notification center must provide:

(1) a list of all operators of facilities in the large project area to the project initiator or its designee; and

(2) notice to all of the operators of the proposed large project.

(D) Within fifteen days of the notification of the proposed large project, the project initiator or its designee must provide notice through the notification center of a planning meeting of all affected facility operators, locators, and excavators known by the project initiator or its designee to be involved in any excavation or demolition work on the large project.

(E)(1) At the planning meeting, the project initiator or its designee must provide:

(a) an overview of the proposed large project;

(b) contact information for the project initiator and, if applicable, the project initiator's designee for the initial planning meeting; however, after the initial planning meeting, the contact information for each excavator, locator, facility operator, and their respective agents, involved in the proposed large project must be updated in a timely manner;

(c) expected timelines for the work to be concluded, including descriptions of phases if appropriate; and

(d) a proposed large project facility location agreement which must include, but not be limited to, proposed timelines of notices of excavation, marking of facilities, and positive responses to notices.

(2) The project initiator or its designee and all excavators, locators, and facility operators involved in the large project must negotiate in good faith to reach an agreement on notice and response procedures that will be reasonable for all entities involved in the large project. A large project facility location agreement must include provisions to address the notice and response requirements in Section 58-36-60(A), (B), (C), and (E) and Section 58-36-70(B), (D), (E), and (F); these provisions must meet or exceed the standards in these subsections to protect underground facilities.

(F) All large project facility location agreements must be submitted to the notification center by the project initiator or its designee. The notification center shall be responsible for maintaining records of these agreements and must provide copies of these agreements, upon request, to any of the excavators, locators, facility operators, or any of their respective agents of subcontractors identified on the notification sheet.

(G) All excavators, locators, and facility operators that comply with the provision of a large project facility location agreement are relieved of the notice, pre-marking, marking, and response requirements in Section 58-36-60(A), (B), (C), and (E) and Section 58-36-70(B), (D),

(E), and (F).

(H) In the event any excavator, locator, or facility operator is unable or unwilling to attend the planning meeting or meetings conducted pursuant to this section, that excavator, locator, or operator must comply with the notice and location requirements agreed to in the large project facility location agreement that is a result of the meeting or meetings required under this section.

(I) The notification center must make available to any such excavator, locator, or operator a copy of the large project facility location agreement. Nothing in this section will prevent such excavator, locator, or operator from requesting adjustments to the agreement and nothing will prevent the parties to such agreement from agreeing to the requested adjustments. Any such modifications to the large project facility location agreement must be submitted by the project initiator to the notification center and maintained by it as part of its responsibilities pursuant to Section 58-36-50(L)(2) and (3).

Severability

SECTION 3. 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 4. This act takes effect one year after approval by the Governor.

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 66

(R94, H3752)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOCIAL WORK INTERSTATE COMPACT ACT" BY ADDING ARTICLE 3 TO CHAPTER 63, TITLE 40 SO AS TO PROVIDE THE PURPOSE, FUNCTIONS, OPERATIONS, AND DEFINITIONS CONCERNING THE COMPACT, AMONG OTHER THINGS; BY ADDING SECTION 40-63-32 SO AS TO REQUIRE CERTAIN CRIMINAL RECORDS CHECKS FOR SOCIAL WORKER LICENSURE APPLICANTS, AND TO PROVIDE FOR THE CONFIDENTIALITY AND PERMITTED USES OF THE RESULTS OF THESE CRIMINAL RECORDS CHECKS; TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 63, TITLE 40 AS ARTICLE 1, ENTITLED "GENERAL PROVISIONS"; AND BY AMENDING SECTION 23-23-60, RELATING TO CERTIFICATES OF COMPLIANCE ISSUED BY THE LAW ENFORCEMENT TRAINING COUNCIL AND CRIMINAL JUSTICE ACADEMY, SO AS TO PROVIDE INDIVIDUALS SEEKING SUCH CERTIFICATION SHALL UNDERGO CERTAIN FINGERPRINT-BASED STATE AND FEDERAL CRIMINAL RECORDS CHECKS, TO AUTHORIZE THE RETENTION AND SPECIFIC USES OF SUCH FINGERPRINTS, AND TO PROVIDE CERTIFICATION CLASSIFICATIONS.

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

Citation

SECTION 1. This act may be cited as the "Social Work Interstate Compact Act."

Social Work Interstate Compact

SECTION 2. Chapter 63, Title 40 of the S.C. Code is amended by adding:

Article 3

Social Work Interstate Compact

Section 40-63-510. (A) The purpose of this compact is to facilitate interstate practice of regulated social workers with the goal of improving public access to competent social work services. The compact seeks to preserve the regulatory authority of states to protect public health and safety through the current system of state licensure.

(B) This compact is designed to achieve the following objectives:

(1) increase public access to social work services by providing for the mutual recognition of other member state licenses;

(2) enhance the member states' ability to protect the public's health and safety;

(3) encourage the cooperation of member states in regulating multistate practice;

(4) support military families;

(5) facilitate the exchange of licensure and disciplinary information among member states;

(6) authorize all member states to hold a regulated social worker accountable for abiding by the member state's scope of practice in the member state in which the client is located at the time care is rendered;

(7) allow for the use of telehealth to facilitate increased access to regulated social work services;

(8) support the uniformity of social work licensure requirements throughout the states to promote public safety and access to services; and

(9) promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states.

Section 40-63-520. (A) As used in this compact, and except as otherwise provided, the following definitions shall apply:

(1) "Active Duty Military" means any individual in full-time duty status in the active uniformed service of the United States including members of the National Guard and Reserve.

(2) "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.

(3) "Alternative Program" means a nondisciplinary monitoring or practice remediation process approved by a social work licensing authority to address impaired practitioners.

(4) "Compact Commission" or "Commission" means the national administrative body whose membership consists of all member states that have enacted the compact.

(5) "Current Significant Investigative Information" means:

(a) investigative information that a licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social worker to respond has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the commission; or

(b) investigative information that indicates that the regulated social worker represents an immediate threat to public health and safety, as may be defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.

(6) "Data System" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, current significant investigative information, disqualifying event, interstate compact license and adverse action information or other information as required by the commission.

(7) "Domicile" means the jurisdiction in which the licensee resides and intends to remain indefinitely.

(8) "Disqualifying Event" means any adverse action or incident which results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain or renew an interstate compact license.

(9) "Encumbered License" means a license in which an adverse action restricts the practice of social work by the licensee and said adverse action is reportable to the National Practitioners Data Bank (NPDB).

(10) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.

(11) "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the compact and commission.

(12) "Home State" means the member state that is the licensee's primary domicile.

(13) "Impaired Practitioner" means an individual who has a condition that may impair their ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention

and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(14) "Licensee" means an individual who currently holds an authorization from the state to practice as a regulated social worker.

(15) "Licensing Authority" means the board or agency of a member state, or equivalent, that is responsible for the licensing and regulation of regulated social workers.

(16) "Member State" means a state, commonwealth, district, or territory of the United States of America that has enacted the compact.

(17) "Multistate Authorization to Practice" means a legal authorization, which is equivalent to a license, associated with an interstate compact license permitting the practice of social work in a remote state.

(18) "Interstate Compact License" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all party states under a multistate authorization to practice.

(19) "Qualifying National Exam" means a national licensing examination developed and administered by a national association of social work licensing authorities or other competency assessment approved by the commission.

(20) "Regulated Social Worker" means any clinical, master's or bachelor's social worker licensed by a member state regardless of the title used by that member state.

(21) "Remote State" means a member state other than the home state, where a licensee is exercising or seeking to exercise the multistate authorization to practice.

(22) "Rule of the Commission" means a regulation or regulations duly promulgated by the commission, as authorized by the compact, that has the force of law.

(23) "Scope of Practice" means the procedures, actions, and processes a regulated social worker in a state is permitted to undertake in that state and the circumstances under which the regulated social worker is permitted to undertake those procedures, actions and processes. Such procedures, actions and processes and the circumstances under which they may be undertaken may be established through official means, including, but not limited to, statute, rules and regulations, case law, and other processes available to the state regulatory authority or other government agency.

(24) "Single State License" means a social work license issued by any state that authorizes practice only within the issuing state and does not include a multistate authorization to practice in any member state.

(25) "Social Work" or "Social Work Services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

(26) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of social work.

(27) "Unencumbered License" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

Section 40-63-530. (A) To be eligible to participate in the compact, a potential member state must currently meet all of the following criteria:

(1) License and regulate clinical, master's, or bachelor's categories of social work practice.

(2) Require applicants for licensure to pass a corresponding qualifying national exam for the category of licensure sought as outlined in Section 40-63-540.

(3) Require applicants for licensure to graduate from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university recognized by the licensing authority and that corresponds to the licensure sought as outlined in Section 40-63-540.

(4) Require applicants for clinical licensure to complete a period of supervised practice.

(5) Have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees.

(B) To maintain membership in the compact a member state shall:

(1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;

(3) implement or utilize procedures for considering the criminal history records of applicants for an initial interstate compact license. These procedures shall 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 for the sole purpose of affirming or denying eligibility for participation in the compact; provided:

(a) a member state must utilize or fully implement a criminal background check requirement, within a time frame established by rule of the commission, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions determining eligibility for participation in the compact; and

(b) communication between a member state, the commission and among member states, through the data system or otherwise, regarding the verification of any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(4) comply with the rules of the commission;

(5) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws;

(6) authorize a licensee holding an interstate compact license in any member state to practice in accordance with the terms of the compact and rules of the commission; and

(7) designate a delegate to participate in the commission meetings.

(C) Home states may charge a fee for granting the interstate compact license.

(D) An interstate compact license issued by a home state to a resident in that state shall be recognized by all compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in the member state.

Section 40-63-540. (A) To be eligible for an interstate compact license under the terms and provisions of the compact, a regulated social worker, regardless of category must:

(1) hold an active, unencumbered license in the home state;

(2) have an active United States social security number, qualifying national exam number, or an identifier as determined by the commission;

(3) pay any applicable fees, including any state fee, for the interstate compact license;

(4) meet any continuing competence requirements established by the home state;

(5) notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within thirty days from the date the action is taken; and

(6) abide by the laws, regulations, and scope of practice in the

member state where the client is located at the time care is rendered.

(B) A regulated social worker who is a clinical category social worker must meet the following requirements:

(1) passed a clinical-category qualifying national exam. Regulated social workers holding an active and unencumbered license, who were licensed in a state before a qualifying national exam was required, may be exempted from this requirement, as provided for by the rules of the commission; and

(2) graduated with a master's degree, or higher, in social work, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university recognized by the licensing authority; and

(3) completed a period of three thousand hours or two years of full-time postgraduate supervised clinical practice.

(C) A regulated social worker who is a master's category social worker must have:

(1) passed a master's-category qualifying national exam. Regulated social workers holding an active and unencumbered license, who were licensed in a state before a qualifying national exam was required, may be exempted from this requirement, as provided for by the rules of the commission; and

(2) graduated with a master's degree, or higher, in social work, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university recognized by the licensing authority.

(D) A regulated social worker who is a bachelor's-category social worker must have:

(1) passed a bachelor's-category qualifying national exam. Regulated social workers holding an active and unencumbered license, who were licensed in a state before a qualifying national exam was required, may be exempted from this requirement, as provided for by the rules of the commission; and

(2) graduated with a bachelor's degree, or higher, in social work, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university recognized by the licensing authority.

(E) The interstate compact license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of

subsection (A).

(F) The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.

(G) If a home state license is encumbered, the regulated social worker's multistate authorization to practice shall be deactivated in all remote states until the home state license is no longer encumbered.

(H) If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

(I) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

Section 40-63-550. (A) If qualified, a regulated social worker may hold an interstate compact license issued by a home state licensing authority, which authorizes the regulated social worker to practice in all member states under a multistate authorization to practice.

(B) If an interstate compact license holder with multistate authorization to practice changes primary state of domicile by moving between two member states:

(1) the interstate compact license holder shall file an application for obtaining a new home state license based on their interstate compact license which grants a multistate authorization to practice, pay all applicable fees, and notify the current and new home member state in accordance with applicable rules adopted by the commission; and

(2) upon receipt of an application for obtaining a new home state license based on the interstate compact license which grants a multistate authorization to practice, the new home member state may verify that the regulated social worker meets the pertinent criteria outlined in Section 40-63-540 via the data system, without need for primary source verification except for:

(i) a Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(ii) other criminal background check as required by the new home state; and

(iii) completion of any requisite jurisprudence requirements of

the new home state.

(3) The former home state may convert the former home state license into a multistate authorization to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

(4) Notwithstanding any other provision of this compact, if the regulated social worker cannot meet the criteria in Section 40-63-540, the new home state may apply its requirements for issuing a new single state license.

(5) The regulated social worker shall pay all applicable fees to the new home state in order to be issued a new home state license.

(C) If a regulated social worker changes primary state of domicile by moving from a member state to a nonmember state, the nonmember state criteria shall apply for issuance of a single state license in the new nonmember state.

(D) Nothing in this compact shall interfere with a regulated social worker's ability to hold a single state license in multiple states, however for the purposes of this compact, a regulated social worker shall have only one home state license.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

Section 40-63-560. Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual may only change their home state through application for licensure in the new state, or through the process outlined in Section 40-63-550.

Section 40-63-570. (A) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) take adverse action against a regulated social worker's multistate authorization to practice within that member state, and 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 authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall 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; and

(2) only the home state shall have the power to take adverse action against a regulated social worker's home state license.

(B) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(C) The home state shall complete any pending investigations of a regulated social worker who changes primary state of domicile during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(D) A member state, if otherwise permitted by state law, may recover from the affected regulated social worker the costs of investigations and dispositions of cases resulting from any adverse action taken against that regulated social worker.

(E) A member state may take adverse action based on the factual findings of another member state, provided that the member state follows its own procedures for taking the adverse action.

(F) Joint investigations:

(1) In addition to the authority granted to a member state by its respective regulated social work practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees; and

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(G) If adverse action is taken by the home state against the interstate compact license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the interstate compact license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker shall include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order or agreement are satisfied.

(H) If a member state takes adverse action, it shall promptly notify the

administrator of the data system. The administrator of the data system shall promptly notify the home state and all other member states of any adverse actions by remote states.

(I) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Section 40-63-580. (A) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Social Work Compact Commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in Section 40-63-620.

(B) Membership, voting, and meetings:

(1) Each member state shall have and be limited to one delegate selected by that member state's licensing authority.

(2) The delegate shall be either:

(a) a current member of the state licensing authority at the time of appointment, who is a regulated social worker or public member of the licensing authority; or

(b) an administrator of the licensing authority or their designee.

(3) The commission shall by rule or bylaws establish a term of office for delegates and may by rule or bylaws establish term limits.

(4) The commission may recommend removal or suspension of any delegate from office.

(5) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the commission within sixty days of the vacancy.

(6) Each delegate shall be entitled to one vote on all matters before the commission requiring a vote by commission delegates.

(7) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference or other means of communication.

(8) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

(C) The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish code of conduct and conflict of interest policies;

(3) establish and amend rules and bylaws;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take such actions as are consistent with the provisions of this compact, the commission's rules and the bylaws;

(6) initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(7) maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(10) conduct an annual financial review;

(11) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(12) assess and collect fees;

(13) accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(14) lease, purchase, retain, or otherwise to own, hold, improve or use, any property real, personal, or mixed; or any undivided interest therein;

(15) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(16) establish a budget and make expenditures;

(17) borrow money;

(18) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(19) provide and receive information from, and cooperate with, law enforcement agencies;

(20) establish and elect an executive committee, including a chair and vice chair;

(21) determine whether a state's adopted language is materially different from the model compact language such that the state would not

qualify for participation in the compact; and

(22) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(D) The executive committee:

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:

(a) oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other duties as deemed necessary;

(b) recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states such as fees charged to licensees, and other fees;

(c) ensure compact administration services are appropriately provided, including by contract;

(d) prepare and recommend the budget;

(e) maintain financial records on behalf of the commission;

(f) monitor compact compliance of member states and provide compliance reports to the commission;

(g) establish additional committees as necessary;

(h) exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rules or bylaws; and

(i) other duties as provided in the rules or bylaws of the commission.

(2) The executive committee shall be composed of up to nine members:

(a) the chair and vice chair of the commission shall be voting members of the executive committee;

(b) five voting members who are elected by the commission from the current membership of the commission; and

(c) up to two ex-officio, nonvoting members from two recognized national social worker organizations.

(d) The ex-officio members will be selected by their respective organizations (and which will rotate terms in alphabetical order of the organizations).

(3) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(4) The executive committee shall meet at least annually.

(a) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic

meeting as provided in subsection (F)(2).

(b) The executive committee shall give seven days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(c) The executive committee may hold a special meeting in accordance with subsection (F)(1)(b).

(E) The commission shall adopt and provide to the member states an annual report.

(F) Meetings of the commission:

(1) All meetings shall be open to the public, except that the commission may meet in a closed, nonpublic meeting as provided in subsection (F)(2):

(a) public notice for all meetings of the full commission of meetings shall be given in the same manner as required under the rulemaking provisions in Section 40-63-610, except that the commission may hold a special meeting as provided in subsection (F)(1)(b).

(b) the commission may hold a special meeting when it must meet to conduct emergency business by giving forty-eight hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(2) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees;

(c) current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

(d) current, threatened, or reasonably anticipated litigation;

(e) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(f) accusing any person of a crime or formally censuring any person;

(g) trade secrets or commercial or financial information that is privileged or confidential;

(h) information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(i) investigative records compiled for law enforcement purposes;

(j) information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(k) matters specifically exempted from disclosure by federal or member state law; or

(l) other matters as promulgated by the commission by rule.

(3) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(G) 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 may accept any and all appropriate revenue sources, as provided in subsection(C)(12).

(3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants an interstate compact license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission, shall promulgate by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review

by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(H) Qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any 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 paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The commission shall defend any member, officer, executive director, employee and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission 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 shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person 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 the intentional or willful or wanton misconduct of that person.

(4) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

Section 40-63-590. (A) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of current significant investigative information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or an interstate compact license and information related thereto;

(4) nonconfidential information related to alternative program participation, the beginning and end dates of such participation, and other information related to such participation not made confidential under member state law;

(5) any denial of application for licensure, and the reason for such denial;

(6) the presence of current significant investigative information; and

(7) other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(C) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.

(D) Current significant investigative information pertaining to a licensee in any member state will only be available to other member states.

(E) It is the responsibility of the member states to report any adverse

action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(F) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(G) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

Section 40-63-600. (A) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(B) The rules of the commission shall have the force of law in each member state, provided however that where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(C) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified in each rule.

(D) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(E) Rules shall be adopted at a regular or special meeting of the commission.

(F) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(G) Prior to adoption of a proposed rule by the commission, and at least thirty days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(1) on the website of the commission or other publicly accessible platform;

(2) to persons who have requested notice of the commission's notices of proposed rulemaking; and

(3) in such other way as the commission may by rule specify.

(H) The notice of proposed rulemaking shall include:

(1) the time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(2) if the hearing is held via telecommunication, video conference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(3) the text of the proposed rule and the reason therefore;

(4) a request for comments on the proposed rule from any interested person; and

(5) the manner in which interested persons may submit written comments.

(I) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(J) Nothing in this section shall 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.

(K) The commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule. The commission also:

(1) may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule;

(2) shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters; and

(3) shall determine a reasonable effective date for the rule. Except for an emergency as provided in Section 40-63-610(L), the effective date of the rule shall be no sooner than thirty days after issuing the notice that it adopted or amended the rule.

(L) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with twenty-four or forty-eight hours' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section shall 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 provision, 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 member state funds;

(3) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(4) protect public health and safety.

(M) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be 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 shall be made in writing and delivered to the commission prior to 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.

(N) No member state's rulemaking requirements shall apply under this compact.

Section 40-63-610. (A) Oversight:

(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(2) Venue is proper and judicial proceedings by or against the commission shall 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. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render 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 member state has defaulted

in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(C) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state 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.

(D) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority and each of the member states' state licensing authority.

(E) A state that 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.

(F) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six months after the date of said notice of termination.

(G) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(H) The defaulting state may appeal the action of the commission by petitioning the Unites States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(I) Dispute resolution:

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states

and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(J) Enforcement:

(1) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(2) A member state may initiate legal action against the commission in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) No person other than a member state shall enforce this compact against the commission.

Section 40-63-620. (A) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact. All actions taken for the benefit of the commission and/or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact and/or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(B) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until one hundred eighty days after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(D) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six months after the date of such notice of withdrawal.

(E) Nothing contained in this compact shall be construed to invalidate or prevent any social work licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(F) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 40-63-630. (A) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(B) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(C) Notwithstanding subsection (B), the commission may deny a state's participation in the compact or, in accordance with the requirements of Section 40-63-620(B), terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is, or would be with respect to a state

seeking to participate in the compact, a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 40-63-640. (A) A licensee providing services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including scope of practice, of the remote state where the client is located at the time care is rendered.

(B) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(C) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(D) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

(E) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(F) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Social workers licensure requirements, criminal records checks, results retention and uses

SECTION 3. Chapter 63, Title 40 of the S.C. Code is amended by adding:

Section 40-63-32. In addition to other requirements established by law, a person applying for initial licensure as a social worker pursuant to this chapter or participation in the Social Work Interstate Compact set forth in Article 3 must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division (SLED), and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED and the FBI are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep

information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action.

Redesignation of existing provisions of Chapter 63, Title 40

SECTION 4. The existing sections of Chapter 63, Title 40 are designated as Article 1, entitled "General Provisions."

Law enforcement certifications, criminal records checks, fingerprint retention and uses

SECTION 5. Section 23-23-60 of the S.C. Code is amended by adding:

(E) An individual seeking certification pursuant to this section shall undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation (FBI). SLED is authorized to retain the fingerprints for certification purposes and for notification of the academy regarding criminal charges. Both SLED and the FBI may retain the applicant's fingerprints for future submission to the Next Generation Identification (NGI) program and for latent fingerprint searches. The results of these criminal record checks must be reported to the academy and cannot be further disseminated. Certification is defined as:

(1) Class I Law Enforcement (Class I LE) - Law enforcement officers with full arrest powers.

(2) Class II Local Corrections (Class II LCO) - Local Detention Officers.

(3) Class II State Corrections (Class II SCO) - South Carolina Department of Corrections Officers.

(4) Class II Juvenile Corrections (Class II JCO) - South Carolina Department of Juvenile Justice Officers.

(5) Class I Law Enforcement/Corrections (Class I LECO) - Law enforcement officers employed with one law enforcement agency, whose job requires the routine performance of both Class I LE duties and jail/detention center duties.

(6) Class III Special Law Enforcement (Class III SLE) - Law enforcement officers with limited powers of arrest or special duties.

(7) Class III Special Law Enforcement/Corrections (Class III SLECO) - Law enforcement officers employed with one law enforcement agency, whose job requires the routine performance of both

Class III SLE and Class II Corrections/Jail/Detention Center duties. In order for a detention center and/or a sheriff's office to send candidates for Class III SLECO, the detention center must fall under the sheriff's authority.

(8) Class IV (TCO) - means a telecommunications operator or dispatcher employed in an E-911 system.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 67

(R95, H4247)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 39-73-10, RELATING TO STATE COMMODITY CODE DEFINITIONS, SO AS TO PROVIDE THAT THE ADMINISTRATOR OF THE STATE COMMODITY CODE BE THE SOUTH CAROLINA ATTORNEY GENERAL; BY AMENDING SECTION 39-73-40, RELATING TO TRANSACTIONS WHERE PROHIBITION IS NOT APPLICABLE, SO AS TO ADD AGENTS OR INVESTMENT ADVISOR REPRESENTATIVES AS INDIVIDUALS SUBJECT TO ORDERS TO DENY, SUSPEND, OR REVOKE A PERSON'S LICENSE; BY AMENDING SECTION 39-73-60, RELATING TO PROHIBITED ACTS, SO AS TO REPLACE SECTION 39-73-310 WITH SECTION 39-73-30; BY AMENDING SECTION 39-73-315, RELATING TO ADMINISTRATOR ACTIONS TO PREVENT VIOLATIONS OR IMMINENT VIOLATIONS, SO AS TO PROVIDE THAT THE ADMINISTRATOR CAN ISSUE ORDERS RELATED TO ANY ACTION THAT MAY VIOLATE THIS CHAPTER; BY AMENDING SECTION 39-73-320, RELATING TO LEGAL,

EQUITABLE, AND SPECIAL REMEDIES AVAILABLE TO A COURT FOR ENFORCEMENT, SO AS TO PROVIDE THAT THE ADMINISTRATOR MAY MAINTAIN AN ACTION IN THE RICHLAND COUNTY COURT OF COMMON PLEAS; BY AMENDING SECTION 39-73-325, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO PROVIDE THAT THE ADMINISTRATOR MAY REFER VIOLATIONS TO THE APPROPRIATE DIVISION OF THE OFFICE OF ATTORNEY GENERAL OR OTHER AUTHORITY; BY AMENDING SECTION 39-73-330, RELATING TO THE ADMINISTRATION OF THIS CHAPTER, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 39-73-340, RELATING TO THE AUTHORITY TO PROMULGATE REGULATIONS, FORMS, AND ORDERS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 39-73-350, RELATING TO THE APPLICABILITY OF SECTIONS 39-73-20, 39-73-50, AND 39-73-60 TO PERSONS WHO SELL, BUY, OR OFFER TO SELL OR BUY COMMODITIES IN THIS STATE, SO AS TO PROVIDE GUIDELINES FOR APPLICABLE RADIO AND TELEVISION COMMUNICATIONS; BY AMENDING SECTION 39-73-360, RELATING TO JUDICIAL REVIEW, SO AS TO PROVIDE GUIDELINES; BY AMENDING SECTION 39-73-370, RELATING TO DEFENSE IN A CASE BASED ON FAILURE TO MAKE PHYSICAL DELIVERY, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 39-73-375 SO AS TO PROVIDE THAT THE ATTORNEY GENERAL MAY RETAIN FUNDS FROM FINES AND PENALTIES TO OFFSET RELEVANT EXPENSES; BY REPEALING SECTION 39-73-355 RELATING TO ADMINISTRATIVE PROCEEDINGS; AND BY AMENDING SECTION 4-9-145, RELATING TO LITTER CONTROL OFFICERS, SO AS TO PROVIDE WHAT DATA IS USED TO DETERMINE THE NUMBER OF LITTER CONTROL OFFICERS.

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

Administrator definition

SECTION 1. Section 39-73-10(1) of the S.C. Code is amended to read:

(1) “Administrator” means the South Carolina Attorney General.

Agent and investment advisors

SECTION 2. Section 39-73-40(D) of the S.C. Code is amended to read:

(D) The administrator, by order, may deny, suspend, revoke, or place limitations on the authority to engage in business as a qualified seller under item (2) of subsection (A) if the administrator finds that the order is in the public interest and that the person, the person's officers, directors, partners, agents, servants, or employees, a person occupying a similar status or performing similar functions, or a person who directly or indirectly controls or is controlled by the seller, or his affiliates or subsidiaries:

(1) has filed a notice of intention under subsection (C) with the administrator or the designee of the administrator which was incomplete in material respect or contained a statement which was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(2) within the last ten years, has pled guilty or nolo contendere to, or been convicted of a crime indicating a lack of fitness to engage in the investment commodity business;

(3) has been enjoined permanently or temporarily by a court of competent jurisdiction from engaging in or continuing conduct or a practice which injunction indicates a lack of fitness to engage in the investment commodities business;

(4) is the subject of an order of the administrator denying, suspending, or revoking the person's license as a securities broker-dealer, agent, sales representative, investment advisor, or investment advisor representative;

(5) is the subject of one or more of the following orders which currently are effective and which were issued within the last five years:

(a) an order by a securities agency or an administrator of another state, Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission entered after notice and opportunity for hearing, denying, suspending, or revoking the person's registration as a futures commission merchant, commodity trading adviser, commodity pool operator, securities broker-dealer, agent, sales representative, investment adviser or investment advisor representative, or the substantial equivalent of the foregoing;

(b) suspension or expulsion from membership in, or association with, a self-regulatory organization registered under the Securities Exchange Act of 1934 or the Commodity Exchange Act;

(c) a United States Postal Service fraud order;

(d) a cease and desist order entered after notice and opportunity of hearing by the administrator or a securities agency or an administrator of another state, Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission;

(e) an order entered by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act.

(6) has engaged in an unethical or a dishonest act or practice in the investment commodities or securities business; or

(7) has failed reasonably to supervise sales representatives or employees.

Prohibited acts

SECTION 3. Section 39-73-60 of the S.C. Code is amended to read:

Section 39-73-60. No person, directly or indirectly, in or in connection with the purchase or sale of, the offer to sell, the offer to purchase, the offer to enter into, or the entry into of, a commodity contract or commodity option subject to Sections 39-73-20, 39-73-30, or 39-73-40(A)(2) or (4), may:

(1) cheat or defraud or attempt to cheat or defraud a person or employ a device, a scheme, or an artifice to defraud a person;

(2) make a false report, enter a false record, or make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) engage in a transaction, an act, a practice, or a course of business, including without limitation a form of advertising or solicitation which operates or would operate as a fraud or deceit upon a person; or

(4) misappropriate or convert the funds, security, or property of a person.

Issuing orders

SECTION 4. Section 39-73-315 of the S.C. Code is amended to read:

Section 39-73-315. (A) If the administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule

adopted or order issued under this chapter, then the administrator may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(2) issue an order imposing a civil penalty of not more than ten thousand dollars for a single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings; or

(3) initiate the actions specified in Section 39-73-320.

(B) An order issued pursuant to subsection (A) is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within thirty days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within thirty days after the date of service of the order, then the order, which may include a civil penalty or any costs of the investigation if a civil penalty or costs were sought, becomes final as to that person by operation of law. If a hearing is requested or ordered, then the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(C) If a hearing is requested or ordered pursuant to subsection (B), then a hearing must be held. A final order may not be issued unless the administrator makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (A).

(D) In a final order under subsection (C), the administrator may impose a civil penalty in an amount not to exceed ten thousand dollars for each violation.

(E) In a final order, the administrator may charge the actual cost of an investigation or proceeding for a violation of this chapter or a rule adopted or order issued under this chapter.

(F) If a petition for judicial review of a final order is not filed in accordance with this chapter, then the administrator may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(G) If a person does not comply with an order under this section, then the administrator may petition a court of competent jurisdiction to enforce the order. The court may not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, then the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five hundred dollars but not greater than five thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(H) All orders issued under this section are public documents subject to the Freedom of Information Act and must be published on the Attorney General's website searchable by the name of the parties involved.

Cause of action

SECTION 5. Section 39-73-320 of the S.C. Code is amended to read:

Section 39-73-320. (A) If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or order issued under this chapter, then the administrator may maintain an action in the Richland County Court of Common Pleas to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or order issued under this chapter.

(B) In an action pursuant to this section and on a proper showing, the court may:

(1) issue a permanent or temporary injunction, restraining order, or declaratory judgment;

(2) order other appropriate or ancillary relief, which might include:

(a) an asset freeze, accounting, writ or attachment, writ of general or specific execution, and appointment of a receiver or conservator, that may be the administrator, for the defendant or the defendant's assets;

(b) ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property;

(c) imposing a civil penalty in an amount not to exceed ten thousand dollars for each violation; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter; and

(d) ordering the payment of prejudgment and post-judgment interest; or

(3) order such other relief as the court considers appropriate.

(C) The administrator may not be required to post a bond in an action or proceeding under this chapter.

(D)(1) Upon a proper showing by the administrator or securities or commodity agency of another state that a person, other than a government or governmental agency or instrumentality, has violated, or is about to violate, the commodity code of that state or a regulation or order of the administrator or securities or commodity agency of that state, the court may grant appropriate legal and equitable remedies.

(2) Upon showing of a violation of the securities or commodity act of the foreign state or a regulation or order of the administrator or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant the following special remedies:

(a) disgorgement;

(b) appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant’s assets located in this State.

(3) Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a regulation or order of the administrator or securities or commodity agency of the foreign state is limited to:

(a) temporary restraining order;

(b) temporary or permanent injunction;

(c) writ or prohibition or mandamus; or

(d) order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant’s assets located in this State.

Penalties

SECTION 6. Section 39-73-325 of the S.C. Code is amended to read:

Section 39-73-325. (A) A person who wilfully violates this chapter or a regulation or order of the administrator under this chapter, upon conviction, must be fined not more than twenty thousand dollars, or imprisoned not more than ten years, or both, for each violation.

(B) A person convicted of violating this chapter or a regulation or order under this chapter may be fined but must not be imprisoned if the person proves he had no knowledge of the rule or order.

(C) The administrator may refer evidence available concerning violations of this chapter or a regulation or order of the administrator to the appropriate division of the Office of Attorney General, the appropriate solicitor, or other appropriate prosecution, law enforcement, or licensing authorities who, with or without a reference from the administrator, may institute the appropriate criminal proceedings under this chapter.

Administration

SECTION 7. Section 39-73-330(A) of the S.C. Code is amended to read:

(A) This chapter must be administered by the South Carolina Attorney General.

Conforming changes

SECTION 8. Section 39-73-340(A) of the S.C. Code is amended to read:

(A) In addition to specific authority granted elsewhere in this chapter, the administrator may make, amend, or rescind regulations, forms, and orders as are necessary to carry out this chapter. The regulations or forms must include, but are not limited to, regulations defining terms, whether or not used in this chapter. The definitions must not be inconsistent with this chapter. For the purpose of regulations or forms the administrator may classify commodities and commodity contracts, persons, and matters within the administrator’s jurisdiction.

Programs and communications

SECTION 9. Section 39-73-350(D) of the S.C. Code is amended to read:

(D) An offer to sell or to buy is not made in this State when:

(1) the publisher circulates or there is circulated on his behalf in this State a bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this State or which is published in this State but has had more than two-thirds of its circulation outside this State during the past twelve months; and

(2) a radio or television program or other electronic communication originating outside this State is received in this State. A radio or television program, or other electronic communication, is considered as having originated in this State if either the broadcast studio or the originating source of transmission is located in this State, unless:

(a) the program or communication is syndicated and distributed from outside this State for redistribution to the general public in this State;

(b) the program or communication is supplied by a radio, television, or other electronic network with the electronic signal originating from outside this State for redistribution to the general public in this State;

(c) the program or communication is an electronic communication that originates outside this State and is captured for redistribution to the general public in this State by a community antenna or cable, radio, cable television, or other electronic system; or

(d) the program or communication consists of an electronic communication that originates in this State, but which is not intended for distribution to the general public in this State.

Judicial review

SECTION 10. Section 39-73-360 of the S.C. Code is amended to read:

Section 39-73-360. A person aggrieved by a final order of the administrator may obtain a review of the order in the Richland County Court of Common Pleas by filing in the court, within thirty days after entry of the order, a written petition praying that the order may be modified or set aside, in whole or in part. The aggrieved person, upon filing a petition, may move before the court in which the petition is filed to stay the effectiveness of the administrator’s final order until such time

as the court has reviewed the order. If the court orders a stay, then the aggrieved person must post any bond set by the court in which a petition is filed. A copy of the petition must be served upon the administrator and the administrator shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The findings of the administrator regarding the facts, if supported by competent, material, and substantial evidence, are conclusive.

Conforming changes

SECTION 11. Section 39-73-370 of the S.C. Code is amended to read:

Section 39-73-370. It is a defense in a complaint, information, indictment, a writ, or a proceeding brought under this chapter alleging a violation of Section 39-73-20 based solely on the failure in an individual case to make physical delivery within the applicable time under Section 39-73-10(5) or Section 39-73-40(A)(2) if:

(1) failure to make physical delivery was due solely to factors beyond the control of the seller, the seller's officers, directors, partners, agents, servants, or employees, persons occupying a similar status or performing similar functions, persons who directly or indirectly control or are controlled by the seller, or the seller's affiliates, subsidiaries, or successors; or

(2) physical delivery was completed within a reasonable time under the applicable circumstances.

Fines and penalties

SECTION 12. Chapter 73, Title 39 of the S.C. Code is amended by adding:

Section 39-73-375. The Office of Attorney General may retain the first seven hundred fifty thousand dollars in fines and penalties received in a fiscal year in settlement of litigation enforcement actions and reimbursements of expenses arising from violations under this chapter to offset investigative, prosecutorial, and administrative costs of enforcing this chapter, after which any excess fines and penalties received in a fiscal year must be deposited into the general fund. The Attorney General shall issue an annual report to the President of the Senate, the Speaker of the House, the Chairman of the Senate Finance

Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Labor, Commerce and Industry Committee, and the Chairman of the House Labor, Commerce and Industry Committee. This report shall include the total amount of civil penalties collected by the Office of Attorney General for violations of the Commodities Code, the amount of restitution and disgorgement ordered to be paid for violations of the Commodities Code, the amount of fines and penalties retained by the Office of Attorney General pursuant to this section, and the amount of excess fines and penalties that were deposited into the general fund pursuant to this section.

Repeal

SECTION 13. Section 39-73-355 of the S.C. Code is repealed.

Litter control officers

SECTION 14. Section 4-9-145(B) of the S.C. Code is amended to read:

(B)(1) The number of litter control officers vested with custodial arrest authority who are appointed and commissioned pursuant to subsection (A) must not exceed the greater of:

(a) the number of officers appointed and commissioned by the county on July 1, 2001; or

(b) one officer for every twenty-five thousand persons in the county, based upon the most recent census. Each county may appoint and commission at least one officer, without regard to the population of the county.

(2)(a) A litter control officer appointed and commissioned pursuant to subsection (A) may exercise the power of arrest with respect to his primary duties of enforcement of litter control laws and ordinances and other state and local laws and ordinances as may arise incidental to the enforcement of his primary duties only if the officer has been certified as a law enforcement officer pursuant to Chapter 23, Title 23.

(b) In the absence of an arrest for a violation of the litter control laws and ordinances, a litter control officer authorized to exercise the power of arrest pursuant to subitem (a) may not stop a person or make an incidental arrest of a person for a violation of other state and local laws and ordinances.

(3) For purposes of this section, the phrase “litter control officer” means a code enforcement officer authorized to enforce litter control laws and ordinances.

Severability

SECTION 15. 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 16. This act takes effect upon approval by the Governor.

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

No. 68

(R96, H4267)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-320 SO AS TO DESIGNATE THE TWENTY-FIRST DAY OF NOVEMBER AS "MAYFLOWER COMPACT DAY."

Whereas, the Mayflower Compact was the first written document providing for self-government in what would later become the United States of America. It laid the foundations for the Declaration of Independence, which stated that governments derive their powers "from the consent of the governed," and the US Constitution; and

Whereas, the Mayflower Compact was the first governing document of

Plymouth Colony. It was written by the men aboard the Mayflower, consisting of separatists, merchant adventurers, and tradesmen; and

Whereas, due to storms, the Mayflower crew and passengers found themselves far from the Colony of Virginia, where they had permission to start a new colony; and

Whereas, since they were not in Virginia, the laws and governance of Virginia no longer applied to their new colony. Therefore, the passengers decided they needed to work together to define how they would govern themselves; and

Whereas, of one hundred one Mayflower passengers, forty-one signed the Compact while anchored in Provincetown Harbor, Massachusetts. Many of the others were too sick to join the discussion and signing of the Compact; and

Whereas, the Mayflower Compact of 1620 laid the foundation of liberty based on law and order. The Mayflower passengers drew up a form of government that has been designated as the first real constitution of modern times. It was democratic, an acknowledgment of liberty under law and order and the giving to each person the right to participate in the government, and each of its signees promised to be obedient to laws enacted under its authority; and

Whereas, the Mayflower Compact reads as follows:

"IN THE NAME OF GOD, AMEN. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid: And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience. IN WITNESS whereof we have hereunto subscribed our names at Cape-Cod the eleventh of

November, in the Reign of our Sovereign Lord King James, of England, France, and Ireland, the eighteenth, and of Scotland the fifty-fourth, Anno Domini; 1620." Now, therefore,

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

Mayflower Compact Day

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

Section 53-3-320. The twenty-first day of November of each year is designated as "Mayflower Compact Day" in South Carolina.

Time effective

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

Ratified the 20th day of May, 2025

Approved the 22nd day of May, 2025

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