**PART II**

**PERMANENT PROVISIONS**

**SECTION 1**

The Code Commissioner is directed to include all permanent general laws in this Part in the next edition of the Code of Laws of South Carolina, 1976, and all supplements to the Code.

**SECTION 2**

**TO AMEND SECTION 12‑6‑545, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX RATES FOR PASS-THROUGH TRADE AND BUSINESS INCOME, SO AS TO REDUCE THE TAX RATE FROM FIVE PERCENT TO THREE PERCENT.**

A. Section 12‑6‑545(B)(2) of the 1976 Code, as added by Act 41 of 2005, is amended read:

“(2) The rate of the income tax imposed pursuant to this subsection is:

Taxable Year Beginning in Rate of Tax

2006 6.5 percent

2007 6 percent

2008 5.5 percent

~~after~~ 2008 through 20115 percent

after 2011 3 percent”

B. This section takes effect upon approval by the governor and applies for taxable years beginning after 2011.

**SECTION 3**

**TO AMEND SECTION 1-30-25, AS AMENDED, OF THE 1976 CODE, RELATING TO THE DEPARTMENTS OF**

**STATE GOVERNMENT AND THE COMPONENTS OF THESE DEPARTMENTS, SO AS TO CONFORM THE PROVISIONS OF THIS SECTION OF THE TRANSFER OF THE DIVISION OF AERONAUTICS FROM THE SOUTH CAROLINA DEPARTMENT OF COMMERCE TO THE STATE BUDGET AND CONTROL BOARD; TO AMEND TITLE 55 BY ADDING CHAPTER 2 SO AS TO TRANSFER THE DIVISION OF AERONAUTICS FROM THE SOUTH CAROLINA DEPARTMENT OF COMMERCE TO THE STATE BUDGET AND CONTROL BOARD; TO PROVIDE THAT THIS PLACEMENT OF THE DIVISION OF AERONAUTICS AS A SEPARATE DIVISION OF THE STATE**

**BUDGET AND CONTROL IS FOR ADMINISTRATIVE AND SUPPORT SERVICES ONLY AND THE DUTIES AND FUNCTIONS OF THE DIVISION OF AERONAUTICS AND ITS EXECUTIVE DIRECTOR ARE GOVERNED SOLELY BY THE AERONAUTICS COMMISSION; TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE AERONAUTICS COMMISSION, THE QUALIFICATIONS FOR COMMISSION MEMBERSHIP, THEIR TERMS OF OFFICE, DUTIES, AND FUNCTIONS; TO PROVIDE THE METHOD OF APPOINTMENT OF THE EXECUTIVE**

**DIRECTOR OF THE DIVISION OF AERONAUTICS, AND THE ORGANIZATION AND OBJECTIVES OF THE DIVISION OF AERONAUTICS; AND TO AMEND SECTIONS 55‑1‑1, 55‑1‑5, 55‑5‑190, 55‑8‑10, 55‑8‑170, 55‑11‑10, 55‑11‑230, AND 55‑15‑10, ALL AS AMENDED, RELATING TO, AMONG OTHER THINGS, THE DIVISION OF AERONAUTICS, SO AS TO MAKE CONFORMING AMENDMENTS, AND TO REPEAL ARTICLES 6 AND 7, CHAPTER 1, TITLE 13 OF THE 1976 CODE, ALL RELATING TO THE DIVISION OF AERONAUTICS.**

A. Section 1-30-25 of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“Section 1-30-25. The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in and must be administered as part of the Department of Commerce to be initially divided into divisions for ~~Aeronautics,~~ the Advisory Coordinating Council for Economic Development, State Development, Public Railways, and Savannah Valley Development:

(A) ~~South Carolina Aeronautics Commission, formerly provided for at Section 55‑5‑10, et seq.~~ Reserved;

(B) Coordinating Council for Economic Development, formerly provided for at Section 41‑45‑30, et seq.;

(C) Savannah Valley Authority, formerly provided for at Section 13‑9‑10, et seq.;

(D) existing divisions or components of the Department of Commerce formerly a part of the State Development Board excluding the South Carolina Film Commission; and

(E) South Carolina Public Railways Commission, formerly provided for at Section 58‑19‑10, et seq.”

B. 1. Title 55 of the 1976 Code is amended by adding:

“CHAPTER 2

Aeronautics Commission

Section 55‑2‑10. As used in this chapter:

(1) ‘Board’ means the State Budget and Control Board.

(2) ‘Executive director’ means the Executive Director for the Division of Aeronautics.

(3) ‘Division’ means the Division of Aeronautics.

(4) ‘Commission’ means the Aeronautics Commission.

Section 55‑2‑20. The Aeronautics Division is created within the State Budget and Control Board and there may be no purchase or sale of any aeronautics assets without the approval of the commission. The board shall be the agency in which the division is located and the board shall provide the division with those administrative and support services required in the operations of a state agency, but otherwise, the division is solely governed by the Aeronautics Commission through its executive director as provided in this chapter.

Section 55‑2‑30. The congressional districts of this State are constituted and created commission districts of the State, designated by numbers corresponding to the number of the respective congressional districts. The commission shall be composed of one member from each district elected by the delegations of the congressional district and one member appointed by the Governor, upon the advice and consent of the Senate, from the State at large. The elections or appointments shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State and shall comply with the provisions of Chapter 13, Title 8. However, consideration of these factors in making an appointment or in an election does not create a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be appointed or elected.

Section 55‑2‑40. (A) A county that is divided among two or more commission districts, for purposes of electing a commission member, is considered to be in the district which contains the largest number of residents from that county.

(B) A county within a commission district may not have a resident commission member for more than one consecutive term and in no event may any two persons from the same county serve as a commission member simultaneously.

Section 55‑2‑50. Legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. A person may not be elected commissioner who fails to receive a majority vote of the members of the delegation.

The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt rules they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person after he has taken the usual oath of office, a certificate of election as commissioner. The Governor then shall issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.

Section 55‑2‑60. (A) Beginning February 15, 2005, commissioners must be elected by the legislative delegation of each congressional district. For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides. All commission members must serve for a term of office of four years that expires on February fifteenth of the appropriate year. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve until their successors are elected and qualify, and provided that a commissioner may only serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner must be filled by election in the manner provided in this article for the unexpired term only. A person is not eligible to serve as a commission member who is not a resident of that district at the time of his appointment, except that the at‑large commission member may be appointed from any county in the State regardless of whether another commissioner is serving from that county. Failure by a commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office. The at‑large commission member, upon confirmation by the Senate, shall serve as chairman of the commission.

(B) The terms of the initial members of the commission appointed from congressional district are as follows:

(1) commission members appointed to represent congressional district one and two, two years;

(2) commission members appointed to represent congressional district three and four, three years;

(3) commission members appointed to represent congressional district five, six, and seven, four years.

(C) The at‑large commissioner shall serve at the pleasure of the Governor.

Section 55‑2‑70. Each voting commission member, within thirty days after his election or appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.

Section 55‑2‑80. (A) The commission may adopt an official seal for use on official documents of the division.

(B) The commission shall adopt its own rules and procedures and may select additional officers to serve terms designated by the commission.

(C) Commissioners must be reimbursed for official expenses as provided by law for members of state boards and commissions as established in the annual general appropriations act.

Section 55‑2‑90. Notwithstanding any other provision of law, the executive director must be appointed in accordance with the following procedures:

(A) (1) The commission shall nominate no more than one qualified candidate for the Governor to consider for appointment as executive director. In order to be nominated, a candidate must meet the minimum requirements as provided in Section 13‑1‑1090.

(2) If the Governor rejects a person nominated by the commission for the position of executive director, the commission must nominate another candidate for the Governor to consider until such time as the Governor makes an appointment.

(3) In the case of a vacancy in the position of executive director for any reason, the name of a nominee for the executive director’s successor must be submitted by the commission to the Governor.

(4) The appointment must comply with the provisions contained in Chapter 13, Title 8.

(B) The executive director shall serve at the pleasure of the commission and be appointed as provided in this section.

Section 55‑2‑100. Individuals serving on the commission must meet the following minimum qualifications to be qualified:

(1) the commission chairman must have experience in the fields of business, general aviation, and airport management;

(2) all other members of the commission must have a proven record of public and community service, and experience in the fields of business and aviation. Additionally, each member must meet at least two of the following criteria:

(a) general aviation experience;

(b) airport or fixed based operator (FBO) management experience;

(c) aviation service provider experience;

(d) previous service as a state or regional airport commissioner;

(e) legal experience; or

(f) active involvement in a recognized aviation association.

Section 55‑2‑110. The organization and objectives of the division are stated in Chapters 1 through 9, Title 55.”

2. Section 55‑1‑1 of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“Section 55‑1‑1. There is created a Division of Aeronautics within the ~~Department of Commerce~~ State Budget and Control Board which ~~shall~~ must be governed by the ~~Secretary of Commerce~~ Aeronautics Commission, through an executive director appointed as provided pursuant to Section 55‑2‑90 ~~as provided in Chapter 1 of Title 13~~.

3. Section 55‑1‑5 of the 1976 Code, as last amended by Act 11 of 2005, is further amended to read:

“Section 55‑1‑5. For the purposes of Chapters 1 through 9, ~~of~~ Title 55, the following words and terms are defined as follows:

(1) ~~‘Division’, unless otherwise indicated, means the Division of Aeronautics of the Department of Commerce.~~

~~(2)~~ ~~‘Secretary~~ ‘Commission’, unless otherwise indicated, means the ~~executive and administrative head of the Department of Commerce or his designee~~ Aeronautics Commission established pursuant to Chapter 2 of this title.

~~(3)~~(2) ~~Notwithstanding any other provision of law,~~ ‘executive director’ means the person ~~or persons~~ appointed by the Governor in accordance with Section ~~13‑1‑1080~~ 55‑2‑90 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.

(3) ‘Division’, unless otherwise indicated, means the Division of Aeronautics of the State Budget and Control Board.”

4. Section 55‑5‑190 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 55‑5‑190. The division, its members and employees and every county and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this chapter. The division may also in the name of the State enforce the provisions of this chapter by injunction in the circuit courts of this State. Other departments and political subdivisions of the State may also cooperate with the Division of Aeronautics of the ~~Department of Commerce~~ board in the development of aeronautics and aeronautic facilities within the State.”

5. Section 55‑8‑10(a) of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“(a) ‘Agency’ means the Division of Aeronautics of the ~~Department of Commerce~~ State Budget and Control Board.”

6. Section 55‑8‑170 of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“Section 55‑8‑170. (a) The operation of an aircraft on the land or waters of or in the air over this State shall be deemed an appointment by the owner or operator of the ~~Secretary of Commerce~~ Executive Director of the Aeronautics Commission to be his true and lawful attorney upon whom may be served all legal process in any action or proceeding against him, arising from the ownership, maintenance, use or operation of such aircraft and resulting in damage or loss to person or property, and the use or operations shall be signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as though served upon him personally, provided such person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State.

(b) Service of process shall be made by serving the original and a copy of the complaint together with a fee of two dollars upon the ~~Secretary of Commerce of the South Carolina Department of Commerce~~ Executive Director of the Aeronautics Division and by mailing of a copy of such process and of the complaint by the plaintiff or his attorney to the defendant at his last known address, within five days thereafter by registered mail. In lieu of such mailing to defendant in a foreign state, plaintiff may cause a copy of the complaint and process to be served personally in the foreign state upon such defendant by any adult person not a party to the suit by actually delivering it to the defendant or by offering to make such delivery in case defendant refuses to accept delivery.

(c) Proof of service of process upon the ~~Secretary of Commerce~~ Executive Director of the Division of Aeronautics of the State Budget and Control Board or proof of mailing or personal delivery to the defendant shall be made by the affidavit of the party doing the act, which shall be filed in the office of the clerk of court in which the suit is filed. Process shall be deemed to be completed upon the filing of such affidavit and of the original registry receipt issued by the post office upon the mailing of such registered letter, if service is obtained by mail.”

7. Section 55‑11‑10(5) of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“(5) Designate the Division of Aeronautics of the ~~Department of Commerce~~ State Budget and Control Board as its agent, to accept, receive, receipt for and disburse federal or state funds or other funds, public or private, made available for the purposes of this section, as may be required or authorized by law;”

8. Items (B)(4) and (B)(9)(n) of Section 55‑11‑230 of the 1976 Code, as last amended by Act 265 of 1996, are further amended to read:

“(4) By January 31, 1996, the Airport Environs Planning Commission shall develop a uniform land use plan and uniform building performance standards for the airport environs area, submit them for review and comment to the governing body of each political subdivision represented on the Airport Environs Planning Commission, as well as the ~~South Carolina Department of Commerce~~ Division of Aeronautics of the State Budget and Control Board and the Federal Aviation Administration, conduct public hearings pursuant to Article 3, Chapter 29, Title 6, on the proposed uniform plan and standards. After receiving comments and conducting hearings, the Airport Environs Planning Commission shall adopt a land use plan and building performance standards to be effective throughout the airport environs area and enforced fully and without amendment by each political subdivision represented on the Airport Environs Planning Commission. The Airport Environs Planning Commission, by majority of all voting members, may extend the January 31, 1996, deadline for a reasonable period of time not to exceed beyond March 31, 1996, for the completion of these tasks. Each political subdivision shall enforce the uniform plan and standards as an ‘overlay zone’, identifying areas subject to regulation which are supplementary to the existing regulations of that political subdivision, or as new or superseding provisions to that political subdivision’s ordinances. If there is a conflict between the provisions adopted by the Airport Environs Planning Commission under this section or regulations of a political subdivision applicable to the airport environs area, then the provisions adopted by the Airport Environs Planning Commission under this section shall govern. If a uniform land use plan or uniform building performance standards are not developed by the Airport Environs Planning Commission in the manner provided in this section, any of the entities represented on the Airport Environs Planning Commission may file an action for relief, including mandamus or injunctive relief, in the circuit court for Greenville or Spartanburg County, to require adoption of the plan or standards, or both, as directed by this section. Such an action must be brought within sixty days of the deadline as set forth above.”

“(n) the uses in the airport environs area and the sub‑area based on future projected uses of the airport which are not compatible and should not be permitted, which are basically incompatible and should be discouraged, and which are generally compatible with some limitations or restrictions. Such determination shall take into account the public safety and public welfare findings set forth in Section 1 hereof. Such determinations are to conform to and be consistent with noise and overflight zone‑compatible land use recommendations of federal and state authorities, including specifically policies established by the United States Air Force pursuant to DODINST 4165.57 Air Installation Compatible Use Zone (A1CUZ), the uses recommended in the 1993 Greenville‑Spartanburg Development Plan adopted by the county planning commissions, and the ~~South Carolina Department of Commerce, Aviation Division~~ Aeronautics Division of the State Budget and Control Board.”

9. Section 55‑15‑10(f) of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“(f) The term ‘public authority’ means the Division of Aeronautics of the ~~Department of Commerce~~ State Budget and Control Board, a municipality, a county or other political subdivision of this State, separately or jointly, authorized to acquire land, air rights, safety markers, and lights as provided in Chapter 9, ~~of~~ Title 55.”

10. Articles 6 and 7, Chapter 1, Title 13 of the 1976 Code are repealed.

11. (A) Where the provisions of this part transfer the Division of Aeronautics from the Department of Commerce to the State Budget and Control Board, the employees, authorized appropriations, and assets and liabilities of the transferred division are also transferred to and become part of the Division of Aeronautics of the State Budget and Control Board. All classified or unclassified personnel employed by this Aeronautics Division on the effective date of this act, either by contract or by employment at will, become employees of the State Budget and Control Board with the same compensation, classification, and grade level, as applicable.

(B) Regulations promulgated by the Division of Aeronautics as formerly existed under the Department of Commerce, or other agencies are continued and are considered to be promulgated by the Aeronautics Commission.

(C)(1) The Code Commissioner is directed to change or correct all references to the State Budget and Control Board of the Aeronautics Division of the Department of Commerce in the 1976 Code to reflect the transfer of them to the State Budget and Control Board. References to the names of these offices in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(2) On or before January 1, 2013, the Code Commissioner also shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this SECTION.

(D) Members of the Aeronautics Commission serving on the effective date of this act are deemed to have been appointed pursuant to Chapter 2, Title 55 of the 1976 Code as added by this act.

C. This section takes effect July 1, 2012.

**SECTION 4**

**TO AMEND SECTIONS 12‑62‑50 AND 12‑62‑60, BOTH AS AMENDED, OF THE 1976 CODE, RELATING TO REBATES OF A PORTION OF A THE SOUTH CAROLINA PAYROLL OF A MOVIE PRODUCTION COMPANY REQUIRED TO WITHHOLD SOUTH CAROLINA INDIVIDUAL INCOME TAX ON PERSONS IT EMPLOYS IN THIS STATE AND A PORTION OF THE PRODUCTION EXPENSES MADE BY A MOTION PICTURE COMPANY IN THIS STATE, BOTH IN CONNECTION WITH FILM PRODUCTION IN THIS STATE QUALIFYING FOR THESE REBATES, SO AS RESPECTIVELY TO INCREASE THE MAXIMUM REBATES FROM FIFTEEN PERCENT TO TWENTY PERCENT OF PAYROLL AND THE MAXIMUM REBATE FROM FIFTEEN TO THIRTY PERCENT OF PRODUCTION COSTS.**

A. Section 12‑62‑50(A)(1) of the 1976 Code, as last amended by Act 359 of 2008, is further amended to read:

“(1) The South Carolina Film Commission may rebate to a motion picture production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of a motion picture. The rebate may not exceed ~~fifteen~~ twenty percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings employed in connection with the production when total production costs in South Carolina equal or exceed one million dollars during the taxable year. The rebates in total may not annually exceed ten million dollars and shall come from the state’s general fund. For purposes of this section, ‘total aggregate payroll’ does not include the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture.”

B. Section 12‑62‑60(A)(1) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

“(1) An amount equal to twenty-six percent of the general fund portion of admissions tax collected by the State of South Carolina for the previous fiscal year must be funded annually by September first to the department for the exclusive use of the South Carolina Film Commission. The department may rebate to a motion picture production company up to ~~fifteen~~ thirty percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in-state expenditure of one million dollars. The distribution of rebates may not exceed the amount annually funded to the department for the South Carolina Film Commission from the admissions tax collected by the State.”

C. This section takes effect July 1, 2012.

**SECTION 5**

**TO ENACT THE “SECOND AMENDMENT RECOGNITION ACT” BY AMENDING SECTION 12‑36‑2120, AS AMENDED, OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE SALES TAX, SO AS TO EXEMPT THE SALES OF HANDGUNS, RIFLES, AND SHOTGUNS DURING A SPECIFIED FORTY‑EIGHT HOUR WEEKEND PERIOD.**

A. 1. This section may be cited as the “Second Amendment Recognition Act”.

2. Section 12‑36‑2120 of the 1976 Code is amended by adding a new item at the end appropriately numbered to read:

“( ) sales of handguns as defined pursuant to Section 16‑23‑10(1), rifles, and shotguns during the forty‑eight hours of the Second Amendment Weekend. For purposes of this item, the ‘Second Amendment Weekend’ begins at 12:01 a.m. on the Friday after Thanksgiving and ends at twelve midnight the following Saturday.”

B. This section takes effect July 1, 2012. /

**END OF PART II**

All acts or parts of acts inconsistent with any of the provisions of Parts IA, or IB of this act are suspended for Fiscal Year 2012-2013.

If any part, 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 part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Except as otherwise specifically provided, this act takes effect July 1, 2012.