

H. 3066 SIDE-BY-SIDE

H. 3066, As Amended By Senate	Senators Davis, Rose, and Massey’s Amendment	Notes
Part I Citation SECTION 1. This act may be cited as the “South Carolina Restructuring Act of 2011”.	NO CHANGE	
Part II Budget and Control Board SECTION 2. Section 1-11-20 of the 1976 Code is amended to read: “Section 1-11-20. (A) The functions of the State Budget and Control Board must be performed, exercised, and discharged under the supervision and direction of the board through <u>three its</u> divisions, the Finance Division (embracing the work of the State Auditor, the former State Budget Commission, the former State Finance Committee and the former Board of Claims for the State of South Carolina), the Purchasing and Property Division (embracing the work of the former Commissioners of the Sinking Fund, the former Board of Phosphate Commissioners, the State Electrician and Engineer, the former Commission on State House and State House Grounds, the central purchasing functions, the former Surplus Procurement Division of the State Research, Planning and Development Board and the Property Custodian) and the Division of Personnel Administration (embracing the work of the former retirement board known as the South Carolina Retirement System and the administration of all laws relating to personnel), each <u>Each</u> division to consist consists of a director and clerical, stenographic and technical employees necessary, to be employed by the respective directors with the approval of the board. The directors of the divisions must be employed by the State Budget and Control Board for that time and compensation as may be fixed by the board in its judgment. <u>(B) Effective July 1, 2011, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, the Department of Administration:</u>	B. Section 1-11-20 of the 1976 Code is amended to read: “Section 1-11-20. The functions of the State Budget and Control Board must be performed, exercised, and discharged under the supervision and direction of the board through three divisions, the Finance Division (embracing the work of the State Auditor, the former State Budget Commission, the former State Finance Committee and the former Board of Claims for the State of South Carolina), the Purchasing and Property Division (embracing the work of the former Commissioners of the Sinking Fund, the former Board of Phosphate Commissioners, the State Electrician and Engineer, the former Commission on State House and State House Grounds, the central purchasing functions, the former Surplus Procurement Division of the State Research, Planning and Development Board and the Property Custodian) and the Division of Personnel Administration (embracing the work of the former retirement board known as the South Carolina Retirement System and the administration of all laws relating to personnel), each division to consist of a director and clerical, stenographic and technical employees necessary, to be employed by the respective directors with the approval of the board. The directors of the divisions must be employed by the State Budget and Control Board for that time and compensation as may be fixed by the board in its judgment. <u>(A) Effective January 1, 2013, the offices, divisions, or components of the State Budget and Control Board, Office of the Governor, or other agencies named in this subsection are transferred to, and incorporated into, the Department of Administration, a department of the executive branch of state government headed by a director appointed by the Governor with the advice and consent of the Senate as provided in Section</u>	

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<p><u>(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intra state mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of understanding with appropriate officials of applicable legislative and judicial agencies or departments as provided in Section 1-30-125;</u></p> <p><u>(2) Division of State Information Technology including the Data Center, Information Technology Services, and South Carolina Enterprise Information System, but not including, support of the Joint Strategic Technology Committee;</u></p> <p><u>(3) Office of Human Resources;</u></p> <p><u>(4) the State Engineer's Office;</u></p> <p><u>(5) the Insurance Reserve Fund;</u></p> <p><u>(6) that portion of the Office of Research and Statistics required to support the Governor's executive budget writing duties; and</u></p> <p><u>(7) Office of State Budget, except for the employees required to provide fiscal impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office.</u></p> <p><u>(8) Office of Executive Policy and Programs, except for the State Ombudsman, Children's Services programs, and the Guardian ad Litem program that are contained within this office;</u></p>	<p><u>1-30-10(B)(1)(i). The director shall have the authority to act on behalf of and administer the department:</u></p> <p><u>(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intrastate mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of agreement with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection.</u></p> <p><u>(2) Division of State Information Technology including the Data Center, Information Technology Services, and South Carolina Enterprise Information System;</u></p> <p><u>(7) the Office of Human Resources;</u></p> <p><u>(5) the Procurement Services Division, including the State Engineer's Office;</u></p> <p><u>(6) the Insurance Reserve Fund;</u></p> <p><u>(3) the Office of Research and Statistics, except for the employees required to provide fiscal impact statements and revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office and except for the employees of the Precinct Demographics Section required to provide the services described in Section 2-3-250, who are transferred to the Office of Precinct Demographics;</u></p> <p><u>(4) the Office of State Budget, except for the employees required to provide fiscal impact statements and revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office;</u></p> <p><u>(8) the Office of Executive Policy and Programs, except for the State Ombudsman and Children's Services Programs that are contained within this office;</u></p> <p><u>(9) the Guardian ad Litem program as established in Section 63-11-500;</u></p>	

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<p><u>(F) Effective July 1, 2011, the State Energy Office is transferred from the State Budget and Control Board to the Office of Regulatory Staff.</u></p> <p><u>(G) Effective July 1, 2011, the State Auditor is transferred from the State Budget and Control Board to the Office of the State Treasurer.</u></p> <p><u>(H) Effective July 1, 2011, the Confederate Relic Room is transferred from the State Budget and Control Board to the Department of Archives and History.</u></p> <p><u>(I) Effective July 1, 2011, and until July 1, 2013, the State Budget and Control Board consists of the:</u> <u>(1) Employee Insurance Program; and</u> <u>(2) Retirement Division.</u> <u>Effective July 1, 2013, the State Budget and Control Board is abolished.</u></p> <p><u>(J)(1) Effective July 1, 2013, the following offices, divisions, or components of the State Budget and Control Board and the Department of Administration are transferred to, and incorporated into, an administrative agency of state government to be known as the Public Employee Benefit Agency:</u> <u>(a) the Employee Insurance Program;</u> <u>(b) the Retirement Division.</u> <u>Effective July 1, 2011, and until June 30, 2013, any additions or amendments to the State Employee Insurance Plan or the retirement system may not be adopted without the unanimous consent of the State Budget and Control Board. Effective July 1,</u></p>	<p><u>(3) the South Carolina Water Quality Revolving Fund Authority in support of water quality projects and federal loan program; and</u> <u>(4) the State Energy Office.</u></p> <p><u>(F) Effective January 1, 2013, the Office of State Auditor is abolished and all of the functions, duties, and responsibilities of the office are transferred to, and incorporated into, the Office of Inspector General. The employees, authorized appropriations, and assets and liabilities of the transferred office are also transferred to and become part of the Office of Inspector General. All classified or unclassified personnel employed by the office on the effective date of this section, either by contract or by employment at will, shall become employees of the Office of Inspector General to which the transfer was made, with the same compensation, classification, and grade level, as applicable.”</u></p> <p><u>(D) Effective January 1, 2013, the Confederate Relic Room is transferred from the State Budget and Control Board to the State Museum Commission.</u></p> <p><u>(E) Effective January 1, 2013, the Employee Insurance Program and the Retirement Division of the State Budget and Control Board are transferred to, and incorporated into a cabinet agency of state government to be known as the Public Employee Benefit Authority.</u></p>	

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<p><u>2013, the State Budget and Control Board is abolished.</u></p> <p><u>(2) The agency shall be comprised of the Employee Insurance Division, the Retirement Systems Division, the Insurance Reserve Fund Division, and the Administration Division. A board of trustees must be appointed to manage and make policy decisions for the Employee Insurance Division and the Retirement Systems Division. The daily office functions and other administrative tasks for all divisions shall be managed through the Administration Division by an executive director.</u></p> <p><u>(3)(a) On the effective date of this section, there is established a transition committee to provide the expertise necessary to facilitate the transfer of operations from the Budget and Control Board to the Public Employee Benefit Agency.</u></p> <p><u>(b) The transition committee is authorized to study and evaluate all actions necessary, both legislative and executive, for an orderly transition of the related trust funds and their operations to the trustee-based system to be administered by the Public Employee Benefit Agency. The transition committee must conduct a comprehensive survey of the structure, trustee governance, and operations of other similar</u></p>	<p>SECTION _____. The State Budget and Control Board, as constituted in Chapter 11, Title 1 of the 1976 Code, is abolished (1) upon the completion of the Executive Director of the Budget and Control Board completing all necessary actions to accomplish the transfers of functions, powers, duties, responsibilities, and authority in accordance with this act, state laws, and regulations, (2) after the Memorandum of Agreement required by SECTION 4 of this act is executed, and (3) upon the transfer of the Employee Insurance Program and the Retirement Division to the Public Employee Benefit Agency. If the execution of the Memorandum of Agreement becomes the sole necessary action precluding the abolition of the Budget and Control Board, then the Division of General Services shall immediately be transferred to the Department of Administration. The employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the agency, department, or institution to which the transfer was made. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the agency, department or institution to which the transfer was made, with the same compensation, classification, and grade level, as applicable.</p>	

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<p><u>systems throughout the United States and make recommendations to the General Assembly concerning the legislative actions that are needed to implement the most efficient, effective system.</u></p> <p><u>(c) The transition committee shall be comprised of eight voting members and the State Treasurer, ex officio, who shall serve as its chairman and may only vote when the committee is equally divided on any question. The eight voting members must be appointed by the State Budget and Control Board as follows:</u></p> <p><u>(i) one member representing municipal employees;</u></p> <p><u>(ii) one member representing county employees;</u></p> <p><u>(iii) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;</u></p> <p><u>(iv) two members representing public school teachers, one of whom must be retired;</u></p> <p><u>(v) one member representing the Retirement Investment Commission.</u></p> <p><u>The Budget and Control Board shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the board. The Budget and Control Board must appoint members from among the recommendations. Members must be appointed within sixty days of the effective date of this section.</u></p> <p><u>Members of the General Assembly may not be appointed to the transition committee. Members of the transition committee must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, insurance, retirement investment, economics, accounting, or related legal fields.</u></p> <p><u>(d) The members of the committee:</u></p> <p><u>(i) must meet as soon as practicable after appointment to organize itself by electing officers as the committee may consider necessary. Thereafter, the committee must meet as necessary to fulfill the duties required in this subsection at the call of the chairman or by a majority of the members. A quorum exists of seven members. The committee must engage or employ staff or consultants as may be necessary or prudent to assist the committee in the performance of its duties and responsibilities. Any staff or consultants must</u></p>		

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<p><u>possess an academic background or substantial career experience of such a nature as to assist the committee in fulfilling its duties, including, but not limited to, being credentialed in structure and board governance policy;</u></p> <p><u>(ii) shall serve without compensation but may receive the usual mileage, subsistence, and per diem allowed by law for members of state boards, committee, or commissions; and</u></p> <p><u>(iii) expenses incurred by the commission shall be paid by the Employee Insurance Program and the Retirement Division.</u></p> <p><u>(e) No later than January 1, 2013, the committee must prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives containing the committee’s recommendations concerning agency governance structure, statutory changes relative to the transition, and any other actions that must be taken to transition public employee insurance and retirement operations to the Public Employee Benefit Agency.</u></p> <p><u>(K) Notwithstanding another provision of law, if the State Budget and Control Board maintains primary responsibility related to a program the board must receive and expend revenues generated by the programs to support the board’s responsibilities related to the programs. The funds may be retained and expended in subsequent fiscal years until the date upon which the board is abolished. The funds then must be transferred to the appropriate agency for support that agency’s responsibilities related to the programs.”</u></p>	<p><u>(B) All functions, powers, duties, responsibilities, and authority vested in the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the Department of Administration and the department shall constitute the agencies and authorities, including their governing boards, if any, named in the this subsection:</u></p> <p><u>(1) State Educational Assistance Authority;</u></p> <p><u>(2) Educational Facilities Authority for Private, Non-Profit Institutions of Higher Learning;</u></p> <p><u>(3) South Carolina Resources Authority; and</u></p> <p><u>(4) Tobacco Settlement Revenue Management Authority Board.</u></p> <p><u>(D)(1) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to</u></p>	

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	<p><u>the director of the Department of Administration by September 1, 2013 and biennially thereafter. The director shall review the Statewide Strategic Information Technology Plan and recommend to the Governor priorities for state government enterprise information technology projects and resource requirements. The director shall also review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating agency information technology;</u></p> <p><u>(2) All oversight concerning the South Carolina Enterprise Information System is devolved to the director of the Department of Administration.</u></p> <p><u>(E) No later than December 31, 2013, the department’s director shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that contains an analysis of and recommendations regarding the most appropriate organizational placement for each current component of the Office of Executive Policy and Programs. The department shall solicit input from and consider the recommendation of affected constituencies while developing its report.</u></p> <p><u>(F) No later than December 31, 2013, the Office of Human Resources, in coordination with the Department of Archives and History, shall develop policies and procedures related to providing agency public records officers with annual training concerning records retention laws, regulations, and guidelines.</u></p> <p><u>(G) Notwithstanding any other provision of law, the Department of Administration may organize its staff as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions and management and organizational entities.</u></p> <p><u>(H)(1) Where the provisions of Act ____ of 2012, R. ____, H. 3066 transfer offices, or portions of offices, of the Budget and Control Board, Office of the Governor, or other agencies to the Department of Administration or the Office of Inspector General, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration. All classified or unclassified personnel employed by these offices on the effective date of this section, either by contract or by employment at will, shall become employees of the Department of Administration or the Office of Inspector General, as appropriate, with the same compensation, classification, and</u></p>	

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	<p>grade level, as applicable. The Executive Director of the Budget and Control Board and the Inspector General shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.</p> <p>(2) The Department of Administration and the Office of Inspector General shall use the existing resources of each division, insofar as it promotes efficiency and effectiveness, transferred to the department including, but not limited to, funding, personnel, equipment, and supplies from the board’s administrative support units, including, but not limited to, the Office of the Executive Director, Office of General Counsel, and the Office of Internal Operations. ‘Funding’ means state, federal, and other funds. Vacant FTE’s at the State Budget and Control Board also may be used to fill needed positions at the department. No new FTE’s may be assigned to the department without authorization from the General Assembly.</p> <p>(I) Regulations promulgated by these transferred offices as they formerly existed under the Budget and Control Board, Office of the Governor, or other agencies are continued and are considered to be promulgated by these offices under the Department of Administration.</p> <p>(J) The Department of Administration shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the executive chamber kept pursuant to Section 1-3-30.</p> <p>(K) Any duties to approve statewide policies, procedures, regulations, rates, and fees, or other specific actions must be acted upon by the Department of Administration in a timely manner. The Department of Administration must post its decisions on its website within sixty days of the day approval was sought.”</p>	
<p>Part III Department of Administration</p> <p>SECTION 3. Section 1-30-10(A) of the 1976 Code is amended to read:</p> <p>“(A) There are hereby created, within the executive branch of the state government, the following departments:</p> <p>1. <u>Department of Administration</u></p> <p>2. Department of Agriculture</p> <p>2.3. Department of Alcohol and Other Drug Abuse Services</p>	<p>NO CHANGE</p>	

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<p> 3.4. Department of Commerce 4.5. Department of Corrections 5.6. Department of Disabilities and Special Needs 6.7. Department of Education 7.8. Department of Health and Environmental Control 8.9. Department of Health and Human Services 9.10. Department of Insurance 10.11. Department of Juvenile Justice 11.12. Department of Labor, Licensing and Regulation 12.13. Department of Mental Health 14. <u>Department of Motor Vehicles</u> 13.15. Department of Natural Resources 14.16. Department of Parks, Recreation and Tourism 15.17. Department of Probation, Parole and Pardon Services 16.18. Department of Public Safety 17.19. Department of Revenue 18.20. Department of Social Services 19.21. Department of Transportation 20.22. Department of Employment and Workforce.” </p>		
<p>SECTION 4. Chapter 30, Title 1 of the 1976 Code is amended by adding:</p> <p>“Section 1-30-125. (A) Effective July 1, 2011, the following offices, divisions, or components of the State Budget and Control Board, Office of the Governor, or other agencies are transferred to, and incorporated into, the Department of Administration, a department of the executive branch of state government headed by a director appointed by the Governor with the advice and consent of the Senate as provided in Section 1-30-10(B)(1)(i):</p> <p>(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intrastate mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of understanding with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection.</p>	<p>“Section 1-11-10. The State Budget and Control Board shall be comprised of the Governor, ex officio, who shall be chairman, the State Treasurer, ex officio, the Comptroller General, ex officio, and the chairman of the Senate Finance Committee, ex officio, and the chairman of the Ways and Means Committee of the House of Representatives, ex officio. (A) <u>Effective January 1, 2013, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, the Department of Administration:</u></p> <p><u>(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intra state mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of agreement with appropriate officials of applicable legislative and judicial agencies or departments as provided in Section 1-30-125;</u></p>	

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<p>(a) The memorandum of understanding shall provide for:</p> <ul style="list-style-type: none"> (i) continued use of existing office space; (ii) a method for the allocation of new, additional, or different office space; (iii) adequate parking; (iv) a method for the allocation of new, additional, or different parking; (v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board; (vi) the provision of water, electricity, steam and chill water to the offices, areas, and facilities occupied by the applicable agencies at actual costs, not including administrative overhead or other surcharges; (vii) the ability for each agency or department to maintain building access control for its allocated office space; and (ix) access control for the Senate and House chambers and courtrooms as appropriate. <p>(b) The parties may modify the memorandum of understanding by mutual consent at any time;</p> <p>(2) Division of State Information Technology including the Data Center, Information Technology Services, and South Carolina Enterprise Information System, but not including, support of the Joint Strategic Technology Committee;</p> <p>(a) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to the Joint Strategic Technology Commission by September first of each year;</p> <p>(b) The Joint Strategic Technology Commission shall make recommendations to the division including, but not limited to, priorities for state government enterprise information technology projects, resource requirements, and efficiency. In addition, the division shall cooperate with and provide assistance to the Joint Strategic Technology Commission in the furtherance of the commission’s mission;</p>	<p><u>(a) The memorandum of agreement shall provide for:</u></p> <ul style="list-style-type: none"> <u>(i) continued use of existing office space;</u> <u>(ii) a method for the allocation of new, additional, or different office space;</u> <u>(iii) adequate parking;</u> <u>(iv) a method for the allocation of new, additional, or different parking;</u> <u>(v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board;</u> <u>(vi) the provision of water, electricity, steam and chill water to the offices, areas, and facilities occupied by the applicable agencies at actual costs, not including administrative overhead or other surcharges;</u> <u>(vii) the ability for each agency or department to maintain building access control for its allocated office space; and</u> <u>(ix) access control for the Senate and House chambers and courtrooms as appropriate;</u> <p><u>(b) The parties may modify the memorandum of understanding by mutual consent at any time;</u></p> <p><u>(2) Division of State Information Technology including the Data Center, Telecommunications and Information Technology Services, and South Carolina Enterprise Information System;</u></p> <p><u>(D)(1) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to the director of the Department of Administration by September 1, 2013 and biennially thereafter. The director shall review the Statewide Strategic Information Technology Plan and recommend to the Governor priorities for state government enterprise information technology projects and resource requirements. The director shall also review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating agency information technology;</u></p> <p><u>(2) All oversight concerning the South Carolina Enterprise</u></p>	

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<p>(3) The portion of the Office of Research and Statistics required to support the Governor's executive budget writing duties;</p> <p>(7) Office of Human Resources, except that any additions or amendments to the State Human Resource Regulations must be submitted for approval to the State Financial Affairs Authority;</p> <p>(5) the State Engineer's Office;</p> <p>(4) Office of State Budget, except for the employees required to provide fiscal impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office;</p> <p>(6) the Insurance Reserve Fund;</p> <p>(8) Office of Executive Policy and Programs, except for the State Ombudsman, Children's Services programs, and the Guardian ad Litem program that are contained within this office;</p> <p>(9) Office of Economic Opportunity;</p> <p>(10) Developmental Disabilities Council;</p> <p>(11) Continuum of Care as established by Section 20-7-5610;</p> <p>(12) Children's Foster Care as established by Section 20-7-2379;</p> <p>(13) Veterans Affairs as established by Section 25-11-10;</p> <p>(14) Commission on Women as established by Section 1-15-10;</p> <p>(15) Victims Assistance as established by Article 13,</p>	<p><u>Information System is devolved to the director of the Department of Administration.</u></p> <p><u>(7) the Office of Research and Statistics, except for the employees required to provide fiscal impact statements and revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office and except for the employees of the Precinct Demographics Section required to provide the services described in Section 2-3-250, who are transferred to the Office of Precinct Demographics; and</u></p> <p><u>(3) the Office of Human Resources;</u></p> <p><u>(4) the Procurement Services Division, including the State Engineers Office;</u></p> <p><u>(8) the Office of State Budget, except for the employees required to provide fiscal impact statements and revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties who are transferred to the Legislative Fiscal Office.</u></p> <p><u>(6) the Insurance Reserve Fund;</u></p> <p><u>(8) the Office of Executive Policy and Programs, except for the State Ombudsman and Children's Services Programs that are contained within this office;</u></p> <p><u>(9) the Guardian ad Litem program as established in Section 63-11-500;</u></p> <p><u>(10) the Office of Economic Opportunity;</u></p> <p><u>(11) the Developmental Disabilities Council;</u></p> <p><u>(12) the Continuum of Care for Emotionally Disturbed Children Division as established by Section 63-11-1310;</u></p> <p><u>(13) the Division for Review of the Foster Care of Children as established by Section 63-11-700;</u></p> <p><u>(14) the Division of Veterans Affairs as established by Section 25-11-10;</u></p> <p><u>(15) the Commission on Women as established by Section 1-15-10;</u></p> <p><u>(16) the South Carolina Victim's Advisory Board, as</u></p>	

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<p>Chapter 3, Title 16; and</p> <p>(16) Small and Minority Business as established by Section 11-35-5270.</p> <p>(B)(1) There is established, within the Department of Administration, the Executive Budget Office which shall support the Office of the Governor by conducting analysis, coordinating executive agency requests for funding, and evaluating program performance.</p> <p>(2) The Executive Budget Office shall use the existing resources of the organizations transferred to the Department of Administration including, but not limited to, funding, personnel, equipment, and supplies. Vacant FTE’s at the State Budget and Control Board also may be used to fill needed positions for the office.</p> <p>(C) Notwithstanding any other provision of law, the Department of Administration may organize its staff as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions and management and organizational entities.</p> <p>(D) Each transferred office must be maintained as a distinct component of the Department of Administration. Any funds appropriated to a distinct component of the department must not be transferred to another component. Any funds appropriated to the department, and not to a distinct component of the department, may be used at the discretion of the director.</p> <p>(E)(1) Where the provisions of this act transfer offices, or portions of offices, of the Budget and Control Board, Office of the Governor, or other agencies to the Department of Administration, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the Department</p>	<p><u>established pursuant to Article 13, Chapter 13 of Title 16; and</u></p> <p><u>(17) the Small and Minority Business Assistance Office, as established pursuant to Section 11-35-5270.</u></p> <p><u>(C)(1) The Office of State Budget shall support the Governor’s budget writing duties, as contained in Section 11-11-70, conduct analysis, coordinate executive agency requests for funding, evaluate program performance, forecast state revenue, and conduct fiscal impact statements and revenue impact statements on every bill related to state taxes that is reported out of a standing committee of the Senate or House of Representatives for consideration.</u></p> <p><u>(2) The office may develop and utilize dynamic revenue analyses for fiscal impact statements and revenue impact statements, taking into account the probable behavioral responses of taxpayers and businesses, and utilizing dynamic techniques when estimating the fiscal or revenue impact of legislation.</u></p> <p><u>(3) The office shall use the existing resources of the organizations transferred to the Department of Administration including, but not limited to, funding, personnel, equipment, and supplies. Vacant FTE’s at the State Budget and Control Board also may be used to fill needed positions for the office.</u></p> <p><u>(G) Notwithstanding any other provision of law, the Department of Administration may organize its staff as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions and management and organizational entities.</u></p>	

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<p>of Administration, with the same compensation, classification, and grade level, as applicable. The Executive Director of the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.</p> <p>(2) The Department of Administration shall use the existing resources of each division transferred to the department including, but not limited to, funding, personnel, equipment, and supplies to carry out each division’s responsibilities. The department shall also receive an equitable allocation of funding, personnel, equipment, and supplies from the board’s administrative support units including, but not limited to, the Office of the Executive Director, Office of General Counsel, and the Office of Internal Operations. ‘Funding’ means state, federal, and other funds. Vacant FTE’s at the State Budget and Control Board also may be used to fill needed positions at the department. No new FTE’s may be assigned to the department without authorization from the General Assembly.</p> <p>(F) Regulations promulgated by these transferred offices as they formerly existed under the Budget and Control Board, Office of the Governor, or other agencies are continued and are considered to be promulgated by these offices under the newly Department of Administration.</p> <p>(G) The Department of Administration shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the executive chamber kept pursuant to Section 1-3-30.</p> <p>(H) Any duties to approve statewide policies, procedures, regulations, rates, and fees, or other specific actions must be acted upon by the Department of Administration in a timely manner. The Department of Administration must post its decisions on its website within sixty days of the day approval was sought and deliver this information monthly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.”</p>	<p>(B) <u>All functions, powers, duties, responsibilities, and authority versted in the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the Department of Administration and the department shall constitute the agencies and authorities, including their governing boards, if any, named in the this subsection.</u></p> <p>(1) <u>State Educational Assistance Authority;</u></p> <p>(2) <u>Educational Facilities Authority for Private, Non-Profit Institutions of Higher Learning;</u></p> <p>(3) <u>South Carolina Resources Authority; and</u></p>	

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	<u>(4) Tobacco Settlement Revenue Management Authority Board.</u>	
<p>Part IV Legislative Fiscal Office</p> <p>SECTION 5. Chapter 3, Title 2 of the 1976 Code is amended by adding:</p> <p>“Section 2-3-240. (A) Effective July 1, 2011, the following personnel of the State Budget and Control Board are transferred to a Legislative Fiscal Office organized as recommended by the Clerk of the Senate and the Clerk of the House of Representatives and approved by the President Pro Tempore of the Senate and the Speaker of the House of Representatives:</p> <p>(1) the employees of the Office of State Budget required to provide fiscal impact statements on proposed legislation and to support the General Assembly’s budget writing duties; and</p> <p>(2) the employees of the Office of Research and Statistics required to provide revenue impact statements on proposed legislation and to support the General Assembly’s budget writing duties.</p> <p>(B) The Clerk of the Senate and the Clerk of the House of Representatives must direct and assist the transfer of these personnel. The Legislative Fiscal Office must support the work of the General Assembly through the provision of data without regard to political or other considerations beyond technical accuracy and professionalism required to perform the duties of the office.</p> <p>(C) The executive director of the Budget and Control Board, in consultation with the Senate Finance Committee and the House Ways and Means Committee, shall determine the employees, authorized appropriations, and assets and liabilities to be transferred from items (1) and (2) of subsection (A).</p> <p>Section 2-3-250. There is created within the Legislative Fiscal Office a Division of Precinct Demographics to be staffed by personnel as determined appropriate as recommended by the Clerk of the Senate and the Clerk of the House of</p>	<p>SECTION 5. A. Chapter 3, Title 2 of the 1976 Code is amended by adding:</p> <p>“Section 2-3-240. (A) Effective January 1, 2013, the following personnel of the State Budget and Control Board are transferred to the Legislative Fiscal Office, organized as recommended by the Clerk of the Senate and the Clerk of the House of Representatives:</p> <p>(1) the employees of the Office of State Budget required to provide fiscal impact statements on proposed legislation and to support the General Assembly’s budget writing duties; and</p> <p>(2) the employees of the Office of Research and Statistics required to provide revenue impact statements on proposed legislation and to support the General Assembly’s budget writing duties.</p> <p>(B) The Legislative Fiscal Office must support the work of the General Assembly through the provision of data, fiscal impact statements and revenue impact statements, as appropriate, on proposed legislation and support the General Assembly’s budget writing duties without regard to political or other considerations beyond technical accuracy and professionalism required to perform the duties of the office.</p> <p>(C) The executive director of the Budget and Control Board, in consultation with the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, shall determine the employees, authorized appropriations, and assets and liabilities to be transferred pursuant to items (1) and (2) of subsection (A). ”</p> <p>SECTION 4. Chapter 3, Title 2 of the 1976 Code is amended by adding:</p> <p>“Section 2-3-250. The Office of Precinct Demographics is established under the joint direction and management of the Clerk of the Senate and the Clerk of the House of Representatives. The office shall be staffed by personnel as</p>	

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<p>Representatives and approved by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The division of Precinct Demographics shall:</p> <p>(1) review existing precinct boundaries and maps for accuracy and develop and rewrite descriptions of precincts for submission to the legislative process;</p> <p>(2) consult with members of the General Assembly or their designees on matters related to precinct construction or discrepancies that may exist or occur in precinct boundary development in the counties they represent;</p> <p>(3) develop a system for originating and maintaining precinct maps and related data for the State;</p> <p>(4) represent the Legislative Fiscal Office at public meetings, meetings with members of the General Assembly, and meetings with other state, county, or local governmental entities on matters related to precincts;</p> <p>(5) assist the appropriate county officials in the drawing of maps and writing of descriptions or precincts preliminary to these maps and descriptions being filed in this office for submission to the United States Department of Justice;</p> <p>(6) coordinate with the Census Bureau in the use of precinct boundaries in constructing census boundaries and the identification of effective uses of precinct and census information for planning purposes;</p> <p>(7) serve as a focal point for verifying official precinct information for the counties of South Carolina.”</p>	<p>determined appropriate by the Clerk of the Senate and the Clerk of the House of Representatives and approved by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Office Precinct Demographics shall:</p> <p>(1) review existing precinct boundaries and maps for accuracy and develop and rewrite descriptions of precincts for submission to the legislative process;</p> <p>(2) consult with members of the General Assembly or their designees on matters related to precinct construction or discrepancies that may exist or occur in precinct boundary development in the counties they represent;</p> <p>(3) develop a system for originating and maintaining precinct maps and related data for the State;</p> <p>(4) represent the General Assembly at public meetings, meetings with members of the General Assembly, and meetings with other state, county, or local governmental entities on matters related to precincts;</p> <p>(5) assist the appropriate county officials in the drawing of maps and writing of descriptions or precincts preliminary to these maps and descriptions being filed in this office for submission to the United States Department of Justice;</p> <p>(6) coordinate with the Census Bureau in the use of precinct boundaries in constructing census boundaries and the identification of effective uses of precinct and census information for planning purposes; and</p> <p>(7) serve as a focal point for verifying official precinct information for the counties of South Carolina.”</p>	
<p>SECTION 6. Section 2-7-71 of the 1976 Code is amended to read:</p> <p>“Section 2-7-71. When a bill relating to state taxes is reported out of a standing committee of the Senate or House of Representatives for consideration, there must be attached and printed as a part of the committee report a statement of the estimated revenue impact of the bill on the finances of the State certified by the Board of Economic Advisors prepared by the <u>Legislative Fiscal Office</u>. As used in this section, ‘statement of estimated revenue impact’ means the consensus of the persons executing the required statement as to the increase or decrease in the net tax revenue to the State if the bill concerned is enacted by the General Assembly. In preparing a statement, the Board of Economic Advisors <u>Legislative Fiscal Office</u> may request technical advice of the Department of Revenue.”</p>		

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<p>SECTION 7. Section 2-7-72 of the 1976 Code is amended to read:</p> <p>“Section 2-7-72. Whenever a bill or resolution is introduced in the General Assembly requiring the expenditure of funds, the principal author shall affix a statement of estimated fiscal impact and cost of the proposed legislation. Before reporting the bill out of committee, if the amount is substantially different from the original estimate, the committee shall attach a statement of estimated fiscal impact to the bill signed by the Director of the State Budget Division of the State Budget and Control Board <u>Legislative Fiscal Office</u> or his designee. As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.”</p>		
<p>SECTION 8. Section 2-7-73 of the 1976 Code is amended to read:</p> <p>“Section 2-7-73. (A) Any bill or resolution which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must have attached to it a statement of the financial impact of the coverage, according to the guidelines enumerated in subsection (B). This financial impact analysis must be conducted by the Division of Research and Statistical Services <u>Legislative Fiscal Office</u> and signed by an authorized agent of the Department of Insurance, or his designee. The statement required by this section must be delivered to the Senate or House committee to which any bill or resolution is referred, within thirty days of the written request of the chairman of such committee.</p> <p>(B) Guidelines for assessing the financial impact of proposed mandated or mandatorily offered health coverage to the extent that information is available, must include, but are not limited to, the following:</p> <ol style="list-style-type: none"> (1) to what extent does the coverage increase or decrease the cost of treatment or services; (2) to what extent does the coverage increase or decrease the use of treatment or service; (3) to what extent does the mandated treatment or service substitute for more expensive treatment or service; (4) to what extent does the coverage increase or decrease 		

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the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and (5) what is the impact of this coverage on the total cost of health care.”		
<p>SECTION 9. Section 2-7-74 of the 1976 Code is amended to read:</p> <p>“Section 2-7-74. (A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.</p> <p>(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Office of State Budget <u>Legislative Fiscal Office</u> shall assist in preparing the fiscal impact statement.</p> <p>(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Office of State Budget <u>Legislative Fiscal Office</u>. The Office of State Budget <u>Legislative Fiscal Office</u> shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Office of State Budget <u>Legislative Fiscal Office</u> requests an extension of time. The Office of State Budget <u>Legislative Fiscal Office</u> shall not unreasonably delay the delivery of a fiscal impact statement.</p> <p>(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.</p> <p>(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Office of State Budget <u>Legislative Fiscal Office</u> and shall attach the revised fiscal impact statement to the legislation.</p> <p>(F) State agencies and political subdivisions shall cooperate with the Office of State Budget <u>Legislative Fiscal Office</u> in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Office of State Budget <u>Legislative Fiscal Office</u> in a timely fashion.</p>		

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<p>(G) In preparing fiscal impact statements, the Office of State Budget Legislative Fiscal Office shall consider and evaluate information as submitted by state agencies and political subdivisions. The Office of State Budget Legislative Fiscal Office shall provide to the requesting Senate or House of Representatives committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the Office of State Budget Legislative Fiscal Office.</p> <p>(H) The Office of State Budget Legislative Fiscal Office may request information from nongovernmental agencies and organizations to assist in preparing the fiscal impact statement.”</p>		
<p>SECTION 10. Section 2-7-76 of the 1976 Code is amended to read:</p> <p>“Section 2-7-76. (A) The chairman of the legislative committee to which a bill or resolution was referred shall direct the Budget Division or the Economic Research Section of the Budget and Control Board, as appropriate, <u>Legislative Fiscal Office</u> to prepare and affix to it a statement of the estimated fiscal or and revenue impact and cost to the counties and municipalities of the proposed legislation before the legislation is reported out of that committee if a bill or resolution:</p> <p>(1) requires a county or municipality to expend funds allocated to the county or municipality pursuant to Chapter 27 of Title 6;</p> <p>(2) is introduced in the General Assembly to require the expenditure of funds by a county or municipality;</p> <p>(3) requires the use of county or municipal personnel, facilities, or equipment to implement a general law or regulations promulgated pursuant to a general law; or</p> <p>(4) relates to taxes imposed by political subdivisions.</p> <p>(B) A revised estimated fiscal or and revenue impact and cost statement must be prepared at the direction of the presiding officer of the House of Representatives or the Senate by the Budget Division or Economic Research Section of the Budget and Control Board <u>Legislative Fiscal Office</u> before third reading of the bill or resolution, if there is a significant amendment to the bill or resolution.</p> <p>(C) For purposes of this section, ‘political subdivision’ means a county, municipality, school district, special purpose district, public service district, or consolidated political subdivision.”</p>		

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<p>Part V State Financial Affairs Authority</p> <p>SECTION 11. Title 1 of the 1976 Code is amended by adding:</p> <p>“Chapter 12 State Financial Affairs Authority Article 1 General Provisions</p> <p>Section 1-12-10. The State Financial Affairs Authority shall be comprised of the Governor, ex officio, who shall be chairman, the State Treasurer, ex officio, the Comptroller General, ex officio, one Senator selected by a majority of the Senate who shall serve ex officio, and one member of the House of Representatives selected by a majority of the House of Representatives who shall serve ex officio.</p> <p>Section 1-12-20. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the authority through such divisions as the authority may from time to time establish. The authority may organize its staff as it deems most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions, provided that each division shall consist of a director and clerical, stenographic, and technical employees necessary, to be employed by the respective directors with the approval of the authority. The directors of the divisions must be employed by the State Financial Affairs Authority for that time and compensation as may be fixed by the authority in its judgment.</p> <p>Section 1-12-30. The authority may cooperate with and assist the authorities of the counties, municipalities, school districts, and other subdivisions of the State in the handling, in whatever manner may be deemed by it desirable in each case, of the financial obligations of such counties, municipalities, school districts, and other subdivisions. The authority may, upon request of any such authorities, negotiate with the holders of such obligations and the authorities of the obligor to the end that such extensions and adjustments as may be desirable may be effected and may negotiate with any lending agency and perform any other act or service pursuant to the purpose hereof to the end that the credit of the subdivisions of the State and the rights of the holders of their obligations may be mutually protected.</p>	<p>Amend the bill further, as and if amended, beginning on page 16, by striking PART V, relating to the State Financial Affairs Authority, in its entirety.</p>	

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<p>Section 1-12-40. (A) To offset the costs incurred by the State in the review and processing of proposals by the governing bodies of counties and municipalities for the issuance or refunding of industrial, hospital, or pollution control revenue bonds or notes, the State Financial Affairs Authority may charge a single fee to cover initial processing ,including any amendments in accord with the following schedule:</p> <table><tr><td>Issue or Refunding Amount</td><td>Fee</td></tr><tr><td>\$1,000,000 or less</td><td>\$2,000</td></tr><tr><td>\$1,000,001 through \$25,000,000</td><td>3,000</td></tr><tr><td>\$25,000,001 through \$50,000,000</td><td>4,000</td></tr><tr><td>Over \$50,000,000</td><td>5,000</td></tr></table> <p>(B) The revenue received from these fees must be deposited in the General Fund.</p> <p>Section 1-12-50. (A) The State Financial Affairs Authority is authorized to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state-supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above-referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The authority has the exclusive control over the investigation, settlement, and defense</p>	Issue or Refunding Amount	Fee	\$1,000,000 or less	\$2,000	\$1,000,001 through \$25,000,000	3,000	\$25,000,001 through \$50,000,000	4,000	Over \$50,000,000	5,000		
Issue or Refunding Amount	Fee											
\$1,000,000 or less	\$2,000											
\$1,000,001 through \$25,000,000	3,000											
\$25,000,001 through \$50,000,000	4,000											
Over \$50,000,000	5,000											

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<p>of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.</p> <p>(B) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15-78-140.</p> <p>(C) The procurement of tort liability insurance in the manner provided is the exclusive means for the procurement of this insurance.</p> <p>(D) The authority also is authorized to offer insurance to governmental hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established; and chartered, nonprofit, eleemosynary hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established in this State to protect these hospitals against tort liability. Notwithstanding any other provision of this section, the procurement of tort liability insurance by a hospital and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established supported wholly or partially by public funds contributed by the State or any of its political subdivisions in the manner herein provided is not the exclusive means by which the hospital may procure tort liability insurance.</p> <p>(E) The authority is authorized to provide insurance for duly appointed members of the boards and employees of health system agencies, and for members of the State Health Coordinating Council which are created pursuant to Public Law 93-641.</p> <p>(F) The authority is further authorized to provide insurance as prescribed in Sections 10-7-10 through 10-7-40, 59-67-710, and 59-67-790.</p> <p>(G) Documentary or other material prepared by or for the authority in providing any insurance coverage authorized by this section or any other provision of law which is contained in any claim file is subject to disclosure to the extent required by the Freedom of Information Act only after the claim is settled or finally concluded by a court of competent jurisdiction.</p> <p>(H) The authority is further authorized to provide insurance for state constables, including volunteer state constables, to protect these personnel against tort liability arising in the course of their employment, whether or not for compensation, while</p>		

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<p>serving in a law enforcement capacity.</p> <p>Section 1-12-60. (A) Agencies shall insure state-owned vehicles through the authority or shall absorb the cost of accident repairs within the agency budget.</p> <p>(B) State employees who, while driving state-owned vehicles on official business, are involved in accidents resulting in damages to the vehicles may not be held liable to the State for the cost of repairs, except in the following cases:</p> <p>(1) if the operator was convicted of driving under the influence of alcohol or illegal drugs at the time of the accident and the Accident Review Board determines that the operator’s impaired condition substantially was the cause of the accident, the operator may be assessed up to the full cost of repairs; and</p> <p>(2) in all other cases, the employee operator may be assessed for an amount not to exceed two hundred dollars for each occurrence if he is found to be at fault in the accident after a review of records conducted by a duly appointed Accident Review Board.</p> <p>(C) Employees subjected to these assessments may appeal the assessment to the following bodies, in the following order:</p> <p>(1) Agency Accident Review Board;</p> <p>(2) Agency Executive Director or governing board or commission;</p> <p>(3) State Motor Vehicle Management Council; and</p> <p>(4) State Budget and Control Board.</p> <p>Section 1-12-70. The State Financial Affairs Authority may employ special agents to examine insurance risks carried by the authority and perform any other duties which may be required of them. The cost of necessary supplies, equipment, and travel expenses of the special agents shall be paid from the revenues of the Insurance Reserve Fund.</p> <p>Section 1-12-80. To underwrite automobile liability insurance provided pursuant to this chapter, the authority is authorized to either self-insure, purchase reinsurance, or use a combination of self-insurance and reinsurance. Should the authority elect to purchase automobile liability reinsurance, the reinsurance shall be procured through a bid process in accordance with the South Carolina Consolidated Procurement Code with a contract term not to exceed three years.</p> <p>Section 1-12-90. The authority is authorized to finance the</p>		

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<p>construction of correctional facilities by issuance of capital improvement bonds or other methods of financing approved by the authority.</p> <p>Section 1-12-100. (A) By the provisions of Title 4, Chapter 29, of Title 4 (the Industrial Revenue Bond Act), Chapter 3, of Title 48 (the Pollution Control Facilities Revenue Bond Act), Article 11 of Chapter 7 of Title 44 (the Hospital Revenue Bond Act), all of the 1976 Code, and certain other provisions of South Carolina law, various political subdivisions and agencies of the State of South Carolina are authorized or enabled to issue their debt for the benefit of certain private entities in order to encourage and promote certain undertakings and activities which promote the public health, welfare, and economy of the State. There is pending in the Congress of the United States legislation which, if enacted in its present form, would impose a maximum dollar limit on the amount of the debt, referred to as ‘private activity bonds’, which could be issued by a state in a given year. The legislation purports to be effective, retroactively, to all the indebtedness issued subsequent to December 31, 1983. The legislation also provides that the inclusion of the indebtedness issued in any state within the limitation imposed must be determined in a manner as provided by the legislature of the state. The pendency of the legislation absent a mechanism for determining the inclusion of debt within the proposed limit has created uncertainty and difficulty in the issuance of debt to which the limitation, if imposed, might apply. In order to remove this uncertainty the General Assembly proposes to delegate to the State Financial Affairs Authority and the Joint Bond Review Committee, if a maximum limit upon the debt is imposed, the authority to designate which indebtedness is included within any limits on ‘private activity bonds’, which may be imposed by federal law or regulations and to promulgate rules and regulations as the State Financial Affairs Authority with the approval of the committee may consider necessary for the purposes.</p> <p>(B) The authority and the Joint Bond Review Committee shall develop a plan pursuant to which the authority shall determine which issue of indebtedness, or portions of indebtedness, issued by the State of South Carolina or any agency or political subdivision of the State must be included within any limitation on ‘private activity bonds’ or any similar indebtedness, proposed or imposed by any federal legislation or regulations. The determination may be made without regard to</p>		

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<p>the date of any agreements between the issuers and beneficiaries of any indebtedness, and no priority need be given any issue, issuer, or beneficiary based on any date.</p> <p>(C) The authority, after review by the Joint Bond Review Committee, shall promulgate regulations as it considers necessary or useful in connection with the authority granted in this section.</p> <p>Section 1-12-120. Any state governmental body which provides health care or social services and which has a legal right to be reimbursed from any private or governmental source for these services may contract with any vendor on a contingent basis to recover or to assist in the recovery of funds for reimbursement of the provided services. The governmental body may pay the vendor from funds actually collected from governmental or private sources as a result of the services provided by the vendor. The vendor must be selected pursuant to Section 11-35-1530, 11-35-1560, or 11-35-1570 and the contract must be approved by the State Budget and Control Board.</p> <p>Section 1-12-130. No aircraft may be purchased, leased, or lease-purchased for more than a thirty-day period by any state agency without the prior authorization of the State Financial Affairs Authority.</p> <p>Section 1-12-140. The State must defend the members of the State Financial Affairs Authority against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the authority and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State must defend officers and management employees of the authority and legislative employees performing duties for board members against a claim or suit that arises out of or by virtue of performance of official duties unless the officer, management employee, or legislative employee was acting in bad faith and must indemnify these officers, management employees, and legislative employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers,</p>		

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<p>management employees, and legislative employees after they have left their employment with the authority or General Assembly, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the authority.</p> <p>Section 1-12-150. The State Financial Affairs Authority is authorized to pay judgments against individual governmental employees and officials, in excess of one million dollars, subject to a maximum of four million dollars in excess of one million dollars for one employee and a maximum of twenty million dollars in excess of five million dollars in one fiscal year. These payments are limited to judgments rendered under 42 U.S.C. Section 1983 against governmental employees or officials who are covered by a tort liability policy issued by the Insurance Reserve Fund. These payments are also limited to judgments against governmental employees and officials for acts committed within the scope of employment. If a judgment is paid, the payment must be recovered by assessments against all governmental entities purchasing tort liability insurance from the Insurance Reserve Fund.</p> <p>Section 1-12-160. (A) No funds appropriated by the General Assembly may be used by a constitutional officer to purchase space including, but not limited to, notices or advertisements, in a print medium or time from a radio or television medium without unanimous prior written approval of the State Financial Affairs Authority.</p> <p>(B) No funds appropriated by the General Assembly may be used by a constitutional officer to print on, or distribute with, official documents extraneous promotional material or to purchase plaques, awards, citations, or other recognitions without unanimous prior written approval of the State Financial Affairs Authority.</p> <p>(C) If nonpublic funds are used for the purposes enumerated in subsection (A), the constitutional officer expending the funds must submit the source of the funds showing all contributors to the State Financial Affairs Authority before the funds are expended.</p> <p>(D) The provisions of this section do not apply to the Governor or to the General Assembly.</p> <p>Section 1-12-170. (A) The State Financial Affairs Authority is directed to survey the progress of the collection of revenue</p>		

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<p>and the expenditure of funds by all agencies, departments, and institutions. If the authority determines that a year-end aggregate deficit may occur by virtue of a projected shortfall in anticipated revenues, it shall utilize those funds as may be available and required to be used to avoid a year-end deficit and after that take action as necessary to restrict the rate of expenditure of all agencies, departments, and institutions consistent with the provisions of this section. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the authority. A reduction of rate of expenditure by the financial affairs authority, pursuant to this section, must be applied as uniformly as may be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government. This reduction is subject to any bill or resolution enacted by the General Assembly.</p> <p>(B) As far as practicable, all agencies, departments, and institutions of the State are directed to budget and allocate appropriations as a quarterly allocation to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It is recognized that academic year calendars of state institutions affect the uniformity of the receipt and distribution of funds during the year. The Comptroller General shall make reports to the authority as they consider advisable on an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution. The authority is directed to require the agency, department, or institution to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, department, or institution if the authority determines that a deficit may occur. It is the responsibility of the agency, department, or institution to develop a plan, in consultation with the authority, which eliminates or reduces a deficit. If the authority makes a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the agency, department, or institution, then the authority may determine that the recognition of the agency, department, or institution is appropriate and shall notify the General Assembly of this action or the presiding officer of the House and Senate if the General</p>		

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<p>Assembly is not in session. The authority only may recognize a deficit by a vote of at least four members.</p> <p>(C) Upon receipt of the notification from the authority, the General Assembly may authorize supplemental appropriations from any surplus revenues that existed at the close of the previous fiscal year. If the General Assembly fails to take action, then the finding of the authority shall stand, and the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the Capital Reserve Fund and General Reserve Fund, as required by the Constitution of this State. If the authority finds that the cause of or likelihood of a deficit is the result of the agency, department, or institution management, then the state officials responsible for management of the agency, department, or institution involved must be held liable for it and the financial affairs authority shall notify the Agency Head Salary Commission of this finding. In the case of a finding that a projected deficit is the result of the management of the agency, department, or institution, the authority shall take steps immediately to curtail agency, department, or institution expenditures to bring expenditures in line with authorized appropriations and avoid a year-end operating deficit.</p> <p>Section 1-12-180. If the State Financial Affairs Authority or the General Assembly mandates an across-the-board reduction, state agencies are encouraged to reduce general operating expenses including, but not limited to, travel, training, procurement, hiring of temporary and contractual employees before reductions are made to programs, special line items, or local provider services critical to an agency’s mission.</p> <p>Section 1-12-190. (A) In addition to the powers granted the State Financial Affairs Authority pursuant to this chapter or another provision of law, the authority may require submission and approval of plans and specifications for permanent improvements by a state department, agency, or institution before a contract is awarded for the permanent improvement.</p> <p>(B) The authority may promulgate regulations necessary to carry out its duties.</p> <p>(C) The respective divisions of the authority and the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods</p>		

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<p>and services as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which must be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and those funds may be retained and expended for the same purposes.</p> <p style="text-align: center;">Article 3 Allocation of State Ceiling on Issuance of Private Activity Bonds</p> <p>Section 1-12-300. The state ceiling on the issuance of private activity bonds as defined in Section 146 of the Internal Revenue Code of 1986 (the Code) established in the act must be certified annually by the State Financial Affairs Authority based upon the provisions of the act. The financial affairs authority shall make this certification as soon as practicable after the estimates of the population of the State of South Carolina to be used in the calculation are published by the United States Bureau of the Census but in no event later than February first of each calendar year.</p> <p>Section 1-12-310. (A) The private activity bond limit for all issuing authorities must be allocated by the financial affairs authority in response to authorized requests as described this article by the issuing authorities.</p> <p>(B) The aggregate private activity bond limit amount for all South Carolina issuing authorities is allocated initially to the State for further allocation within the limits prescribed herein.</p> <p>(C) Except as is provided in this article, all allocations must be made by the financial affairs authority on a first-come, first-served basis, to be determined by the date and time sequence in which complete authorized requests are received by the financial affairs authority.</p> <p>Section 1-12-320. (A) The private activity bond limit for all state government issuing authorities now or hereafter authorized to issue private activity bonds as defined in the act, to be known as the ‘state government pool’, is forty percent of the state ceiling less any amount shifted to the local pool as described in subsection (B) of this section or plus any amount shifted from that pool.</p> <p>(B) The private activity bond limit for all issuing authorities</p>		

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<p>other than state government agencies, to be known as the ‘local pool’, is sixty percent of the state ceiling plus any amount shifted from the state government pool or less any amount shifted to that pool.</p> <p>(C) The financial affairs authority, with review and comment by the Joint Bond Review Committee, may shift unallocated amounts from one pool to the other at any time.</p> <p>Section 1-12-330. (A) For private activity bonds proposed for issue by other than state government issuing authorities, an authorized request is a request included in a petition to the financial affairs authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by a copy of the Inducement Contract, Inducement Resolution, or other comparable preliminary approval entered into or adopted by the issuing authority, if any, relating to the bonds. The financial affairs authority shall forward promptly to the committee a copy of each petition received.</p> <p>(B) For private activity bonds proposed for issue by any state government issuing authority, an authorized request is a request included in a petition to the financial affairs authority that a specific amount of the state ceiling be allocated to the bonds for which the petition is filed. The petition must be accompanied by a bond resolution or comparable action by the issuing authority authorizing the issuance of the bonds. The authority shall forward promptly to the committee a copy of each petition received.</p> <p>(C) Each authorized request must demonstrate that the allocation amount requested constitutes all of the private activity bond financing contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project.</p> <p>Section 1-12-340. (A) The financial affairs authority, with review and comment by the committee, may disapprove, reduce, or defer any authorized request. If it becomes necessary to exercise this power, the financial affairs authority and the committee shall take into account the public interest in promoting economic growth and job creation.</p> <p>(B) Authorized requests for state ceiling allocations of more than ten million dollars for a single project are deferred until after July first unless the financial affairs authority, after review and comment by the committee, determines in any particular</p>		

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<p>instance that the positive impact upon the State of approving an allocation of an amount greater than ten million dollars is of such significance that approval of the allocation is warranted.</p> <p>Section 1-12-350. (A) An allocation of the state ceiling approved by the State Financial Affairs Authority is made formal initially by a certificate which allocates tentatively a specific amount of the state ceiling to the bonds for which the allocation is requested. This tentative allocation certificate must specify the state ceiling amount allocated, the issuing authority and the project involved, and the time period during which the tentative allocation is valid. This certificate must remind the issuing authority that the tentative allocation is made final after the issuing authority chairman or other duly authorized official or agent of the issuing authority, before the issue is made, certifies the issue amount and the projected date of issue, as is required by subsection (B) of this section. It also may include other information considered relevant by the financial affairs authority.</p> <p>(B) The chairman or other authorized official or agent of an issuing authority issuing any private activity bond for which a portion of the state ceiling has been allocated tentatively shall execute and deliver to the financial affairs authority an issue amount certificate setting forth the exact amount of bonds to be issued and the projected bond issue date which date must not be more than ten business days after the date of the issue amount certificate and it must be before the state ceiling allocation involved expires. The issue amount certificate may be an executed copy of the appropriate completed Internal Revenue Service form to be submitted to the Internal Revenue Service on the issue or it may be in the form of a letter which certifies the exact amount of bonds to be issued and the projected date of the issue.</p> <p>(C) In response to the issuing authority’s issue amount certificate required by subsection (B) of this section, the financial affairs authority is authorized to issue and, as may be necessary, to revise a certificate making final the ceiling allocation approved previously by the financial affairs authority on a tentative basis, if the financial affairs authority determines that:</p> <p>(1) the issuing authority’s issue amount certificate specifies an amount not in excess of the approved tentative ceiling allocation amount;</p> <p>(2) the issue amount certificate was received prior to the</p>		

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<p>issue date projected and that the certificate is dated not more than ten days prior to the issue date projected;</p> <p>(3) the issue date projected is within the time period approved previously for the tentative ceiling allocation; and</p> <p>(4) the bonds when issued and combined with the total amount of bonds requiring a ceiling allocation included in issue amount certificates submitted previously to the financial affairs authority by issuing authorities do not exceed the state ceiling for the calendar year. Except under extraordinary circumstances, the financial affairs authority shall issue this certificate within two business days following the date the issue amount certificate is received.</p> <p>(D) In accordance with Section 149(e)(2)(F) of the Code, the chairman financial affairs authority is designated as the state official responsible for certifying, if applicable, that certain bonds meet the requirements of Section 146 of the Code relating to the volume cap on private activity bonds.</p> <p>(E) Any tentative or final state ceiling allocation granted by the financial affairs authority before the effective date of this act remains valid as an allocation of a portion of the volume cap for South Carolina provided under Section 146 of the Code. The allocations expire in accordance with the regulations under which they were granted or extended and their validity may be extended or reinstated in accordance with the provisions of this article.</p> <p>Section 1-12-360. (A) Any state ceiling allocation approved by the financial affairs authority is valid only for the calendar year in which it is approved, unless eligible and approved for carry-forward election or unless specified differently in the financial affairs authority certificates required by this article.</p> <p>(B) Unless eligible and approved for carry- forward election or unless specified differently in financial affairs authority certificates required by this article, each state ceiling allocation expires automatically if the bonds for which the allocation is made are not issued within ninety consecutive calendar days from the date the allocation is approved by the financial affairs authority.</p> <p>(C) In response to a written request by the chairman or other duly authorized official or agent of an issuing authority, the financial affairs authority, acting during the period an approved allocation is valid, may extend the period in which an allocation is valid in a single calendar year by thirty-one consecutive</p>		

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<p>calendar days to a total of not more than one hundred twenty-one consecutive calendar days.</p> <p>(D) In response to a written request by the chairman or other authorized official or agent of an issuing authority, the financial affairs authority may reinstate for a period of not more than thirty-one consecutive calendar days in any one calendar year part or all of an allocation approved but not extended previously in accordance with subsection (C) of this section in that same calendar year which has expired. The reinstatement request must certify that the authorized request submitted previously is still true and correct or a new authorized request must be submitted.</p> <p>(E) A tentative ceiling allocation is canceled automatically if the chairman or other authorized official or agent of the issuing authority involved fails to deliver the issue amount certificate required by this article to the financial affairs authority before the bonds for which the allocation is made are issued.</p> <p>(F) The chairman or other authorized official or agent of an issuing authority shall advise the financial affairs authority in writing as soon as is practicable after a decision is made not to issue bonds for which a portion of the state ceiling has been allocated. All notices of relinquishment of ceiling allocations must be entered promptly in the financial affairs authority’s records.</p> <p>(G) Ceiling allocations which are eligible and approved for carry-forward election are not subject to the validity limits of this section. The financial affairs authority shall join with the issuing authorities involved in carry-forward election statements to meet the requirements of the Internal Revenue Service.</p> <p>Section 1-12-370. The financial affairs authority must adopt the policies and procedures it considers necessary for the equitable and effective administration of the provisions contained in this article.”</p>		
<p>Part VI</p> <p>Conforming and Miscellaneous Amendments for the Department of Administration</p> <p>SECTION 12. A. Section 63-11-1310 of the 1976 Code is amended to read:</p> <p>“Section 63-11-1310. It is the purpose of this article to</p>		

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<p>develop and enhance the delivery of services to severely emotionally disturbed children and youth and to ensure that the special needs of this population are met appropriately to the extent possible within this State. To achieve this objective, the Continuum of Care for Emotionally Disturbed Children Division is established in the office of the Governor <u>Department of Administration</u>. This article supplements and does not supplant existing services provided to this population.”</p> <p>B. Section 63-11-1510 of the 1976 Code is amended to read:</p> <p>“Section 63-11-1510. There is established the Interagency System for Caring for Emotionally Disturbed Children, an integrated system of care to be developed by the Continuum of Care for Emotionally Disturbed Children of the Governor’s Office in the <u>Department of Administration</u>, the Department of Disabilities and Special Needs, the State Health and Human Services Finance Commission, the Department of Mental Health, and the Department of Social Services to be implemented by November 1, 1994. The goal of the system is to implement South Carolina’s Families First Policy and to support children in a manner that enables them to function in a community setting. The system shall provide assessment and evaluation procedures to insure a proper service plan and placement for each child. This system must have as a key component the clear identification of the agency accountable for monitoring on a regular basis each child’s care plan and procedures to evaluate and certify the programs offered by providers.”</p> <p>C. Section 1-30-110 of the 1976 Code is repealed.</p>		
<p>SECTION 13. A. Section 1-11-22 of the 1976 Code is amended to read:</p> <p>“Section 1-11-22. <u>(A)</u> Notwithstanding any other provision of law, the Budget and Control Board may organize its staff as it deems <u>considers</u> most appropriate to carry out the various duties, responsibilities and authorities assigned to it and to its various divisions <u>and management and organizational entities</u>.</p> <p><u>(B) To the extent that any provision of law divides or devolves any responsibilities of any division, office, or program of the Budget and Control Board between the board and one or more state agencies, including the State Financial Affairs</u></p>	<p>SECTION 13. A. Section 1-11-22 of the 1976 Code is amended to read:</p> <p>“Section 1-11-22. Notwithstanding any other provision of law, the Budget and Control Board <u>Department of Administration</u> may organize its staff as it deems most <u>considers</u> appropriate to carry out the various duties, responsibilities and authorities assigned to it and to its various divisions.”</p>	

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<p><u>Authority, the receiving agency must, within forty-five days of the effective date of the relevant law, submit a realignment plan for the allocation of staff, assets, and resources to the board’s executive director, who shall immediately distribute the plan to the members of the board. A realignment plan shall be considered adopted at the conclusion of the next Budget and Control Board meeting unless three members of the board at that meeting vote to reject it. Upon approval, the Office of the Executive Director must provide for the allocation as specified in the realignment plan as soon as practicable.”</u></p> <p>B. Sections 1-11-55, 1-11-56, and 1-11-58 of the 1976 Code are amended to read:</p> <p>“Section 1-11-55. (1) ‘Governmental body’ means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branches <u>branch</u> of this State. Governmental body excludes the General Assembly, Legislative Council, the Office of Legislative Printing, Information and Technology Systems, <u>the judicial department</u> and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.</p> <p>(2) The Budget and Control Board <u>Division of General Services of the Department of Administration</u> is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section.</p> <p>(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Office <u>Division</u> of General Services of its requirement on rental request forms prepared by the office <u>division</u>. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body’s requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been</p>		

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<p>located which the governmental body and the office <u>division</u> agree meets necessary requirements and standards for state leasing as prescribed in procedures of the board <u>department</u> as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.</p> <p>(4) The board <u>department</u> shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.</p> <p>(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the director of the Office <u>Division</u> of General Services <u>of the Department of Administration</u> or his designee.</p> <p><u>(6) Any proposed real property transaction under the jurisdiction of the Department of Administration, either directly or indirectly, that exceeds one million dollars must be presented to the State Financial Affairs Authority for approval.</u></p> <p>Section 1-11-56. The State Budget and Control Board, <u>Division of General Services of the Department of Administration</u>, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of state agencies. <u>The department must submit regulations for the implementation of this section to the General Assembly as provided in the Administrative Procedures Act, Chapter 23 of Title 1.</u> The board’s <u>department’s</u> regulations, upon General Assembly approval, shall include procedures for:</p> <p>(1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;</p> <p>(2) establishing standards for the quality and quantity of space to be leased by a requesting agency;</p> <p>(3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state’s prerogatives including, but not limited to, a right of cancellation in the event of:</p> <p>(a) a nonappropriation for the renting agency;</p> <p>(b) a dissolution of the agency; and</p> <p>(c) the availability of public space in substitution for</p>	<p>SUBSECTION (6) WOULD BE DELETED</p>	

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<p>private space being leased by the agency;</p> <p>(4) rejecting an agency’s request for additional space or space at a specific location, or both;</p> <p>(5) directing agencies to be located in public space, when available, before private space can be leased;</p> <p>(6) requiring the agency to submit a multi-year financial plan for review by the board’s budget office <u>department</u> with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period; and</p> <p>(7) requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five-year period.</p> <p>Section 1-11-58. (1) Every state agency, as defined by Section 1-19-40, shall annually perform an inventory and prepare a report of all residential and surplus real property owned by it. The report shall be submitted to the State Budget and Control Board <u>Department of Administration, Office Division</u> of General Services, on or before June thirtieth and shall indicate current use, current value, and projected use of the property. Property not currently being utilized for necessary agency operations shall be made available for sale and funds received from the sale of the property shall revert to the general fund.</p> <p>(2) The Office Division of General Services will <u>shall</u> review the annual reports addressing real property submitted to it and determine the real property which is surplus to the State. A central listing of such property will be maintained for reference in reviewing subsequent property acquisition needs of agencies.</p> <p>(3) Upon receipt of a request by an agency to acquire additional property, the Office Division of General Services shall review the surplus property list to determine if the agency’s needs can <u>may</u> be met from existing state-owned property. If such property is identified, the Office division of General Services shall act as broker in transferring the property to the requesting agency under terms and conditions that are mutually agreeable to the agencies involved.</p> <p>(4) The Budget and Control Board <u>department</u> may authorize</p>		

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<p>the Office <u>Division</u> of General Services to sell any unassigned surplus real property. The Office of General Services <u>division</u> shall have the discretion to determine the method of disposal to be used, which possible methods include: auction, sealed bids, listing the property with a private broker, or any other method determined by the Office of General Services <u>division</u> to be commercially reasonable considering the type and location of property involved.</p> <p><u>(5) Any proposed surplus property transaction under the jurisdiction of the Department of Administration, either directly or indirectly, that exceeds one million dollars must be presented to the State Financial Affairs Authority for approval.”</u></p> <p>C. Sections 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, and 1-11-110 of the 1976 Code are amended to read:</p> <p>“Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the State Budget and Control Board <u>Department of Administration</u>, except that a transaction of real property <u>exceeding one million dollars in value shall instead be approved by the State Financial Affairs Authority</u>. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board’s <u>approving entity’s</u> approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board <u>approving entity</u> may exempt a governmental body from the provisions of this subsection.</p> <p>(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution.</p> <p>Section 1-11-67. The State Budget and Control Board <u>Department of Administration</u> shall assess and collect a rental charge from all state departments and agencies that occupy State Budget and Control Board space in state-controlled office buildings <u>under its jurisdiction</u>. The amount charged each department or agency must be calculated on a square foot, or other equitable basis of measurement, and at rates that will yield</p>	<p>SUBSECTION (5) WOULD BE DELETED</p> <p>the State Budget and Control Board <u>Department of Administration</u>.</p> <p>Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board’s <u>department’s</u> approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board <u>department</u> may exempt a governmental body from the provisions of this subsection.</p>	

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<p>sufficient total annual revenue to cover the annual principal and interest due or anticipated on the Capital Improvement Obligations for projects administered or planned by the Office of General Services department, and maintenance and operation costs of State Budget and Control Board controlled department-controlled office buildings under the supervision of the Office of General Services. The amount collected must be deposited in a special account and must be expended only for payment on Capital Improvement Obligations and maintenance and operations costs of the buildings under the supervision of the Office of General Services department.</p> <p>All departments and agencies against which rental charges are assessed and whose operations are financed in whole or in part by federal or other non-appropriated funds are both directed to apportion the payment of these charges equitably among all funds to ensure that each bears its proportionate share.</p> <p><u>Any rent charged to the legislative and judicial agencies must be in compliance with the memorandum of understanding required in Section 1-30-125.</u></p> <p>Section 1-11-70. All vacant lands and lands purchased by the former land commissioners of the State shall be <u>are</u> subject to the directions of the State Budget and Control Board <u>Department of Administration</u>.</p> <p>Section 1-11-80. The State Budget and Control Board <u>Department of Administration</u> is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.</p> <p>Section 1-11-90. The State Budget and Control Board <u>Department of Administration</u> may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the Budget and Control Board department, the interests of the State will not be adversely affected thereby. <u>A grant exceeding one million dollars in value shall instead require the approval of State Financial Affairs Authority.</u></p>	<p>affected thereby. [NOTE: Next sentence would be deleted.]</p>	

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<p>Section 1-11-100. Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such board <u>authorized by the Department of Administration</u>, and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the majority of the members of the State Budget and Control Board <u>director of the Department of Administration</u>.</p> <p>Section 1-11-110. (1) The State Budget and Control Board <u>Department of Administration</u> is authorized to acquire real property, including any estate or interest therein, for, and in the name of, the State of South Carolina by gift, purchase, condemnation or otherwise. <u>An acquisition exceeding one million dollars in value shall instead require the approval of the State Financial Affairs Authority.</u></p> <p>(2) The State Budget and Control Board shall make use of the provisions of the Eminent Domain Procedure Act (Chapter 2 of Title 28) if it is necessary to acquire real property by condemnation. The actions must be maintained by and in the name of the board. The right of condemnation is limited to the right to acquire land necessary for the development of the Capitol Complex and <u>mall grounds</u> in the City of Columbia.”</p> <p>D. Section 1-11-180 of the 1976 Code is amended to read:</p> <p>“Section 1-11-180. (A) In addition to the powers granted the Budget and Control Board <u>Department of Administration</u> under this chapter or any other provision of law, the board <u>department</u> may:</p> <p>(1) survey, appraise, examine, and inspect the condition of state property to determine what is necessary to protect state property against fire or deterioration and to conserve the use of the property for state purposes;</p> <p>(2) approve the destruction or disposal of state agency records;</p>	<p>DELETE THE ADDED SENTENCE CONCERNING APPROVAL</p>	

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<p>(3) require submission and approval of plans and specifications for permanent improvements by a state department, agency, or institution before a contract is awarded for the permanent improvement;</p> <p>(4) approve blanket bonds for a state department, agency, or institution including bonds for state officials or personnel. However, the form and execution of blanket bonds must be approved by the Attorney General; <u>and</u></p> <p>(5)<u>(3)</u> contract to develop an energy utilization management system for state facilities under its control and to assist other agencies and departments in establishing similar programs. However, this does not authorize capital expenditures.</p> <p>(B) The Budget and Control Board may <u>South Carolina Department of Administration shall</u> promulgate regulations necessary to carry out this section.”</p> <p>E. Chapter 11, Title 1 of the 1976 Code is amended by adding:</p> <p>“Section 1-11-185. (A) In addition to the powers granted the Budget and Control Board pursuant to this chapter or another provision of law, the board may require submission and approval of plans and specifications for permanent improvements by a state department, agency, or institution before a contract is awarded for the permanent improvement.</p> <p>(B) The Budget and Control Board may promulgate regulations necessary to carry out its duties.</p> <p>(C) The respective divisions of the Budget and Control Board and the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which must be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and those funds may be retained and expended for the same purposes.”</p> <p>F. (1) Section 1-11-220 of the 1976 Code, as last amended by Act 203 of 2008, is further amended to read:</p> <p>“Section 1-11-220. There is hereby established within the</p>		

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<p>Budget and Control Board South Carolina Department of Administration, the Division of Motor Vehicle Management General Services, Program of Fleet Management headed by a Director, hereafter referred to as the ‘State Fleet Manager’ appointed by and reporting directly to the Budget and Control Board department, hereafter referred to as the Board. The Board department shall develop a comprehensive state Fleet Management Program. The program shall address acquisition, assignment, identification, replacement, disposal, maintenance, and operation of motor vehicles.</p> <p>The Budget and Control Board department shall, through their <u>its</u> policies and regulations, seek to achieve the following objectives:</p> <ul style="list-style-type: none">(a) to achieve maximum cost-effectiveness management of state-owned motor vehicles in support of the established missions and objectives of the agencies, boards, and commissions;(b) to eliminate unofficial and unauthorized use of state vehicles;(c) to minimize individual assignment of state vehicles;(d) to eliminate the reimbursable use of personal vehicles for accomplishment of official travel when this use is more costly than use of state vehicles;(e) to acquire motor vehicles offering optimum energy efficiency for the tasks to be performed;(f) to insure motor vehicles are operated in a safe manner in accordance with a statewide Fleet Safety Program; <u>and</u>(g) to improve environmental quality in this State by decreasing the discharge of pollutants.” <p>(2) Section 1-11-225 of the 1976 Code is amended to read:</p> <p>“Section 1-11-225. The Division of Operations <u>South Carolina Department of Administration</u> shall establish a cost allocation plan to recover the cost of operating the comprehensive statewide Fleet Management Program. The division shall collect, retain, and carry forward funds to ensure continuous administration of the program.”</p> <p>(3) Sections 1-11-250, 1-11-260, 1-11-270(A), 1-11-280, 1-11-290; 1-11-300, 1-11-310, as last amended by Act 203 of 2008, 1-11-315, 1-11-320; 1-11-335, and 1-11-340 of the 1976 Code are amended to read:</p>		

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<p>“Section 1-11-250. For purposes of Sections 1-11-220 to 1-11-330:</p> <p>(a) ‘State agency’ means all officers, departments, boards, commissions, institutions, universities, colleges, and all persons and administrative units of state government that operate motor vehicles purchased, leased, or otherwise held with the use of state funds, pursuant to an appropriation, grant or encumbrance of state funds, or operated pursuant to authority granted by the State.</p> <p>(b) ‘Board Department’ means State Budget and Control Board the South Carolina Department of Administration.</p> <p>Section 1-11-260. (A) The Fleet Manager shall report annually to the Budget and Control Board department and the General Assembly concerning the performance of each state agency in achieving the objectives enumerated in Sections 1-11-220 through 1-11-330 and include in the report a summary of the division’s program’s efforts in aiding and assisting the various state agencies in developing and maintaining their management practices in accordance with the comprehensive statewide Motor Vehicle Fleet Management Program. This report also shall contain recommended changes in the law and regulations necessary to achieve these objectives.</p> <p>(B) The board department, after consultation with state agency heads, shall promulgate and enforce state policies, procedures, and regulations to achieve the goals of Sections 1-11-220 through 1-11-330 and shall recommend administrative penalties to be used by the agencies for violation of prescribed procedures and regulations relating to the Fleet Management Program.</p> <p>Section 1-11-270. (A) The board department shall establish criteria for individual assignment of motor vehicles based on the functional requirements of the job, which shall reduce the assignment to situations clearly beneficial to the State. Only the Governor, statewide elected officials, and agency heads are provided a state-owned vehicle based on their position.</p> <p>Section 1-11-280. The Board department shall develop a system of agency-managed and interagency motor pools which are, to the maximum extent possible, cost beneficial to the State. All motor pools shall operate according to regulations promulgated by the Budget and Control Board department. Vehicles shall be placed in motor pools rather than being</p>		

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<p>individually assigned except as specifically authorized by the Board department in accordance with criteria established by the Board department. The motor pool operated by the Division of General Services shall be transferred to the Division of Motor Vehicle Management. Agencies utilizing motor pool vehicles shall utilize trip log forms approved by the Board department for each trip, specifying beginning and ending mileage and the job function performed.</p> <p>The provisions of this section shall not apply to school buses and service vehicles.</p> <p>Section 1-11-290. The Board department in consultation with the agencies operating maintenance facilities shall study the cost-effectiveness of such facilities versus commercial alternatives and shall develop a plan for maximally cost-effective vehicle maintenance. The Budget and Control Board department shall promulgate rules and regulations governing vehicle maintenance to effectuate the plan.</p> <p>The State Vehicle Maintenance program shall include:</p> <ul style="list-style-type: none">(a) central purchasing of supplies and parts;(b) an effective inventory control system;(c) a uniform work order and record-keeping system assigning actual maintenance cost to each vehicle; and(d) preventive maintenance programs for all types of vehicles. <p>All motor fuels shall be purchased from state facilities except in cases where such purchase is impossible or not cost beneficial to the State.</p> <p>All fuels, lubricants, parts, and maintenance costs including those purchased from commercial vendors shall be charged to a state credit card bearing the license plate number of the vehicle serviced and the bill shall include the mileage on the odometer of the vehicle at the time of service.</p> <p>Section 1-11-300. In accordance with criteria established by the board department, each agency shall develop and implement a uniform cost accounting and reporting system to ascertain the cost per mile of each motor vehicle used by the State under their control. Agencies presently operating under existing systems may continue to do so provided that board departmental approval shall be is required and that the existing systems shall be are uniform with the criteria established by the board department. All expenditures on a vehicle for gasoline and oil shall be purchased in one of the following ways:</p>		

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<p>(1) from state-owned facilities and paid for by the use of Universal State Credit Cards except where agencies purchase these products in bulk;</p> <p>(2) from any fuel outlet where gasoline and oil are sold regardless of whether the outlet accepts a credit or charge card when the purchase is necessary or in the best interest of the State; and</p> <p>(3) from a fuel outlet where gasoline and oil are sold when that outlet agrees to accept the Universal State Credit Card.</p> <p>These provisions regarding purchase of gasoline and oil and usability of the state credit card also apply to alternative transportation fuels where available. The Budget and Control Board <u>Division of Operations</u> department shall adjust the budgetary appropriation in Part IA, Section 63B, for ‘Operating Expenses--Lease Fleet’ to reflect the dollar savings realized by these provisions and transfer such amount to other areas of the State Fleet Management Program. The Board <u>department</u> shall promulgate regulations regarding the purchase of motor vehicle equipment and supplies to ensure that agencies within a reasonable distance are not duplicating maintenance services or purchasing equipment that is not in the best interest of the State. The Board <u>department</u> shall develop a uniform method to be used by the agencies to determine the cost per mile for each vehicle operated by the State.</p> <p>Section 1-11-310. (A) The State Budget and Control Board <u>Department of Administration</u> shall purchase, acquire, transfer, replace, and dispose of all motor vehicles on the basis of maximum cost-effectiveness and lowest anticipated total life cycle costs.</p> <p>(B) The standard state fleet sedan or station wagon must be no larger than a compact model and the special state fleet sedan or station wagon must be no larger than an intermediate model. The director of the Division of Motor Vehicle Management <u>State Fleet Manager</u> shall determine the types of vehicles which fit into these classes. Only these classes of sedans and station wagons may be purchased by the State for nonlaw enforcement use.</p> <p>(C) The State shall purchase police sedans only for the use of law enforcement officers, as defined by the Internal Revenue Code. Purchase of a vehicle under this subsection must be concurred in by the director of the Division of Motor Vehicle Management <u>State Fleet Manager</u> and must be in accordance with regulations promulgated or procedures adopted under</p>		

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<p>Sections 1-11-220 through 1-11-340 which must take into consideration the agency’s mission, the intended use of the vehicle, and the officer’s duties. Law enforcement agency vehicles used by employees whose job functions do not meet the Internal Revenue Service definition of ‘Law Enforcement Officer’ must be standard or special state fleet sedans.</p> <p>(D) All state motor vehicles must be titled to the State and must be received by and remain in the possession of the Division <u>Program of Motor Vehicle Fleet</u> Management pending sale or disposal of the vehicle.</p> <p>(E) Titles to school buses and service vehicles operated by the State Department of Education and vehicles operated by the South Carolina Department of Transportation must be retained by those agencies.</p> <p>(F) Exceptions to requirements in subsections (B) and (C) must be approved by the director of the Division of Motor Vehicle Management <u>State Fleet Manager</u>. Requirements in subsection (B) do not apply to the State Development Board.</p> <p>(G) Preference in purchasing state motor vehicles must be given to vehicles assembled in the United States with at least seventy-five percent domestic content as determined by the appropriate federal agency.</p> <p>(H) Preference in purchasing state motor vehicles must be given to hybrid, plug-in hybrid, bio-diesel, hydrogen, fuel cell, or flex-fuel vehicles when the performance, quality, and anticipated life cycle costs are comparable to other available motor vehicles.</p> <p>Section 1-11-315. The State Budget and Control Board <u>Department of Administration, Division of General Services, Program of Motor Vehicle Fleet</u> Management, shall determine the extent to which the state vehicle fleet can be configured to operate on alternative transportation fuels. This determination must be based on a thorough evaluation of each alternative fuel and the feasibility of using such fuels to power state vehicles. The state fleet must be configured in a manner that will serve as a model for other corporate and government fleets in the use of alternative transportation fuel. By March 1, 1993, the Division <u>Program of Motor Vehicle Fleet</u> Management must submit a plan to the General Assembly for the use of alternative transportation fuels for the state vehicle fleet that will enable the state vehicle fleet to serve as a model for corporate and other government fleets in the use of alternative transportation fuel. This plan must contain a cost/benefit analysis of the proposed</p>		

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<p>changes.</p> <p>Section 1-11-320. The Board <u>department</u> shall ensure that all state-owned motor vehicles are identified as such through the use of permanent state government <u>state government</u> license plates and either state or agency seal decals. No vehicles shall be exempt from the requirements for identification except those exempted by the Board <u>department</u>.</p> <p>This section shall not apply to vehicles supplied to law enforcement officers when, in the opinion of the Board <u>department</u> after consulting with the Chief of the State Law Enforcement Division, those officers are actually involved in undercover law enforcement work to the extent that the actual investigation of criminal cases or the investigators’ physical well-being would be jeopardized if they were identified. The Board <u>department</u> is authorized to exempt vehicles carrying human service agency clients in those instances in which the privacy of the client would clearly and necessarily be impaired.</p> <p>Section 1-11-335. The respective divisions of the Budget and Control Board and the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services, as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which shall be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and such funds may be retained and expended for the same purposes.</p> <p>Section 1-11-340. The Board <u>department</u> shall develop and implement a statewide Fleet Safety Program for operators of state-owned vehicles which shall serve to minimize the amount paid for rising insurance premiums and reduce the number of accidents involving state-owned vehicles. The Board <u>department</u> shall promulgate rules and regulations requiring the establishment of an accident review board by each agency and mandatory driver training in those instances where remedial training for employees would serve the best interest of the State.”</p> <p>G. Section 1-11-435 of the 1976 Code is amended to read:</p>	<p>STRIKE BUDGET AND CONTROL BOARD</p>	

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<p>“Section 1-11-435. To protect the state’s critical information technology infrastructure and associated data systems in the event of a major disaster, whether natural or otherwise, and to allow the services to the citizens of this State to continue in such an event, the Office Division of the State Chief Information Officer Technology in the Budget and Control Board (CIO) should develop a Critical Information Technology Infrastructure Protection Plan devising policies and procedures to provide for the confidentiality, integrity, and availability of, and to allow for alternative and immediate online access to critical data and information systems including, but not limited to, health and human services, law enforcement, and related agency data necessary to provide critical information to citizens and ensure the protection of state employees as they carry out their disaster-related duties. All state agencies and political subdivisions of this State are directed to assist the Office of the State CIO <u>division</u> in the collection of data required for this plan.”</p> <p>H. Section 2-13-240(a) of the 1976 Code is amended by adding at the end:</p> <p>“(89) <u>Department of Administration, six.</u>”</p> <p>I. Chapter 9, Title 3 of the 1976 Code is amended to read:</p> <p>“CHAPTER 9 Acquisition and Distribution of Federal Surplus Property</p> <p>Section 3-9-10. (a) The Division of General Services of the State Budget and Control Board <u>Department of Administration</u> is authorized:</p> <p>(1) to acquire from the United States of America under and in conformance with the provisions of Section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, hereafter referred to as the ‘act,’ such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law;</p> <p>(2) to warehouse such property; and</p> <p>(3) to distribute such property within the State to</p>	<p>the Office <u>Division</u> of the State Chief Information Officer <u>Technology in the Department of Administration</u> (CIO) should</p>	

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<p>tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the State, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which are exempt from taxation under Section 501 (c)(3) of the United States Internal Revenue Code of 1954, to civil defense organizations of the State, or political subdivisions and instrumentalities thereof, which are established pursuant to State law, and to such other types of institutions or activities as may now be or hereafter become eligible under Federal law to acquire such property.</p> <p>(b) The Division of General Services <u>of the Department of Administration</u> is authorized to receive applications from eligible health and educational institutions for the acquisition of Federal surplus real property, investigate the applications, obtain expression of views respecting the applications from the appropriate health or educational authorities of the State, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for the purposes, and otherwise assist in the processing of the applications for acquisition of real and related personal property of the United States under Section 203 (k) of the act.</p> <p>(c) For the purpose of executing its authority under this chapter, the Division of General Services is authorized to adopt, amend or rescind rules and regulations and prescribe such requirements as may be deemed necessary; and take such other action as is deemed necessary and suitable, in the administration of this chapter, to assure maximum utilization by and benefit to health, educational and civil defense institutions and organizations within the State from property distributed under this chapter.</p> <p>(d) The Budget and Control Board <u>The Department of Administration</u> is authorized to appoint advisory boards or committees, and to employ such personnel and prescribe their duties as are deemed necessary and suitable for the administration of this chapter.</p> <p>(e) The Director of the Division of General Services is authorized to make such certifications, take such action and enter into such contracts, agreements and undertakings for and in the name of the State (including cooperative agreements with any Federal agencies providing for utilization of property and facilities by and exchange between them of personnel and services without reimbursement), require such reports and make</p>		

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<p>such investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing, and distribution of personal property received by him from the United States of America.</p> <p>(f) The Division of General Services is authorized to act as clearinghouse of information for the public and private nonprofit institutions, organizations and agencies referred to in subparagraph (a) of this section and other institutions eligible to acquire federal surplus personal property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above-mentioned institutions, organizations, and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations, and agencies in every way possible in the consummation of acquisitions or transactions hereunder.</p> <p>(g) The Division of General Services, in the administration of this chapter, shall cooperate to the fullest extent consistent with the provisions of the act, <u>and</u> with the departments or agencies of the United States of America, and shall file a State plan of operation, <u>and</u> operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with the act, and make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for, property donable or donated to the State.</p> <p><u>(h) Any proposed property transaction under the provisions of this chapter that exceeds one million dollars must be presented to the State Financial Affairs Authority for approval.</u></p> <p>Section 3-9-20. The Director of the Division of General Services may delegate such power and authority as he deems reasonable and proper for the effective administration of this chapter. The State Budget and Control Board <u>South Carolina Department of Administration</u> may require bond of any person in the employ of the Division of General Services receiving or distributing property from the United States under authority of this chapter.</p>	<p>DELETE SUBSECTION (H)</p>	

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<p>Section 3-9-30. Any charges made or fees assessed by the Division of General Services for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health, or civil defense purposes, including research for any such purpose, or for any purpose which may now be or hereafter become eligible under the act, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution, or transfer.</p> <p>Section 3-9-40. The provisions of this chapter shall not apply to the acquisition of property acquired by agencies of the State under the priorities established by Section 308 (b), Title 23, United States Code, Annotated.”</p> <p>J. Section 10-1-10, Section 10-1-30, as last amended by Act 628 of 1988, and Section 10-1-40 of the 1976 Code are amended to read:</p> <p>“Section 10-1-10. The State Budget and Control Board <u>Department of Administration</u> shall keep, landscape, cultivate, and beautify the State House and State House grounds with authority to expend such amounts as may be annually appropriated therefor. The board <u>department</u> shall employ all help and labor in policing, protecting, and caring for the State House and State House grounds and shall have full authority over them.</p> <p>Section 10-1-30. (A) The Director of the Division of General Services of the State Budget and Control Board may authorize the use of the State House lobbies, the State House steps and grounds, and other public buildings and grounds in accordance with regulations promulgated <u>restrictions set</u> by the board.</p> <p>(B) <u>The Budget and Control Board shall obtain the joint approval of the Clerk of the Senate and Clerk of the House of Representatives before authorizing the use of the second and third floors of the State House.</u> The director <u>board</u> shall obtain the approval of the Clerk of the Senate before authorizing any use of the Gressette Building and shall obtain the approval of the Clerk of the House of Representatives before authorizing any use of the Blatt Building.</p> <p>(C) <u>The regulations</u> restrictions upon the use of the buildings and grounds must contain provisions to insure <u>ensure</u> that the public health, safety, and welfare will be <u>are</u> protected in the use of the areas including reasonable time, place, and manner</p>	<p>Section 10-1-30. (A) The Director of the Division of General Services of the State Budget and Control Board may authorize the use of the State House lobbies, the State House steps and grounds, and other public buildings and grounds in accordance with regulations promulgated by the board <u>department</u>.</p> <p>(B) <u>The Clerk of the Senate and Clerk of the House of Representatives must provide joint approval before the director may authorize the use of the second and third floors of the State House.</u> The director shall obtain the approval of the Clerk of the Senate before authorizing any use of the Gressette Building and shall obtain the approval of the Clerk of the House of Representatives before authorizing any use of the Blatt Building.</p> <p>(C) <u>The regulations must contain provisions to</u> insure <u>ensure</u> that the public health, safety, and welfare will be <u>are</u> protected in the use of the areas including reasonable time, place, and manner restrictions and application periods before use. If sufficient measures cannot be <u>are not</u> taken to protect the public</p>	

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<p>restrictions and application periods before use. If sufficient measures cannot be <u>are not</u> taken to protect the public health, safety, and welfare, the director <u>Budget and Control Board</u> shall deny the requested use. Other restrictions may be imposed on the use of the areas as are necessary for the conduct of business in those areas and the maintenance of the dignity, decorum, and aesthetics of the areas.</p> <p>Section 10-1-40. There is hereby established a committee to be known as the ‘State House Committee’, consisting of five members of the Senate, appointed by the Lieutenant Governor and five members of the House of Representatives, appointed by the Speaker, whose duties shall be to review all proposals for alterations and/or renovations to the State House. No alterations or renovations shall be undertaken without the approval of this committee.”</p> <p>K. Section 10-1-130 of the 1976 Code is amended to read:</p> <p>“Section 10-1-130.The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the <u>recommendation of the Department of Administration</u> concurrence and acquiescence of the State Budget and Control Board, whenever it appears that such easements will do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any such amounts shall <u>must</u> be placed in the State Treasury to the credit of the institution or agency having control of the property involved.”</p> <p>L. Section 10-1-190 of the 1976 Code, as added by Act 145 of 1995, is amended to read:</p> <p>“Section 10-1-190. As part of the approval process relating to trades of state property for nonstate property, the Budget and Control Board <u>Department of Administration</u> is authorized to approve the application of any net proceeds resulting from such a transaction to the improvement of the property held by the board <u>department</u>.”</p> <p>M. Chapter 9, Title 10 of the 1976 Code is amended to read:</p> <p>“CHAPTER 9 Minerals and Mineral Interests in Public Lands</p>	<p>health, safety, and welfare, the director shall deny the requested use. Other restrictions may be imposed on the use of the areas as are necessary for the conduct of business in those areas and the maintenance of the dignity, decorum, and aesthetics of the areas.</p>	

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<p>Article 1 General Provisions</p> <p>Section 10-9-10. The Public Service Authority may, through its board of directors, make and execute leases of gas, oil, and other minerals and mineral rights, excluding phosphate and lime and phosphatic deposits, over and upon the lands and properties owned by said authority; and the State Budget and Control Board <u>South Carolina Department of Administration</u> and the forfeited land commissions of the several counties of this State may, with the approval of the Attorney General, make and execute such leases over and upon the lands and waters of the State and of the several counties under the ownership, management, or control of such Board <u>the department</u> and commissions respectively.</p> <p>Section 10-9-20. No such lease shall provide for a royalty of less than twelve and one-half per cent of production of oil and gas from the lease.</p> <p>Section 10-9-30. Nothing contained in this article shall estop the State from enacting proper laws for the conservation of the oil, gas and other mineral resources of the State and all leases and contracts made under authority of this article shall be subject to such laws; provided, that the State Budget and Control Board <u>South Carolina Department of Administration</u> may negotiate for leases of oil, gas, and other mineral rights upon all of the lands and waters of the State, including offshore marginal and submerged lands.</p> <p>Section 10-9-35. In the event that the State of South Carolina is the recipient of revenues derived from offshore oil leases within the jurisdictional limits of the State such revenues shall be deposited with the State Treasurer in a special fund and shall be expended only by authorization of the General Assembly.</p> <p>Funds so accumulated shall be expended only for the following purposes:</p> <p>(1) to retire the bonded indebtedness incurred by South Carolina;</p> <p>(2) for capital improvement expenditures.</p> <p>Section 10-9-40. The authority conferred upon the Public Service Authority, the State Budget and Control Board <u>South Carolina Department of Administration</u>, and the forfeited land</p>		

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<p>commissions by this article shall be cumulative and in addition to the rights and powers heretofore vested by law in such authority, such State Budget and Control Board <u>the South Carolina Department of Administration</u>, and such commissions, respectively.</p> <p>Article 3 Phosphate</p> <p>Section 10-9-110. The State Budget and Control Board <u>South Carolina Department of Administration</u> shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof.</p> <p>Section 10-9-120. The Board <u>department</u> may inquire into and protect the interests of the State in and to any phosphatic deposits or mines, whether in the navigable waters of the State or in land marshes or other territory owned or claimed by other parties, and in the proceeds of any such mines and may take such action for, or in behalf of, the State in regard thereto as it may find necessary or deem proper.</p> <p>Section 10-9-130. The Board <u>department</u> may issue to any person who applies for a lease or license granting a general right to dig, mine, and remove phosphate rock and phosphatic deposits from all the navigable streams, waters, and marshes belonging to the State and also from such of the creeks, not navigable, lying therein as may contain phosphate rock and deposits belonging to the State and not previously granted. Such leases or licenses may be for such terms as may be determined by the Board <u>department</u>. The annual report of the Board <u>department</u> to the General Assembly shall include a list of all effective leases and licenses. The Board <u>department</u> may make a firm contract for the royalty to be paid the State which shall not be increased during the life of the license. Provided, that prior to the grant or issuance of any lease or license, the Board <u>department</u> shall cause to be published a notice of such application in a newspaper having general circulation in the county once a week for three successive weeks prior to the grant or issuance. Provided, further <u>However</u>, the lessee or licensee may shall not take possession if there be is an adverse claim and the burden of proving ownership in the State shall be placed upon the lessee or licensee.</p>		

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<p>Section 10-9-140. In every case in which such an application shall be <u>is</u> made to the Board <u>department</u> for a license, the Board <u>department</u> may grant or refuse the license as it may deem <u>considers</u> best for the interest of the State and the proper management of the interests of the State in such those deposits.</p> <p>Section 10-9-150. As a condition precedent to the right to dig, mine, and remove the rocks and deposits granted by any <u>such a</u> license, each licensee shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making at the end of every month of true and faithful returns to the Comptroller General of the number of tons of phosphate rock and phosphatic deposits so dug or mined and the punctual payment to the State Treasurer of the royalty provided at the end of every quarter or three months. Such <u>The</u> bond and sureties thereon shall be <u>are</u> subject to the approval required by law for the bonds of state officers.</p> <p>Section 10-9-160. Whenever the Board <u>department</u> shall have reason to doubt the solvency of any surety whose name appears upon any bond executed for the purpose of securing the payment of the phosphate royalty by any person digging, mining and removing phosphate rock or phosphatic deposits in any of the territory, the property of the State, under any grant or license, the Board <u>department</u> shall forthwith notify the person giving such bond and the sureties thereon and require that one or more sureties, as the case may be, shall be added to the bond, such surety or sureties to be approved by the Board <u>department</u>.</p> <p>Section 10-9-170. The Board <u>department</u>, upon petition filed by any person who is surety on any such bond as aforesaid and who considers himself in danger of being injured by such suretyship, shall notify the person giving such bond to give a new bond with other sureties and upon failure of such person to do so within thirty days shall cause such person to suspend further operations until a new bond be given. But in <u>In</u> no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and such sureties shall not be discharged from any antecedent liability by reason of such suretyship.</p> <p>Section 10-9-180. The Board <u>department</u> is hereby vested</p>		

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<p>with full and complete power and control over all mining in the phosphate territory belonging to this State and over all persons digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters or in the marshes thereof, with full power and authority, subject to the provisions of Sections 10-9-130 and 10-9-190 to fix, regulate, raise, or reduce such royalty per ton as shall from time to time be paid to the State by such persons for all or any such phosphate rock dug, mined, removed, and shipped or otherwise sent to the market therefrom. But six <u>Six</u> months’ notice shall be given all persons at such time digging or mining phosphate rock in such navigable streams, waters, or marshes before any increase shall be made in the rate of royalty theretofore existing.</p> <p>Section 10-9-190. Each person to whom a license shall be issued must, at the end of every month, make to the Comptroller General a true and lawful return of the phosphate rock and phosphatic deposits he may have dug or mined during such month and shall punctually pay to the State Treasurer, at the end of every quarter or three months, a royalty of five cents per ton upon each and every ton of the crude rock (not of the rock after it has been steamed or dried), the first quarter to commence to run on the first day of January in each year.</p> <p>Section 10-9-200. The State Budget and Control Board <u>Department of Administration</u> shall, within twenty days after the grant of any license as aforesaid, <u>shall</u> notify the Comptroller General of the issuing of such license, with the name of the person to whom issued, the time of the license, and the location for which it was issued.</p> <p>Section 10-9-210. Every person who shall dig, mine, or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams, waters, and marshes of the State without license therefor previously granted by the State to such person shall be liable to a penalty of ten dollars for each and every ton of phosphate rock or phosphatic deposits so dug, mined, or removed, to be recovered by action at the suit of the State in any court of competent jurisdiction. One half of such penalty shall be for the use of the State and the other half for the use of the informer.</p> <p>Section 10-9-220. It shall be unlawful for any person to purchase or receive any phosphate rock or phosphatic deposit</p>		

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<p>dug, mined, or removed from the navigable streams, waters, or marshes of the State from any person not duly authorized by act of the General Assembly of this State or license of the Board <u>department</u> to dig, mine, or remove such phosphate rock or phosphatic deposit.</p> <p>Section 10-9-230. Any person violating Section 10-9-220 shall forfeit to the State the sum of ten dollars for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any court of competent jurisdiction. One half of such forfeiture shall be for the use of the State and the other half for the use of the informer.</p> <p>Section 10-9-240. Should any person whosoever interfere with, obstruct, or molest or attempt to interfere with, obstruct, or molest the Board <u>department</u> or anyone by it authorized or licensed hereunder in the peaceable possession and occupation for mining purposes of any of the marshes, navigable streams, or waters of the State, then the Board <u>department</u> may, in the name and on behalf of the State, take such measures or proceedings as it may be advised are proper to enjoin and terminate any such molestation, interference, or obstruction and place the State, through its agents, the Board <u>department</u> or anyone under it authorized, in absolute and practical possession and occupation of such marshes, navigable streams, or waters.</p> <p>Section 10-9-250. Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters, or streams, including the Coosaw River phosphate territory, by and with any boat, vessel, marine dredge, or other appliances for such mining or removal, without the leave or license of the Board <u>department</u> thereto first had and obtained, all such boats, vessels, marine dredges, and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges, or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.</p>		

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<p>Section 10-9-260. Any person wilfully interfering with, molesting, or obstructing or attempting to interfere with, molest, or obstruct the State or the State Budget and Control Board <u>Department of Administration</u> or anyone by it authorized or licensed in the peaceable possession and occupation of any of the marshes, navigable streams, or waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine or attempt to dig or mine any of the phosphate rock or phosphatic deposits of this State without a license so to do issued by the Board <u>department</u> shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than one nor more than twelve months, or both, at the discretion of the court.</p> <p>Section 10-9-270. The Board <u>department</u> shall report annually to the General Assembly its actions and doings under this article during the year to the time of the meeting of the assembly, with an itemized account of its expenses for the year incurred in connection with its duties and powers under this article.</p> <p style="text-align: center;">Article 5 Geothermal Resources</p> <p>Section 10-9-310. For purposes of this, ‘article geothermal resources’ mean <u>means</u> the natural heat of the earth at temperatures greater than forty degrees Celsius and includes:</p> <p>(1) The energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat.</p> <p>(2) The material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium.</p> <p>(3) All dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.</p> <p>Section 10-9-320. The State Budget and Control Board <u>(board) Department of Administration</u> may lease development rights to geothermal resources underlying surface lands owned by the State. The board <u>department</u> must promulgate regulations regarding the method of lease acquisition, lease terms, and</p>		

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<p>conditions due the State under lease operations. The South Carolina Department of Natural Resources is designated as the exclusive agent for the board in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to geothermal resource leases as may be included herein as responsibilities of the board <u>department</u>.</p> <p>Section 10-9-330. Any lease of rights to drill for and use oil, natural gas, or minerals on public or private lands must not allow drilling for or use of geothermal energy by the lessee unless the instrument creating the lease specifically provides for such use.”</p> <p>N. Section 10-11-50 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:</p> <p>“Section 10-11-50. It shall be unlawful for anyone to park any vehicle on any of the property described in Section 10-11-40 and subsection (2) of Section 10-11-80 except in the spaces and manner now marked and designated or that may hereafter be marked and designated by the State Budget and Control Board <u>Department of Administration</u>, in cooperation with the Department of Transportation, or to block or impede traffic through the alleys and driveways.”</p> <p>O. Section 10-11-90 of the 1976 Code is amended to read:</p> <p>“Section 10-11-90. The watchmen and policemen employed by the Budget and Control Board for the protection of the property described in Sections 10-11-30 and 10-11-40 and subsection (2) of Section 10-11-80 are hereby vested with all of the powers, privileges, and immunities of constables while on this area or in fresh pursuit of those violating the law in this area, provided that such watchmen and policemen take and file the oath required of peace officers, execute and file bond in the form required of state constables, in the amount of one thousand dollars, with the Budget and Control Board, and be duly commissioned by the Governor.”</p> <p>P. Section 10-11-110 of the 1976 Code is amended to read:</p>	<p>exclusive agent for the board <u>department</u> in selecting lands to be leased,</p>	

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<p>“Section 10-11-110. In connection with traffic and parking violations only, the watchmen and policemen referred to in Section 10-11-90, state highway patrolmen and policemen of the City of Columbia shall have the right to issue and use parking tickets of the type used by the City of Columbia, with such changes as are necessitated hereby, to be prepared and furnished by the Budget and Control Board <u>Department of Administration</u>, upon the issuance of which the procedures shall be followed as prevail in connection with the use of parking tickets by the City of Columbia. Nothing herein shall restrict the application and use of regular arrest warrants.”</p> <p>Q. Section 10-11-140 of the 1976 Code is amended to read:</p> <p>“Section 10-11-140. Nothing contained in this article shall be construed to abridge the authority of the State Budget and Control Board <u>or the Department of Administration</u> to grant permission to use the State House grounds for educational, electrical decorations, and similar purposes.”</p> <p>R. Section 10-11-330 of the 1976 Code is amended to read:</p> <p>“Section 10-11-330. It shall be unlawful for any person or group of persons willfully <u>willfully</u> and knowingly: (a) to enter or to remain within the capitol building unless such person is authorized by law or by rules of the House or Senate or of the State Budget and Control Board <u>or the Department of Administration, respectively</u>, when such entry is done for the purpose of uttering loud, threatening, and abusive language or to engage in any disorderly or disruptive conduct with the intent to impede, disrupt, or disturb the orderly conduct of any session of the legislature or the orderly conduct within the building or of any hearing before or any deliberation of any committee or subcommittee of the legislature; (b) to obstruct or to impede passage within the capitol grounds or building; (c) to engage in any act of physical violence upon the capitol grounds or within the capitol building; or (d) to parade, demonstrate, or picket within the capitol building.”</p> <p>S. Sections 11-9-610, 11-9-620, and 11-9-630 of the 1976 Code are amended to read:</p> <p>“Section 11-9-610. The State Budget and Control Board <u>Department of Administration</u> shall receive and manage the incomes and revenues set apart and applied to the Sinking Fund</p>	<p>be construed to abridge the authority of the State Budget and Control Board <u>Department of Administration</u> to grant</p> <p>authorized by law or by rules of the House or Senate or of the State Budget and Control Board <u>or the Department of Administration, respectively</u>, when such entry is done for the purpose of uttering</p>	

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<p>of the State. <u>The department must report annually on the financial status of the Sinking Fund to the Budget and Control Board.</u></p> <p>Section 11-9-620. All moneys <u>monies</u> arising from the redemption of lands, leases, and sales of property or otherwise coming to the State Budget and Control Board <u>Department of Administration</u> for the Sinking Fund, shall <u>must</u> be paid into the State Treasury and shall be kept on a separate account by the treasurer as a fund to be drawn upon the warrants of the Board <u>department</u> for the exclusive uses and purposes which have been or shall be declared in relation to the Sinking Fund.</p> <p>Section 11-9-630. The State Budget and Control Board <u>Department of Administration</u> shall sell and convey, for and on behalf of the State, all such real property, assets, and effects belonging to the State as are not in actual public use, such sales to be made from time to time in such manner and upon such terms as it may deem most advantageous to the State. This shall not be construed to authorize the sale by the Board of any property held in trust for a specific purpose by the State or the property of the State in the phosphate rocks or phosphatic deposits in the beds of the navigable streams and waters and marshes of the State. <u>Whenever the value of the property, assets, or effects exceeds one million dollars, the power to sell or convey shall instead reside with the Budget and Control Board.”</u></p> <p>T. Sections 11-35-3810 and 11-35-3830, both as last amended by Act 153 of 1997, and Sections 11-35-3820 and 11-35-3840, both as last amended by Act 376 of 2006, of the 1976 Code are further amended to read:</p> <p>“Section 11-35-3810. Subject to existing provisions of law, the board <u>Department of Administration</u> shall promulgate regulations governing:</p> <p>(1) the sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate methods designated by such regulations;</p> <p>(2) the transfer of excess supplies between agencies and departments.</p> <p>Section 11-35-3820. Except as provided in Section 11-35-1580 and Section 11-35-3830 and the regulations pursuant to them, the sale of all state-owned supplies, or</p>	<p>the State. <u>The department must report annually on the financial status of the Sinking Fund to the General Assembly.</u></p> <p>DELETE ADDED SENTENCE.</p>	

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<p>personal property not in actual public use must be conducted and directed by the designated board office <u>Division of General Services of the Department of Administration</u>. The sales must be held at such places and in a manner as in the judgment of the designated board office <u>Division of General Services</u> is most advantageous to the State. Unless otherwise determined, sales must be by either public auction or competitive sealed bid to the highest bidder. Each governmental body shall inventory and report to the designated board office <u>division</u> all surplus personal property not in actual public use held by that governmental body for sale. The designated board office <u>division</u> shall deposit the proceeds from the sales, less expense of the sales, in the state general fund or as otherwise directed by regulation. This policy and procedure applies to all governmental bodies unless exempt by law.</p> <p>Section 11-35-3830. (1) Trade-in Value. Unless otherwise provided by law, governmental bodies may trade-in personal property, the trade-in value of which may be applied to the procurement or lease of like items. The trade-in <u>trade-in</u> value of such personal property shall not exceed an amount as specified in regulations promulgated by the board <u>Department of Administration</u>.</p> <p>(2) Approval of Trade-in Sales. When the trade-in value of personal property of a governmental body exceeds the specified amount, the board <u>Department of Administration</u> shall have the authority to determine whether:</p> <p>(a) the subject personal property shall be traded in and the value applied to the purchase of new like items; or</p> <p>(b) the property shall be classified as surplus and sold in accordance with the provisions of Section 11-35-3820. The board <u>departmental</u> determination shall be in writing and be subject to the provisions of this chapter.</p> <p>(3) Record of Trade-in Sales. Governmental bodies shall submit quarterly to the materials management officer a record listing all trade-in sales made under subsections (1) and (2) of this section.</p> <p>Section 11-35-3840. The State Budget and Control Board <u>Department of Administration</u> may license for public sale publications, including South Carolina Business Opportunities, materials pertaining to training programs, and information technology products that are developed during the normal course of the board’s <u>its</u> activities. The items must be licensed at</p>		

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<p>reasonable costs established in accordance with the cost of the items. All proceeds from the sale of the publications and materials must be placed in a revenue account and expended for the cost of providing the services.”</p> <p>U. Section 13-7-830 of the 1976 Code, as last amended by Act 357 of 2000, is further amended to read:</p> <p>“Section 13-7-830. The recommendations described in Section 13-7-620 shall be made available to the General Assembly, the Governor, and the Budget and Control Board, and <u>the Department of Administration.</u>”</p> <p>V. Section 44-53-530(a) and (b) of the 1976 Code, as last amended by Act 345 of 2006, is further amended to read:</p> <p>“(a) Forfeiture of property defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court within a reasonable time period following seizure and shall set forth the facts upon which the seizure was made. The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances shall also include: the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. The petition shall set forth the type and quantity of the controlled substance involved. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.</p> <p>The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. If the judge finds a forfeiture, he shall then determine the lienholder’s interest as provided in this article. The judge shall determine whether any</p>	<p>the Governor, and the Budget and Control Board <u>Department of Administration.</u></p>	

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<p>property must be returned to a law enforcement agency pursuant to Section 44-53-582.</p> <p>If there is a dispute as to the division <u>allocation</u> of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to subsection (e) of this section.</p> <p>All property, conveyances, and equipment which will not be reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred must not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency shall be at the discretion and approval of the Budget and Control Board <u>Department of Administration</u>.</p> <p>If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a South Carolina Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.</p> <p>(b) If the property is seized by a state law enforcement agency and is not transferred by the court to the seizing agency, the judge shall order it transferred to the Division of General Services <u>of the Department of Administration</u> for sale. Proceeds may be used by the division for payment of all proper expenses of the proceedings for the forfeiture and sale of the property, including the expenses of seizure, maintenance, and custody, and other costs incurred by the implementation of this section. The net proceeds from any sale must be remitted to the State Treasurer as provided in subsection (g) of this section. The Division of General Services <u>of the South Carolina Department of Administration</u> may authorize payment of like expenses in</p>		

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<p>cases where monies, negotiable instruments, or securities are seized and forfeited.”</p> <p>W. Section 44-96-140 of the 1976 Code is amended to read:</p> <p>“Section 44-96-140. (A) Not later than twelve months after the date on which the department submits the state solid waste management plan to the Governor and to the General Assembly, the General Assembly, the Governor’s Office of the Governor, the Judiciary, each state agency, and each state-supported institution of higher education shall:</p> <p>(1) establish a source separation and recycling program in cooperation with the department and the Division of General Services of the State Budget and Control Board <u>Department of Administration</u> for the collection of selected recyclable materials generated in state offices throughout the State including, but not limited to, high-grade office paper, corrugated paper, aluminum, glass, tires, composting materials, plastics, batteries, and used oil;</p> <p>(2) provide procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with collectors or buyers of the recyclable materials, or both;</p> <p>(3) evaluate the amount of waste paper material recycled and make all necessary modifications to the recycling program to ensure that all waste paper materials are recycled to the maximum extent feasible; and</p> <p>(4) establish and implement, in cooperation with the department and the Division of General Services <u>of the Department of Administration</u>, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.</p> <p>(B) Not later than September fifteen of each year, each state agency and each state-supported institution of higher learning shall submit to the department a report detailing its source separation and recycling program and a review of all goods and products purchased during the previous fiscal year by those agencies and institutions containing recycled materials using the content specifications established by the Office of Materials Management <u>Division of General Services, Department of Administration</u>.</p> <p>(C) By November first of each year the department shall</p>		

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<p>submit a report to the Governor and to the General Assembly reviewing all goods and products purchased by the State and determining what percentage of state purchases contain recycled materials using content specifications established by the Office of Materials Management, Division of General Services, <u>Department of Administration</u>. The report also must review existing procurement regulations for the purchase of products and materials and must identify any portions of such regulations that discriminate against products and materials with recycled content and products and materials which are recyclable.</p> <p>(D) Not later than one year after this chapter is effective, the Division of General Services, <u>Department of Administration</u> shall amend the procurement regulations to eliminate the portions of the regulations identified in its report as discriminating against products and materials with recycled content and products and materials which are recyclable.</p> <p>(E) Not later than one year after the effective date of the amendments to the procurement regulations, the General Assembly, the Governor’s Office of the Governor, the Judiciary, all state agencies, all political subdivisions using state funds to procure items, and all persons contracting with such agency or political subdivision where such persons procure items with state funds shall procure products and materials with recycled content and products and materials which are recyclable where practicable, as determined by the Office of Materials Management, Division of General Services, <u>Department of Administration</u>. The list of recycled content specifications must be updated annually. It is the goal of the General Assembly for state and local governmental agencies to reflect a twenty-five percent goal in their procurement policies. The decision not to procure such items shall be based on a determination that such procurement items:</p> <ul style="list-style-type: none">(1) are not available within a reasonable period of time;(2) fail to meet the performance standards set forth in the applicable specifications; or(3) are only available at a price that exceeds by more than seven and one- half percent the price of alternative items. <p>(F) Not later than six months after this chapter is effective, and annually thereafter, the Department of Transportation shall submit a report to the Governor and to the General Assembly on the use of:</p> <ul style="list-style-type: none">(1) compost as a substitute for regular soil amendment products in all highway projects;(2) solid waste including, but not limited to, ground rubber		

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<p>from tires and fly ash or mixtures of them from coal-fired electrical facilities in road surfacing of subbase materials;</p> <p>(3) solid waste including, but not limited to, glass aggregate, plastic, and fly ash in asphalt or concrete; and</p> <p>(4) recycled mixed-plastic materials for guardrail posts, right-of-way fence posts, and sign supports.”</p> <p>X. Section 15-78-140 of the 1976 Code is amended to read:</p> <p>“Section 15-78-140. (a) (Reserved)</p> <p>(b) The political subdivisions of this State, in regard to tort and automobile liability, property and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by (1) the purchase of liability insurance pursuant to Section 4-11-140 <u>1-12-50</u>; or (2) the purchase of liability insurance from a private carrier; or (3) self-insurance; or (4) establishing pooled self-insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance. A pooled self-insurance liability pool is authorized to purchase specific and aggregate excess insurance. A pooled self-insurance liability fund must provide liability coverage for all employees of a political subdivision applying for participation in the fund. If the insurance is obtained other than pursuant to Section 4-11-140 <u>1-12-50</u>, it must be obtained subject to the following conditions:</p> <p>(1) If the political subdivision does not procure tort liability insurance pursuant to Section 4-11-140 <u>1-12-50</u>, it must also procure its automobile liability and property and casualty insurance from other sources and shall not procure these coverages through the Budget and Control Board <u>governing body of the Insurance Reserve Fund</u>;</p> <p>(2) If a political subdivision procures its tort liability insurance, automobile liability insurance, or property and casualty insurance through the Budget and Control Board <u>governing body of the Insurance Reserve Fund</u>, all liability exposures of the political subdivision as well as its property and casualty insurance must be insured with the Budget and Control Board;</p> <p>(3) If the political subdivision, at any time, procures its tort liability, automobile liability, property, or casualty insurance other than through the Budget and Control Board <u>governing body of the Insurance Reserve Fund</u> and then subsequently desires to obtain this coverage with the Budget and Control</p>		

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<p>Board governing body of the Insurance Reserve Fund, notice of its intention to so obtain this subsequent coverage must be provided the Budget and Control Board governing body of the Insurance Reserve Fund at least ninety days prior to the beginning of the coverage with the State Budget and Control Board governing body of the Insurance Reserve Fund. The other lines of insurance that the political subdivision is required to procure from the board are not required to commence until the coverage for that line of insurance expires. Any political subdivision may cancel all lines of insurance with the State Budget and Control Board governing body of the Insurance Reserve Fund if it gives ninety days’ notice to the board governing body. The Budget and Control Board governing body of the Insurance Reserve Fund may negotiate the insurance coverage for any political subdivision separate from the insurance coverage for other insureds.</p> <p>(4) If any political subdivision cancels its insurance with the Budget and Control Board governing body of the Insurance Reserve Fund, it is entitled to an appropriate refund of the premium, less reasonable administrative cost.</p> <p>(c) For any claim filed under this chapter, the remedy provided in Section 15-78-120 is exclusive. The immunity of the State and its political subdivisions, with regard to the seizure, execution, or encumbrance of their properties is reaffirmed.”</p>		
<p>Part VII</p> <p>Conforming Amendments for the State Energy Office, Atlantic Compact, and Governor’s Nuclear Advisory Council</p> <p>SECTION 14. Section 13-7-810 of the 1976 Code is amended to read:</p> <p>“Section 13-7-810. There is hereby established a Governor’s Nuclear Advisory Council <u>in the Department of Administration</u>, which shall be responsible to <u>the Director of the Department of Administration</u> and report to the Governor.”</p>		
<p>SECTION 15. Section 13-7-830 of the 1976 Code is amended to read:</p> <p>“Section 13-7-830. The recommendations described in</p>		

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Section 13-7-620 shall be made available to the General Assembly, <u>and</u> the Governor, and the Budget and Control Board. ”		
SECTION 16. Section 13-7-860 of the 1976 Code is amended to read: “Section 13-7-860. Staff support for the council shall be provided by the State Energy Office <u>Department of Administration.</u> ”		
SECTION 17. Section 48-46-30(4) and (5) of the 1976 Code are amended to read: “ (4) ‘Board’ means the South Carolina Budget and Control Board or its designated official. (5) ‘Decommissioning trust fund’ means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem-Nuclear Systems, Inc. (grantor), the South Carolina Budget and Control Board <u>Department of Administration</u> (beneficiary), and the South Carolina State Treasurer (trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose. (5) ‘ <u>Department</u> ’ means <u>Department of Administration.</u> ”		
SECTION 18. Section 48-46-40 of the 1976 Code is amended to read: “Section 48-46-40. (A)(1) The board <u>department</u> shall approve disposal rates for low-level radioactive waste disposed at any regional disposal facility located within the State. The approval of disposal rates pursuant to this chapter is neither a regulation nor the promulgation of a regulation as those terms are specially used in Title 1, Chapter 23. (2) The board <u>department</u> shall adopt a maximum uniform rate schedule for regional generators containing disposal rates that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4) and that do not exceed the approximate disposal rates, excluding any access fees and including a specification of the methodology for calculating fees for large components, generally applicable to regional generators on September 7, 1999. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates		

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<p>in the maximum uniform rate schedule will continue to be honored through the term of such agreement. The maximum uniform rate schedule approved under this section becomes effective immediately upon South Carolina’s membership in the Atlantic Compact. The maximum uniform rate schedule shall be the rate schedule applicable to regional waste whenever it is not superseded by an adjusted rate approved by the board <u>department</u> pursuant to paragraph (3) of this subsection or by special disposal rates approved pursuant to paragraphs (5) or (6)(e) of this subsection.</p> <p>(3) The board <u>department</u> may at any time of its own initiative, at the request of a site operator, or at the request of the compact commission, adjust the disposal rate or the relative proportions of the individual components that constitute the overall rate schedule. Except as adjusted for inflation in subsection (4), rates adjusted in accordance with this section, that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4), may not exceed initial disposal rates set by the board <u>department</u> pursuant to subsection (2).</p> <p>(4) In March of each year the board <u>department</u> shall adjust the rate schedule based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics as chosen by the board <u>department</u> or a successor index.</p> <p>(5) In consultation with the site operator, the board <u>department</u> or its designee, on a case-by-case basis, may approve special disposal rates for regional waste that differ from the disposal rate schedule for regional generators set by the board <u>department</u> pursuant to subsections (2) and (3). Requests by the site operator for such approval shall be in writing to the board <u>department</u>. In approving such special rates, the board <u>department</u> or its designee, shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, or other relevant factors; provided, however, that the board <u>department</u> shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the board <u>department</u> under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or the request for proposal containing the special rate is accepted by the regional generator; provided, however, that such special</p>		

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<p>rates when accepted by a regional generator shall be disclosed to the compact commission and to all other regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing this special rate is accepted by the regional generator. Within one business day of a special disposal rate’s acceptance, the site operator shall notify the board <u>department</u>, the compact commission, and the regional generators of each special rate that has been accepted by a regional generator, and the board <u>department</u>, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the board <u>department</u> for a regional generator is lower than a disposal rate approved by the board <u>department</u> for regional generators pursuant to subsections (2) and (3) for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the regional generator. Regional generators may enter into contracts for waste disposal at such special rates and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the board <u>department</u> and the compact commission each month that no regional generator’s disposal rate exceeds any other regional generator’s special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the board <u>department</u> and the compact commission.</p> <p>(6)(a) To the extent authorized by the compact commission, the board <u>department</u> on behalf of the State of South Carolina may enter into agreements with any person in the United States or its territories or any interstate compact, state, U.S. territory, or U.S. Department of Defense military installation abroad for the importation of waste into the region for purposes of disposal at a regional disposal facility within South Carolina. No waste from outside the Atlantic Compact region may be disposed at a regional disposal facility within South Carolina, except to the extent that the board <u>department</u> is authorized by the compact commission to enter into agreements for importation of waste.</p> <p>The board <u>department</u> shall authorize the importation of nonregional waste into the region for purposes of disposal at the regional disposal facility in South Carolina so long as nonregional waste would not result in the facility accepting more than the following total volumes of all waste:</p>		

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<p>(i) 160,000 cubic feet in fiscal year 2001; (ii) 80,000 cubic feet in fiscal year 2002; (iii) 70,000 cubic feet in fiscal year 2003; (iv) 60,000 cubic feet in fiscal year 2004; (v) 50,000 cubic feet in fiscal year 2005; (vi) 45,000 cubic feet in fiscal year 2006; (vii) 40,000 cubic feet in fiscal year 2007; (viii) 35,000 cubic feet in fiscal year 2008.</p> <p>After fiscal year 2008, the board <u>department</u> shall not authorize the importation of nonregional waste for purposes of disposal.</p> <p>(b) The board <u>department</u> may approve disposal rates applicable to nonregional generators. In approving disposal rates applicable to nonregional generators, the board <u>department</u> may consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors.</p> <p>(c) Absent action by the board <u>department</u> under subsection (b) above to establish disposal rates for nonregional generators, rates applicable to these generators must be equal to those contained in the maximum uniform rate schedule approved by the board <u>department</u> pursuant to paragraph (2) or (3) of this subsection for regional generators unless these rates are superseded by special disposal rates approved by the board <u>department</u> pursuant to paragraph (6)(e) of this subsection.</p> <p>(d) Regional generators shall not pay disposal rates that are higher than disposal rates for nonregional generators in any fiscal quarter.</p> <p>(e) In consultation with the site operator, the board <u>department</u> or its designee, on a case-by-case basis, may approve special disposal rates for nonregional waste that differ from the disposal rate schedule for nonregional generators set by the board <u>department</u>. Requests by the site operator for such approval shall be in writing to the board <u>department</u>. In approving such special rates, the board <u>department</u> or its designee shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors; provided, however, that the board <u>department</u> shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the board <u>department</u> under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or request for proposal</p>	<p>be in writing to the board <u>department</u>. In approving such special</p>	

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<p>containing the special rate is accepted by the nonregional generator; provided, however, that such special rates when accepted by a nonregional generator shall be disclosed to the compact commission and to all regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator. Within one business day of a special disposal rate’s acceptance, the site operator shall notify the board <u>department</u>, the compact commission, and the regional generators in writing of each special rate that has been accepted by a nonregional generator, and the board <u>department</u>, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the board <u>department</u> for a nonregional generator is lower than a disposal rate approved by the board <u>department</u> for regional generators for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the nonregional generator. Regional generators may enter into contracts for waste disposal at such special rate and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the board <u>department</u> and the compact commission each month that no regional generator disposal rate exceeds any nonregional generator’s special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the board <u>department</u> and the compact commission.</p> <p>(B)(1) Effective upon the implementation of initial disposal rates by the board <u>department</u> under Section 48-46-40(A), the PSC is authorized and directed to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.</p> <p>(2) In identifying the allowable costs for operating a regional disposal facility, the PSC shall:</p> <p>(a) prescribe a system of accounts, using generally accepted accounting principles, for disposal site operators, using as a starting point the existing system used by site operators;</p> <p>(b) assess penalties against disposal site operators if the PSC determines that they have failed to comply with regulations pursuant to this section; and</p> <p>(c) require periodic reports from site operators that provide information and data to the PSC and parties to these</p>		

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<p>proceedings. The Office of Regulatory Staff shall obtain and audit the books and records of the site operators associated with disposal operations as determined applicable by the PSC.</p> <p>(3) Allowable costs include the costs of those activities necessary for:</p> <ul style="list-style-type: none">(a) the receipt of waste;(b) the construction of disposal trenches, vaults, and overpacks;(c) construction and maintenance of necessary physical facilities;(d) the purchase or amortization of necessary equipment;(e) purchase of supplies that are consumed in support of waste disposal activities;(f) accounting and billing for waste disposal;(g) creating and maintaining records related to disposed waste;(h) the administrative costs directly associated with disposal operations including, but not limited to, salaries, wages, and employee benefits;(i) site surveillance and maintenance required by the State of South Carolina, other than site surveillance and maintenance costs covered by the balance of funds in the decommissioning trust fund or the extended care maintenance fund;(j) compliance with the license, lease, and regulatory requirements of all jurisdictional agencies;(k) administrative costs associated with collecting the surcharges provided for in subsections (B) and (C) of Section 48-46-60;(l) taxes other than income taxes;(m) licensing and permitting fees; and(n) any other costs directly associated with disposal operations determined by the PSC to be allowable. <p>Allowable costs do not include the costs of activities associated with lobbying and public relations, clean-up and remediation activities caused by errors or accidents in violation of laws, regulations, or violations of the facility operating license or permits, activities of the site operator not directly in support of waste disposal, and other costs determined by the PSC to be unallowable.</p> <p>(4) Within ninety days following the end of a fiscal year, a site operator may file an application with the PSC to adjust the level of an allowable cost under subsection (3), or to allow a cost</p>		

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<p>not previously designated an allowable cost. A copy of the application must be provided to the Office of Regulatory Staff. The PSC shall process such application in accordance with its procedures. If such application is approved by the PSC, the PSC shall authorize the site operator to adjust allowable costs for the current fiscal year so as to compensate the site operator for revenues lost during the previous fiscal year.</p> <p>(5) A private operator of a regional disposal facility in South Carolina is authorized to charge an operating margin of twenty-nine percent. The operating margin for a given period must be determined by multiplying twenty-nine percent by the total amount of allowable costs as determined in this subsection, excluding allowable costs for taxes and licensing and permitting fees paid to governmental entities.</p> <p>(6) The site operator shall prepare and file with the PSC a Least Cost Operating Plan. The plan must be filed within forty-five days of enactment of this chapter and must be revised annually. The plan shall include information concerning anticipated operations over the next ten years and shall evaluate all options for future staffing and operation of the site to ensure least cost operation, including information related to the possible interim suspension of operations in accordance with subsection (B)(7). A copy of the plan must be provided to the Office of Regulatory Staff.</p> <p>(7)(a) If the board <u>department</u>, upon the advice of the compact commission or the site operator, concludes based on information provided to the board <u>department</u>, that the volume of waste to be disposed during a forthcoming period of time does not appear sufficient to generate receipts that will be adequate to reimburse the site operator for its costs of operating the facility and its operating margin, then the board <u>department</u> shall direct the site operator to propose to the compact commission plans including, but not necessarily limited to, a proposal for discontinuing acceptance of waste until such time as there is sufficient waste to cover the site operator’s operating costs and operating margin. Any proposal to suspend operations must detail plans of the site operator to minimize its costs during the suspension of operations. Any such proposal to suspend operations must be approved by the Department of Health and Environmental Control with respect to safety and environmental protection.</p> <p>(b) Allowable costs applicable to any period of suspended operations must be approved by the PSC according to procedures similar to those provided herein for allowable</p>		

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<p>operating costs. During any such suspension of operations, the site operator must be reimbursed by the board <u>department</u> from the extended care maintenance fund for its allowable costs and its operating margin. During the suspension funding to reimburse the board <u>department</u>, the PSC, and the State Treasurer under Section 48-46-60(B) and funding of the compact commission under Section 48-46-60(C) must also be allocated from the extended care maintenance fund as approved by the board <u>department</u> based on revised budgets submitted by the PSC, State Treasurer, and the compact commission.</p> <p>(c) Notwithstanding any disbursements from the extended care maintenance fund in accordance with any provision of this act, the board <u>department</u> shall continue to ensure, in accordance with Section 13-7-30, that the fund remains adequate to defray the costs for future maintenance costs or custodial and maintenance obligations of the site and other obligations imposed on the fund by this chapter.</p> <p>(d) The PSC may promulgate regulations and policies necessary to execute the provisions of this section.</p> <p>(8) The PSC may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of identifying allowable costs associated with waste disposal. The PSC may consider standards, precedents, findings, and decisions in other jurisdictions that regulate allowable costs for radioactive waste disposal.</p> <p>(9) In all proceedings held pursuant to this section, the board <u>department</u> shall participate as a party representing the interests of the State of South Carolina, and the compact commission may participate as a party representing the interests of the compact states. The Executive Director of the Office of Regulatory Staff and the Attorney General of the State of South Carolina shall be parties to any such proceeding. Representatives from the Department of Health and Environmental Control shall participate in proceedings where necessary to determine or define the activities that a site operator must conduct in order to comply with the regulations and license conditions imposed by the department. Other parties may participate in the PSC’s proceedings upon satisfaction of standing requirements and compliance with the PSC’s procedures. Any site operator submitting records and information to the PSC may request that the PSC treat such records and information as confidential and not subject to disclosure in accordance with the PSC’s procedures.</p> <p>(10) In all respects in which the PSC has power and</p>		

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<p>authority under this chapter, it shall conduct its proceedings under the South Carolina Administrative Procedures Act and the PSC’s rules and regulations. The PSC is authorized to compel attendance and testimony of a site operator’s directors, officers, agents, or employees.</p> <p>(11) At any time the compact commission, the board <u>department</u>, or any generator subject to payment of rates set pursuant to this chapter may file a petition against a site operator alleging that allowable costs identified pursuant to this chapter are not in conformity with the directives of this chapter or the directives of the PSC or that the site operator is otherwise not acting in conformity with the requirements of this chapter or directives of the PSC. Upon filing of the petition, the PSC shall cause a copy of the petition to be served upon the site operator. The petitioning party has the burden of proving that allowable costs or the actions of the site operator do not conform. The hearing shall conform to the rules of practice and procedure of the PSC for other cases.</p> <p>(12) The PSC shall encourage alternate forms of dispute resolution including, but not limited to, mediation or arbitration to resolve disputes between a site operator and any other person regarding matters covered by this chapter.</p> <p>(C) The operator of a regional disposal facility shall submit to the South Carolina Department of Revenue, the PSC, the Office of Regulatory Staff, and the board <u>department</u> within thirty days following the end of each quarter a report detailing actual revenues received in the previous fiscal quarter and allowable costs incurred for operation of the disposal facility.</p> <p>(D)(1) Within 30 <u>thirty</u> days following the end of the fiscal year the operator of a regional disposal facility shall submit a payment made payable to the South Carolina Department of Revenue in an amount that is equal to the total revenues received for waste disposed in that fiscal year (with interest accrued on cash flows in accordance with instructions from the State Treasurer) minus allowable costs, operating margin, and any payments already made from such revenues pursuant to Section 48-46-60(B) and (C) for reimbursement of administrative costs to state agencies and the compact commission. The Department of Revenue shall deposit the payment with the State Treasurer.</p> <p>(2) If in any fiscal year total revenues do not cover allowable costs plus the operating margin, the board <u>department</u> must reimburse the site operator its allowable costs and operating margin from the extended care maintenance fund within thirty days after the end of the fiscal year. The board</p>		

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<p><u>department</u> shall as soon as practicable authorize a surcharge on waste disposed in an amount that will fully compensate the fund for the reimbursement to the site operator. In the event that total revenues for a fiscal year do not cover allowable costs plus the operating margin, or quarterly reports submitted pursuant to subsection (C) indicate that such annual revenue may be insufficient, the board <u>department</u> shall consult with the compact commission and the site operator as early as practicable on whether the provisions of Section 48-46-40(B)(7) pertaining to suspension of operations during periods of insufficient revenues should be invoked.</p> <p>(E) Revenues received pursuant to item (1) of subsection (D) must be allocated as follows:</p> <p>(1) The South Carolina State Treasurer shall distribute the first two million dollars received for waste disposed during a fiscal year to the County Treasurer of Barnwell County for distribution to each of the parties to and beneficiaries of the order of the United States District Court in C.A. No. 1:90-2912-6 on the same schedule of allocation as is established within that order for the distribution of ‘payments in lieu of taxes’ paid by the United States Department of Energy.</p> <p>(2) All revenues in excess of two million dollars received from waste disposed during the previous fiscal year must be deposited in a fund called the ‘Nuclear Waste Disposal Receipts Distribution Fund’. Any South Carolina waste generator whose disposal fees contributed to the fund during the previous fiscal year may submit a request for a rebate of 33.33 percent of the funds paid by the generator during the previous fiscal year for disposal of waste at a regional disposal facility. These requests along with invoices or other supporting material must be submitted in writing to the State Treasurer within fifteen days of the end of the fiscal year. For this purpose disposal fees paid by the generator must exclude any fees paid pursuant to Section 48-46-60(C) for compact administration and fees paid pursuant to Section 48-46-60(B) for reimbursement of the PSC, the Office of Regulatory Staff, the State Treasurer, and the board <u>department</u> for administrative expenses under this chapter. Upon validation of the request and supporting documentation by the State Treasurer, the State Treasurer shall issue a rebate of the applicable funds to qualified waste generators within sixty days of the receipt of the request. If funds in the Nuclear Waste Disposal Receipts Distribution Fund are insufficient to provide a rebate of 33.33 percent to each generator, then each generator’s rebate must be reduced in proportion to the amount of funds in</p>		

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<p>the account for the applicable fiscal year.</p> <p>(3) All funds deposited in the Nuclear Waste Disposal Receipts Distribution Fund for waste disposed for each fiscal year, less the amount needed to provide generators rebates pursuant to item (2), shall be deposited by the State Treasurer in the ‘Children’s Education Endowment Fund’. Thirty percent of these monies must be allocated to Higher Education Scholarship Grants and used as provided in Section 59-143-30, and seventy percent of these monies must be allocated to Public School Facility Assistance and used as provided in Chapter 144 of Title 59.</p> <p>(F) Effective beginning fiscal year 2001-2002, there is appropriated annually from the general fund of the State to the Higher Education Scholarship Grants share of the Children’s Education Endowment whatever amount is necessary to credit to the Higher Education Scholarship Grants share an amount not less than the amount credited to that portion of the endowment in fiscal year 1999-2000. Revenues credited to the endowment pursuant to this subsection, for purposes of Section 59-143-10, are deemed to be received by the endowment pursuant to the former provisions of Section 48-48-140(C).”</p>		
<p>SECTION 19. Section 48-46-50 of the 1976 Code is amended to read:</p> <p>“Section 48-46-50. (A) The Governor shall appoint two commissioners to the Atlantic Compact Commission and may appoint up to two alternate commissioners. These alternate commissioners may participate in meetings of the compact commission in lieu of and upon the request of a South Carolina commissioner. Technical representatives from the Department of Health and Environmental Control, the board <u>department</u>, the PSC, and other state agencies may participate in relevant portions of meetings of the compact commission upon the request of a commissioner, alternate commissioner, or staff of the compact commission, or as called for in the compact commission bylaws.</p> <p>(B) South Carolina commissioners or alternate commissioners to the compact commission may not vote affirmatively on any motion to admit new member states to the compact unless that state volunteers to host a regional disposal facility.</p> <p>(C) Compact commissioners or alternate commissioners to the Atlantic Compact Commission may not vote to approve a</p>		

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<p>regional management plan or any other plan or policy that allows for acceptance at the Barnwell regional disposal facility of more than a total of 800,000 cubic feet of waste from Connecticut and New Jersey.</p> <p>(D) South Carolina’s commissioners or alternate commissioners to the compact commission shall cast any applicable votes on the compact commission in a manner that authorizes the importation of waste into the region for purposes of disposal at a regional disposal facility in South Carolina so long as importation would not result in the facility accepting more than the following total volumes of all waste:</p> <ol style="list-style-type: none"> (1) 160,000 cubic feet in fiscal year 2001; (2) 80,000 cubic feet in fiscal year 2002; (3) 70,000 cubic feet in fiscal year 2003; (4) 60,000 cubic feet in fiscal year 2004; (5) 50,000 cubic feet in fiscal year 2005; (6) 45,000 cubic feet in fiscal year 2006; (7) 40,000 cubic feet in fiscal year 2007; (8) 35,000 cubic feet in fiscal year 2008. <p>South Carolina’s commissioners or alternate commissioners shall not vote to approve the importation of waste into the region for purposes of disposal in any fiscal year after 2008.”</p>		
<p>SECTION 20. Section 48-46-90 of the 1976 Code is amended to read:</p> <p>“Section 48-46-90. (A) In accordance with Section 13-7-30, the board <u>department</u>, or its designee, is responsible for extended custody and maintenance of the Barnwell site following closure and license transfer from the facility operator. The Department of Health and Environmental Control is responsible for continued site monitoring.</p> <p>(B) Nothing in this chapter may be construed to alter or diminish the existing statutory authority of the Department of Health and Environmental Control to regulate activities involving radioactive materials and radioactive wastes.”</p>		
<p>SECTION 21. Section 48-52-410 of the 1976 Code is amended to read:</p> <p>“Section 48-52-410. There is established the State Energy Office within the State Budget and Control Board <u>Office of Regulatory Staff</u> which shall serve as the principal energy planning entity for the State. Its primary purpose is to develop and implement a well-balanced energy strategy and to increase</p>	<p>Office within the State Budget and Control Board <u>Department of Commerce</u> which shall serve as the principal energy planning</p>	

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the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The State Energy Office must not function as a regulatory body.”		
<p>SECTION 22. Section 48-52-440 of the 1976 Code is amended to read:</p> <p>“Section 48-52-440. There is established the Energy Advisory Committee, whose members are appointed by the State Budget and Control Board, except as provided in item (14) of this section. Members shall serve at the pleasure of the State Budget and Control Board except that those appointed pursuant to item (14) shall serve for a term coterminous with that of their appointing authority. The committee is composed as follows:</p> <p class="list-item-l1">(1) two representatives of investor-owned electricity companies;</p> <p class="list-item-l1">(2) two representatives of electric cooperatives;</p> <p class="list-item-l1">(3) one representative of the South Carolina Public Service Authority, who shall serve ex officio;</p> <p class="list-item-l1">(4) one representative of municipally-owned electric utilities;</p> <p class="list-item-l1">(5) one representative of publicly-owned natural gas companies;</p> <p class="list-item-l1">(6) one representative of investor-owned gas companies;</p> <p class="list-item-l1">(7) one representative of oil suppliers or dealers;</p> <p class="list-item-l1">(8) one representative of propane suppliers or dealers;</p> <p class="list-item-l1">(9) one representative of nonprofit public transportation providers;</p> <p class="list-item-l1">(10) two representatives of industrial consumers;</p> <p class="list-item-l1">(11) two representatives of commercial consumers;</p> <p class="list-item-l1">(12) two representatives of individual consumers; one must be the Executive Director of the Office of Regulatory Staff or his designee, who shall serve ex officio;</p> <p class="list-item-l1">(13) two representatives of environmental groups; and</p> <p class="list-item-l1">(14) one at large member appointed by the Governor.</p> <p>The Budget and Control Board shall elect one of the committee members to serve as chairman. The members of the Energy Advisory Committee are not eligible for per diem payments or for reimbursement for lodging or meals. The functions of the Energy Advisory Committee are advisory to the State Energy Office. The committee shall meet at least annually and at the call of the chair or at the request of at least six members to receive information on the activities of the State Energy Office and the formulation and implementation of the</p>		

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<p>state energy action plan. It may comment and advise on the activities and the plan as considered appropriate by members of the committee. The State Energy Office may seek advice and guidance from the committee as considered appropriate by the director of the office. Members shall adopt rules governing meeting attendance and abide by these rules.</p> <p><u>(A) All funds allocated or directed to this State by the federal government relating to energy planning, energy conservation, and energy efficiency must be allocated or directed to the State Energy Office in the Office of Regulatory Staff to be distributed in accordance with the provisions of this section; provided, however, that no funding from the following federal programs is subject to the provisions of this section:</u></p> <p><u>(1) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low-Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005, which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies; or</u></p> <p><u>(2) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.</u></p> <p><u>Nothing in this section changes the exclusive administration of the Low Income Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the Department of Administration’s Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.</u></p> <p><u>(B) All funds described in subsection (A) that are not</u></p>	<p>Office in the Department of Commerce to be distributed in</p>	

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<p><u>exempted by items (1) and (2) of subsection (A) must be distributed by the State Energy Office in the Office of Regulatory Staff in accordance with all requirements of federal law associated with these funds. Persons seeking to obtain funding for energy related programs must submit to the State Energy Office a plan for the use of the funds in a manner consistent with the provisions of this section.</u></p> <p><u>(C) Upon receipt of the plans required by subsection (B), the State Energy Office of the Office of Regulatory Staff must prepare an analysis of the plans and their consistency with the provisions of this section and submit that analysis to the Department Advisory Council for its review and recommendations.</u></p> <p><u>(D) There is hereby created in the Office of Regulatory Staff the Energy Advisory Council, which will advise the State Energy Office on all matters for which the State Energy Office is responsible and specifically with respect to its review of the annual plans required to be submitted pursuant to this section. The Advisory Council shall be composed of nine members as follows:</u></p> <p><u>(1) three appointed by the Governor, one of whom must have a substantial background in environmental or consumer protection matters;</u></p> <p><u>(2) three appointed by the President Pro Tempore of the Senate, one of whom must have a substantial background in environmental or consumer protection matters; and</u></p> <p><u>(3) three appointed by the Speaker of the House of Representatives, one of whom must have a substantial background in environmental or consumer protection matters.</u></p> <p><u>All appointees must have backgrounds in environmental issues; the electricity, transportation or natural gas industries; or economic development related to these sectors.</u></p> <p><u>(E) In evaluating the plans required by this section, the Advisory Council shall consider the extent to which the plans allocate funds in a cost effective manner and promote the following alternative sources of domestic energy or avoidance of consumption of energy:</u></p> <p><u>(1) the development of energy efficiency and conservation;</u></p> <p><u>(2) renewable sources of energy, including wind power; solar power, energy from biomass sources, and energy storage;</u></p> <p><u>(3) nuclear energy; and</u></p> <p><u>(4) alternative fuels or power sources for the transportation sector.</u></p>	<p><u>State Energy Office in the Department of Commerce</u></p> <p><u>State Energy Office of the Department of Commerce must prepare</u></p> <p><u>(D) There is hereby created in the Department of Commerce</u></p>	

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<p><u>In considering the cost-effectiveness of the plans the Advisory Council must consider the cost of the proposed measures as to the expected useful life of the measures being proposed and the impact of the proposed measures on consumers. For each proposed plan, the Advisory Council must consider the value of the avoided cost of complying with anticipated state and federal environmental regulations.</u></p> <p><u>(F) Upon completion of its review of plans submitted in compliance with this section, the Advisory Council must prepare a report describing the results of its review and submit copies of that report to the State Energy Office of the Office of Regulatory Staff and the Public Utility Review Committee of Article 5 of Chapter 3 of Title 58.</u></p> <p><u>(G) The Executive Director of the Office of Regulatory Staff shall make the final determinations of distributions of funds as required by this section, taking into account the recommendations of the Advisory Council. Grant awards shall be made in a manner consistent with this section.”</u></p>	<p><u>report to the State Energy Office of the Department of Commerce</u></p> <p><u>(G) The Secretary of Commerce</u></p>	
<p>SECTION 23. Section 48-52-460 of the 1976 Code is amended to read:</p> <p>“Section 48-52-460.The establishment of the State Energy Office within the State Budget and Control Board <u>Office of Regulatory Staff</u>, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing.”</p>	<p>SECTION 23. Section 48-52-460 of the 1976 Code is amended to read:</p> <p>“Section 48-52-460.The establishment of the State Energy Office within the State Budget and Control Board <u>Department of Commerce</u>, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing.”</p>	
<p>SECTION 24. Section 48-52-635 of the 1976 Code is amended to read:</p> <p>“Section 48-52-635.Pursuant to Section 48-52-630, an agency’s savings realized in the prior fiscal year from implementing an energy conservation measure as compared to a baseline energy use as certified by the State Energy Office, may be retained and carried forward into the current fiscal year. This savings, as certified by the State Energy Office, must first be used for debt retirement of capital expenditures, if any, on the energy conservation measure, after which time savings may be used for agency operational purposes and where practical, reinvested into energy conservation areas. The agency must</p>		

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report all actual savings in the energy portion of its annual report to the State Budget and Control Board <u>Office of Regulatory Staff</u> .”	energy conservation areas. The agency must report all actual savings in the energy portion of its annual report to the State Budget and Control Board <u>General Assembly</u> .”	
<p>SECTION 25. Section 48-52-680 of the 1976 Code is amended to read:</p> <p>“Section 48-52-680. (A) The State Energy Office shall assist the Materials Management Office as established in Section 11-35-810 and all governmental bodies defined in and subject to the Consolidated Procurement Code, by identifying goods which are ‘energy efficient’ or for which the State can achieve long-term savings through consideration of life cycle costs. The State Energy Office must compile a list of these goods. Before issuing any solicitation for these goods, the procuring agency shall notify the State Energy Office which shall assist in drafting or reviewing specifications for the goods being procured and which shall approve the specifications before issuing the solicitation. Upon request of a governmental body the State Energy Office shall provide assistance in evaluating bids or offers received in response to the solicitation to ensure that procurements are made in accordance with the purposes and policies of this article.</p> <p>(B) The State Energy Office shall assist the Office of the State Engineer and all governmental bodies defined in and subject to the Consolidated Procurement Code by drafting energy conservation standards to be applied in the design and construction of buildings that are owned or lease/purchased by these governmental bodies. Before any construction contracts are bid under Section 11-35-3020, the State Engineer’s Office or the governmental body soliciting the bids shall review the plans and specifications to ensure that they are in compliance with the standards drafted by the State Energy Office. The State Energy Office shall provide assistance in reviewing these plans and specifications upon the request of the State Engineer’s Office or the affected governmental body.</p> <p>(C) The State Energy Office shall provide the Office of Property Management of the Budget and Control Board, Division of General Services <u>of the Department of Administration</u>, information to be used in evaluating energy costs for buildings or portions of buildings proposed to be leased by governmental bodies that are defined in and subject to the Consolidated Procurement Code. The information provided</p>		

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must be considered with the other criteria provided by law by a governmental body before entering into a real property lease.”		
<p>Part VIII Joint Strategic Technology Committee</p> <p>SECTION 26. Title 2 of the 1976 Code is amended by adding:</p> <p>“Chapter 9 Joint Strategic Technology Committee</p> <p>Section 2-9-10. (A) There is created a joint committee of the General Assembly to be known as the Joint Strategic Technology Committee consisting of eight members. The chairman of the Senate Finance Committee shall appoint four members, at least two of whom must be appointed from the Senate Finance Committee. The chairman of the House Ways and Means Committee shall appoint four members, at least two of whom must be appointed from the House Ways and Means Committee.</p> <p>(B) The Joint Strategic Technology Committee shall have the following purposes and responsibilities:</p> <p>(1) The joint committee shall review the Statewide Strategic Information Technology Plan prepared by the Department of Administration and the Agency Directors Technology Advisory Committee and, as needed, make recommendations to the Senate Finance Committee and the House Ways and Means Committee regarding the plan by January 29 of the current fiscal year. Any expenditure or procurement under the jurisdiction of the Department of Administration, either directly or indirectly, which exceeds one million dollars must be presented to the joint committee for review and comment. The joint committee shall also recommend priorities for state government enterprise information technology projects and resource requirements as it determines appropriate;</p> <p>(2) The joint committee shall review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating state agency information technology. State agencies must consult with hardware maintenance manager vendors under state contract to determine whether the agency may achieve cost savings by utilizing these contracts for information technology. The joint committee shall recommend</p>		

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<p>to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, for referral to the appropriate standing committees, any statutory changes appropriate for the successful implementation of the Statewide Strategic Information Technology Plan and the efficient and effective management and use of information technology by state government.</p> <p>(C) The Department of Administration and all state agencies shall cooperate with and provide assistance to the Joint Strategic Technology Committee as requested by the committee.</p> <p>(D) The Director of the Department of Administration shall appoint an Agency Directors Technology Advisory Committee. The director shall determine the number and composition of this committee, which shall represent a cross-section of state government agencies. This committee shall provide input and advice regarding the Statewide Strategic Information Technology Plan developed by the State through the Department of Administration. The committee shall also assist and advise the Joint Strategic Technology Committee at its request.”</p>		
<p>Part IX Office of the State Inspector General</p> <p>SECTION 27. Section 1-3-240 of the 1976 Code is amended to read:</p> <p>“Section 1-3-240. (A) Any officer of the county or State, except:</p> <p>(1) an officer whose removal is provided for in Section 3 of Article XV of the State Constitution; or</p> <p>(2) an officer guilty of the offense named in Section 8 of Article VI of the <u>State</u> Constitution; or</p> <p>(3) pursuant to subsection (B) of this section, an officer of the State appointed by a <u>the</u> Governor, either with or without the advice and consent of the Senate; who is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity shall be subject to removal by the Governor upon any of the foregoing causes being made to appear to the satisfaction of the Governor. But before removing any such officer, the Governor shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard.</p>		

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<p>(B) Any person appointed to a state office by a <u>the</u> Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer.</p> <p>(C)(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:</p> <ul style="list-style-type: none">(a) Workers’ Compensation Commission;(b) Department of Transportation Commission;(c) Ethics Commission;(d) Election Commission;(e) Professional and Occupational Licensing Boards;(f) Juvenile Parole Board;(g) Probation, Parole and Pardon Board;(h) Director of the Department of Public Safety;(i) Board of the Department of Health and Environmental Control, excepting the chairman;(j) Chief of State Law Enforcement Division;(k) South Carolina Lottery Commission;(l) Executive Director of the Office of Regulatory Staff; and(m) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58-31-20. A director of the South Carolina Public Service Authority also may be removed for his breach of any duty arising under Section 58-31-55 or 58-31-56. The Governor must not request a director of the South Carolina Public Service Authority to resign unless cause for removal, as established by this subsection, exists. Removal of a director of the South Carolina Public Service Authority, except as is provided by this section or by Section 58-31-20(A), must be considered to be an irreparable injury for which no adequate remedy at law exists;(n) State Ports Authority; <u>and</u>(o) <u>State Inspector General.</u> <p>(2) Upon the expiration of an officeholder’s term, the individual may continue to serve until a successor is appointed and qualifies.”</p>	<p>(n) State Ports Authority;</p> <p>(o) <u>State Inspector General; and</u></p> <p>(p) <u>Public Employee Benefit Authority.</u></p>	
SECTION 28. Title 1 of the 1976 Code is amended by adding: “Chapter 6		

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<p>Office of the State Inspector General</p> <p>Section 1-6-10. As used in this title:</p> <p>(1) ‘Agency’ means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive department of state government, including administrative bodies and state technical schools and state colleges and universities. ‘Agency’ includes a body corporate and politic established as an instrumentality of the State. ‘Agency’ does not include:</p> <p>(a) the judicial department of state government;</p> <p>(b) the legislative department of state government; or</p> <p>(c) political subdivisions.</p> <p>(2) ‘Business relationship’ means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:</p> <p>(a) a pecuniary interest in a contract or purchase with the agency; or</p> <p>(b) a license or permit requiring the exercise of judgment or discretion by the agency.</p> <p>(3) ‘Employee’ means an individual who is employed by an agency on a full-time, part-time, temporary, intermittent, or hourly basis. ‘Employee’ includes an individual who contracts with an agency for personal services.</p> <p>(4) ‘Person’ means:</p> <p>(a) an individual, labor union and organization, joint apprenticeship committee, partnership, association, corporation, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other legal or commercial entity located in part or in whole in the State or doing business in the State;</p> <p>(b) the State and any agency or local subdivision of an agency; or</p> <p>(c) a political subdivision.</p> <p>(5) ‘Political subdivision’ includes a county, city, municipality, town, village, township, district, authority, special purpose district, school district, other local government entity, or other public corporation or entity whether organized and existing under charter or general law.</p> <p>(6) ‘Special state appointee’ means a person who is:</p> <p>(a) not a state officer or employee; and</p> <p>(b) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:</p>	<p>(a) the judicial department of state government;</p> <p>(b) quasi-judicial functions of state government;</p> <p>(c) the legislative department of state government; or</p> <p>(d) political subdivisions.</p>	

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<p>(i) is authorized by statute or executive order; and</p> <p>(ii) functions in a policy or an advisory role in the executive, including the administrative, department of state government, including a separate body corporate and politic.</p> <p>(7) ‘State officer’ means any of the following:</p> <p>(a) the Governor;</p> <p>(b) the Lieutenant Governor;</p> <p>(c) the Secretary of State;</p> <p>(d) the State Comptroller General;</p> <p>(e) the State Treasurer;</p> <p>(f) the Attorney General;</p> <p>(g) the Superintendent of Education;</p> <p>(h) the Commissioner of Agriculture; or</p> <p>(i) the Adjutant General.</p> <p>(8) ‘Wrongdoing’ means action by an agency which results in substantial abuse, misuse, destruction, or loss of substantial public funds or public resources. ‘Wrongdoing’ also includes an allegation that a public employee has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.</p> <p>Section 1-6-20. (A) There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and any staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.</p> <p>(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies.</p> <p>(C) The Governor shall appoint the State Inspector General with the advice and consent of the Senate for a term of four years. A Governor may reappoint the State Inspector General for additional terms. The State Inspector General’s compensation must not be reduced during the State Inspector General’s uninterrupted continued tenure in office.</p> <p>(D) The State Inspector General:</p> <p>(1) may be removed from office only by the Governor as</p>	<p>agencies and must conduct annual audits of state agencies pursuant to Section 1-6-110.</p>	

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<p>provided in Section 1-3-240(C);</p> <p>(2) must be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields;</p> <p>(3) is entitled to receive compensation set by the Governor and approved by the Budget and Control Board.</p> <p>(E) Upon request of the State Inspector General for information or assistance, all agencies are directed to fully cooperate with and furnish the State Inspector General with all documents, reports, answers, records, accounts, papers, and other necessary data and documentary information to perform the mission of the State Inspector General.</p> <p>(F) Except for information declared confidential under this chapter, records of the office of the State Inspector General are subject to public inspection under Section 30-4-15 et seq.</p> <p>Section 1-6-30. The State Inspector General may:</p> <p>(1) initiate, supervise, and coordinate investigations authorized by this chapter;</p> <p>(2) recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state government;</p> <p>(3) receive complaints alleging a violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, or person who has a business relationship with an agency;</p> <p>(4) receive complaints from any individual, including those employed by any agency, alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency;</p> <p>(5) adopt rules and regulations for administering the office of the State Inspector General;</p> <p>(6) offer every employee, state officer, special state appointee, and person who has a business relationship with an agency training in the Rules of Conduct as provided in Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws;</p> <p>(7) provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency;</p>	<p>(3) is entitled to receive compensation set by the Governor.</p>	

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<p>(8) recommend legislation to the Governor and General Assembly to strengthen public integrity laws; and</p> <p>(9) annually submit a report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives detailing the State Inspector General’s activities.</p> <p>Section 1-6-40. (A) If the State Inspector General has reasonable cause to believe that fraud, waste, abuse, mismanagement, misconduct, or wrongdoing has occurred or is occurring, he must report the suspected conduct to:</p> <p>(1) the Governor; and</p> <p>(2) the head of the agency affected by the conduct or employing the person allegedly engaged in the suspected conduct.</p> <p>(B) In addition to the reporting requirements in subsection (A), if the State Inspector General has reasonable cause to believe that a crime has occurred or is occurring, he must report the conduct to the appropriate state or federal law enforcement agencies and prosecuting authorities that have jurisdiction over the matter.</p> <p>(C) In addition to fully cooperating with the State Inspector General’s investigation, the head of the agency employing a person allegedly engaged in the suspected conduct is responsible for submitting a report to the State Inspector General describing any and all actions taken with the employee and within the agency to prevent the alleged conduct from occurring again.</p> <p>Section 1-6-50. The State Inspector General has the following powers:</p> <p>(A) As part of an investigation, the State Inspector General may:</p> <p>(1) administer oaths;</p> <p>(2) examine witnesses under oath;</p> <p>(3) issue subpoenas and subpoenas duces tecum; and</p> <p>(4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.</p> <p>(B) The State Inspector General may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Inspector General or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Inspector General.</p> <p>(C) For any investigation that results in a report, the State</p>		

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<p>Inspector General must prepare a written report that remains confidential until it is issued as a final report. The State Inspector General is the authority who determines if an investigation requires a report. The State Inspector General, in his discretion, may give an agency advice or recommendations that remain confidential and are not issued as a report.</p> <p>(D) If the Attorney General has elected not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained, the State Inspector General may file a civil action for the recovery of the funds in accordance with Section 1-6-70 of this chapter.</p> <p>Section 1-6-60. If the State Inspector General investigates and determines that there is specific and credible evidence that a current or former employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the State Inspector General may file a complaint with the Ethics Commission and represent the State in any proceeding before the Ethics Commission.</p> <p>Section 1-6-70. (A) This section applies if the State Inspector General finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the State or in an unlawful benefit to an individual in the conduct of state business.</p> <p>(B) If the State Inspector General finds evidence described in subsection (A), the State Inspector General shall certify a report of the matter to the Attorney General and provide the Attorney General with any relevant documents, transcripts, written statements, or other evidence. Not later than one hundred eighty days after receipt of the report from the State Inspector General, the Attorney General must do one of the following:</p> <p>(1) file a civil action, including an action upon a state officer’s official bond, to secure for the State the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the Attorney General, the State Inspector General shall assist the Attorney General in the investigation, preparation, and prosecution of the civil action;</p> <p>(2) inform the State Inspector General that the Attorney General does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the Attorney General elects not to file a civil action, the Attorney General must return to the State Inspector General all</p>		

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<p>documents, transcripts, written statements, or other evidence initially provided by the State Inspector General; or</p> <p>(3) inform the State Inspector General that the Attorney General is diligently reviewing the matter and after further review may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General, and the Attorney General has neither filed a civil action nor informed the State Inspector General that he does not intend to file a civil action, the Attorney General loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and must return to the State Inspector General all documents, transcripts, written statements, or other evidence provided by the State Inspector General.</p> <p>(C) The State Inspector General may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained if the State Inspector General has found evidence described in subsection (A) and reported to the Attorney General under subsection (B) and:</p> <p>(1) the Attorney General has elected under subsection (B)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or</p> <p>(2) under subsection (B)(3), more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General under subsection (B), and the Attorney General has not filed a civil action.</p> <p>(D) If the State Inspector General has found evidence described in subsection (A), the State Inspector General may institute forfeiture proceedings as allowed by law in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds is located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.</p> <p>Section 1-6-80. (A) If the State Inspector General discovers evidence of criminal activity, the State Inspector General shall certify to the appropriate prosecuting attorney the following information:</p> <p>(1) the identity of any person who may be involved in the criminal activity; and</p> <p>(2) the criminal statute that the State Inspector General</p>		

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<p>believes has been violated.</p> <p>(B) In addition, the State Inspector General must provide the prosecuting attorney with any relevant documents, transcripts, written statements, or other evidence. If the prosecuting attorney decides to prosecute the crime described in the information certified to the prosecuting attorney, or any other related crimes, the State Inspector General must cooperate with the prosecuting attorney in the investigation and prosecution of the case. Upon request of the prosecuting attorney, the State Inspector General may participate on behalf of the State in any resulting criminal trial.</p> <p>Section 1-6-90. The State Inspector General must establish a toll-free public telephone number for the purpose of receiving information concerning fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency. The phone number must be prominently posted by all agencies, in clear view of all employees and the public, and in a conspicuous location on the agency’s Internet website.</p> <p>Section 1-6-100. (A) If any individual discloses information alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency in good faith to the State Inspector General, the individual’s identity is confidential and must not be disclosed to anyone other than the Governor, the staff of the Office of the State Inspector General, or an authority to whom the investigation is subsequently referred or certified, unless:</p> <p>(1) the State Inspector General makes a written determination that it is in the public interest to disclose the individual’s identity; or</p> <p>(2) the individual consents in writing to disclosure of the individual’s identity.</p> <p>(B) After an investigation is completed and a report is issued as provided in Section 1-6-50(C), the investigative records of the State Inspector General are subject to public inspection under the provisions of Section 30-4-15 et seq. However, if an individual’s identity is confidential as provided in subsection (A), the individual’s identity or any information that reasonably might lead to the discovery of the individual’s identity must not be disclosed, except as provided in subsection (A) or subsection (E).</p> <p>(C) This subsection does not apply to a person who is a party to an action brought by the State Inspector General. Information</p>		

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<p>received by the State Inspector General is not required to be produced in the course of discovery, unless ordered by a court after a showing of particularized need and proof that the information requested cannot be obtained from any other source.</p> <p>(D) Except as provided in subsection (E), a person commits the misdemeanor of unlawful disclosure of confidential information if he knowingly or intentionally discloses:</p> <ul style="list-style-type: none">(1) confidential information or records; or(2) the identity of a person whose identity is confidential under subsection (A). <p>A person convicted pursuant to this subsection must be fined not more than one thousand dollars or imprisoned not more than one year. If the person convicted is an officer or employee of the State, he must be dismissed from office or employment and is ineligible to hold any public office in this State for a period of five years after the conviction.</p>		
<p>(E) A person may disclose confidential information, records, or an individual’s identity that is confidential under subsection (A) if the Governor authorizes the disclosure of this information in the public interest.”</p>	<p>public interest.</p> <p>Section 1-6-110. (A)(1) All State agencies and entities supported partially or entirely by public funds are subject to audit by or under the oversight of the State Inspector General, except as otherwise specifically provided by law. The State Inspector General, to the extent practicable and consistent with his overall responsibility, shall audit or cause to be audited each State agency and entity annually.</p> <p>(2) Annually the State Auditor shall audit or cause to be audited the State’s basic financial statements prepared by the Comptroller General of South Carolina.</p> <p>(3) Annually the State Auditor shall audit or cause to be audited the compliance of the State of South Carolina with the U. S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement as applicable to major Federal programs.</p> <p>(4) Audits must be conducted in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations.</p> <p>(B) To the extent practicable and consistent with his overall</p>	

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	<p>responsibility, the State Inspector General periodically shall audit or cause to be audited the financial records of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report if fines and assessments imposed pursuant to Sections 14-1-205 through 14-1-208 are collected properly and remitted to the State Treasurer. Upon the issuance of an audit report, the State Inspector General immediately shall notify the State Treasurer, Division of Court Administration, and the chief administrator of the affected agency, department, county, or municipality.</p> <p>(C) Reports of audit findings must be available to the Governor, the Department of Administration, General Assembly, and the general public. The State Inspector General shall notify the Governor, the Department of Administration, and the General Assembly immediately upon the issuance of an audit report.</p> <p>(D) In order to carry out his duties, the State Inspector General and his assistants or designees must have access to all records and facilities of every state agency during normal operating hours. The State Inspector General and his assistants or designees shall have access to all relevant records and facilities of a private organization receiving appropriated state monies, relating to the management and expenditures of these state monies, during the organization’s normal operating hours. In the performance of his official duties, the State Inspector General and his assistants or designees are subject to the statutory provisions and penalties regarding the confidentiality of records of the agency or organization under review. All audit working papers and memoranda of the State Inspector General, except final audit reports, are confidential and not subject to public disclosure.</p> <p>(E) The State Inspector General shall bill the South Carolina Department of Health and Human Services monthly for fifty percent of the costs incurred by the State Inspector General in conducting the medical assistance audit. The amount billed by the State Inspector General must include those appropriated salary adjustments and employer contributions allowable under the Medicaid program. The Department of Health and Human Services shall remit the amount billed to the credit of the general fund of the State.</p> <p>(F) As required by professional auditing standards, the State Inspector General shall maintain independence in the performance of his authorized duties. Neither the Governor nor an agency or entity of the executive or judicial branches of State</p>	

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	<p>government has the authority to limit the scope, direction, or report content of an audit undertaken by the State Inspector General.</p> <p>(G)(1) To preserve the independence and objectivity of the audit function, the State Inspector General or his employees may not serve in any capacity on an administrative board, commission, or other organization that they have the responsibility or authority to audit, and they may not have a material, direct or indirect, financial or other economic interest in the transactions of a state agency.</p> <p>(2) The State Inspector General or a member of his staff may not conduct an audit of a program, activity, or agency for which he had management responsibility or by which he has been employed during the last two years.</p> <p>(H) The State Inspector General may obtain the services of independent public accountants as he considers necessary to carry out his duties and responsibilities. The State Inspector General may use funds appropriated for personal services to contract with private firms, using a request for proposals, to perform audits.</p> <p>(I) Each state agency shall remit to the State Inspector General an amount representing an equitable portion of the expense of contracting with a certified public accounting firm to conduct a portion of the audit of the State's Comprehensive Annual Financial Report prepared by the Comptroller General's Office. Each state agency's equitable portion of the expense must be determined by a schedule developed by the State Inspector General. The remittance must be based upon invoices provided by the State Inspector General upon completion of the annual audit. The audit must be rebid using a request for proposals no less frequently than every five years.</p>	
	<p>Section _____. Section 11-7-10 of the 1976 Code is amended to read:</p> <p>“Section 11-7-10. The State Budget and Control Board <u>State Inspector General</u> shall select the State Auditor, who shall select necessary assistants in conformity with the appropriations for the office.”</p>	
SECTION 29. Part VIII takes effect on January 1, 2012.	SECTION 29. Part IX, relating to the Office of Inspector General, takes effect on January 1, 2013.	
Part IX Naval Base Museum Authority		

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<p>SECTION 30. (A) Notwithstanding any other provision of law, in addition to the present members of the Charleston Naval Complex Redevelopment Authority, as created by gubernatorial executive order pursuant to Section 31-12-40 of the 1976 Code, there shall be four additional members, two appointed by the Speaker of the House of Representatives and two appointed by the President Pro Tempore of the Senate. These four additional members shall each serve for terms of four years and until their successors are appointed and qualify. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner of original appointment.</p> <p>(B) These four additional members shall serve as members of the Charleston Naval Complex Redevelopment Authority with the same powers, duties, and responsibilities of other such members as provided by law. In addition, these four members, together with the gubernatorial appointees to the Charleston Naval Complex Redevelopment Authority, shall also constitute the Charleston Navy Base Museum Authority as a division of the Charleston Naval Redevelopment Authority. Service as a member of the Navy Base Museum Authority is considered an additional and supplemental function and duty of those specified members of the Naval Complex Redevelopment Authority and is not considered another office of honor or profit of this State. The Navy Base Museum Authority shall select from among its members a chairman and such other officers as they consider necessary.</p> <p>(C) The duties, powers, and functions of the Hunley Commission as provided in Sections 54-7-100 and 54-7-110 of the 1976 Code, and as otherwise provided by law are transferred to and devolved upon the Navy Base Museum Authority. In addition, the Navy Base Museum Authority shall possess all other powers and duties conferred upon instrumentalities of this State as provided by law. Contracts and agreements between the Hunley Commission and Clemson University, as well as any other contracts and agreements of the Hunley Commission, inure to the benefit of the Navy Base Museum Authority, and it is considered the successor-in-interest to the Hunley Commission in all these regards. There shall remain a three-member panel of the Hunley Commission to oversee the timely devolution of duties and responsibilities remaining with the Hunley Commission, if any. The panel shall consist of one member appointed by the Governor, one member appointed by the Speaker of the House of Representatives, and one member appointed by the President Pro Tempore of the Senate. The</p>		

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panel shall terminate upon completion of all duties and responsibilities.		
<p>Part X</p> <p>South Carolina Rural Infrastructure Authority</p> <p>SECTION 31. Section 11-50-50 of the 1976 Code is amended to read:</p> <p>“Section 11-50-50. (A) The board of directors is the governing board of the authority. The board consists of seven <u>eight</u> voting directors appointed as follows:</p> <p>(1) six <u>seven</u> members who reside in counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two <u>three</u> appointed by the Governor, <u>one of which must be selected from three candidates recommended by the Municipal Association of South Carolina, one must be selected from three candidates recommended by the South Carolina Association of Counties, and one must be selected from three candidates recommended by the South Carolina Rural Water Association;</u> and</p> <p>(2) the Secretary of Commerce, ex officio, who shall serve as chairman.</p> <p>(B) Appointed members <u>Members</u> shall serve for terms of four years and until their successors are appointed and qualify except that of the members first appointed by the Speaker of the House, President Pro Tempore of the Senate, and one of the members first appointed by the Governor, the member shall serve for a term of two years and the term must be noted on the appointment. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.”</p>		
<p>SECTION 32. Section 11-50-60(A)(15) of the 1976 Code is amended to read:</p> <p>“(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services</p>		

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necessary to the operations of the authority <u>and may hire a director for the authority, so long as one of the gubernatorial appointees and three of the legislative appointees vote in favor of the hiring.”</u>		
SECTION 33. Chapter 10 of Title 12 of the 1976 Code is amended by adding: “Section 12-10-86. Notwithstanding Section 12-10-85, the Department of Revenue is authorized to deposit revenues from the Rural Infrastructure Fund in excess of twelve million dollars to the South Carolina Rural Infrastructure Fund under the South Carolina Rural Infrastructure Authority. Any revenues in excess of seventeen million dollars shall be deposited in the Rural Infrastructure Fund under the Department of Commerce, Coordinating Council.”		
SECTION 34. The State Budget and Control Board shall transfer all the funds in the South Carolina Rural Infrastructure Bank Trust Fund, created by Act 115 of 2005, to the South Carolina Rural Infrastructure Fund, authorized by Act 171 of 2010.		
SECTION 35. Section 1-11-25 of the 1976 Code, relating to the Local Government Division of the State Budget and Control Board, and Section 1-11-26 of the 1976 Code, relating to the use of funds from the Local Government Division, are repealed.		
<p style="text-align: center;">Part XI Legislative Oversight of Executive Departments</p> <p>SECTION 36. Subsections (B) through (H) of Section 1-30-10 of the 1976 Code are amended to read:</p> <p>“(B)(1) The governing authority of each department shall be either:</p> <p style="padding-left: 40px;">(i) a director, and in the case of the Department of Commerce, the <u>or</u> a secretary, who must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to provisions of Section 1-3-240(B); or;</p> <p style="padding-left: 40px;">(ii) a seven member board to be appointed and constituted in a manner provided for by law; or;</p> <p style="padding-left: 40px;">(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education,</p>	<p>SECTION _____. Title 2 of the 1976 Code is amended by adding:</p> <p style="text-align: center;">“Chapter 2 Legislative Oversight</p> <p style="text-align: center;">Section 2-2-5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:</p> <p style="padding-left: 40px;">(1) Section 1 of Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.</p>	

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<p>respectively, elected to office under the Constitution of this State; or</p> <p>(iv) in the case of the Department of Transportation, a seven member commission constituted in a manner provided by law, and a Secretary of Transportation appointed by and serving at the pleasure of the Governor.</p> <p><u>(2) In making an appointment for a governing authority of a department, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. The Governor in making appointments provided for by this section shall endeavor to appoint individuals who have demonstrated exemplary managerial skills in either the public or private sector.</u></p> <p>(C) Each department shall be organized into appropriate divisions subdivisions by the governing authority of the department through further consolidation or further subdivision. The power to organize and reorganize the department supersedes any provision of law to the contrary pertaining to individual divisions; provided, however, the into divisions lies with the General Assembly in furtherance of its mandate pursuant to Article XII of the South Carolina Constitution. The dissolution of any division must receive legislative approval by authorization included in the annual general appropriations act likewise be statutorily approved by the General Assembly.</p> <p>Any other approval procedures for department reorganization in effect on the effective date of this act no longer apply.</p> <p>(D) The governing authority of a department is vested with the duty of overseeing, managing, and controlling the operation, administration, and organization of the department. The governing authority has the power to create and appoint standing or ad hoc advisory committees in its discretion or at the direction of the Governor to assist the department in particular areas of public concern or professional expertise as is deemed appropriate. Such committees shall serve at the pleasure of the governing authority and committee members shall not receive salary or per diem, but shall be entitled to reimbursement for actual and necessary expenses incurred pursuant to the discharge of official duties not to exceed the per diem, mileage, and subsistence amounts allowed by law for members of boards, commissions, and committees.</p>	<p>(2) The General Assembly has an ongoing obligation to assure the efficiency and effectiveness of these agencies and the programs they administer, which it exercises in part through the standing committees of the State Senate or House of Representatives.</p> <p>Section 2-2-10. As used in this chapter:</p> <p>(1) ‘Agency’ means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, including administrative bodies. ‘Agency’ includes a body corporate and politic established as an instrumentality of the State. ‘Agency’ does not include a political subdivision.</p> <p>(2) ‘Investigating committee’ means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee’s subject matter jurisdiction.</p> <p>(3) ‘Program evaluation report’ means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.</p> <p>(4) ‘Request for information’ means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency’s actions that are the subject of the investigation.</p> <p>(5) ‘Standing committee’ means a permanent committee</p>	

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<p>(E) The <u>governing authority of a department director</u> may appoint deputy directors <u>deputies</u> to head the divisions of their department, with each deputy director managing one or more of the divisions; in the case of the Department of Commerce, the Secretary of Commerce may appoint a departmental executive director and also may appoint directors to manage the various divisions of the Department of Commerce. In making appointments race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. Deputy directors <u>Deputies</u> serve at the will and pleasure of the department director <u>governing authority</u>. The deputy director of a division is vested with the duty of overseeing, managing, and controlling the operation and administration of the division under the direction and control of the department director <u>department’s governing authority</u> and performing such other duties as delegated by the department director <u>department’s governing authority</u>.</p> <p>(F)(4) In the event a vacancy should occur <u>occurs</u> in the office of department director <u>the department’s governing authority</u> at a time when the General Assembly is not in session, the Governor may temporarily fill the vacancy pursuant to Section 1-3-210.</p> <p>(2) Notwithstanding the provisions of subitem (F)(1), as of July 1, 1993, for each department created pursuant to the provisions of this act which must be governed by a single director, an initial interim director shall serve as the governing authority, serving until January 31, 1994. During that period the following departments must be governed by the director or interim director of the following agencies as of June 30, 1993:</p> <p>(i) Department of Corrections, created pursuant to Section 1-30-30, by the director of the former Department of Corrections;</p> <p>(ii) Department of Juvenile Justice created pursuant to Section 1-30-60, by the interim director of the former Department of Youth Services;</p> <p>(iii) Department of Probation, Parole, and Pardon Services created pursuant to Section 1-30-85 by the director of the former Department of Probation, Pardon and Parole;</p> <p>(iv) Department of Social Services created pursuant to</p>	<p>with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.</p> <p>Section 2-2-20. (A) Beginning January 1, 2013, the activities of each agency shall be subject to review by an investigating committee at least once every seven years in accordance with a schedule adopted as provided in this chapter.</p> <p>(B) The purpose of these oversight studies and investigations is to determine if laws, regulations, and programs administered by an agency:</p> <p>(1) are being implemented and carried out in the public interest; and</p> <p>(2) should be continued, revised, or eliminated.</p> <p>(C) The oversight studies and investigations must consider:</p> <p>(1) the application, administration, execution, and effectiveness of laws, regulations, and programs administered by an agency;</p> <p>(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws, regulations and programs; and</p> <p>(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation relating to an agency or program under review.</p> <p>Section 2-2-30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.</p> <p>(B)(1) Upon consultation with the Clerk of each chamber and with the chairmen of the standing committees in the chamber,</p>	

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<p>Section 1 30 100, by the director of the former Department of Social Services;</p> <p>(v) Department of Parks, Recreation and Tourism created pursuant to Section 1 30 80, by the director of the former Department of Parks, Recreation and Tourism;</p> <p>(vi) Department of Commerce created pursuant to Section 1 30 25, by the Executive Director of the former State Development Board;</p> <p>(vii) Department of Alcohol and Other Drug Abuse Services created pursuant to Section 1 30 20, by the director of the former South Carolina Commission on Alcohol and Drug Abuse.</p> <p>(3) As of December 1, 1993, the Governor must submit to the Senate the names of appointees to the permanent department directorships for those departments created on July 1, 1993 and February 1, 1994. If no person has been appointed and qualified for a directorship as of February 1, 1994, the Governor may appoint an interim director to serve pursuant to the provisions of (F)(1).</p> <p>(4) Notwithstanding provisions of (2) and (3) to the contrary, the initial interim director of the Department of Public Safety shall be appointed by the Budget and Control Board. The initial interim director may be appointed as the permanent director of the department by the Governor.</p> <p>(G)(1) Department and agency governing authorities must, no later than the first day of the 1994 <u>2012</u> Legislative Session and every twelve months thereafter for the following three years, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. <u>If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House and Senate may provide by rule for the referral of these reports.</u> Thereafter, The Governor shall <u>must</u> periodically consult with the governing authorities of the various departments and upon such consultation, the Governor shall <u>must</u> submit a report of any <u>restructuring</u> recommendations to the General Assembly for</p>	<p>the presiding officers of each chamber shall determine the agencies for which each standing committee shall conduct oversight studies and investigations, and shall cause a proposed seven-year review schedule to be published in the each chamber’s journal on the first day of session each year.</p> <p>(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee shall schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee.</p> <p>(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request the consent of their presiding officer to appoint a joint investigating committee to conduct the oversight study and investigation for an agency.</p> <p>(C) The chairman of an investigating committee may vest the standing committee’s full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency:</p> <p>(1) shall make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation; and</p> <p>(2) must not consist of fewer than three members.</p> <p>(D) Each investigating committee shall conclude its investigation and submit a report of its findings to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, no later than the first day of November in the year in which the investigation commences. This report shall</p>	

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<p><u>its review and consideration.</u></p> <p>(2) The Governor shall report to the General Assembly no later than the second Tuesday in January of 1994, his recommendation for restructuring the following offices and divisions presently under his direct supervision, and as to how each might be restructured within other appropriate departments or divisions amended by this act:</p> <p>(i) Office of Executive Policy and Programs;</p> <p>(ii) Office of Energy Programs;</p> <p>(iii) Office of Personnel and Program Services;</p> <p>(iv) Office of Research;</p> <p>(v) Division of Health;</p> <p>(vi) Division of Economic Opportunity;</p> <p>(vii) Division of Economic Development;</p> <p>(viii) Division of Ombudsman and Citizens’ Services;</p> <p>(ix) Division of Education;</p> <p>(x) Division of Natural Resources;</p> <p>(xi) Division of Human Services.</p> <p><u>Department and agency governing authorities must, no later than the first day of the 2013 Legislative Session, and, as a part of the agency’s four-year oversight study and investigation conducted pursuant to Chapter 2 of Title 2, submit to the Governor and the General Assembly a four-year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected four-year period.</u></p> <p>(H) Department governing authorities must submit to the General Assembly by the first day of the 1994 legislative session and every five years thereafter a mission statement that must be approved by the General Assembly by Joint Resolution.</p> <p><u>RESERVED”</u></p>	<p>make specific recommendations for changes in law, regulation, or policy which would result in improved cost-effectiveness or program outcomes.</p> <p>Section 2-2-40. Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies’ functions, duties, and activities.</p> <p>Section 2-2-50. When an investigating committee conducts an oversight study and investigation pursuant to Section 2-2-40, evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:</p> <p>(1) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty-five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings or other documents is included with the answer;</p> <p>(2) receiving the testimony of witnesses, sworn and unsworn;</p>	

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	<p data-bbox="1077 77 1846 159">(3) issuing subpoenas and subpoenas duces tecum pursuant to Title 2, Chapter 69; and</p> <p data-bbox="1077 175 1846 461">(4) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.</p> <p data-bbox="1077 526 1846 607">Section 2-2-60. (A) An investigating committee’s request for a program evaluation report must contain:</p> <p data-bbox="1077 623 1846 704">(1) the agency program or operations that it intends to investigate;</p> <p data-bbox="1077 721 1846 802">(2) the information that must be included in the report; and</p> <p data-bbox="1077 818 1846 899">(3) the date that the report must be submitted to the committee.</p> <p data-bbox="1077 915 1846 1110">(B) An investigating committee must consider the time and effort associated with an agency’s compliance efforts when it requests a program evaluation report, which may contain any of the following information:</p> <p data-bbox="1077 1127 1846 1208">(1) enabling or authorizing law or other relevant mandate, including any federal mandates;</p> <p data-bbox="1077 1224 1846 1403">(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:</p> <p data-bbox="1077 1419 1846 1500">(a) established priorities, including goals and objectives in meeting each priority;</p>	

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	<p data-bbox="1077 79 1849 207">(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;</p> <p data-bbox="1077 232 1849 509">(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;</p> <p data-bbox="1077 534 1849 662">(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;</p> <p data-bbox="1077 686 1849 815">(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last five years;</p> <p data-bbox="1077 839 1849 1117">(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;</p> <p data-bbox="1077 1141 1849 1269">(6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;</p> <p data-bbox="1077 1294 1849 1422">(7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;</p> <p data-bbox="1077 1446 1849 1477">(8) identification of emerging issues for the agency;</p> <p data-bbox="1077 1502 1849 1533">(9) a comparison of any related federal laws and</p>	

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	<p>regulations to the state laws governing the agency or program and the rules implemented by the agency or program;</p> <p>(10) agency policies for collecting, managing, and using personal information over the Internet and non-electronically, information on the agency’s implementation of information technologies;</p> <p>(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:</p> <p>(a) the statutory authority for each filing requirement;</p> <p>(b) the date each filing requirement was adopted or last amended by the agency;</p> <p>(c) the frequency that filing is required;</p> <p>(d) the number of filings received annually for the last four years and the number of anticipated filings for the next four years;</p> <p>(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;</p> <p>(12) any other relevant information specifically requested by the investigating committee.</p> <p>(C) All information contained in a program evaluation report must be presented in a concise and complete manner.</p> <p>(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.</p>	

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	<p>(E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.</p> <p>Section 2-2-70. An investigating committee may require that testimony be offered under oath.</p> <p>Section 2-2-80. Any witness testifying before or deposed by the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony or deposition, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.</p> <p>Section 2-2-90. A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action.</p> <p>Section 2-2-100. Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and willfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt</p>	

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	<p>of the General Assembly. A person who is convicted of, or pleads guilty to, contempt of the General Assembly is guilty of a misdemeanor and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than one year, or both.</p> <p>Section 2-2-110. When, in the opinion of an investigation committee’s chairman, a person has violated Section 2-2-100 by providing false, materially misleading, or materially incomplete testimony, the chairman shall notify the presiding officer of his chamber, who shall refer the matter to the Attorney General for prosecution.</p> <p>Section 2-2-120. A person is guilty of criminal contempt when, having been duly subpoenaed to attend as witness before either house of the General Assembly or before a committee of the General Assembly, he:</p> <ul style="list-style-type: none">(1) fails or refuses to attend without lawful excuse;(2) refuses to be sworn;(3) refuses to answer any material or proper question; or(4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence. <p>A person who is convicted of, or pleads guilty to, criminal contempt is guilty of a misdemeanor and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than one year, or both.”</p>	
SECTION 37. Section 8-27-10(4) of the 1976 Code is amended to read:		

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<p>“(4) ‘Report’ means:</p> <p><u>(a) a written document alleging a written or oral allegation of waste or wrongdoing that contains the following information:</u></p> <p> (a) the date of disclosure;</p> <p> (b) the name of the employee making the report; and</p> <p> (c) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within sixty days <u>one hundred eighty days</u> of the date the reporting employee first learns of the alleged wrongdoing; <u>or</u></p> <p><u>(b) sworn testimony regarding wrongdoing, regardless of when the wrongdoing allegedly occurred, given to any standing committee, subcommittee of a standing committee, or study committee of the Senate or the House of Representatives.”</u></p>		
<p>SECTION 38. Chapter 27 of Title 8 of the 1976 Code is amended by adding:</p> <p>“Section 8-27-60. Each public body must make a summary of this chapter available on the public body’s Internet website. The summary must include an explanation of the process required to report wrongdoing, an explanation of what constitutes wrongdoing, and a description of the protections available to an employee who reports wrongdoing. If the public body does not maintain an Internet website, the public body must annually provide a written summary of this chapter to its employees and maintain copies of the summary at all times.”</p>		
<p>SECTION 39. Title 2 of the 1976 Code is amended by adding:</p> <p>“Chapter 2</p> <p>Legislative Oversight of Executive Departments</p> <p>Section 2-2-5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:</p> <p>(1) Section 1 of Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.</p> <p>(2) This constitutional duty is a continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and departments and their responsiveness to the needs of the state’s citizens by the standing committees of the State Senate or House of</p>	<p>SECTION _____. Title 2 of the 1976 Code is amended by adding:</p> <p>“Chapter 2</p> <p>Legislative Oversight</p> <p>Section 2-2-5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:</p> <p>(1) Section 1 of Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.</p> <p>(2) The General Assembly has an ongoing obligation to assure the efficiency and effectiveness of these agencies and the programs they administer, which it exercises in part through the standing committees of the State Senate or House of Representatives.</p>	

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<p>Representatives.</p> <p>Section 2-2-10. As used in this chapter:</p> <p>(1) 'Agency' means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive or judicial departments of state government, including administrative bodies. 'Agency' includes a body corporate and politic established as an instrumentality of the State. 'Agency' does not include:</p> <p>(a) the legislative department of state government; or</p> <p>(b) a political subdivision.</p> <p>(2) 'Investigating committee' means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee's subject matter jurisdiction.</p> <p>(3) 'Program evaluation report' means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.</p> <p>(4) 'Request for information' means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency's actions that are the subject of the investigation.</p> <p>(5) 'Standing committee' means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.</p> <p>Section 2-2-20. (A) Beginning January 1, 2012, each standing committee must conduct oversight studies and investigations on all agencies within the standing committee's subject matter jurisdiction at least once every four years in accordance with a schedule adopted as provided in this chapter.</p> <p>(B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:</p> <p>(1) are being implemented and carried out in accordance with the intent of the General Assembly; and</p> <p>(2) should be continued, curtailed, or eliminated.</p> <p>(C) The oversight studies and investigations must consider:</p> <p>(1) the application, administration, execution, and</p>	<p>Section 2-2-10. As used in this chapter:</p> <p>(1) 'Agency' means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, including administrative bodies. 'Agency' includes a body corporate and politic established as an instrumentality of the State. 'Agency' does not include a political subdivision.</p> <p>(2) 'Investigating committee' means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee's subject matter jurisdiction.</p> <p>(3) 'Program evaluation report' means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.</p> <p>(4) 'Request for information' means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency's actions that are the subject of the investigation.</p> <p>(5) 'Standing committee' means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.</p> <p>Section 2-2-20. (A) Beginning January 1, 2013, the activities of each agency shall be subject to review by an investigating committee at least once every seven years in accordance with a schedule adopted as provided in this chapter.</p> <p>(B) The purpose of these oversight studies and investigations is to determine if laws, regulations, and programs administered by an agency:</p> <p>(1) are being implemented and carried out in the public interest; and</p> <p>(2) should be continued, revised, or eliminated.</p> <p>(C) The oversight studies and investigations must consider:</p> <p>(1) the application, administration, execution, and</p>	

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<p>effectiveness of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction;</p> <p>(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction; and</p> <p>(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee’s subject matter jurisdiction.</p> <p>Section 2-2-30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.</p> <p>(B)(1) The President Pro Tempore of the Senate, upon consulting with the chairmen of the standing committees in the Senate and the Clerk of the Senate, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed four-year review schedule must be published in the Senate Journal on the first day of session each year.</p> <p>(2) In order to accomplish the requirements of this chapter, the chairman of each standing committees must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:</p> <p>(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and</p> <p>(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.</p> <p>(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for an agency.</p> <p>(C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each</p>	<p>effectiveness of laws, regulations, and programs administered by an agency;</p> <p>(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws, regulations and programs; and</p> <p>(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation relating to an agency or program under review.</p> <p>Section 2-2-30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.</p> <p>(B)(1) Upon consultation with the Clerk of each chamber and with the chairmen of the standing committees in the chamber, the presiding officers of each chamber shall determine the agencies for which each standing committee shall conduct oversight studies and investigations, and shall cause a proposed seven-year review schedule to be published in the each chamber’s journal on the first day of session each year.</p> <p>(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee shall schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee.</p> <p>(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request the consent of their presiding officer to appoint a joint investigating committee to conduct the oversight study and investigation for an agency.</p> <p>(C) The chairman of an investigating committee may vest the standing committee’s full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency:</p> <p>(1) shall make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation; and</p> <p>(2) must not consist of fewer than three members.</p>	

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<p>standing committee must conduct oversight studies and investigations. A proposed four-year review schedule must be published in the House Journal on the first day of session each year.</p> <p>(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:</p> <p>(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and</p> <p>(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.</p> <p>(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for the agency.</p> <p>(D) The chairman of an investigating committee may vest the standing committee's full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency: (1) must make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation, and (2) must not consist of fewer than three members.</p> <p>Section 2-2-40. (A) In addition to the scheduled four-year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.</p> <p>(B) Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by</p>	<p>(D) Each investigating committee shall conclude its investigation and submit a report of its findings to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, no later than the first day of November in the year in which the investigation commences. This report shall make specific recommendations for changes in law, regulation, or policy which would result in improved cost-effectiveness or program outcomes.</p> <p>Section 2-2-40. Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies' functions, duties, and activities.</p> <p>Section 2-2-50. When an investigating committee conducts an oversight study and investigation pursuant to Section 2-2-40, evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:</p> <p>(1) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty-five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings or other documents is included with the answer;</p> <p>(2) receiving the testimony of witnesses, sworn and unsworn;</p> <p>(3) issuing subpoenas and subpoenas duces tecum pursuant to Title 2, Chapter 69; and</p> <p>(4) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.</p> <p>Section 2-2-60. (A) An investigating committee's request</p>	

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<p>authorizing and conducting legislative investigations into agencies' functions, duties, and activities.</p> <p>Section 2-2-50. When an investigating committee conducts an oversight study and investigation or a legislative investigation is conducted pursuant to Section 2-2-40(B), evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:</p> <p>(A) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty-five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. The head of the department or agency must sign the answers verifying them as true and correct. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings or other documents is included with the answer;</p> <p>(B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee must provide the person being deposed and the agency under investigation with no less than ten days' notice of the deposition. The notice to the agency shall state the time and place for taking the deposition and name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice. The deposition must be taken under oath administered by the chairman of the investigating committee or his designee. The testimony must be taken stenographically or recorded by some other means and may be videotaped. A person may be compelled to attend a deposition in the county in which he resides or in Richland County;</p> <p>(C) issuing subpoenas and subpoenas duces tecum pursuant to Title 2, Chapter 69; and</p> <p>(D) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating</p>	<p>for a program evaluation report must contain:</p> <p>(1) the agency program or operations that it intends to investigate;</p> <p>(2) the information that must be included in the report; and</p> <p>(3) the date that the report must be submitted to the committee.</p> <p>(B) An investigating committee must consider the time and effort associated with an agency's compliance efforts when it requests a program evaluation report, which may contain any of the following information:</p> <p>(1) enabling or authorizing law or other relevant mandate, including any federal mandates;</p> <p>(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:</p> <p>(a) established priorities, including goals and objectives in meeting each priority;</p> <p>(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;</p> <p>(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;</p> <p>(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;</p> <p>(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last five years;</p> <p>(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;</p> <p>(6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;</p> <p>(7) a summary of efforts by the agency or program</p>	

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<p>committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.</p> <p>Section 2-2-60. (A) An investigating committee's request for a program evaluation report must contain:</p> <p>(1) the agency program or operations that it intends to investigate;</p> <p>(2) the information that must be included in the report; and</p> <p>(3) the date that the report must be submitted to the committee.</p> <p>(B) An investigating committee may request that the program evaluation report contain any of the following information:</p> <p>(1) enabling or authorizing law or other relevant mandate, including any federal mandates;</p> <p>(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:</p> <p>(a) established priorities, including goals and objectives in meeting each priority;</p> <p>(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;</p> <p>(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;</p> <p>(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;</p> <p>(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last ten years;</p> <p>(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;</p> <p>(6) identification of the constituencies served by the</p>	<p>regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;</p> <p>(8) identification of emerging issues for the agency;</p> <p>(9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;</p> <p>(10) agency policies for collecting, managing, and using personal information over the Internet and non-electronically, information on the agency's implementation of information technologies;</p> <p>(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:</p> <p>(a) the statutory authority for each filing requirement;</p> <p>(b) the date each filing requirement was adopted or last amended by the agency;</p> <p>(c) the frequency that filing is required;</p> <p>(d) the number of filings received annually for the last four years and the number of anticipated filings for the next four years;</p> <p>(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;</p> <p>(12) any other relevant information specifically requested by the investigating committee.</p> <p>(C) All information contained in a program evaluation report must be presented in a concise and complete manner.</p> <p>(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.</p> <p>(E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.</p> <p>Section 2-2-70. An investigating committee may require that testimony be offered under oath.</p> <p>Section 2-2-80. Any witness testifying before or deposed by the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of</p>	

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<p>agency or program, noting any changes or projected changes in the constituencies;</p> <p>(7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;</p> <p>(8) identification of emerging issues for the agency;</p> <p>(9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;</p> <p>(10) agency policies for collecting, managing, and using personal information over the Internet and non-electronically, information on the agency's implementation of information technologies;</p> <p>(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:</p> <p>(a) the statutory authority for each filing requirement;</p> <p>(b) the date each filing requirement was adopted or last amended by the agency;</p> <p>(c) the frequency that filing is required;</p> <p>(d) the number of filings received annually for the last four years and the number of anticipated filings for the next four years;</p> <p>(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;</p> <p>(12) any other relevant information specifically requested by the investigating committee.</p> <p>(C) All information contained in a program evaluation report must be presented in a concise and complete manner.</p> <p>(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.</p> <p>(E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.</p> <p>Section 2-2-70. All testimony given to the investigating committee must be under oath.</p>	<p>testimony or deposition, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.</p> <p>Section 2-2-90. A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action.</p> <p>Section 2-2-100. Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and willfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of, or pleads guilty to, contempt of the General Assembly is guilty of a misdemeanor and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than one year, or both.</p> <p>Section 2-2-110. When, in the opinion of an investigation committee's chairman, a person has violated Section 2-2-100 by providing false, materially misleading, or materially incomplete testimony, the chairman shall notify the presiding officer of his chamber, who shall refer the matter to the Attorney General for prosecution.</p> <p>Section 2-2-120. A person is guilty of criminal contempt when, having been duly subpoenaed to attend as witness before either house of the General Assembly or before a committee of the General Assembly, he:</p> <ol style="list-style-type: none"> (1) fails or refuses to attend without lawful excuse; (2) refuses to be sworn; (3) refuses to answer any material or proper question; or (4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence. <p>A person who is convicted of, or pleads guilty to, criminal contempt is guilty of a misdemeanor and, upon conviction, must be fined within the discretion of the court or imprisoned for not</p>	

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<p>Section 2-2-80. Any witness testifying before or deposed by the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony or deposition, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.</p> <p>Section 2-2-90. A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action.”</p>	<p>more than one year, or both.”</p>	
SECTION 40. This Part takes effect July 1, 2012.		
<p style="text-align: center;">Part XII Performance Audit and Effective Date</p> <p>SECTION 41. During the year 2015, the Legislative Audit Council shall conduct a performance review of the provisions of this act to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies provided for herein and the cost savings and benefits to the State.</p>	<p>SECTION _____. During the year 2018, the Legislative Audit Council shall conduct a performance review of the provisions of this act to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies provided for herein and the cost savings and benefits to the State.</p> <p>Amend the bill further, as and if amended, beginning on page 106 by striking Part XII, relating to Performance Audit and Effective Date, in its entirety and inserting:</p> <p style="text-align: center;">/ Part XIII Miscellaneous</p> <p>SECTION _____. A. Title 2 of the 1976 Code is amended by adding:</p> <p style="text-align: center;">“CHAPTER 79</p> <p style="text-align: center;">State Agency Deficit Prevention and Recognition</p> <p>Section 2-79-10. This chapter may be cited as the ‘State</p>	

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	<p data-bbox="1080 79 1846 107">Agency Deficit Prevention and Recognition Act’.</p> <p data-bbox="1080 147 1846 375">Section 2-79-20. It is the responsibility of each state agency, department, and institution to operate within the limits of appropriations set forth in the annual general appropriations act, appropriation acts, or joint resolution supplemental thereto, and any other approved expenditures of monies. A state agency, department, or institution shall not operate in a manner that results in a year-end deficit except as provided in this chapter.</p> <p data-bbox="1080 415 1846 805">Section 2-79-30. If at the end of each quarterly deficit monitoring review by the Office of State Budget, it is determined by either the Office of State Budget or a state agency, department, or institution that the likelihood of a deficit for the current fiscal year exists, the state agency shall submit to the Office of State Budget and the General Assembly within fourteen days, a plan to eliminate the projected deficit. After submission of the plan, if it is determined that the deficit cannot be eliminated by the state agency, department, or institution on its own, the state agency is required to officially notify the General Assembly within fifteen days of the determination that the state agency is requesting that a deficit be recognized.</p> <p data-bbox="1080 846 1846 1203">Section 2-79-40. (A) Upon notification from the state agency, department, or institution, as provided in Section 2-79-30, the General Assembly, by joint resolution, may make a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the state agency, department, or institution, and recognize the deficit. Any legislation to recognize a deficit must be in a separate joint resolution enacted for the sole purpose of recognizing the deficit of a particular state agency, department, or institution. A deficit only may be recognized by an affirmative vote of each branch of the General Assembly.</p> <p data-bbox="1080 1219 1846 1406">(B) If the General Assembly recognizes the deficit, then the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the General Reserve Fund and the Capital Reserve Fund, as required by the Constitution of this State.</p> <p data-bbox="1080 1455 1846 1536">Section 2-79-50. Once a deficit has been recognized by the General Assembly, the state agency, department, or institution shall limit travel and conference attendance to the minimum</p>	

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	<p>required to perform its core mission. In addition, the General Assembly, when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles must be approved by the Office of State Budget.</p> <p>Section 2-79-60. Section 2-79-60. (A)(1) An officer or employee of this State may not:</p> <p>(a) except following the enactment of a joint resolution pursuant to Section 2-79-40, make or authorize an expenditure or obligation exceeding the amount available in an existing state appropriation or existing state fund for the expenditure or obligation; or</p> <p>(b) unless otherwise authorized by law, involve the state government in a contract or obligation for the payment of money before an appropriation to fund the contract or obligation is made.</p> <p>(B)(1) An officer or employee of this State may not employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.</p> <p>(2) As used in this subsection, ‘emergencies involving the safety of human life or the protection of property’ do not include ongoing, regular functions of state government the suspension of which would not imminently threaten the safety of human life or the protection of property.</p> <p>(C)(1) If an employee of this State covered by the State Employee Grievance Protection Act is determined by his employing authority knowingly and wilfully to have violated a provision of this section, the officer may be suspended with or without pay, as appropriate, and, pending final action pursuant to that act, dismissed, demoted, or otherwise disciplined.</p> <p>(2) If an ‘at will’ employee or an officer of this State is determined by his employing or appointing authority knowingly and wilfully to have violated a provision of this section, the officer or employee may be dismissed, demoted, or otherwise disciplined. An ‘at will’ employee subject to a personnel action pursuant to this section is nevertheless entitled to appeal that action to his employing or appointing authority at a hearing at which the officer or employee may be represented by a person of his choosing. The decision of the hearing body or officer is final with respect to the disposition of this personnel action.</p> <p>(D) The provisions of Subsection (C) of this section are in addition to and not in lieu of any other administrative or criminal penalties provided by law for violating similar provisions of law,</p>	

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	<p>including, specifically, the criminal penalties provided for violations pursuant to Section 11-1-40.”</p> <p>B.Section 1-11-495 of the 1976 Code, as last amended by Act 152 of 2010, is repealed. /</p> <p>SECTION ____ Chapter 47 of Title 2 of the 1976 Code is amended to read:</p> <p style="text-align: center;">“Chapter 47 Joint Bond Review <u>and Approval Process</u> Committee</p> <p>Section 2-47-10. The General Assembly finds that a need exists for careful planning of permanent improvements and of the utilization of State general obligation and institutional bond authority in order to ensure the continued favorable bond credit rating our State has historically enjoyed. It further finds that the responsibility for proper management of these matters is <u>properly</u> placed upon the General Assembly by our State Constitution <u>legislative and executive branches of government</u>. It is the purpose of this resolution <u>act</u> to further ensure the proper legislative <u>and executive</u> response in the fulfillment of this responsibility.</p> <p><u>Section 2-47-15. (A) Subject to the conditions and limitations set forth in Article X, Section 13 of the South Carolina Constitution, the General Assembly shall establish annually in a joint resolution monetary limitations for the issuance of State general obligation and institutional bonds for specific categories of bonded indebtedness based on the capability of the State to fulfill such obligations considering current and projected revenues. The State Treasurer shall not initiate incurring of State general obligation and institutional bonds above the limitations established annually by the General Assembly. Unless otherwise specifically accounted for in this act, there is devolved upon the Department of Administration all functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law. The department shall establish criteria, upon consultation with the Joint Bond Review Committee, to apply to the review and approval process.</u></p>	

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	<p><u>(B) Bonded indebtedness issued by the South Carolina Jobs - Economic Development Authority and political subdivisions do not require approval by the Department of Administration. The authority and political subdivisions shall submit a report to the department of any bonds the entity issues. Bonded indebtedness issued pursuant to this subsection does not constitute nor give rise to a pecuniary liability to the State or a charge against the credit or taxing powers of the State.</u></p> <p>Section 2-47-20. There is hereby created a six <u>ten</u> member joint committee of the General Assembly to be known as the Joint Bond Review Committee to study and monitor policies and procedures relating to the approval of permanent improvement projects and to the issuance of State general obligation and institutional bonds; to evaluate the effect of current and past policies on the bond credit rating of the State; and provide advisory assistance in the establishment of future capital management policies. Three members shall be appointed from the Senate Finance Committee by the chairman thereof and three from the Ways and Means Committee of the House of Representatives by the chairman of that committee <u>by the President Pro Tempore of the Senate and three members by the Speaker of the House of Representatives. Two Senators shall be appointed to serve on the committee by the chairman of the Senate Finance Committee and two members of the House of Representatives shall be appointed to serve on the committee by the chairman of the House Ways and Means Committee.</u> Terms of members of the committee shall <u>be for one biennial session of the General Assembly</u> correspond to the terms for which they are elected to the General Assembly. The committee shall elect officers of the committee, but any person so elected may succeed himself if elected to do so.</p> <p>The expenses of the committee shall be paid from approved accounts of both houses. The Legislative Council and all other legislative staff organizations shall provide such assistance as the joint committee may request.</p> <p>Section 2-47-25. In addition to the members provided for by Section 2-47-20, two additional members shall be appointed by the Chairman of the Ways and Means Committee of the House of Representatives from the membership of that body. Two additional members shall be appointed by the Chairman of the Finance Committee of the Senate from the membership of the Senate. Members shall serve the same terms as the members</p>	

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	<p>of the committee provided for in Section 2-47-20.</p> <p>Section 2-47-30. The committee is specifically charged with, but not limited to, the following responsibilities:</p> <p>(1) To review, prior to approval by the Budget and Control Board <u>Department of Administration</u>, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly.</p> <p>(2) To study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues.</p> <p>(3) To recommend priorities of future bond issuance based on the social and economic needs of the State.</p> <p>(4) To recommend prudent limitations of bond obligations related to present and future revenue estimates.</p> <p>(5) To consult with independent bond counsel and other nonlegislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short and long-term recommendations for the General Assembly.</p> <p>(6) To carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the Budget and Control Board.</p> <p>(7) To report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.</p> <p>Section 2-47-35. No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the Budget and Control Board <u>Department of Administration</u>, establishes priorities for the funding of the projects. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.</p> <p>Section 2-47-40. (A) To assist the State Budget and Control Board (the Board) <u>Department of Administration</u> and the Joint Bond Review Committee (the Committee) in carrying out their respective responsibilities, any agency or institution</p>	

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	<p>requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the Board <u>department</u>, in such form and at such times as the Board, after review by the Committee, <u>the department</u> may prescribe:</p> <p class="list-item-l1">(a)(1) a complete description of the proposed project;</p> <p class="list-item-l1">(b)(2) a statement of justification for the proposed project;</p> <p class="list-item-l1">(c)(3) a statement of the purposes and intended uses of the proposed project;</p> <p class="list-item-l1">(d)(4) the estimated total cost of the proposed project;</p> <p class="list-item-l1">(e)(5) an estimate of the additional future annual operating costs associated with the proposed project; (f) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project;</p> <p class="list-item-l1">(g)(6) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and</p> <p class="list-item-l1">(h)(7) the specification of the priority of each project among those proposed.</p> <p>(B) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the Board <u>department</u> through the Commission on Higher Education which shall forward all such statements and all supporting documentation received to the Board <u>department</u> together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.</p> <p>The Board <u>department</u> shall forward a copy of each project proposal and justification statement and supporting documentation received together with the Board’s <u>department’s</u> recommendations on such projects to the Committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the Committee by the Board <u>department</u>.</p> <p>(C) No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the Committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.</p>	

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	<p>Section 2-47-50. (A) The board <u>Department of Administration</u> shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the board <u>department</u> to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the board <u>department</u>, requests to establish permanent improvement projects shall be made in such form and at such times as the board <u>department</u> may require.</p> <p>(B) Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the board <u>department</u> and reviewed by the committee shall be referred to the committee for review prior to approval by the board <u>department</u>.</p> <p>(C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the board <u>department</u> to be substantial shall be referred to the committee for <u>consideration</u> its review prior to any final action by the board <u>department</u>. In making their determinations regarding changes in project scope, the board <u>department</u> and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the board <u>department</u> and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the board <u>department</u> which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the board <u>department</u>.</p> <p>(D) For purposes of this chapter, with regard to all</p>	

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	<p>institutions of higher learning, permanent improvement project is defined as:</p> <ul style="list-style-type: none">(1) acquisition of land, regardless of cost;(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;(3) construction of additional facilities and work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is five hundred thousand dollars or more;(4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;(5) capital lease purchase of a facility acquisition or construction; and(6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project. <p><u>(E)</u> Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve fund or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.</p> <p>Section 2-47-55. (A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the <u>Department of Administration</u>. The CPIP must include all of the agency’s permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July 1 after submission. The purpose of the CPIP process is to provide the board <u>department</u> and the committee with an outline of each agency’s permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the board <u>department</u> on or before a date to be determined by the committee and the board <u>department</u>. The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which</p>	

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	<p>must review the CPIP and provide its recommendations to the board <u>department</u> and the committee. The board <u>department</u> and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.</p> <p>(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.</p> <p>Section 2-47-56. Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the Director of the Division of General Services, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.</p> <p>Section 2-47-60. The Joint Bond Review Committee is hereby authorized and directed to regulate the starting date of the various projects approved for funding through the issuance of state highway bonds so as to ensure that the sources of revenue for debt service on such bonds shall be sufficient during the current fiscal year.”</p> <p>SECTION ____ . Section 9-1-1175 of the 1976 Code is amended to read:</p> <p>“Section 9-1-1175. Effective July 1, 2006, the board shall increase the employer contribution rate for the system by one-half percent of the earnable compensation of all members employed by an employer participating in the system. The board shall further increase the employer contribution rate by one-half percent effective July 1, 2007. The Public Employee Benefit Authority shall maintain employer contribution rates in effect on the effective date of Act ____ of 2012, R ____, H. 3066, subject to the provisions of this section and other applicable law. The employer rate provided in this section also applies to payments for unused annual leave under the circumstances provided in Section 9-1-1020. The employer rate provided in this section includes the system’s normal contribution rate and accrued liability contribution rate, but does not include contributions for group life insurance or other benefits that are remitted to the retirement systems. Contributions for group life</p>	

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	<p>insurance or other benefits are in addition to the applicable employer contribution rate. After June 30, 2007, the board <u>The General Assembly, upon receiving the recommendations of the trustees of the Public Employee Benefit Authority may</u>, in its discretion, may increase or decrease the employer contribution rate set by this section based on the actuarial valuation provided to the board by the system’s actuaries and considering the normal contribution rate determined pursuant to Section 9-1-1060 and the accrued liability contribution rate determined pursuant to Section 9-1-1070.”</p> <p>SECTION _____. Section 2-15-50(b)(2) of the 1976 Code is amended to read:</p> <p>/ “(2)the effectiveness of organizations, programs, activities or functions; <u>and whether these organization, programs, activities, or functions should be continued, revised, or eliminated;</u>”</p>	
SECTION 42. On or before January 15, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of all code references and cross-references which he considers in need of correction or modification insofar as the 1976 Code has been affected by this act.	SECTION _____. On or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of all code references and cross-references which he considers in need of correction or modification insofar as the 1976 Code has been affected by this act.	
<p>SECTION 43. Section 1-11-115 of the 1976 Code is amended to read:</p> <p>“Section 1-11-115. All proceeds from the sale of real property titled to or subject to the care and control of the State Budget and Control Board <u>Department of Administration</u> must be deposited to the credit of the Sinking Fund and used by the board for the acquisition and maintenance of facilities owned by it for the use and occupancy of state departments and agencies.”</p>		
<p>SECTION 44. Section 1-11-170 of the 1976 Code is amended to read:</p> <p>“Section 1-11-170. The State Budget and Control Board <u>Department of Administration</u> may maintain revolving funds adequate to finance inventories and accounts receivable for goods and services rendered by its Division of General Services on a reimbursement basis.”</p>		
SECTION 45. Section 1-11-420 of the 1976 Code is amended to read:		

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<p>“Section 1-11-420. All institutions, departments, and agencies shall file an annual report with the board <u>State Financial Affairs Authority, the Legislative Fiscal Office, and the Governor’s Budget Office</u> at the time the board <u>financial affairs authority</u> specifies. The board <u>financial affairs authority</u> shall prescribe specifications and deadlines as are practicable for the reports, the objective being to limit the content and style of printing, and thus keep the cost of their publication within reasonable limits. The board <u>financial affairs authority</u> shall have the reports printed and made available on or before January first to <u>the State Library, the Legislative Fiscal Office, and the Governor’s Budget Office,</u> and each member of the General Assembly at his request and to the State Library. The board <u>financial affairs authority</u> shall report annually to the General Assembly on the expenditure of appropriations for the reports showing, by departments, the number of copies and cost of publication. State agency annual reports required under the provisions of this section and reports to the General Assembly may not be printed in a multicolor format unless that format can be purchased at the cost of black and white printing, nor may these reports contain pictures of board or commission members, agency officers, or employees.”</p>		
<p>NO COMPARABLE SECTION</p>	<p>SECTION ____ Chapter 13, Title 60 of the 1976 Code is amended by adding:</p> <p style="text-align: center;">“Article 5</p> <p style="text-align: center;">South Carolina Confederate Relic Room and Military Museum</p> <p>Section 6-11-500. The Director of the South Carolina Confederate Relic Room and Military Museum must be appointed by the chairman of the South Carolina Museum Commission after consultation with the South Carolina Division Commander of the Sons of the Confederate Veterans and the President of the South Carolina Chapter of the United Daughters of the Confederacy. The director shall serve at the pleasure of the chairman.</p> <p>Section 6-11-510. (A) The South Carolina Confederate Relic Room and Military Museum is authorized to supplement its state appropriations by receiving donations of funds and artifacts and admission fees and to expend these donations and fees to support its operations and for the acquisition, restoration,</p>	

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	<p>preservation, and display of its collection.</p> <p>(B) The South Carolina Confederate Relic Room and Military Museum is authorized to collect, retain, and expend fees from research and photographic processing requests and from the sale of promotional items.</p> <p>Section 6-11-520. No artifacts owned by the State in the permanent collections of the South Carolina Confederate Relic Room and Military Museum may be permanently removed or disposed of except by a Concurrent Resolution of the General Assembly.</p> <p>Section 6-11-530. It is the intent of the General Assembly that, as soon as space becomes available, the Confederate Relic Room shall relocate to the Columbia Mills building where it will be retained as a separate and distinct facility, to be known as the South Carolina Confederate Relic Room and Military Museum, under the South Carolina Museum Commission.”</p>	
NO COMPARABLE SECTION	<p>SECTION _____. Title 23, Chapter 1 of the 1976 Code is amended by adding:</p> <p>“Article 7 Procurement Review Panel</p> <p>Section 1-23-700. There is created within the Administrative Law Court the South Carolina Procurement Review Panel which is charged with the responsibility to review and determine de novo:</p> <p>(1) requests for review of written determinations of the chief procurement officers pursuant to Sections 11-35-4210(6), 11-35-4220(5), and 11-35-4230(6); and</p> <p>(2) requests for review of other written determinations, decisions, policies, and procedures arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations,</p>	

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	<p>decisions, policies, and procedures.</p> <p>Section 1-23-710. (A) The panel must be comprised of seven members appointed by the Governor. Two members must be state employees and five members from the State at large who must be representative of the professions governed by this title including, but not limited to:</p> <ul style="list-style-type: none">(1) goods and services;(2) information technology procurements;(3) construction;(4) architects and engineers;(5) construction management; and(6) land surveying services. <p>(B) The panel shall elect a chairman from the members at large and shall meet as often as necessary to afford a swift resolution of the controversies submitted to it. Four members present and voting shall constitute a quorum. In the case of a tie vote, the decision of the chief procurement officer is final. At-large members of the panel must be paid per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees. State employee members must be reimbursed for meals, lodging, and travel in accordance with current state allowances.</p> <p>(C) Notwithstanding the provisions of Chapter 23, Title 1 or another provision of law, the Administrative Procedures Act does not apply to administrative reviews conducted by either a chief procurement officer or the Procurement Review Panel. The Procurement Review Panel is vested with the authority to:</p> <ul style="list-style-type: none">(i) establish its own rules and procedures for the conduct of its business and the holding of its hearings;(ii) issue subpoenas;(iii) interview any person it considers necessary; and(iv) record all determinations. <p>(b) A party aggrieved by a subpoena issued pursuant to this provision shall apply to the panel for relief.</p> <p>(D) Within fifteen days of receiving a grievance filed pursuant to Section 11-35-4210(6), 11-35-4220(5), 11-35-4230(6), or 11-35-4410(1)(b), the chairman shall either convene the review panel to conduct an administrative review or schedule a hearing to facilitate its administrative review. Except for grievances filed pursuant to Section 11-35-4230(6), the review panel shall record its determination within ten working days and communicate its decision to those involved in the determination. In matters designated by the review panel as</p>	

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	<p>complex, the review panel shall record its determination within thirty days.</p> <p>(E) Notwithstanding another provision of law, including the Administrative Procedures Act, the decision of the Procurement Review Panel is final as to administrative review and may be appealed only to the circuit court. The standard of review is as provided by the provisions of the South Carolina Administrative Procedures Act. The filing of an appeal does not automatically stay a decision of the panel.</p> <p>Section 1-23-720. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully as a party in a matter pending before the Procurement Review Panel and in an appeal of a decision of the Procurement Review Panel, whether administrative or judicial.”</p>	
<p><u>(J)(1) Effective July 1, 2013, the following offices, divisions, or components of the State Budget and Control Board and the Department of Administration are transferred to, and incorporated into, an administrative agency of state government to be known as the Public Employee Benefit Agency:</u></p> <p><u>(a) the Employee Insurance Program;</u></p> <p><u>(b) the Retirement Division.</u></p> <p><u>Effective July 1, 2011, and until June 30, 2013, any additions or amendments to the State Employee Insurance Plan or the retirement system may not be adopted without the unanimous consent of the State Budget and Control Board. Effective July 1, 2013, the State Budget and Control Board is abolished.</u></p> <p><u>(2) The agency shall be comprised of the Employee Insurance Division, the Retirement Systems Division, the Insurance Reserve Fund Division, and the Administration Division. A board of trustees must be appointed to manage and make policy decisions for the Employee Insurance Division and the Retirement Systems Division. The daily office functions and other administrative tasks for all divisions shall be managed through the Administration Division by an executive director.</u></p> <p><u>(3)(a) On the effective date of this section, there is established a transition committee to provide the expertise necessary to facilitate the transfer of operations from the Budget and Control Board to the Public Employee Benefit Agency.</u></p> <p><u>(b) The transition committee is authorized to study and evaluate all actions necessary, both legislative and executive, for an orderly transition of the related trust funds and</u></p>	<p>Part XIV Subpart 1</p> <p>South Carolina Public Employee Benefit Authority</p> <p>SECTION ____ . A.Title 9 of the 1976 Code is amended by adding:</p> <p>“CHAPTER 4 South Carolina Public Employee Benefit Authority</p> <p>Article 1</p> <p>General Provisions</p> <p>Section 9-4-10. (A) Effective, July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The authority is comprised of the employee insurance division, the retirement systems division, and the investment division. The governing body of the authority is a board of directors consisting of nine members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are</p>	

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<p><u>their operations to the trustee-based system to be administered by the Public Employee Benefit Agency. The transition committee must conduct a comprehensive survey of the structure, trustee governance, and operations of other similar systems throughout the United States and make recommendations to the General Assembly concerning the legislative actions that are needed to implement the most efficient, effective system.</u></p> <p><u>(c) The transition committee shall be comprised of eight voting members and the State Treasurer, ex officio, who shall serve as its chairman and may only vote when the committee is equally divided on any question. The eight voting members must be appointed by the State Budget and Control Board as follows:</u></p> <p><u>(i) one member representing municipal employees;</u></p> <p><u>(ii) one member representing county employees;</u></p> <p><u>(iii) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;</u></p> <p><u>(iv) two members representing public school teachers, one of whom must be retired;</u></p> <p><u>(v) one member representing the Retirement Investment Commission.</u></p> <p><u>The Budget and Control Board shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the board. The Budget and Control Board must appoint members from among the recommendations. Members must be appointed within sixty days of the effective date of this section.</u></p> <p><u>Members of the General Assembly may not be appointed to the transition committee. Members of the transition committee must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, insurance, retirement investment, economics, accounting, or related legal fields.</u></p> <p><u>(d) The members of the committee:</u></p> <p><u>(i) must meet as soon as practicable after appointment to organize itself by electing officers as the committee may consider necessary. Thereafter, the committee must meet as necessary to fulfill the duties required in this subsection at the call of the chairman or by a majority of the</u></p>	<p>necessary for the effective, efficient, operation of the authority, including the hiring of an executive director of the authority. The executive director must be employed by the authority and compensation of the executive director may be fixed by the board in its judgment.</p> <p>(B) The board is composed of:</p> <p>(1) three members appointed by the Governor, one of which must be a representative of local government. The representative of local government must be an active or retired member of the South Carolina Retirement System who either is employed by a local government or who retired from a local government. The Governor must consult with and receive nominations from the South Carolina Association of Counties, the Municipal Association of South Carolina, and other associations representing local governments in South Carolina;</p> <p>(2) two members appointed by the President Pro Tempore of the Senate, one of which must be a representative of the Police Officers Retirement System. The representative of the Police Officers Retirement System must be an active or retired member of the Police Officers Retirement System. The President Pro Tempore must consult with and receive nominations from the South Carolina Troopers Association and other associations representing governmental law enforcement organizations in South Carolina;</p> <p>(3) one member appointed by the Chairman of the Senate Finance Committee;</p> <p>(4) two members appointed by the Speaker of the House of Representatives, one of which must be an active or retired member of the South Carolina Retirement System and an employee of a public school district in South Carolina or who retired from a public school district in South Carolina. The Speaker of the House of Representatives must consult with and receive nominations from the South Carolina Education Association, the Palmetto State Teachers Association, and other associations representing employees of public school districts in South Carolina;</p> <p>(5) one member appointed by the Chairman of the House Ways and Means Committee.</p> <p>(C)(1) A person who is not a representative of local government, the Police Officers Retirement System, or an employee of a public school district, may not be appointed to the board unless the person possesses at least one of the following qualifications:</p> <p>(a) the Chartered Financial Analyst credential of the</p>	

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<p><u>members. A quorum exists of seven members. The committee must engage or employ staff or consultants as may be necessary or prudent to assist the committee in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience of such a nature as to assist the committee in fulfilling its duties, including, but not limited to, being credentialed in structure and board governance policy;</u></p> <p><u>(ii) shall serve without compensation but may receive the usual mileage, subsistence, and per diem allowed by law for members of state boards, committee, or commissions; and</u></p> <p><u>(iii) expenses incurred by the commission shall be paid by the Employee Insurance Program and the Retirement Division.</u></p>	<p>CFA Institute;</p> <p>(b) the Certified Financial Planner credential of the Certified Financial Planner Board of Standards;</p> <p>(c) at least twenty years of professional actuarial experience, including at least ten years as an enrolled actuary licensed by a joint board of the Department of the Treasury and the Department of Labor to perform a variety of actuarial takes required of pension plans in the United State by the Employee Retirement Income Security Act of 1974;</p> <p>(d) at least twenty years professional teaching experience in economics or finance, of which at least ten years must have occurred at a doctorate granting university, master’s college or university, or a baccalaureate college as classified by the Carnegie Foundation;</p> <p>(e) an earned Ph.D. in economics or finance from a doctorate granting institution as classified by the Carnegie Foundation; or</p> <p>(f) an earned credential from the Institute of Internal Auditors as a certified internal auditor.</p> <p>(2) A person who is a representative of local government, the Police Officers Retirement System, or an employee of a public school district, may not be appointed to the board unless the person:</p> <p>(a) possesses one of the qualifications set forth in item (1); or</p> <p>(b) has at least twenty years of professional experience in public budgeting, public finance or public financial auditing and a masters or doctorate in economics, finance, or public administration from a doctorate granting university or master’s college or university, as classified by the Carnegie Foundation.</p> <p>(D) Members of the board shall serve at the pleasure of the member’s appointing official. Upon a member’s appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsection (C).</p> <p>(E) The members shall select one member to serve as chairman and shall select those other officers it determines necessary. Members may set their own policy related to the rotation of the selection of a chairman of the board.</p> <p>(F)(1) Beginning in fiscal year 2012-2013, members must receive an annual salary of twenty thousand dollars. Each year thereafter, members shall receive twenty thousand dollars plus the aggregate percentage of any base pay increases for state employees approved by the General Assembly thereafter.</p>	

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	<p>Compensation must be paid equitably from general funds and retirement system funds based on the proportionate amount of time and expertise each function requires. Members may receive the mileage, subsistence, and per diem authorized by law for members of state boards, commissions, and committees as a retirement system expense to be paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.</p> <p>(2) Membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid pursuant to item (1) shall not be considered in a member’s average final compensation calculation.</p> <p>(3) If any member of the board is an active member, as it is defined in Section 9-1-10, the annual salary provided in item (1) is waived.</p> <p>(G) Minimally, the board shall meet monthly. If the chairman deems it most effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.</p> <p>Section 9-4-20. The South Carolina Public Employee Benefit Authority shall operate an employee insurance program division to administer insurance programs pursuant to Article 5, Chapter 11, Title 1.</p> <p>Section 9-4-30. (A)(1) The South Carolina Public Employee Benefit Authority shall operate a retirement division to administer the various retirement system and retirement programs pursuant to Title 9 and to administer the deferred compensation program pursuant to Chapter 23, Title 8.</p> <p>(2) Expenses incurred by the retirement division in administering the deferred compensation plans must be reimbursed to the retirement division from funds generated by the deferred compensation plans available to pay for administrative expenses.</p> <p>(B)(1) Notwithstanding the provisions of Section 9-1-1020 relating to employee contributions to the employee annuity savings fund, effective July 1, 2012, the board of directors shall</p>	

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	<p>determine employee and employer contributions to the fund. The employee and employer contribution rates on June 30, 2012, shall remain in effect until such time that the board determines the rates to be different.</p> <p>(2) If the board determines an increase in employee and employer contribution rates are necessary to insure fiscal stability, the board shall increase the rates in a manner that causes the anticipated cumulative increase in funds to be bore equally by the employee and employer.</p> <p>(3) Notwithstanding subitem (2), the board may set a maximum employer contribution percentage. If an increase in rates is needed and the employer contribution has already reached its maximum percentage, the employee may bear the responsibility of a disproportionate share or all of the anticipated cumulative increase.</p> <p>Section 9-4-40. (A) The South Carolina Public Employee Benefit Authority shall operate an investment division to invest the funds of the retirement system, as it is defined in Section 9-4-310(8).</p> <p>(B) The board through its investment division shall invest the funds of the retirement system. All of the powers and duties of the Retirement System Investment Commission as investor in equity securities and investing in fixed income instruments are transferred to and devolved upon the board. To assist the board in its investment function, it shall employ a chief investment officer, who under the direction and supervision of the board, and as its agent, shall develop and maintain annual investment plans and invest and oversee the investment of retirement system funds. The chief investment officer serves at the pleasure of the board and must receive the compensation the board determines appropriate. The board may employ the other professional, administrative, and clerical personnel it determines necessary and fix their compensation. All employees of the investment division of the board are employees at will. The compensation of the chief investment officer and other employees of the board is not subject to the state compensation plan.</p> <p>(C) The administrative costs of the investment division of the board must be paid from the earnings of the state retirement system in the manner provided in Section 9-1-1310.</p> <p>Section 9-4-50. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Budget and Control Board, or its successor agency, to employ a</p>	

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	<p>private audit firm to perform an audit on the South Carolina Public Employee Benefit Authority. The audit firm shall be selected by the Budget and Control Board, or its successor agency. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.</p> <p>Section 9-4-60. (A) The South Carolina Public Employee Benefit Authority shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the authority’s Internet website and made available for public viewing and downloading.</p> <p>(1)(a) The register must include for each expenditure:</p> <ul style="list-style-type: none">(i) the transaction amount;(ii) the name of the payee;(iii) the identification number of the transaction; and(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure. <p>(b) The register must include all reimbursements for expenses, but must not include an entry for:</p> <ul style="list-style-type: none">(i) salary, wages, or other compensation paid to individual employees; and(ii) retirement benefits, deferred compensation plan distributions, insurance reimbursements, or other payments paid to individual employees, members, or participants, as applicable, pursuant to programs administered by the board. <p>(c) The register must not include a social security number.</p> <p>(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.</p> <p>(e) The register may exclude any information that can be used to identify an individual employee or student.</p> <p>(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.</p> <p>(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.</p>	

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	<p>(B) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.</p> <p>(C) If the authority has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Comptroller General’s Office, which may provide guidance to the authority.</p> <p style="text-align: center;">Article 3</p> <p style="text-align: center;">Investment Division</p> <p>Section 9-4-310. As used in this article, unless a different meaning is plainly required by the context:</p> <p>(1) ‘Assets’ means all funds, investments, and similar property of the retirement system.</p> <p>(2) ‘Beneficiary’ means a person, other than the participant, who is designated by a participant or by a retirement program to receive a benefit under the program.</p> <p>(3) ‘Board’ means the board of directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement system.</p> <p>(4) ‘Fiduciary’ means a person who:</p> <p style="padding-left: 20px;">(a) exercises any authority to invest or manage assets of a system;</p> <p style="padding-left: 20px;">(b) provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so;</p> <p style="padding-left: 20px;">(c) is a member of the board; or</p> <p style="padding-left: 20px;">(d) is the board’s chief investment officer.</p> <p>(5) ‘Participant’ means an individual who is or has been an employee enrolled in a retirement program and who is or may become eligible to receive or is currently receiving a benefit under the program. The term does not include an individual who is no longer an employee of an employer as defined by laws governing the retirement system and who has withdrawn his contributions from the retirement system.</p> <p>(6) ‘Retirement program’ means a program of rights and obligations which a retirement system establishes or maintains and which, by its express terms or as a result of surrounding circumstances:</p> <p style="padding-left: 20px;">(a) provides retirement benefits to qualifying employees and beneficiaries; or</p>	

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	<p>(b) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond.</p> <p>(7) ‘Retirement system’ means the South Carolina Retirement System, Retirement System for Judges and Solicitors, Retirement System for Members of the General Assembly, National Guard Retirement System, and Police Officers Retirement System established pursuant to Chapters 1, 8, 9, 10 and 11 of Title 9.</p> <p>(8) ‘Trustee’ means the board.</p> <p>Section 9-4-320. (A) All assets of a retirement system are held in trust. The board has the exclusive authority, subject to this article and Section 9-1-1310, to invest and manage those assets.</p> <p>(B) If the retirement system invests in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1, et seq.), the assets of the system include the security, but not assets of the investment company.</p> <p>(C) The board shall hold the assets of the retirement systems in a group trust under Section 401(a)(24) of the Internal Revenue Code that meets the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, as amended by Revenue Ruling 2004-67. Any group trust shall be operated or maintained exclusively for the commingling and collective investment of funds from other trusts that it holds. The board shall be permitted to hold in this group trust funds that consist exclusively of trust assets held under plans qualified under Internal Revenue Code Section 401(a), individual retirement accounts that are exempt under Internal Revenue Code Section 408(e), and eligible governmental plans that meet the requirements of Internal Revenue Code Section 457(b). For this purpose, a trust includes a custodial account under Internal Revenue Code Section 401(f) or under Internal Revenue Code Section 457(g)(3).</p> <p>Section 9-4-330. (A) The board may delegate functions that a prudent person acting in a like capacity and familiar with those matters could properly delegate under the circumstances but final authority to invest cannot be delegated.</p> <p>(B) The board shall exercise reasonable care, skill, and caution in:</p> <p>(1) selecting an agent;</p>	

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	<p>(2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the retirement program; and</p> <p>(3) periodically reviewing the agent’s performance and compliance with the terms of the delegation.</p> <p>(C) In performing a delegated function, an agent owes a duty to the retirement system and to its participants and beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by Section 9-16-40.</p> <p>(D) A board member who complies with subsections (A) and (B) is not liable to the retirement system or to its participants or beneficiaries for the decisions or actions of the agent to whom the function was delegated.</p> <p>(E) By accepting the delegation of a function from the board, an agent submits to the jurisdiction of the courts of this State.</p> <p>(F) The board may limit the authority of an agent to delegate functions under this section.</p> <p>Section 9-4-340. A trustee, board member, or other fiduciary shall discharge duties with respect to a retirement system:</p> <p>(1) solely in the interest of the retirement systems, participants, and beneficiaries;</p> <p>(2) for the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;</p> <p>(3) with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;</p> <p>(4) impartially, taking into account any differing interests of participants and beneficiaries;</p> <p>(5) incurring only costs that are appropriate and reasonable; and</p> <p>(6) in accordance with a good faith interpretation of this article.</p> <p>Section 9-4-350. (A) In investing and managing assets of a retirement system pursuant to Section 9-4-340, the board:</p> <p>(1) shall consider among other circumstances:</p> <p>(a) general economic conditions;</p> <p>(b) the possible effect of inflation or deflation;</p> <p>(c) the role that each investment or course of action plays within the overall portfolio of the retirement system;</p> <p>(d) needs for liquidity, regularity of income, and</p>	

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	<p>preservation or appreciation of capital; and</p> <p>(e) the adequacy of funding for the plan based on reasonable actuarial factors;</p> <p>(2) shall diversify the investments of the retirement system unless the board reasonably determines that, because of special circumstances, it is clearly prudent not to do so;</p> <p>(3) shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system;</p> <p>(4) may invest in any kind of property or type of investment consistent with this article and Section 9-1-1310;</p> <p>(5) may consider benefits created by an investment in addition to investment return only if the board determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.</p> <p>(B) The board shall adopt a statement of investment objectives and policies for the retirement system. The statement must include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority, and information on the types of reports to be used to evaluate investment performance. At least annually, the board shall review the statement and change or reaffirm it. The relevant portion of this statement may constitute parts of the annual investment plan required pursuant to Section 9-4-330.</p> <p>Section 9-4-355. (A) As used in this section:</p> <p>(1) ‘Active business operations’ means a company engaged in business operations that provide revenue to the government of Sudan or a company engaged in oil-related activities.</p> <p>(2) ‘Business operations’ means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan.</p> <p>(3) ‘Company’ means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit-making purposes or to otherwise secure economic advantage. ‘Company’ also means a company owned or controlled, either directly or indirectly, by the government of Sudan, that is established or organized under the laws of or has its principal place of business in the Republic of the Sudan.</p> <p>(4) ‘Government of Sudan’ means the government of</p>	

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	<p>Sudan or its instrumentalities as further defined in the Darfur Peace and Accountability Act of 2006.</p> <p>(5) ‘Invest’ or ‘investment’ means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Sudan, corporate bonds, or other debt instruments issued by a company. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.</p> <p>(6) ‘Military equipment’ means weapons, arms, or military defense supplies.</p> <p>(7) ‘Oil-related activities’ means, but is not limited to, the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure.</p> <p>(8) ‘Public employee retirement funds’ means those assets as defined in Section 9-4-10(1).</p> <p>(9) ‘Substantial action’ means a boycott of the government of Sudan, curtailing business in Sudan until that time described in subsection (E), selling company assets, equipment, or real and personal property located in Sudan, or undertaking significant humanitarian efforts in the eastern, southern, or western regions of Sudan.</p> <p>(10) ‘Sudan’ means the Republic of the Sudan, a territory under the administration or control of the government of Sudan, including, but not limited to, the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the Republic of the Sudan.</p> <p>(B) The board shall not invest public employee retirement funds in a company with business operations in Sudan if:</p> <p>(1)(a) the company is engaged in active business operations in Sudan; or</p> <p>(b) the company is not engaged in oil-related activities and lacks significant business operations in the eastern, southern, and western regions of Sudan; and</p> <p>(2)(a) the company is engaged in oil-related activities or energy or power-related operations, or contracts with another company with business operations in the oil, energy, and power sectors of Sudan, and the company has failed to take substantial action related to the government of Sudan because of the Darfur genocide; or</p> <p>(b) the company has demonstrated complicity in the</p>	

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	<p>Darfur genocide.</p> <p>(C) Notwithstanding subsection (B), the board shall not invest public employee retirement funds in a company that supplies military equipment within the borders of Sudan. If a company provides equipment within the borders of Sudan that may be readily used for military purposes, including, but not limited to, radar systems and military-grade transport vehicles, there is a strong presumption against investing in that company unless that company implements safeguards to prevent the use of that equipment for military purposes.</p> <p>(D)(1) Nothing in this section requires the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as described in this article and there are appropriated funds of the State to absorb the expenses of the board to implement this section.</p> <p>(2) Subsection (B) does not apply to:</p> <p>(a) investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Sudan;</p> <p>(b) investments in a company that promotes health, education, journalistic, or religious activities in or welfare in the western, eastern, or southern regions of Sudan;</p> <p>(c) investments in a United States company that is authorized by the federal government to have business operations in Sudan.</p> <p>(E) The restrictions provided for in this section apply only until:</p> <p>(1) the government of Sudan halts the genocide in Darfur for twelve months as determined by both the Department of State and the Congress of the United States; or</p> <p>(2) the United States revokes its current sanctions against Sudan.</p> <p>(F) Present, future, and former board members, officers, and employees of the State Budget and Control Board, the Retirement System Investment Commission, the South Carolina Public Employee Benefit Authority, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney’s fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members,</p>	

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	<p>officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section.</p> <p>Section 9-4-360. (A) Compliance by the trustee, board, or other fiduciary with Sections 9-4-330, 9-4-340, and 9-4-350 must be determined in light of the facts and circumstances existing at the time of the trustee’s, board’s, or fiduciary’s decision or action and not by hindsight.</p> <p>(B) The board’s investment and management decisions must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the retirement system.</p> <p>Section 9-4-370. (A) A board member or other fiduciary who breaches a duty imposed by this article is personally liable to the retirement system for any losses resulting from the breach and any profits resulting from the breach or made by the board member or other fiduciary through use of assets of the system by the board member or other fiduciary. The board member or other fiduciary is subject to other equitable remedies, as the court considers appropriate, including removal.</p> <p>(B) An agreement that purports to limit the liability of a trustee or other fiduciary for a breach of duty under this article is void.</p> <p>(C) The retirement system may insure a trustee, board member, fiduciary, or itself against liability or losses occurring because of a breach of duty under this article.</p> <p>(D) A trustee, board member, or other fiduciary may insure against personal liability or losses occurring because of a breach of duty under this article if the insurance is purchased or provided by the individual trustee, board member, or fiduciary, but a fiduciary who obtains insurance pursuant to this article must disclose all terms, conditions, and other information relating to the insurance policy to the retirement system.</p> <p>Section 9-4-380. (A) Meetings by the board while acting as trustee of the retirement system, or meetings of the board, or by its fiduciary agents to deliberate about, or make tentative or final decisions on, investments or other financial matters may be in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives.</p>	

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	<p data-bbox="1080 79 1846 310">(B) A record of the board or of its fiduciary agents that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is exempt from the disclosure requirements of Chapter 4 of Title 30, the Freedom of Information Act, to the extent and so long as its disclosure would jeopardize the ability to implement an investment decision or program or to achieve investment objectives.</p> <p data-bbox="1080 347 1846 475">Section 9-4-390. (A) The board shall provide investment reports at least quarterly during the fiscal year to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and other appropriate officials and entities.</p> <p data-bbox="1080 483 1846 711">(B) In addition to the quarterly reports provided in subsection (A), the board shall provide an annual report to the Speaker of the House of Representatives, members of the House of Representatives or Senate, but only upon their request, the President Pro Tempore of the Senate, and other appropriate officials and entities of the investment status of the retirement systems. The report must contain:</p> <p data-bbox="1080 719 1846 878">(1) a description of a material interest held by a trustee, fiduciary, or an employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in a material transaction with the system within the last three years or proposed to be effected;</p> <p data-bbox="1080 886 1846 1114">(2) a schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one-year, three-year, five-year, and ten-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;</p> <p data-bbox="1080 1122 1846 1282">(3) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years; and</p> <p data-bbox="1080 1291 1846 1518">(4) a schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor, or similar party to the transaction stating, if relevant, the asset’s maturity date, rate of interest, par or maturity value, number of shares, costs, and fair value and identifying an asset that is in default or classified as uncollectible.</p> <p data-bbox="1080 1526 1846 1550">These disclosure requirements are cumulative to and do not</p>	

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	<p>replace other reporting requirements provided by law.</p> <p>Section 9-4-400. (A) The board shall meet no later than May first of each year to adopt the proposed annual investment plan for the retirement systems for the next fiscal year. The annual investment plan must be developed by the chief investment officer. No later than April first of each year, the chief investment officer shall submit the proposed plan to the board. Amendments may be made to the plan by the board during the fiscal year.</p> <p>(B) The board shall meet at least once during each fiscal-year quarter for the purposes of reviewing the performance of investments, assessing compliance with the annual investment plan, and determining whether to amend the plan. The board shall meet at such other times as are set by the board or the chairman.</p> <p>(C) The board may discuss, deliberate on, and make decisions on a portion of the annual investment plan or other related financial or investment matters in executive session if disclosure thereof would jeopardize the ability to implement that portion of the plan or achieve investment objectives.</p> <p>(D) A record of the board that discloses discussions, deliberations, or decisions on portions of the annual investment plan or other related financial or investment matters is not a public record under Section 30-4-20 to the extent and so long as its disclosure would jeopardize the ability to implement that portion of the plan or achieve investment objectives.</p> <p>(E) The board may retain independent advisors to assist it and periodically shall provide for an outside evaluation of the investment strategy.</p> <p>Section 9-4-410. (A) The board shall provide the chief investment officer with a statement of general investment objectives. The board shall also provide the chief investment officer with a statement of actuarial assumptions developed by the board’s actuary and approved by the board. The board shall review the statement of general investment objectives annually for the purpose of affirming or changing it and advise the chief investment officer of its actions. The retirement system shall provide the board and its chief investment officer that data or other information needed to prepare the annual investment plan.</p> <p>(B) The annual investment plan must be consistent with actions taken by the board pursuant to subsection (A) and must include, but is not limited to, the following components:</p>	

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	<p>(1) general operational and investment policies;</p> <p>(2) investment objectives and performance standards;</p> <p>(3) investment strategies, which may include indexed or enhanced indexed strategies as the preferred or exclusive strategies for equity investing, and an explanation of the reasons for the selection of each strategy;</p> <p>(4) industry sector, market sector, issuer, and other allocations of assets that provide diversification in accordance with prudent investment standards, including desired rates of return and acceptable levels of risks for each asset class;</p> <p>(5) policies and procedures providing flexibility in responding to market contingencies;</p> <p>(6) procedures and policies for selecting, monitoring, compensating, and terminating investment consultants, equity investment managers, and other necessary professional service providers; and</p> <p>(7) methods for managing the costs of the investment activities.</p> <p>(C) In developing the annual investment plan, the chief investment officer shall:</p> <p>(1) diversify the investments of the retirement systems, unless the board reasonably determines that, because of special circumstances, it is clearly not prudent to do so; and</p> <p>(2) make a reasonable effort to verify facts relevant to the investment of assets of the retirement systems.</p> <p>Section 9-4-420. (A) The board, acting through the chief investment officer, shall invest and reinvest the assets of the retirement systems as provided in Section 9-1-1310. The board may employ or retain administrators, agents, consultants, or other advisors it considers necessary with respect to making investments. The chief investment officer may use the services of the State Treasurer in making nonequity security investments as the chief investment officer determines appropriate.</p> <p>(B) After receiving the proposed plan of the chief investment officer, the board shall adopt an annual investment plan, which must be implemented by the board through the chief investment officer. The board shall regularly review the plan implementation and make amendments as it considers appropriate. The plan must include the minimum and maximum portions of system assets that may be allocated to equity investments on an ongoing basis not to exceed seventy percent.</p> <p>Section 9-4-430. In hiring and procurement in the</p>	

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	<p>implementation and administration of this chapter, and consistent with its duties as fiduciary under this title, the board shall strive to assure that minorities and minority-owned businesses are represented.</p> <p>Section 9-4-440. (A) It is unlawful for a member, employee, or agent of the board or anyone acting on its behalf to use any information concerning board activities to obtain any economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.</p> <p>(B) If a member of the board, an employee of the board, or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have violated the provisions of subsection (A) even if the acquisition of the economic interest by the blind trust would otherwise violate the provisions of subsection (A), if the existence of the blind trust and the manner of its control is disclosed to the State Ethics Commission and the board.</p> <p>(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years and fined not more than one hundred thousand dollars.</p> <p>(D) The provisions of this section are cumulative to, and not in lieu of, any other provisions of law applicable to the board and its members in the performance of official duties including, but not limited to, Chapter 13 of Title 8.</p> <p>Section 9-4-450. (A) In addition to and not in lieu of the provisions of Section 9-4-440 and Chapter 13 of Title 8, and for the purposes of this article, there are the standards of conduct provided in subsection (B) of this section that apply for a fiduciary or employee of a fiduciary.</p> <p>(B) A fiduciary or employee of a fiduciary shall:</p> <p>(1) take no action to purchase or acquire services or property for the board or the retirement system where the fiduciary or employee of the fiduciary, their family, or their business associates have a financial interest in the services or property;</p> <p>(2) take no action to invest retirement system funds in any share, or other security if the fiduciary or employee of the fiduciary, their family, or their business associates have an interest in, are underwriters of, or receive any fees from the investment;</p>	

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	<p>(3) have no interest in the profits or receive any benefit from a contract entered into by the fiduciary;</p> <p>(4) not use their positions to secure, solicit, or accept things of value, including gifts, travel, meals and lodging, and consulting fees for payment for outside employment, from parties doing or seeking to do business with or who are interested in matters before the fiduciary;</p> <p>(5) not represent, while serving as or in the employment of the fiduciary and for one year after leaving the fiduciary, any person, in any fashion, before any public agency, with respect to any matters in which the fiduciary personally participated while serving as or employed by the fiduciary;</p> <p>(6) not take any official action on matters that will result in a benefit to themselves, their family members, or their business associates;</p> <p>(7) not, during or after their term of service, disclose or use confidential information acquired in their official capacity as fiduciary or employee of the fiduciary, without proper authorization;</p> <p>(8) not use assets of the system for their own interests;</p> <p>(9) not act on behalf of a party whose interests are adverse to the system or the fiduciary, even if the member receives no personal gain;</p> <p>(10) not have any direct or indirect interest in the gains or profits of any system investment other than the indirect interest of a passive investor holding less than five percent of the outstanding equity in a publicly-traded security;</p> <p>(11) not make investments through or purchases from, or otherwise do any business with a former fiduciary member or employee or with a business that is owned or controlled by a former fiduciary member or employee, for a period of three years after the fiduciary member or employee leaves the fiduciary.</p> <p>The provisions of this subsection do not apply to an employee or affiliate of a fiduciary described in Section 9-4-310(4)(a) and (b) if the board elects specifically to waive this application by written contract with such a fiduciary. The board shall disclose any such waivers in its quarterly report.</p> <p>(C) A breach of the standards provided in this section is grounds for the removal of a board member as a conflict of interest pursuant to the Governor’s removal powers under Section 1-3-240(C), for the dismissal of an employee of the board, and in the case of a corporate fiduciary, at the board’s option, voiding any contract with the fiduciary.</p>	

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	<p>Section 9-4-460. The State shall defend the members of the board against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the board and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State shall defend officers and management employees of the board’s investment division against a claim or suit that arises out of or by virtue of performance of official duties unless the officer, or management employee was acting in bad faith and must indemnify these officers, and management employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers, and management employees after they have left their membership on or employment with the board, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the board.</p> <p>Section 9-4-470. Notwithstanding an employee’s right to obtain educational and administrative services from independent companies or vendors, or both, that offer products in the state’s retirement plans, the South Carolina Retirement Systems may provide unbiased investment education services including, but not limited to, instructional videos identifying plan types, plan provisions, and plan differences to any participant in any of the state’s retirement plans.”</p> <p>B. This SECTION takes effect July 1, 2012.</p> <p>Subpart 2</p> <p>Conforming Amendments for the South Carolina Public Employee Benefit Authority</p> <p>SECTION _____. Section 1-11-703(9) and (10) of the 1976 Code, as added by Act 195 of 2008, is amended to read:</p> <p>“(9) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u>.</p>	

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	<p>(10) ‘Employee insurance program’ or ‘EIP’ means the office of the board <u>South Carolina Public Employee Benefit Authority</u> designated by the board to operate insurance programs pursuant to this article.”</p> <p>SECTION ____ . Section 1-11-705(B) and (G) of the 1976 Code, as added by Act 195 of 2008, is amended to read:</p> <p>“(B) The board is the trustee of the SCRHI Trust Fund and the State Treasurer is the custodian of the funds of the SCRHI Trust Fund.”</p> <p>“(G)(1) The funds of the SCRHI Trust Fund must be invested and reinvested by the State Treasurer <u>board</u> in the manner allowed by law. The State Treasurer <u>board</u> shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees.</p> <p>(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, <u>board</u> shall invest and reinvest the funds of the SCRHI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC <u>board</u> assumes this investing function, the annual investment plan for the SCRHI Trust Fund must be approved by the commission <u>board</u> no later than June first of each year for the fiscal year beginning July first of the same calendar year.”</p> <p>SECTION ____ . Section 1-11-707(B) and (G)(1) and (2), as added by Act 195 of 2008, of the 1976 Code is amended to read:</p> <p>“(B) The board is the trustee of the LTDI Trust Fund and the</p>	

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	<p>State Treasurer is the custodian of the funds of the LTDI Trust Fund.”</p> <p>“(G)(1) The funds of the LTDI Trust Fund must be invested and reinvested by the State Treasurer <u>board</u> in the manner allowed by law. The State Treasurer <u>board</u> shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees.</p> <p>(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, <u>board</u> shall invest and reinvest the funds of the LTDI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC <u>board</u> assumes this investing function, the annual investment plan for the LTDI Trust Fund must be approved by the commission <u>board</u> no later than June first of each year for the fiscal year beginning July first of the same calendar year.”</p> <p>SECTION ____ . Section 1-11-710(A) of the 1976 Code, as last amended by Act 195 of 2008, before the first item, is amended to read:</p> <p>“(A) The State Budget and Control Board <u>board</u> shall:”</p> <p>SECTION ____ . Section 1-11-720(B) of the 1976 Code is amended to read:</p> <p>“(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the State Budget and Control Board <u>board</u>, and the benefits provided must be the same benefits provided to state and school district employees.</p>	

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	<p>These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.”</p> <p>SECTION _____. Section 1-11-725 of the 1976 Code, as added by Act 195 of 2008, is amended to read:</p> <p>“Section 1-11-725. The State Budget and Control Board’s <u>board’s</u> experience rating of all local disabilities and special needs providers pursuant to Section 1-11-720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.”</p> <p>SECTION _____. Section 1-11-730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is amended to read:</p> <p>“(2) A member of the General Assembly who leaves office or retires with at least eight years’ credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Sections 1-11-740 and 1-11-750 of the 1976 Code are amended to read:</p> <p>“Section 1-11-740. The Division of Insurance Services of the State Budget and Control Board <u>board</u> may develop an optional long-term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.</p> <p>Section 1-11-750. The Budget and Control Board <u>board</u> shall devise a method of withholding long-term care insurance premiums offered under Section 1-11-740 for retirees if sufficient enrollment is obtained to make the deductions feasible.”</p> <p>SECTION _____. Section 1-11-770(A) of the 1976 Code, before the first item, is amended to read:</p> <p>“(A) Subject to appropriations, the General Assembly</p>	

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	<p>authorizes the state Budget and Control Board <u>board</u> to plan, develop, and implement a statewide South Carolina 211 Network, which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:”</p> <p>SECTION ____ . Sections 8-23-20 and 8-23-30 of the 1976 Code, as last amended by Act 305 of 2008, are amended to read:</p> <p>“Section 8-23-20. A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.</p> <p>The commission <u>board of directors of the South Carolina Public Employee Benefit Authority</u> shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The commission <u>board</u> shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program an individual account shall be maintained in the name of each employee.</p> <p>The commission <u>board</u> shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the commission <u>board</u> may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.</p> <p>Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.</p> <p>Section 8-23-30. The State or any political subdivision of the State, by contract, may agree with an employee to defer, a portion of his compensation in an amount as provided for in a plan approved by the commission <u>board of directors of the South</u></p>	

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	<p><u>Carolina Public Employee Benefit Authority</u> and subsequently with the consent of the employee may contract for purchase or otherwise procure fixed or variable annuities, savings, mutual funds, insurance, or such other investments as the commission board may approve for the purpose of carrying out the objectives of the program with the advice and approval of the State Treasurer. The investments shall be underwritten and offered in compliance with applicable federal and state laws and regulations by persons who are authorized by the commission board in accordance with the provisions of this chapter.”</p> <p>SECTION ____ . Section 8-23-70 of the 1976 Code is amended to read:</p> <p>“Section 8-23-70. The Deferred Compensation Program established pursuant to this chapter shall be in addition to retirement, pension or benefit systems established by the State, federal government or political subdivision and no deferral of income under the Deferred Compensation Program shall affect a reduction of any retirement, pension, social security or other benefit provided by law. Any sum deferred under the Deferred Compensation Program shall not be subject to taxation until distribution is actually made to the employee.</p> <p>Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the State Deferred Compensation Commission <u>board of directors of the South Carolina Public Employee Benefit Authority</u> by building and loan or savings and loan associations, banks, trust companies and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation; provided, however, that (a) such deferred compensation plans or programs shall comply with applicable federal income tax law in providing income deferral, (b) all deferred amounts shall be held in accounts, certificates of deposit or other forms of savings vehicles which are insured by the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations, the Federal Deposit Insurance Corporation in the case of commercial banks, and the National Credit Union Administration in the case of credit unions.”</p>	

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	<p>SECTION _____. Section 8-23-110 of the 1976 Code, as added by Act 387 of 2000, is amended to read:</p> <p>“Section 8-23-110. (A) The commission <u>board of directors of the South Carolina Public Employee Benefit Authority</u> shall ensure that plan documents governing deferred compensation plans administered by the commission <u>board</u> permit employer contributions to the extent allowed under the Internal Revenue Code.</p> <p>(B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the commission <u>board</u> or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.</p> <p>(C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the commission <u>board</u> or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Section 9-1-10(6) of the 1976 Code is amended to read:</p> <p>“(6) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u> which shall act under the provisions of this chapter through its Division of Retirement Systems.”</p> <p>SECTION _____. Section 9-1-20 of the 1976 Code is amended to read:</p> <p>“Section 9-1-20. A retirement system is hereby established and placed under the management of the State Budget and Control Board <u>board</u> for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The System so created shall have the power and privileges of a corporation and shall be known as the South Carolina Retirement System, and by such name all of its business shall be transacted, all of its funds invested and all of its cash, securities and other property held.”</p>	

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	<p>SECTION _____. Section 9-1-210 of the 1976 Code is amended to read:</p> <p>“Section 9-1-210. The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Section 9-1-310 of the 1976 Code, as last amended by Act 155 of 2005, is amended to read:</p> <p>“Section 9-1-310. The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the State Budget and Control Board <u>board</u> and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”</p> <p>SECTION _____. Section 9-1-1310(A) and (C) of the 1976 Code, as last amended and as added, respectively, by Act 153 of 2005, is amended to read:</p> <p>“(A) The board is the trustee of the retirement system as ‘retirement system’ is defined in Section 9-16-10(8) <u>9-4-310(8)</u>. The Retirement System Investment Commission <u>board</u> shall invest and reinvest the funds of the retirement system as ‘retirement system’ is defined in Section 9-16-10(8) <u>9-4-310(8)</u>, subject to all the terms, conditions, limitations, and restrictions imposed by Section 16, Article X of the South Carolina Constitution, subsection (B) of this section, and Chapter 16 of this title.</p> <p>(C) The funds and assets of the various state retirement systems are not funds of the State, but are instead held in trust as provided in Section 9-16-20 <u>9-4-320</u>.”</p> <p>SECTION _____. Section 9-1-1320 of the 1976 Code is amended</p>	

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	<p>to read:</p> <p>“Section 9-1-1320. The State Treasurer <u>board</u> shall be the custodian of the funds of the System. All payments from such funds shall be made by him only upon vouchers signed by two persons designated by the Board <u>board</u>.”</p> <p>SECTION _____. Section 9-1-1340 of the 1976 Code, as last amended by Act 264 of 2006, is amended to read:</p> <p>“Section 9-1-1340. Except as otherwise provided in this chapter or in Chapters 8, 9, 10, and 11 of this title, no member of or person employed by the Retirement System Investment Commission <u>board</u> shall have any direct interest in the gains or profits of any investment made by the commission <u>board</u>. No commission <u>board</u> member or employee of the commission <u>board</u> shall, directly or indirectly, for himself or as an agent in any manner use the funds of the commission <u>board</u> except to make such current and necessary payments as are authorized by the board or commission. Nor shall any member or employee of the commission <u>board</u> become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the commission <u>board</u>.”</p> <p>SECTION _____. Section 9-1-1515(D)(2) of the 1976 Code is amended to read:</p> <p>“(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Section 9-1-1830 of the 1976 Code, as last amended by 309 of 1986, is amended to read:</p> <p>“Section 9-1-1830. Starting July 1, 1981, there must be paid to the System, and credited to the post-retirement increase special fund, contributions by the employers in an amount equal to two-tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the State Budget and Control Board <u>board</u> shall, on the recommendation</p>	

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	<p>of the actuary, transfer a portion of the monies as are received pursuant to Section 9-1-1050 that are available due to actuarial gains in the System if the transfers do not adversely affect the funding status of the System. Starting July 1, 1986, all contributions previously credited to the post-retirement increase special fund must be diverted and credited to the employer annuity accumulation fund.”</p> <p>SECTION _____. Sections 9-2-20 and 9-2-30 of the 1976 Code are amended to read:</p> <p>“Section 9-2-20. (a) The board shall consist of eight members appointed by the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u> and must be constituted as follows:</p> <ul style="list-style-type: none">(1) one member representing municipal employees;(2) one member representing county employees;(3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;(4) two members representing public school teachers, one of whom must be retired;(5) one member representing the higher education teachers. The Budget and Control Board <u>board of directors</u> shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the board. <p>(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again four years after the expiration of his second term. Provided, that of those first appointed four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.</p> <p>(c) A chairman, vice chairman and secretary shall be elected from among the membership to serve for terms of two years.</p> <p>Section 9-2-30. The board shall meet once a year with the Director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the</p>	

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	<p>State Budget and Control Board <u>the executive director of the South Carolina Public Employee Benefit Authority.</u> The chairman may call additional meetings of the board at such other times as deemed necessary and shall give timely notice of such meetings.”</p> <p>SECTION ____ . Section 9-8-10(3) of the 1976 Code is amended to read:</p> <p>“(3) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority.</u>”</p> <p>SECTION ____ . Section 9-8-30(1) of the 1976 Code is amended to read:</p> <p>“(1) The administration and responsibility for the operation of the System and for making effective the provisions of this chapter are vested in the State Budget and Control Board <u>board.</u>”</p> <p>SECTION ____ . The last undesignated paragraph of Section 9-8-60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:</p> <p>“A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly and must also be a member of the General Assembly Retirement System unless the person files a statement with the State Budget and Control Board <u>board</u> on a form prescribed by the board electing not to participate in the General Assembly Retirement System while a member of the General Assembly. A person making this election shall not make contributions to the General Assembly Retirement System nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the General Assembly Retirement System after ceasing to be a member of the General Assembly.”</p> <p>SECTION ____ . Section 9-8-170 of the 1976 Code is amended to read:</p> <p>“Section 9-8-170. (1) The State Treasurer <u>board</u> shall be the custodian of the funds of the System. All payments from such funds shall be made by him only upon vouchers signed by two</p>	

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	<p>persons designated by the Board <u>board</u>. No voucher shall be drawn unless it has previously been authorized by resolution of the Board <u>board</u>.</p> <p>(2) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the System, on deposit with the State Treasurer <u>board</u>.”</p> <p>SECTION ____ . Section 9-9-10(3) of the 1976 Code is amended to read:</p> <p>“(3) ‘Board’ shall mean the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u>.”</p> <p>SECTION ____ . Section 9-9-30(1) of the 1976 Code is amended to read:</p> <p>“(1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the State Budget and Control Board <u>board</u>.”</p> <p>SECTION ____ . Section 9-9-160 of the 1976 Code is amended to read:</p> <p>“Section 9-9-160. (1) The State Treasurer <u>board</u> shall be the custodian of the funds of the System. All payments from such funds shall be made by him only upon vouchers signed by two persons designated by the Board <u>board</u>. No voucher shall be drawn unless it has previously been authorized by resolution of the Board <u>board</u>.</p> <p>(2) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the System, on deposit with the State Treasurer <u>board</u>.”</p> <p>SECTION ____ . Section 9-10-10(1) of the 1976 Code, as added by Act 155 of 2006, is amended to read:</p> <p>“(1) ‘Board’ or ‘board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u>, acting pursuant to the provisions of this chapter through its Division of Retirement Systems.”</p>	

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	<p>SECTION _____. Section 9-10-60(D) of the 1976 Code, as added by Act 155 of 2005, is amended to read:</p> <p>“(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Section 9-10-80 of the 1976 Code, as added by Act 155 of 2005, is amended to read:</p> <p>“Section 9-10-80. (A) The State Treasurer <u>board</u> is the custodian of the funds of the National Guard Retirement System. All payments from the funds must be made by him only upon vouchers signed by two persons designated by the board. No voucher may be drawn unless it has previously been authorized by resolution of the board.</p> <p>(B) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the National Guard Retirement System, on deposit with the State Treasurer <u>board</u>.”</p> <p>SECTION _____. Section 9-11-10(9) of the 1976 Code is amended to read:</p> <p>“(9) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u> acting through its Division of Retirement Systems.”</p> <p>SECTION _____. Section 9-11-30(1) of the 1976 Code is amended to read:</p> <p>“(1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the State Budget and Control Board <u>board</u>.”</p> <p>SECTION _____. Section 9-11-75 of the 1976 Code, as added by Act 424 of 1988, is amended to read:</p> <p>“The State Budget and Control Board <u>board</u> shall adjust the employer contribution paid by employers under the South</p>	

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	<p>Carolina Police Officers Retirement System in an amount sufficient to offset the actuarial cost of the provisions of Sections 9-11-60 and 9-11-70, not to exceed three percent of payroll. If the employer contribution adjustment provided in this section is insufficient to offset the actuarial cost of the provisions of Sections 9-11-60, 9-11-70, 9-11-210, and 9-11-300, the board shall adjust employee contributions of the members of the South Carolina Police Officers Retirement System in an amount sufficient to offset the additional actuarial cost. If the contribution rates as set pursuant to Sections 9-11-60, 9-11-70, 9-11-210, and 9-11-300 exceed the actuarial cost of the provisions of Sections 9-11-60, 9-11-70, 9-11-120, and 9-11-300, the board shall decrease the contribution rate for both employers and employees on a proportional basis.”</p> <p>SECTION _____. Section 9-11-250 of the 1976 Code is amended to read:</p> <p>“Section 9-11-250. (1) The State Treasurer <u>board</u> shall be the custodian of the funds of the System. All payments from such funds shall be made by him only upon vouchers signed by two persons designated by the Board <u>board</u>. No voucher shall be drawn unless it has previously been authorized by resolution of the Board <u>board</u>.</p> <p>(2) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the System, on deposit with the State Treasurer <u>board</u>.”</p> <p>SECTION _____. Section 9-12-10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:</p> <p>“(1) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u> acting as trustee of the retirement systems and acting through its Division of Retirement Systems.”</p> <p>SECTION _____. Section 9-18-10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:</p> <p>“(3) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u>.”</p>	

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	<p>SECTION _____. Section 9-20-30 of the 1976 Code, as last amended by Act 54 of 2001, before the first item, is further amended to read:</p> <p>“Section 9-20-30. The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The director acting on behalf of the South Carolina Retirement System <u>acting on behalf of the board of directors of the South Carolina Public Employee Authority</u> shall designate no fewer than four companies <u>entities</u> to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:”</p> <p>SECTION _____. Section 9-21-20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:</p> <p>“(2) ‘Board’ means the State Budget and Control Board <u>board of directors of the South Carolina Public Employee Benefit Authority</u>.”</p> <p>SECTION _____. Section 59-1-470 of the 1976 Code is amended to read:</p> <p>“Section 59-1-470. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpose of providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina Deferred Compensation Commission <u>Public Employee Benefit Authority</u> or other approved and qualified plans of other providers. These funds must be distributed in a manner consistent with the provisions of Section 8-23-110. The employer matching contribution by the school district may not exceed three hundred dollars for each eligible employee a year. Individuals eligible for the matching contribution must be classified as required in Section 9-20-20, the Optional Retirement Program for Teachers and School Administrators.”</p> <p>SECTION _____. This subpart takes effect July 1, 2012.</p>	

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	<p>Subpart 3</p> <p>Transfer and Dissolution</p> <p>SECTION _____. Effective July 1, 2012, the Retirement System Investment Commission, the State Retirement Systems Investment Panel, and the Deferred Compensation Commission an abolished. All of the functions and duties of the Retirement System Investment Commission, the State Retirement Systems Investment Panel, and the Deferred Compensation Commission are devolved upon the board of directors of the South Carolina Public Employee Benefit Authority.</p> <p>SECTION _____. All functions, powers, duties, responsibilities, and authority vested in the transferred portions of the Budget and Control Board, the Retirement System Investment Commission, and the Deferred Compensation Commission to the South Carolina Public Employee Benefit Authority prior to the effective date of this act that are not otherwise specifically accounted for in this act are devolved upon the South Carolina Public Employee Benefit Authority.</p> <p>SECTION _____. (A) Where the provisions of this act transfers portions of the Budget and Control Board and the Retirement System Investment Commission to the South Carolina Public Employee Benefit Authority, the employees, authorized appropriations, and assets and liabilities of the transferred portions of the Budget and Control Board and the Retirement System Investment Commission are also transferred to and become part of the South Carolina Public Employee Benefit Authority. All classified or unclassified personnel employed by the transferred portions of the Budget and Control Board and the Retirement System Investment Commission on the effective date of this act, either by contract or by employment at will, shall become employees of the South Carolina Public Employee Benefit Authority, with the same compensation, classification, and grade level, as applicable. The Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations. Upon enactment of this act, the board may choose the director of the employee insurance division, the retirement systems division, or the investment division to act as executive director until a permanent executive director is employed.</p> <p>(B) Regulations promulgated by the transferred portions of</p>	

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	<p>the Budget and Control Board and the Retirement System Investment Commission are continued and are considered to be promulgated by the South Carolina Public Employee Benefit Authority. Contracts entered into by the Budget and Control Board, the Retirement System Investment Commission, and the Deferred Compensation Commission are continued and are considered to be devolved upon the South Carolina Public Employee Benefit Authority. Contracts of the Retirement System Investment Commission referencing Chapter 16, Title 9 are deemed to be references to Article 3, Chapter 4, Title 9.</p> <p>(C) The Code Commissioner is directed to change or correct all references to the Employee Insurance Program, the Retirement Division, the Retirement System Investment Commission, and the Deferred Compensation Commission to reflect its transfer to the South Carolina Public Employee Benefit Authority. References to the name of the Employee Insurance Program, the Retirement Division, the Retirement System Investment Commission, and the Deferred Compensation Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.</p> <p>SECTION ____ Effective July 1, 2012, Chapter 16, Title 9 of the 1976 Code is repealed.</p> <p style="text-align: center;">Subpart 4</p> <p style="text-align: center;">Effective Date of this Part</p> <p>SECTION ____ Except where otherwise provided, this Part takes effect upon approval by the Governor.</p>	
<p>SECTION 46. (A) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act that is not otherwise specifically accounted for in this act is devolved upon the State Financial Affairs Authority along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities or authority. The code commissioner is directed to make appropriate changes in the South Carolina Code to reflect this devolution.</p> <p>(B) There is devolved upon the State Financial Affairs Authority all functions, powers, duties, responsibilities, and</p>	<p>SECTION ____ (A) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board, including board officials and board programs, prior to the effective date of this act that are not otherwise specifically accounted for in this act are devolved upon the Department of Administration along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities or authority. The code commissioner is directed to make appropriate changes in the South Carolina Code to reflect this devolution.</p> <p>(B) Unless otherwise specifically accounted for in this act,</p>	

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authority vested in the Budget and Control Board prior to the effective date of this act related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law. The code commissioner is directed to make appropriate changes in the South Carolina Code to reflect this devolution.	<p>there is devolved upon the Department of Administration all functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law. The code commissioner is directed to make appropriate conforming changes in the South Carolina Code to reflect this devolution.</p> <p>(C) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act relating to the Employee Insurance Program and the Retirement Division that are not otherwise specifically accounted for in this act are devolved upon the Public Employee Benefits Agency along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities, or authority. The code commissioner is directed to make appropriate conforming changes in the South Carolina Code to reflect this devolution.</p> <p>(D) All functions, powers, duties, responsibilities, and authority related to the preparation of estimated revenue impact statements, fiscal impact statements, financial impact statements, or other similar impact statements required by law to be produced in conjunction with certain legislation that are vested in the Board of Economic Advisors, the State Budget Division of the State Budget and Control Board, the Division of Research and Statistical Services, the Office of State Budget, or any other agency, division, office, board, or other instrumentality of state government that are not otherwise specifically accounted for in this act are devolved upon the Legislative Fiscal Office along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities, or authority. The code commission is directed to make appropriate conforming changes in the South Carolina Code to reflect this devolution.</p> <p>SECTION _____. The State Budget and Control Board, as constituted in Chapter 11, Title 1 of the 1976 Code, is abolished (1) upon the completion of the Executive Director of the Budget and Control Board completing all necessary actions to accomplish the transfers of functions, powers, duties, responsibilities, and authority in accordance with this act, state laws, and regulations, (2) after the Memorandum of Agreement required by SECTION 4 of this act is executed, and (3) upon the transfer of the Employee Insurance Program and the Retirement</p>	

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	Division to the Public Employee Benefit Agency. If the execution of the Memorandum of Agreement becomes the sole necessary action precluding the abolition of the Budget and Control Board, then the Division of General Services shall immediately be transferred to the Department of Administration. The employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the agency, department, or institution to which the transfer was made. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the agency, department or institution to which the transfer was made, with the same compensation, classification, and grade level, as applicable.	
SECTION 47. A. The following section of the South Carolina Code are repealed: 1-11-130, 1-11-135, 1-11-140, 1-11-141, 1-11-145, 1-11-147, 1-11-175, 1-11-360, 1-11-370, 1-11-395, 1-11-400, 1-11-405, 1-11-440, 1-11-460, 1-11-470, 1-11-495, and 1-11-497. B. Article 3, Chapter 11 of Title 1 is repealed.	B.Section 1-11-495 of the 1976 Code, as last amended by Act 152 of 2010, is repealed. SECTION _____. Effective July 1, 2012, Chapter 16, Title 9 of the 1976 Code is repealed. SECTION _____. Section 11-35-4410 and Section 11-35-4420 of the 1976 Code are repealed. SECTION _____. Chapter 7 of Title 11 is repealed.	
REPEALED	C. Section 1-11-440 of the 1976 Code is amended to read: “Section 1-11-440. (A) The State must defend the members of the State Budget and Control Board <u>director of the Department of Administration</u> against a claim or suit that arises out of or by virtue of their <u>his</u> performance of official duties on behalf of the board <u>department</u> and must indemnify these members <u>him</u> for a loss or judgment incurred by them <u>him</u> as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their <u>him in his</u> individual or official capacities <u>capacity</u> , or both. The State must defend officers and management employees of the board and legislative employees performing duties for board members <u>department</u> against a claim or suit that arises out of or by virtue of <u>the</u> performance of official duties unless the officer , management employee, or legislative employee was acting in bad faith and must indemnify these officers, management employees, and legislative employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the	

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	<p>claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers, the director and management employees, and legislative employees after they have left their employment with the board or General Assembly, <u>as applicable, department</u> if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the board <u>department</u>.</p> <p>(B) The State must defend the members of the Retirement Systems Investment Panel established pursuant to Section 16, Article X of the Constitution of this State and Section 9-16-310 against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the panel and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the panel after they have left their service with the panel if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the panel.”</p>	
NO COMPARABLE SECTION	<p>“Section 1-11-30. The Director of the Department of Administration shall make monthly reports concerning large procurements to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. For the purposes of this section, ‘large procurement’ shall mean a contract newly executed by a state department, agency, or institution pursuant to the provisions contained in the South Carolina Consolidated Procurement Code the value of which is equal to or greater than one million dollars.”</p>	
SECTION 48. Unless otherwise provided, this act takes effect July 1, 2011. The General Assembly shall undertake a joint oversight review investigation of the Department of Administration during the department’s fifth year of operation.	SECTION _____. Unless otherwise provided, this act takes effect July 1, 2012. The General Assembly shall undertake a joint oversight review investigation of the Department of Administration during the department’s fifth year of operation.	