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Legislative update

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South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **S.19** and enrolled the bill for ratification. The legislation revises **BAIL AND BOND PROVISIONS** in criminal court proceedings, including more stringent bond provisions that apply to someone who is charged with committing a violent crime while already out on bond for a previous violent offense. This legislation requires a bond hearing to occur within thirty days in circuit court when someone commits a violent crime while already out on bond for a previous violent crime and the subsequent violent crime did not arise out of the same series of events as the previous violent crime. If the judge finds at this hearing that there are no conditions of release that will ensure that the person is unlikely to flee or pose a danger to the community, the legislation requires the judge not to set bond for the most recent offense and to revoke all previously set bonds. The arresting law enforcement agency must transmit notice of the second arrest to the solicitor of the circuit in which the crime was committed as well as to the circuit's administrative chief judge. The prosecuting agency must make the required notifications about bond hearings to any victims of the initial or subsequent crimes. Additionally, the legislation brings greater uniformity to the statutory lists of considerations that judges and magistrates use for setting bond. The legislation adds the requirement that both judges and magistrates consider whether the charged person appears in the state gang database maintained at the State Law Enforcement Division when making a determination about bond. The legislation allows someone to make bond payments directly to a jail or detention center to obtain immediate release from custody. A legislative Study Committee on Bonds is created to review the state's bond laws and report its recommended changes to the General Assembly by December 31, 2014, at which time the study committee is dissolved.

The House concurred in Senate amendments to **H.4347**, the "**SOUTH CAROLINA CHILDREN'S ADVOCACY MEDICAL RESPONSE SYSTEM ACT**", and enrolled the bill for ratification. This legislation creates the South Carolina Children's Advocacy Medical Response System, under the administration of the University of South Carolina School of Medicine, to provide statewide coordination and medical service resources, assisting and collaborating with children's advocacy centers and state agencies charged with the investigation, assessment, treatment, and prosecution of child abuse or neglect for children in the state. The program is charged with developing, supporting, and maintaining a consistent quality standard of care and practice for services intrinsic to the assessment of children who are suspected victims of abuse or neglect, such as medical expert witness services and forensic medical examinations, assessments, and diagnoses. The program is responsible for providing guidance on the training of health care providers participating in the forensic medical assessment of suspected victims of child abuse or neglect, the reporting of findings, and criteria for when a forensic medical assessment should be obtained by the South Carolina Department of Social Services and law enforcement agencies. The program is required to collect and manage data from participating health care providers, children's advocacy centers, and children's hospitals for the purposes of establishing quality assurance programs, research, and public policy guidance.

The House approved and sent the Senate **H.4968**, a bill **REVISING THE EDUCATION FINANCE ACT FUNDING FORMULA** for allocating funds to the state's public schools.

The legislation provides for new weightings in the EFA distribution formula that are specifically geared towards such populations as students with limited English language proficiency and pupils in poverty and places new emphasis on funding for personalized instruction in such areas as precareer and career technology, young adults pursuing adult education programs, gifted and talented education, and academic assistance for those failing to meet state standards for mathematics and English language arts. These revisions to the Education Finance Act coordinate with the education funding provisions included in the general appropriation bill approved by the House earlier this year.

The House approved and sent the Senate **H.4732**, a bill relating to the **CONDUCT OF POLITICAL PARTY PRIMARY ELECTIONS** for selecting a party's candidate for public office. This legislation allows the process for conducting presidential preference primaries that has been used in recent years to apply to future primaries, which facilitates the retention of South Carolina's "First in the South" position for presidential primaries. The legislation eliminates references to the 2008 election cycle and makes other revisions so that the State Election Commission continues to play its role in conducting the preference primary elections that political parties hold for determining their candidates for President of the United States. The legislation allows the State Election Commission to carry forward any candidate filing fees left unexpended in primary and general election accounts for later use in carrying out the same purposes.

The House approved and sent the Senate **H.4501**, a bill revising **STATE UNDERGROUND PETROLEUM ENVIRONMENTAL RESPONSE BANK (SUPERB) ACT** provisions administered by the Department of Health and Environmental Control that relate to reimbursements from the SUPERB Account for environmental rehabilitation services needed at cleanup sites where underground petroleum storage tanks have leaked. This legislation sets rates for cleanups at the levels provided under the 2011 allowable cost reimbursement schedule, returning rates to levels that existed prior to DHEC's recent decision to reduce reimbursement rates paid to companies providing site rehabilitation services by around thirty percent.

The House amended, approved, and sent the Senate **H.4519**, a bill establishing the **CAPITOL POLICE FORCE**. The legislation provides for multiple authorities currently responsible for security in various jurisdictions at the Capitol Complex to be consolidated within a single Capitol Police Force charged with providing police protection for the State House, the capitol grounds, and its employees and visitors. The legislation creates the Capitol Police Force Committee, consisting of the Sergeant at Arms of the Senate, the Sergeant at Arms of the House of Representatives, and the Director of General Services as a nonvoting member, and establishes the committee's duties, including the appointment of the newly-created position of Chief of the Capitol Police Force who serves at the pleasure of the committee. Portions of the Department of Public Safety and the Bureau of Protective Services that provide security at the Capitol Complex are transferred to the new Capitol Police Force, but the consolidation excludes those responsible for protecting the Governor and gubernatorial staff. The Chief of the Capitol Police Force, the Sergeants at Arms of the Senate and House, and their deputy officers shall: (1) protect persons and property at the State House and capitol grounds, in all state buildings, parking lots and garages on or around the capitol grounds; (2) preserve and maintain proper order and decorum; (3) prevent unlawful assemblies and disorderly conduct; (4) enforce the laws pertaining to trespass and related offenses; (5) provide security services for all persons and property involved in the operation and parking of motor vehicles in state parking lots and garages on or around the capitol grounds; and

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(6) enforce the laws of the State of South Carolina and arrest, with or without warrant, a person in the areas over which they have jurisdiction who is or is reasonably believed to be committing an offense and deliver the person to any court of competent jurisdiction to be dealt with according to the law. Under the consolidated arrangement, the Sergeants at Arms of the Senate and House of Representatives and their deputy officers retain exclusive care and charge over their respective legislative chambers and State House committee rooms, and shall have primary care and charge over their respective legislative buildings on the capitol grounds as well as primary responsibility for providing security services for their respective members attending public meetings located outside the State House and the capitol grounds. The legislation authorizes the acceptance of grants and other revenue for funding security at the capitol, requires annual training provided by the State Law Enforcement Division, and provides for coordination with other jurisdictions in criminal investigations and other security matters.

The House amended, approved, and sent the Senate **H.3400**, a bill addressing **DEPARTMENT OF SOCIAL SERVICES REPORTS AND AUDITS**. This legislation requires the Department of Social Services (DSS) to report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs, the number of individuals who have completed educational, employment, or training programs, and the number of individuals who have become employed and the duration of their employment. Under current law, it is the Legislative Audit Council (LAC) that evaluates and reports similar information to the General Assembly every two years. Also, this legislation requires LAC to conduct a management performance audit of a program of DSS every three years with selection of the program to be reviewed determined after consultation with the House Judiciary Committee and the Senate General Committee. The legislation authorizes LAC to charge DSS for federal funds, if available, for the costs associated with the audit.

The House amended, approved, and sent the Senate **H.4408**, legislation revising the membership of the **STATE CHILD FATALITY ADVISORY COMMITTEE** which reviews investigations of suspicious child fatalities and performs reporting and public education functions relating to the preventable death of children. The legislation expands the membership of the advisory committee by adding one senator appointed by the President Pro Tempore of the Senate, one representative appointed by the Speaker of the House of Representatives, and the Chief Executive Officer of the Children's Trust of South Carolina. The legislation revises the qualifications for the pediatrician serving on the committee who is appointed by the Governor by providing for that member to be a board certified or eligible for board certification child abuse pediatrician with experience in diagnosing and treating child abuse and neglect.

The House approved and sent the Senate **H.3361**. This legislation authorizes **PROTECTIONS FOR PETS IN COURT ORDERS OF PROTECTION FROM DOMESTIC ABUSE** in order to prevent the mistreatment of an animal from being used as a means of threatening or coercing a domestic abuse victim. This legislation authorizes a court to prohibit harm or harassment of a pet animal in an order of protection from domestic abuse. The court may also order the temporary possession of pets when providing for the temporary possession of personal property.

The House approved and sent the Senate **H.4646**, a bill relating to the **BOARD OF TRUSTEES OF THE GOVERNOR'S SCHOOL FOR SCIENCE AND MATHEMATICS**.

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Under current law, the provost or vice president for academic affairs from Clemson University, the University of South Carolina, and the Medical University of South Carolina serve as ex officio members of the Board of Trustees of the Governor's School for Science and Mathematics. This legislation allows each of these ex officio members from the state's higher education research institutions to designate a person to serve in his place on the board of trustees.

The House amended, approved, and sent the Senate **H.4670**, legislation establishing an **EXPEDITED MORTGAGE FORECLOSURE PROCESS FOR ABANDONED PROPERTY**.

The House approved and sent the Senate **H.4630**, a bill relating to the **EXPIRATION OR LAPSE OF THE LAW ENFORCEMENT CERTIFICATION OF AN OFFICER UPON HIS DISCONTINUANCE OF EMPLOYMENT**. The legislation provides an exemption when the law enforcement officer's employment is discontinued because of his absence from work due to a disability he sustained in that employment for which he receives workers' compensation benefits and from which he has not been authorized to return to work without restriction. The legislation requires satisfaction of continuing education requirements for this period and makes these provisions retroactive to January 1, 2013.

The House committed to the Judiciary Committee **H.3945**, legislation to enhance the **ETHICS ACT REQUIREMENTS** that govern the conduct of public officials.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Thursday, March 27, 2014, and reported out several bills.

The committee gave a favorable with amendment recommendation to **H.4839**, a bill that reduces the number of **GAME ZONES** in the state. The legislation reduces game zones from six to four in order to provide for more standardization and simplification of the state game laws.

S.876, relating to **DEER HUNTING NEAR A RESIDENCE**, was given a favorable with amendment recommendation by the committee. The legislation revises that it is unlawful to hunt deer with a firearm within three hundred yards of a residence when less than ten feet above the ground without permission of the owner and occupant.

H.4864, a bill regarding the **LABELING AND TAGGING REQUIREMENTS FOR AGRICULTURAL, VEGETABLE, AND FLOWER SEEDS**, received a favorable recommendation from the committee. The legislation revises current labeling requirements to include dates.

The committee gave a favorable with amendment recommendation to **H.4945**, legislation dealing with **CATCH LIMITS FOR SPOT, WHITING AND ATLANTIC CROAKER**. The bill outlines that it is unlawful to take or possess in any one day more than 50 of a combination of spot, whiting, and Atlantic croaker. This provision does not apply to commercial fishing.

S.1028, legislation that increases the amount of horsepower of **WATERCRAFT OPERATED ON TUGALO LAKE** from 20 to 25, was given a favorable recommendation by the committee. The Tugalo Lake is located in Oconee County.

S.1010, a bill that establishes the **SOUTH CAROLINA TOM YAWKEY CENTER TRUST FUND**, was given a favorable recommendation by the committee. The income and principal of this trust fund must be used only for the purposes of supporting the operation and maintenance and the acquisition of additional real property complementary to those tracts of real property owned by the South Carolina Department of Natural Resources in Georgetown County, including South Island and the greater parts of North Island and Cat Island, known collectively as the Tom Yawkey Wildlife Center. Currently, an old ferry is used to get to these properties. Specially the funds are to be used to build and maintain a barge bridge.

The South Carolina Department of Natural Resources has full authority over the administration of the fund. The chairman and board membership will be chairman and members of the board of the Department of Natural Resources.

S.986, legislation dealing with **HUNTING, FISHING, OR TRAPPING WITHOUT CONSENT ON THE LAND OF OTHERS** also known as the "**TRESPASSING BILL**", was given a favorable recommendation by the committee. This bill increases the penalties for first offense to no more than five hundred dollars and second offense to no less than five hundred dollars and no more than one thousand dollars, and subsequent offenses to no less than one thousand dollars and no more than two thousand five hundred dollars.

The committee gave a favorable recommendation to **S.839**, a bill dealing with **INDUSTRIAL HEMP**. The Federal government places hemp in the marijuana category. Hopefully, hemp will be declassified, as the Federal Farm Bill does include hemp and it was recently signed by the President. Currently ten states have passed legislation. This bill provides that it is lawful to grow hemp in this state; however, the state must obtain a Federal permit for production.

Hemp is a fiber and oilseed crop with a wide variety of uses, including twine, rope, paper, construction materials, carpeting, and clothing, and has the potential for use as a cellulosic ethanol biofuel. The legislation further states that it is also lawful for an individual to cultivate, produce, or grow industrial hemp to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp. Industrial hemp is excluded from the definition of marijuana.

The full committee gave a favorable recommendation to **S.714**, legislation providing for the "**SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT**". The bill allows the Department of Natural Resources to regulate the business of propagating alligators for commercial purposes and the hunting, control and management of alligators.

EDUCATION AND PUBLIC WORKS

On March 19, the Education and Public Works Committee gave a favorable with amendment recommendation to **H.3994**, legislation that which enacts the "**SOUTH CAROLINA READ TO SUCCEED ACT**". Highlights of the legislation include the following.

Comprehensive Reading Plans

The legislation requires the Department of Education (Department) with approval by the State Board of Education (Board) to develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in public schools; the State Reading Proficiency Plan must be approved by the Board by February 1, 2015.

Beginning in Fiscal Year 2015-2016, the legislation requires each district to prepare a comprehensive annual reading proficiency plan for prekindergarten through twelfth grade consistent with the plan. Also, the legislation requires school districts to engage the families of students as partners in promoting the reading and writing habits and skills of their children as well as encourages districts to create family school community partnerships that focus on increasing the volume of reading.

Each school must prepare an implementation plan aligned with the plan of its district; the school plan should be sufficiently detailed to provide practical guidance for classroom teachers. In consultation with the School Improvement Council, each school must include in its plan the training and support that will be provided to parents.

South Carolina Read to Succeed Office

This legislation creates the South Carolina Read to Succeed Office (Office) within the Department to offer a comprehensive, systemic approach to reading. The Office must support districts and individual schools with providing families with helpful information about engaging families of students as partners in promoting reading and writing habits and skills of their children. The Office must guide and support districts and collaborate with university teacher training programs to increase reading proficiency through a variety of functions including providing professional development as well as providing statistical information relating to summer reading camps and third grade level promotions and retentions of students. Other duties of the Office include developing the format for the reading plan, establishing the deadline for districts to submit their plans to the office for approval, reviewing and approving the district plans, monitoring the district and school plans, and using their findings to inform the training and support it provides. A school district that does not submit a plan or whose plan is not approved will receive no state funds for reading until it submits a plan that is approved. Also, the Office must provide an annual report to the General Assembly regarding the implementation of this legislation and the state's and districts' progress toward ensuring that ninety-five percent of all students are reading at grade level.

Readiness Assessment and Reading Support

The legislation requires the Board to ensure that every student entering the public schools for the first time in prekindergarten and kindergarten will be administered a readiness assessment, which may include multiple assessments, by the forty-fifth day of the school year; the results of the assessments and the developmental intervention strategies recommended to address the child's identified needs must be provided, in writing, to the parent or guardian. Also, the results of each assessment must be reported to the Office. Early grade students not demonstrating proficiency in reading must be provided intensive in-class and supplemental reading intervention.

Third Grade Students

The legislation provides that beginning with the 2017-2018 school year, a student must be retained in the third grade if the student fails substantially to demonstrate third-grade reading proficiency at the end of the third grade. The legislation allows a student to be exempt for good cause from the mandatory retention but continue to receive instructional support and services and reading intervention appropriate for their age and reading level. Good cause exemptions include students: who have limited English proficiency; who have certain disabilities; who demonstrate third grade reading proficiency on an alternative assessment approved by the board and which teachers may administer following the administration of the state assessment of reading and after a student's participation in a summer reading camp; who have received two years of reading intervention and were previously retained; or who through a reading portfolio document the student's mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment. The local school district

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superintendent determines whether a student in the district may be exempt from the mandatory retention by reviewing submitted documentation that has been first reviewed by the principal after submission by the child's teacher. The district superintendent's acceptance or rejection of the recommendation must be in writing and a copy must be provided to the parent or guardian of the child.

The legislation allows students scoring at the lowest achievement level on the statewide summative reading assessment to enroll in a summer camp prior to being retained the following school year. The legislation provides minimum time-length requirements for these summer camps and minimum education and other requirements for the teachers providing instruction. The parent or guardian must make the final decision regarding the student's participation in the camp. The legislation allows a district to offer summer reading camps for students not exhibiting reading proficiency, and it allows the district to charge fees based on a sliding scale. Also, a district that fails to provide required reports on summer reading camps is ineligible to receive state funding for summer reading camps for the following year; however, districts must continue to operate summer reading camps.

If a student is not demonstrating third-grade reading proficiency by the end of third grade, his parent or guardian must be notified in a timely manner, in writing, that the student will be retained unless exempted from mandatory retention for good cause. The parent or guardian may designate another person as an education advocate also to act on their behalf to receive notification and to assume the responsibility of promoting the reading success of the child. The written notification must include a description of the proposed reading interventions that will be provided to help the student comprehend grade-level texts. The parent, guardian, or other education advocate must receive written reports at least monthly on the student's progress towards being able to read grade-level texts based upon the student's classroom work, observations, tests, assessment, and other information. The parent, guardian, or other education advocate also must be provided with a plan for promoting reading at home, including participation in shared or guided reading workshops. The parent or guardian of a retained student must be offered supplemental tutoring for the retained student in evidenced-based services outside the instructional day.

Retained students must be provided intensive instructional services and supports. The school must report to the Office on the progress of students in the class at the end of the school year and at other times as required by the office based on the reading progression monitoring requirements of these students.

Students in Grades Four and Above

This legislation provides supplemental reading support for students in grades four and above. For students in grades four and above who are substantially not demonstrating reading proficiency, the legislation allows for interventions to be provided in the classroom and supplementally by teachers with a Literacy Teacher add-on endorsement or reading/literacy coaches. To help students develop and apply their reading and writing skills across the school day in all the academic disciplines this legislation requires teachers in a variety of content areas at all grade levels to focus on helping students comprehend print and non-print texts authentic to the content area. The legislation requires all teachers, administrators, and support staff to be trained adequately in

reading comprehension in order to perform effectively their roles enabling each student to become proficient in content area reading and writing.

New Requirements for Teachers and Teacher Education Programs

This legislation strengthens various teacher education programs by adding new literacy requirements; it also provides new certification requirements for current teachers and administrators. Beginning with students entering a teacher education program in the fall semester of the 2016-2017 school year, this legislation provides that all pre-service teacher education programs including Master of Arts in Teaching degree programs must require all candidates seeking certification at the early childhood or elementary level to complete a twelve-credit hour sequence in literacy. The General Assembly is not mandating an increase in the number of credit hours required for teacher candidates, but is requiring that pre-service teacher education programs prioritize its mission and resources so all early and elementary education teachers have the knowledge and skills to provide effective instruction in reading and numeracy to all students. Beginning with students entering a teacher education program in the fall semester of the 2016-2017 school year, all pre-service teacher education programs, including Master of Arts in Teaching degree programs, must require all candidates seeking certification at the middle or secondary level to complete a six-credit hour sequence in literacy. Beginning in 2015-2016 reading/literacy coaches are required to earn the add-on certification within six year. Beginning in 2015-2016, early childhood and elementary education certified classroom teachers, reading interventionists, and special education teachers who provide learning disability and speech services to students who need to improve substantially their low reading and writing proficiency skills are required to earn the literacy teacher add-on endorsement within ten years of their most recent certification by taking at least two courses or six credit hours every five years, or the equivalent professional development hours as determined by the Office, consistent with existing recertification requirements. Beginning in 2015-2016, middle and secondary certified classroom teachers are required to take at least two courses or six credit hours, or the equivalent professional development hours as determined by the Office, to improve reading instruction within five years of their most recent certification. Beginning in 2015-2016, principals and administrators who are responsible for reading instruction or intervention and school psychologists in a school district or school are required to take at least one course or three credit hours within five years of their most recent certification or the equivalent professional development hours as determined by the Office.

JUDICIARY

The full Judiciary Committee met on Tuesday, March 25, 2014.

S.137 received a favorable with amendment recommendation from the full Judiciary Committee. This legislation enacts "**EMMA'S LAW,**" **LEGISLATION WHICH MAKES FURTHER PROVISIONS FOR IGNITION INTERLOCK DEVICES FOR DRIVING UNDER THE INFLUENCE OFFENDERS**; an ignition interlock device is designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. Highlights of the legislation include the following.

Ignition Interlock Device Provisions

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This legislation provides for usage of ignition interlock devices for first offense driving under the influence convictions. People convicted for first offense violations of operating a vehicle under the influence of intoxicants and first offense violations of driving with an unlawful alcohol concentration who submitted to a breath test and had an alcohol concentration of fifteen and one hundredths of one percent or more must have installed on any motor vehicle they drive an ignition interlock device. For people that submitted to a breath test and are convicted of having an alcohol concentration of less than fifteen one hundredths of one percent, their license must be suspended six months, and they are eligible for a provisional license which is a temporary license lasting not more than six months that has a requirement that the person enter an Alcohol and Drug Safety Action Program that the Department of Motor Vehicles (DMV) may issue. In lieu of serving the remainder of the suspension, they may enroll in the Ignition Interlock Device Program and cannot subsequently choose to serve the suspension. Additionally, if people refuse a breath test and are convicted of first offense violations of operating a vehicle under the influence of intoxicants and first offense violations of driving with an unlawful alcohol concentration, they must have their license suspended for six months and are not eligible for a provisional license. In lieu of the suspension, they may enroll in the Ignition Interlock Device Program and cannot subsequently choose to serve the suspension.

The legislation revises certain provisions relating to ignition interlock devices for repeat driving under the influence offenders; current law already requires repeat offenders to have installed on any motor vehicle they drive an ignition interlock device for varying lengths of time depending upon the number of prior offenses. If a third offense occurs within five years from the first offense, this legislation provides that the ignition interlock device must be attached to the person's motor vehicle for four years. Generally, prior offenses are only those that occurred within ten years of the last offense.

This legislation places new requirements for usage of ignition interlock devices after conviction. The legislation requires a person released from prison after a conviction relating to a person's operation of a motor vehicle while under the influence of intoxicants and great bodily injury or death of another occurs to enroll in the Ignition Interlock Device Program and obtain an ignition interlock restricted license. The ignition interlock device must be attached to the motor vehicle for three years when great bodily injury results and five years when a death occurs. Under this legislation, a person found guilty relating to operation of a motor vehicle while under the influence of intoxicants with one or more passengers younger than sixteen in the motor vehicle must enroll in the Ignition Interlock Device Program and have the ignition interlock device attached to the person's motor vehicle for three months.

This legislation provides new penalties for driving without a required ignition interlock device. First offenders must not be fined more than \$1,000 or imprisoned for more than one year, and the interlock device requirement must be extended six months. Upon conviction for a second offense, the person must be fined not less than \$5,000 or imprisoned not more than three years, and the interlock device requirement must be extended by one year. A conviction of a third or subsequent offense is a felony, and the person must be fined not less than \$10,000 or imprisoned not more than ten years; the ignition interlock device requirement must be extended by three years. No minimum sentence may be suspended; first or second offenses may be tried in summary court.

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Current law establishes a point system for violations of the ignition interlock system. This legislation reduces the suspension period of the ignition interlock restricted license for a person with four points from a one year suspension to six months. The legislation further provides that should a person not complete the recommended plan or not make progress towards completing the plan the Department of Motor Vehicles (DMV) shall leave the person's ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the six month suspension, resuspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. Upon reinstatement of driving privileges following the six month suspension, the Department of Probation, Parole and Pardon Services (PPP) shall reset the person's point total to zero, and the person shall complete the remaining period of time on ignition interlock device. Additionally, the legislation provides that funds remitted to the PPP for the Ignition Interlock Device Fund may be used for the Ignition Interlock Device Program, and it requires the interlock service provider to remit the funds monthly instead of yearly.

Current law requires a person to have an ignition interlock device inspected every sixty days to verify that it is working properly; this legislation provides that a failure to have the device inspected every sixty days results in an ignition interlock device point.

Additionally, a failure to complete a running retest results in the assessment of one ignition interlock device point. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. The accumulation of four ignition interlock device points results in the suspension of the person's license. If the person's license is suspended as a result of the accumulation of points, PPP must provide notice and advise the person of the right to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice must also indicate the consequences of failure to request a contested case hearing in a timely manner, which include waiving the right to an administrative hearing and having the license suspended. The filing of the request for a contested case hearing will stay the driver's license suspension pending the outcome of the hearing; however, it will not stay the requirement of the person having the ignition interlock device. A contested case hearing is governed by the Administrative Procedures Act, and a person has the right to appeal the decision of the hearing officer to the Administrative Law Court. The filing of an appeal does not stay the ignition interlock requirement.

The legislation includes new provisions for medical waivers. Current law allows the DMV to waive the device requirement if a person has a medical condition; this legislation provides for a waiver; however, it requires that the driver's license be suspended for the entire length of time that the person would have been required to hold an ignition interlock restricted license. The waiver may be withdrawn at any time the DMV becomes aware that the person's medical condition has improved to the extent that the person has become capable of properly operating an installed device.

Current law allows a person every ten years from the date of the person's last conviction and every five years thereafter a fourth or subsequent offender whose license has been reinstated to apply to PPP for removal of the ignition interlock device and removal of the restriction from the person's license. This legislation allows a person five years from the date of the person's driver's license reinstatement and every five years thereafter a fourth or subsequent offender whose license has been reinstated to apply to PPP for removal of the ignition interlock device and removal of the restriction from the person's license.

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The legislation provides that neither PPP nor any other political subdivision of this state may be held liable for any injury cause by driver or other person who operates a motor vehicle after the use or attempted use of an ignition interlock device. Information obtained by PPP and ignition interlock service provider pertaining to a person's participation in the Ignition Interlock Device Program is not subject to the Freedom of Information Act, but it may be provided to the person or person's family member under certain circumstances.

License Provisions

This legislation provides for an ignition interlock restricted license issued by the DMV for a \$100 fee; current law provides for a license with an ignition interlock restriction. However, the DMV may not issue such a license without written notification from an authorized ignition interlock service provider that an ignition interlock device has been installed and confirmed to be in working order. Additionally, the legislation allows a person who does not own his own vehicle but drives his employer's car for work to petition the DMV for an ignition interlock restricted license. The legislation includes requirements for the DMV form, which among other things must include the notarized signature of the person's employer. These provisions do not apply to an individual self-employed or who is employed by a family business, unless during the defense of the criminal charge certain findings are made. Whenever the person operates an employer's vehicle, the person must have a copy of the form, and the DMV shall revoke the waiver if it determines that the person has been driving a vehicle other than the vehicle owned by the person's employer or has been operating the person's employer's vehicle outside the locations, days, or hours specified by the employer in the DMV's records.

This legislation allows a person with a route restricted license to drive to an Alcohol and Drug Safety Action Program or a court ordered drug program, in addition to the other permitted uses of the license.

This legislation repeals two code sections relating to provisional licenses: section 56-1-1310, which provides a definition for the term 'conviction'; and section 56-1-1350, which requires proof of financial responsibility and assurance of acceptance in alcohol traffic safety school before a provisional license may be issued.

This legislation includes provisions relating to route restricted licenses and penalties for driving while a person's license is cancelled, suspended or revoked. The legislation reduces the third or subsequent offense penalty to \$1,000 and imprisonment up to 90 days or home detention up to 90 days; current law provides for a penalty of \$1,000 and imprisonment up to 90 days or home detention for not less than 90 days nor more than six months.

Relating to the surrender of the driver's license, current law requires the DMV to issue a new license at the end of the suspension period, unless the suspension was for reckless driving, driving under the influence of intoxicants or pursuant to the point system. This legislation adds driving with an unlawful alcohol concentration and felony driving under the influence of intoxicants to the list. A person must apply to get their license after the

suspension period ends, if the suspension results from reckless driving, driving under the influence of intoxicants, points, driving with an unlawful concentration, or felony driving under the influence of intoxicants. However, this application is only required if the person has not held a license within the previous nine months.

Current law provides that a person under 21 years old who has a blood-alcohol concentration of two one-hundredths of one percent or more will have a license suspended for three months if it is a first offense or for six months if the person refuses to submit to the testing. This legislation does not alter the suspension periods. However, the legislation decreases the look back period from five years to three years for enhancement for a second offense.

Relating to the immobilization of a person's vehicle upon conviction of a second or subsequent alcohol-related driving offense violation, this legislation provides that as long as the person holds a valid ignition interlock license, the person will not be required to surrender license plates and vehicle registration.

[H.3959](#), legislation which makes **REVISIONS TO OFFENSES RELATING TO SEXUAL EXPLOITATION OF A MINOR**, received a favorable with amendment report from the Judiciary Committee. Relating to first, second, and third degree sexual exploitation of a minor, this legislation includes the appearance of a minor in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation in the purview of these offenses. Additionally, this legislation increases the maximum penalty for second degree sexual exploitation of a minor from ten to fifteen years.

The full committee gave a favorable with amendment recommendation to [H.4476](#). This legislation requires the **VIDEO RECORDING OF AN INCIDENT SITE WHEN A PERSON IS CHARGED WITH A TRAFFIC OFFENSE RELATED TO THE UNLAWFUL USE OF ALCOHOL OR ANOTHER ILLEGAL SUBSTANCE TO INCLUDE AN AUDIO RECORDING**.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, March 25, 2014, and reported out several bills.

The full committee gave a favorable recommendation to [H.3949](#), legislation that includes **TOOTH WHITENING IN THE PRACTICE OF DENTISTRY**. In an effort to ensure the overall health and safety of citizens, as well as to restrict retail tooth whitening centers, the legislation requires tooth whitening procedures to be done by a licensed dentist or dental hygienist. Tooth whitening means the practice of whitening a tooth beyond its natural color by use of a dental bleaching agent that contains more than ten percent carbide peroxide or more than five percent hydrogen peroxide. The term also may include the use of light energy to accelerate dental bleaching. Tooth whitening does not include the use of over-the-counter tooth whitening products.

[H.4527](#), legislation designating the Friday after Thanksgiving as "**A DAY OF RECOGNITION FOR VETERANS' SPOUSES AND FAMILIES**", was given a favorable recommendation by the committee. It was noted that the annual Veteran's Day does not

necessarily recognize the support that Veterans get from family members and this designation would be an attempt to recognize their invaluable support and sacrifice.

The full committee gave a favorable recommendation to **S.842**, a bill that addresses an oversight in the **UNCLAIMED CREMATED REMAINS OF A VETERAN** provision. The bill outlines that a coroner may work with a veterans service organization to provide for the disposition of the unclaimed cremated remains of a veteran.

H.4665, a bill relating to **CHILDCARE FACILITIES**, was given a favorable with amendment recommendation by the committee. The legislation states that it is unlawful for a director, owner, operator, caregiver, employee or volunteer of a childcare facility to administer medication to a child under the care of the facility unless the parent or guardian has submitted a signed and dated consent form that authorizes the facility to administer the medication. The medication must be administered as stated on the label directions and the medication cannot be expired. This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death of or serious bodily injury to the child if the medication is administered as prescribed. Violation of this provision is guilty of a misdemeanor and upon conviction must be fined not more than two thousand dollars or imprisoned not more than one year or both.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4985 DEER HUNTING Rep. Huggins

Under current law, a person can hunt deer within three hundred yards of a residence without permission of the owner and occupant. This bill provides that this provision does not apply to a landowner's guests or lessees.

S.1070 WILD TURKEY Sen. Campsen

This bill restructures the provision for the hunting and taking of male wild turkeys so that it is the same across the state, and it expands the season for most of the state. The bill reduces the bag limit from five to three. The bill also establishes "South Carolina Youth Turkey Hunting Day".

S.1071 GAME ZONES Sen. Campsen

This bill decreases the game zones in the state from 6 to four. As a result, the bill revises Game Zones 3, 4, 5 and 6. The bill revises the dates for the various small game seasons, bag limits and dates for the various antlered deer open season. The bill also repeals Section 50-11-2110 relating to Field Trials In Game Zone Nine.

EDUCATION AND PUBLIC WORKS

H.4988 STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION Rep. Thayer

This legislation expands the jurisdiction of the State Board for Technical and Comprehensive Education to include certain certificates and certain applied science programs. This legislation makes conforming changes relating to higher education goals and missions as well as relating to the requirements that a public institution of higher education may not undertake a new program without approval of the Commission on Higher Education. The legislation repeals Section 59-101-150 relating to the requirement that a state-supported institution of higher learning must receive approval of the commission or the General Assembly as a condition to undertaking a new program.

H.5004 CHILD PASSENGER RESTRAINT SYSTEMS Rep. Erickson

This legislation increases the age for which a child must be secured in a passenger restraint system from five years old to seven years old. The legislation increases the age that a child must be secured in a rear-facing child safety seat until two years of age or until the child's height or weight exceeds the limits established by the manufacturer of the rear passenger safety seat, whichever occurs first. The legislation adds certain height requirements relating to child passenger restraint systems. This legislation prohibits a child less than thirteen from occupying the front passenger seat.

JUDICIARY

S.343 UNIFORM COMMERCIAL CODE Sen. Hayes

This legislation modernizes provisions relating to the Uniform Commercial Code so as to provide for the use of electronic documents.

S.561 PURCHASING, SELLING, AND TRANSPORTING OF NONFERROUS METALS Sen. L. Martin

This legislation relates to the purchasing, selling, and transporting of nonferrous metals. It defines the term "coil" to mean a copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term includes but is not limited to, coil from a commercial or residential heating or air-conditioning system; the term does not include coil from a window air-conditioning system, if the coil is contained within the system, or coil from an automobile condenser. The legislation prohibits a secondary metals recycler from purchasing or otherwise acquiring an iron or steel manhole cover or drainage grate. The legislation prohibits secondary metals recyclers from purchasing or otherwise acquiring a coil unless the seller is an exempted entity or the seller presents a bill of sale from a licensed company indicating that the seller acquired the coil as a result of a unit replacement or repair. Presenting a falsified bill of sale is a misdemeanor. The legislation prohibits a secondary metals recycler from entering into a cash transaction in payment for copper, catalytic converters, and beer kegs that totals twenty-five dollars or more. This legislation provides certain exemptions for licensed real estate brokers and property managers.

H.4960 SENIORITY OR MERIT SYSTEMS Rep. Long

This legislation provides that it is not an unlawful practice for state agencies or political subdivisions of the state to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or to employees who work in different locations, provided that the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, disability, or age. The legislation provides that it is not an unlawful practice for a state agency or political subdivision of the state to give and to act upon the results of a professionally developed ability test, provided that the test, its administration, or action upon the results of the test are not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, disability, or age. The legislation provides that it is not an unlawful practice for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or to employees who work in different locations, provided that the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, disability, or age. The legislation provides that it is not an unlawful practice for an employer to give and to act upon the results of a professionally developed ability test, provided that the test, its administration, or action upon the results of the test are not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, disability, or age.

H.4977 ADOPTION PROVISIONS Rep. Horne

This legislation requires agencies and attorneys providing intercountry adoption services to be licensed in this state and to comply with federal law, including the requirement to be accredited pursuant to the Intercountry Adoption Act and the Hague Convention on Intercountry Adoption; the legislation establishes criminal penalties for violations. The legislation prohibits an adoptive parent, or a person acting on behalf of an adoptive parent, from placing the adopted child with another person without approval of the court, unless the other person is a relative of the adoptive parent of the first, second, or third degree; the legislation establishes criminal penalties. Relating to amended birth certificates, this legislation requires the State Registrar to provide information regarding post-adoption services to an adoptive parent with the certificate of birth. Relating to the requirement of the Department of Social Services (DSS) to provide adoption services, this legislation requires services to be made available to all adoptive families. Relating to DSS' adoption program, this legislation requires that the adoption program offer post-adoption services and that these services be made available to all families adopting children and allows DSS to charge reasonable fees for these services. Relating to definitions for the offense of trafficking in persons, this legislation changes the definition of "trafficking in persons" to include actions taken with regard to adoption certificates. Relating to the elements and penalties of the crime of trafficking in persons, this legislation allows prosecution of a victim who is related to a defendant by adoption.

H.4978 JOB APPLICATION QUESTIONS RELATING TO CONVICTIONS OF A CRIME Rep. Robinson-Simpson

The legislation includes a specific stated policy of the State of South Carolina to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the resumption of the responsibilities of citizenship. The legislation includes a related policy statement that the opportunity to secure employment or to pursue, practice, or engage in a meaningful and profitable trade, occupation, vocation, profession, or business is essential to rehabilitation and the resumption of the responsibilities of

citizenship. This legislation provides necessary definitions, among other things, in order to give a better chance for applicants to be considered for employment prior to the stage in the application process when background checks are conducted. With certain exceptions and Notwithstanding any other provision of law to the contrary, this legislation provides that a public or private employer may not inquire into or consider or require disclosure of the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview by the employer or, if there is not an interview, before a conditional offer of employment is made to the applicant. This legislation prohibits a person being disqualified from public employment or being disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which he was convicted directly relates to the position of employment sought or the occupation for which the license is sought. Any complaints or grievances concerning violations public employers must be processed and adjudicated pursuant to the Administrative Procedures Act. The Human Affairs Commission shall investigate violations by a private employer.

H.4983 "SOUTH CAROLINA DATING VIOLENCE PREVENTION POLICY ACT" Rep. Long

This legislation enacts the "South Carolina Dating Violence Prevention Policy Act" so as to require the State Department of Education to develop a model dating violence prevention policy for use by school districts in developing policies for reporting and responding to dating violence among students in grades six through twelve. The legislation specifies requirements of the policies, provides additional requirements for school districts with respect to publishing the policy and providing notification of the policy and copies of the policy to parents and guardians of students in the district, provides that the legislation does not alter related criminal or civil causes of action or remedies, and makes implementation of certain provisions contingent upon availability of funding.

H.5003 DEPARTMENT OF SOCIAL SERVICES REQUIREMENTS Rep. Horne
Relating to permanency planning for children in foster care, this legislation requires the Department of Social Services (DSS) to submit permanency planning hearing orders to the court within thirty days of the completion of a hearing. Additionally, the legislation allows certain individuals to petition the court or the court on its own initiative to hold DSS in contempt for failing to adhere to statutory deadlines, and it allows the court to assess penalties against DSS for violations.

LABOR, COMMERCE AND INDUSTRY

S.908 INSURANCE LAW REVISIONS Sen. Hayes
This bill revises insurance law definitions concerning risk-based capital. The legislation revises provisions relating to preparing and submitting a risk-based capital report, so as to provide for determining a health organization's risk-based capital report and to provide that each risk for a life and health insurer, property and casualty insurer, and a health organization must be determined in a certain manner. The legislation revises provisions relating to company action level events, so as to add an additional event concerning a health organization. The legislation revises provisions relating to the role of the Director of the Department of Insurance when a mandatory control level event occurs, so as to

add provisions concerning health organizations. The legislation revises provisions relating to hearings available to a licensee to challenge a determination or action by the director in response to a mandatory control level event, so as to provide a licensee may have the hearing confidentially, on the record, and before the director upon provision of certain notice, and to provide the director shall set a date for the hearing in a certain manner. The legislation revises provisions relating to the confidentiality of risk-based capital reports and adjusted risk-based capital reports, so as to provide circumstances in which the director may share, receive, and use certain related information that is confidential and privileged. The legislation revises provisions relating to exemptions from reporting requirements, so as to add provisions concerning domestic health organizations.

S.1026 CONTRACTOR PAYMENT BOND PROVISIONS Sen. Alexander

This bill revises provisions relating to suits on contractor payment bonds, so as to provide that certain written notice required of a remote claimant must be sent by certified or registered mail and must generally conform with statutory limits on the aggregate amount of liens filed by a sub-subcontractor or supplier. The legislation provides that any payment bond surety for the bonded contractor shall have the same rights and defenses of the bonded contractor. The legislation makes the provisions applicable to any payment bond whether private, common law, public, or statutory in nature, when the bonds are not otherwise required or governed by statute.

H.4961 FIVE-YEAR SUNSET FOR NEW REGULATIONS PROMULGATED BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION

Rep. Atwater

This bill provides that a regulation promulgated on or after July 1, 2014, by the Department of Labor, Licensing and Regulation under the Administrative Procedures Act expires five years from the date on which it becomes effective.

H.4962 FIVE-YEAR SUNSET FOR NEW REGULATIONS PROMULGATED BY STATE AGENCIES Rep. Atwater

This bill provides that a regulation promulgated on or after July 1, 2014, by a state agency or department under the Administrative Procedures Act expires five years from the date on which it becomes effective.

H.4979 “ACA ANTI-COMMANDEERING ACT” AND THE “NAVIGATOR BACKGROUND CHECK ACT” Rep. Chumley

This bill enacts the “ACA Anti-Commandeering Act” to establish provisions relating to the legislation's stated principle of anti-commandeering and the right of the states to refuse to use state resources to enforce federal laws. The legislation provides that a public official, officer, or employee of a public body must not participate in the establishment of a health insurance exchange or enforce or aid in the enforcement of the individual and employer health insurance mandates of the federal Affordable Care Act. These prohibitions do not apply to the provision of Medicaid at current levels of eligibility and to refusal to participate in the expansion of Medicaid eligibility that is authorized under the ACA. The legislation enacts the “Navigator Background Check Act” to establish criteria for registration as a health care insurance navigator and require registration of a person acting as a health care insurance navigator. The legislation provides for pertinent duties of the Department of Insurance and the Department of Health and Human Services and establishes penalties for violations. The legislation establishes requirements for the

Chief Insurance Commissioner to take all reasonable action to limit federal intrusion into the regulation of insurance in this state. The legislation authorizes the Governor to communicate the contents of this act to South Carolina's sister states and request an expression of their sentiments regarding the ACA.

H.4996 HEALTH INSURERS REQUIRED TO COVER CERTAIN AMINO ACID-BASED ELEMENTAL FORMULA TREATMENTS Rep. Brannon

This bill establishes requirements for accident and health insurance policies and health maintenance organizations to cover certain amino acid-based elemental formulas for the treatment of certain diseases or disorders. The legislation prohibits denial of this coverage for treatment ordered as medically necessary by a treating physician, and provides that this coverage must be favorable for prescription drugs and services covered by the plan.

H.4997 NONFRANCHISE AUTOMOBILE DEALER LICENSE EDUCATIONAL REQUIREMENTS Rep. Herbkersman

This bill provides that an applicant for an initial nonfranchise automobile dealer license issued after January 1, 2015, must complete prelicensing education courses before he may be issued a license. The legislation provides that certain educational requirements must be satisfied before a license may be renewed. The legislation provides that a person who provides education courses must be affiliated with a national or state industry trade association. The legislation revises provisions relating to the nonapplicability of the provisions that regulate nonfranchise automobile dealer prelicensing to franchised automobile dealers, nonfranchised automobile dealers owned and operated by a franchised automobile dealer, nonfranchised automobile dealers whose primary business is salvage motor vehicles, and nonfranchised automobile dealers whose primary business objective and substantial business activity is in the rental of motor vehicles, so as to provide that the provisions that require an applicant for an initial nonfranchise automobile dealer license to complete certain education requirements also do not apply to these automobile dealers.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.841 CHILDCARE FACILITIES Sen. Cleary

This bill adds provisions that prohibit the administration of medication to a child by an employee or volunteer of a childcare facility without parental permission. The bill includes exceptions in situations of emergencies.

S.997 SPEECH PATHOLOGIST AND AUDIOLOGIST Sen. Jackson

Among many things, this bill revises and updates definitions as it relates to speech pathologist and audiologist. The bill revises speech pathologist and audiologist license requirements.

H.4984 STATE-DESIGNATED CULTURAL DISTRICTS Rep. Allison

The South Carolina Arts Commission shall develop criteria and guidelines for designating a cultural district by the State. A cultural district must be a geographical area that is within a community and that has a concentration of cultural facilities, creative enterprises, or arts venues located within it. This cultural district is intended to impact the larger community in which it is located by attracting artists, creative entrepreneurs

and cultural enterprises. The Commission shall also provide leadership and assistance to a community that seeks to develop or foster a cultural district.

H.5002 BIRTH CENTERS REGULATIONS Rep. Horne

The bill outlines that a birth center must be accredited by the Commission on Accreditation of Birth Centers and must comply with state law and regulations. In addition, the bill provides for the development of policy and procedures for transfer of clients to hospital. The bill also requires birth centers to collect and report data.

WAYS AND MEANS

S.511 TAXATION OF RESIDENTIAL PROPERTY HELD BY A TRUST, FAMILY LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY

Sen. Campsen

This bill revises provisions for the four percent special assessment ratio on owner-occupied residential property, so as to provide that an eligibility provision requiring a certain ownership percentage does not apply if the property is held by a trust, family limited partnership, or limited liability company under certain situations.

H.4999 RESIDENCES NOT RENTED FOR MORE THAN SEVENTY-TWO DAYS

**A YEAR TAXED AS OWNER-OCCUPIED RESIDENTIAL PROPERTY
Rep. Goldfinch**

This bill revises provisions relating to valuation and classification of property for purposes of the property tax, so as to provide that the owner-occupant of residential property qualifies for the four percent assessment ratio allowed owner-occupied residential property, if the owner is otherwise qualified and the residence is not rented for more than seventy-two days a year. The legislation revises provisions relating to disclosure of records, reports, and returns with the Department of Revenue, so as to provide verification that the federal Schedule E conforms with the same document required by a county assessor is not prohibited.

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