

*House Legislative Oversight Committee Meeting*  
*Tuesday, October 4, 2022*

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## AGENDA

South Carolina  
House of Representatives



Legislative Oversight Committee

*Tuesday, October 4, 2022  
Room 110 - Blatt Building  
2:00 p.m.*

*Pursuant to Committee Rule 4.7, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.*

**AGENDA**

- I. Approval of minutes
- II. Discussion of the Economic Development, Transportation, and Natural Resources Subcommittee's Study of the Department of Commerce
  - A. Click [here](#) to view the Study
  - B. Click [here](#) to view the Executive Summary
- III. Discussion of the Law Enforcement and Criminal Justice Subcommittee's Study of the Attorney General Office, pending notification pursuant to Standard Practice 26.3 that a study is available for consideration by the full Committee
- IV. Adjournment

## MINUTES



*Chair Wm. Weston J. Newton*

*First Vice-Chair:  
Joseph H. Jefferson, Jr.*

## **Legislative Oversight Committee**

*Kambrell H. Garvin  
Rosalyn D. Henderson-Myers  
Max T. Hyde, Jr.  
Kimberly O. Johnson  
John R. McCravy, III  
Travis A. Moore  
Melissa Lackey Oremus  
Marvin R. Pendarvis  
John Taliaferro (Jay) West, IV*



**South Carolina House of Representatives**

*Gil Gatch  
William M. "Bill" Hixon  
Jeffrey E. "Jeff" Johnson  
Josiah Magnuson  
Timothy A. "Tim" McGinnis  
Adam M. Morgan  
Russell L. Ott  
Michael F. Rivers, Sr.  
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*Riley E. McCullough  
Research Analyst*

## **Legislative Oversight Committee**

**Tuesday, August 9, 2022  
12:00 p.m. Blatt Room 110**

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

### **Attendance**

- I. The Legislative Oversight Committee meeting was called to order by Chair Wm. Weston J. Newton on Tuesday, August 9, 2022, in Room 110 of the Blatt Building. All were present for some or portion of the meeting except Rep. Gil Gatch, Rep. Jeff Johnson, Rep. Tim McGinnis, and Rep. Adam Morgan.
- II. The following personnel from the State Accident Fund were in attendance: Director Erin Farthing; Matt Hansford, Deputy Director of Insurance Services. The following personnel from the State Ethics Commission were in attendance: Executive Director Meghan Walker.

### **Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

## Approval of Minutes

Representative Jay West makes a motion to approve the meeting minutes from the April 20, 2022, meeting. A roll call vote was held, and the motion passed.

<b>Rep. Jay West's motion to approve the April 20, 2022 meeting minutes.</b>	Yea	Nay	Not Voting
Rep. Garvin	✓		
Rep. Gatch			Not Present
Rep. Henderson-Meyers	✓		
Rep. Hixon	✓		
Rep. Hyde	✓		
Rep. Jefferson	✓		
Rep. J. Johnson			Not Present
Rep. K.O. Johnson	✓		
Rep. Magnuson	✓		
Rep. McCravy	✓		
Rep. McGinnis			Not Present
Rep. Morgan			Not Present
Rep. Moore	✓		
Rep. Newton	✓		
Rep. Oremus	✓		
Rep. Ott	✓		
Rep. Pendarvis	✓		
Rep. Rivers	✓		
Rep. West	✓		
Rep. Wooten	✓		

## Discussion of the Healthcare and Regulatory Subcommittee's Study of the State Accident Fund

- I. Subcommittee Chair Jay West provided remarks and shared a video overview of the study, which is available on the South Carolina General Assembly's website for review.
- II. Committee members ask questions relating to the following:
  - a. Process for agency drug testing
  - b. Workplace inspections
  - c. Requirement of insurance/Inability to deny insurance coverage
  - d. Premium Calculation and Rates

- e. Audits
- f. Limits on Premium Increases; and
- g. Loss Control positions.

Agency personnel respond to the questions.

- III. Subcommittee Chair Jay West moves to adopt the Study of the State Accident Fund. A roll call vote was held and the motion passes:

<b>Subcommittee Chair Jay West's motion to approve Study of the State Accident Fund</b>	Yea	Nay	Not Voting
Rep. Garvin	✓		
Rep. Gatch			Not Present
Rep. Henderson-Meyers	✓		
Rep. Hixon	✓		
Rep. Hyde	✓		
Rep. Jefferson	✓		
Rep. J. Johnson			Not Present
Rep. K.O. Johnson	✓		
Rep. Magnuson	✓		
Rep. McCravy	✓		
Rep. McGinnis			Not Present
Rep. Morgan			Not Present
Rep. Moore	✓		
Rep. Newton	✓		
Rep. Oremus	✓		
Rep. Ott	✓		
Rep. Pendarvis	✓		
Rep. Rivers	✓		
Rep. West	✓		
Rep. Wooten	✓		

### **Discussion of the Executive Subcommittee's Study of the State Ethics Commission**

- I. Mr. Clarence Jenkins of Orangeburg County, South Carolina provides constituent testimony.
- II. Subcommittee Chair Joseph Jefferson provides remarks and shares a video overview of the study, which is available on the South Carolina General Assembly's website for review.

III. Committee members ask questions related to the following:

- a. Staffing
- b. Enforcement of Penalties
- c. New Filing System; and
- d. Status of Regulation Review.

IV. Subcommittee Chair Joseph Jefferson moves to adopt the Study of the State Ethics Commission. A roll call vote was held and the motion passes:

<b>Subcommittee Chair Joseph Jefferson's motion to approve Study of the State Ethics Commission</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Garvin	✓		
Rep. Gatch			Not Present
Rep. Henderson-Meyers	✓		
Rep. Hixon	✓		
Rep. Hyde	✓		
Rep. Jefferson	✓		
Rep. J. Johnson			Not Present
Rep. K.O. Johnson	✓		
Rep. Magnuson	✓		
Rep. McCravy	✓		
Rep. McGinnis			Not Present
Rep. Morgan			Not Present
Rep. Moore	✓		
Rep. Newton	✓		
Rep. Oremus	✓		
Rep. Ott	✓		
Rep. Pendarvis			Not Present
Rep. Rivers	✓		
Rep. West	✓		
Rep. Wooten	✓		

## Adjournment

I. There being no further business, the meeting is adjourned.

## EXECUTIVE SUMMARY - DEPARTMENT OF COMMERCE

# Study of the Department of Commerce 2022

SC House Legislative Oversight Committee  
Economic Development, Natural Resources, and  
Transportation Subcommittee

## Executive Summary

## Agency Mission

“

Working together to create opportunities by promoting job creation, economic growth and improved living standards for all South Carolinians.

”

## History

The Department of Research, Planning and Development, created in 1945, changed to the State Development Board in 1954, and, during reorganization of state government in 1993, was replaced by the Department of Commerce, which also assumed duties of other entities including the Coordinating Council for Economic Development.

## Resources

(FY 19-20)

### Organizational Units

- Administration
- Global Business Development
- International Strategy and trade
- Small Business and Existing Industry
- Community and Rural Development
- Marketing Communications
- Research
- Grants
- Workforce
- Innovation
- Palmetto Railways
- Military Base Task Force

### Employees



98

filled FTE positions at the end of the year

### Funding



\$256,919,111

cash and available funds

## Successes and Challenges

Identified by the agency

### Successes

- 151,8000+ new jobs recruited
- \$41.3 billion+ capital investment
- 1,429 projects (i.e., new or expanding company, recruited and managed by agency to facilitate the creation of new jobs and taxable investment in South Carolina)

### Challenges

#### Current:

- COVID-19
- Succession planning
- Economic development in rural South Carolina
- Infrastructure

#### Emerging:

- Diversification of economy
- Trade environment
- Adaptability to a changing economy

## Committee Overview

### Subcommittee Membership

#### Economic Development, Natural Resources, and Transportation Subcommittee

The Honorable William M. “Bill” Hixon (chair)

The Honorable Russell L. Ott

The Honorable Adam M. Morgan

The Honorable Marvin R. Pendarvis

### Oversight Purpose and Methods

#### Purpose

To determine if agency laws and programs:

- are being implemented and carried out in accordance with the intent of the General Assembly; and
- should be continued, curtailed, or eliminated.

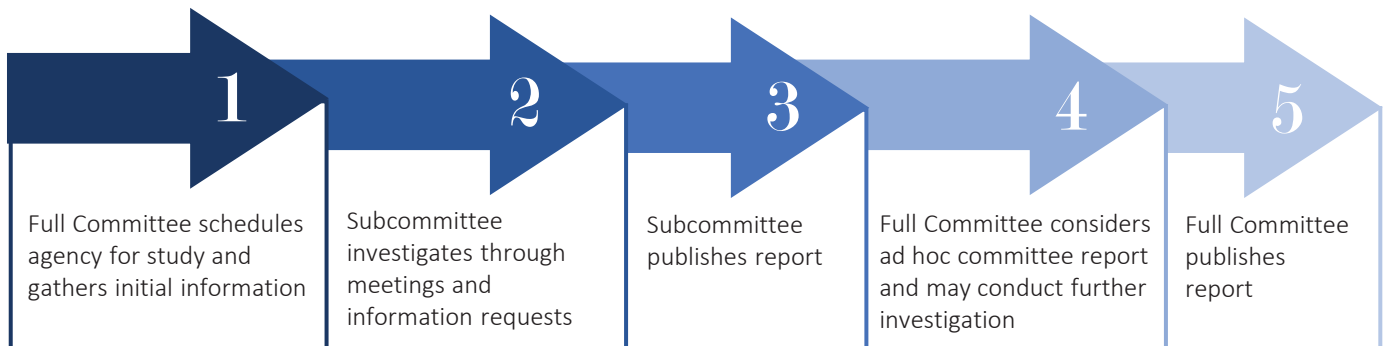
#### Methods

The Committee and Subcommittee evaluate:

- the application, administration, execution, and effectiveness of the agency’s laws and programs;
- the organization and operation of the agency; and
- any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

### Study Process



### Public Input



**36**

Responses to an online public survey



**65**

Online comments received



**1**

Constituent testified

### Study Milestones

#### Meetings

##### Subcommittee Meetings

3/4/21      3/11/21  
5/12/21    5/27/21  
6/4/21      6/29/21  
8/5/21      2/28/22  
4/27/22

##### Full Meetings

12/9/19  
4/8/21

#### Agency Reports

March 2015

Seven-Year Plan Report

March 2020

Program Evaluation Report

September 2021

FY 2020-2021 Accountability Report



## Findings

The House Legislative Oversight Committee's (Committee) Economic Development, Transportation, and Natural Resources **Subcommittee** (Subcommittee) **has seven findings**. The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee made the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

### Business Recruitment

1. From an aggregated statewide perspective, between 2006 and 2019, the companies the Department of Commerce landed created 57,306 jobs and invested \$16.5 billion in South Carolina, which accounts for 98% of the jobs and 129% of the investment required in associated incentive agreements with these companies. Additionally, during 2020 and 2021, the Department of Commerce increased transparency in informing the public about its processes.
2. Business recruitment involves multiple steps by various entities:
  - a. Each of the 46 individual counties must have a vision and strategy and their staff take steps to make the county attractive to those industries that may help achieve its vision;
  - b. Each regional alliance develops a vision and mission for its region;
  - c. Department of Commerce aligns the state's advantages/disadvantages with the various region/county visions, then coordinates activities to stay "top of mind" with companies in applicable industry sectors;
  - d. Each company decides if/when to expand or relocate,
  - e. When economic development staff with a county or Department of Commerce learns a company is considering South Carolina, Commerce staff work to have the company locate here;
  - f. Coordinating Council for Economic Development reviews and gives final approval on agreements in which state discretionary incentives are offered to a company in exchange for jobs and investment in South Carolina; and
  - g. Department of Commerce staff offer services to companies to help maintain jobs and investment in South Carolina and encourage companies to select the state for any expansion. SEE RECOMMENDATIONS #1-2 AND #4-#6
3. During the study, more than 75% of the Tier III and Tier IV counties (i.e., designations released annually by the Department of Revenue noting South Carolina counties with the highest three-year unemployment rate average and lowest per capita income) did not have an active, county specific strategic plan. SEE RECOMMENDATIONS #1
4. Regional Economic Development Alliances have geographical boundaries different from Regional Workforce Advisors and Local Workforce Development Boards. Efficiencies and focus may be gained by aligning the different geographical boundaries. SEE RECOMMENDATIONS #11
5. The Coordinating Council for Economic Development (CCED) is comprised of the agency head or board chair for eleven state agencies (i.e., Department of Agriculture, Department of Commerce, Department of Employment and Workforce, Department of Parks, Recreation and Tourism,

Department of Revenue, Department of Transportation, Jobs Economic Development Authority, Ports Authority, Public Service Authority, Research Authority, and State Board for Technical and Comprehensive Education), the Chair of House Ways and Means Committee, and the Chair of the Senate Finance Committee. While CCED is chaired by the Secretary of Commerce and council staff provide recommendations based on research and analysis, all members of CCED have equal authority (i.e., chair's vote weighs the same as other members) and responsibility relating to approval of discretionary incentives (i.e., CCED can structure those incentives as deemed most beneficial).

## Education and Workforce Development

6. There are numerous state agencies, councils, and committees involved in the process of education and workforce development with varying levels of coordination. During the study, representatives of ten state agencies (Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) expressed a willingness to work together toward a unified plan. [SEE RECOMMENDATIONS #7-#16](#)
7. Currently, South Carolina does not have established systems to assess whether investments in education and training produce employment in specific industries or what combination of programs assist an individual in obtaining economic advancement. [SEE RECOMMENDATIONS #7-#16](#)

## Recommendations

The **Subcommittee has 32 recommendations** to various entities that continue, curtail, and/or eliminate agency programs, and include areas for potential improvement. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.

### Business Recruitment<sup>1</sup>

1. **Department of Commerce** and **Department of Employment and Workforce** personnel meet annually with Tier III and IV county economic development personnel, document the meeting, and work with the regional alliance and county personnel to ensure at least two individuals involved in the county's strategic planning attend each economic development education opportunity. SEE FINDINGS #2 AND #3
2. **Department of Commerce** include performance measures in the agency's annual accountability report to quantify the actual results versus expected outcomes of the agency's marketing strategy to show Commerce personnel regularly analyze tangible results obtained from marketing efforts and regularly revise methods/amounts of investment based on past results. SEE FINDING #2
3. **Department of Commerce** provide the General Assembly and public recommendations on statewide strategic economic development infrastructure investments (e.g., water, road, rail, etc.), explain how the recommendations facilitate and support the plans and visions of each region and county, and update the plan/recommendations every three years.
4. **Coordinating Council for Economic Development (CCED)** establish a policy where CCED members annually provide guidance to staff on the following: (1) cost/benefit and analysis (i.e., update the analysis regularly and include list of economists that verify its validity and/or recommend update); (2) violation of contract terms (e.g., job and investment requirement, etc.); and (3) potential amendments to current and future contracts with companies. SEE FINDING #2
5. **Department of Commerce** implement a more structured internal process to transfer closed projects to the business services division to provide new companies an introduction to the ongoing resources available from the Department of Commerce and discuss with **Human Affairs Commission** potential training for companies available from them. SEE FINDING #2
6. **Department of Commerce** and **CCED** consolidate economic development information from disparate locations into a central source. SEE FINDING #2

<sup>1</sup> Terms: CCED includes all entities that are members of the Coordinating Council for Economic Development (i.e., Department of Commerce, Department of Revenue; Santee Cooper; Department of Agriculture; Department of Transportation; S.C. Research Authority; Department of Parks, Recreation and Tourism; State Technical College System; Department of Employment and Workforce; State Ports Authority; Jobs Economic Development Authority; Chairman, Senate Finance Committee; and Chairman, House Ways and Means Committee)

## Education and Workforce Development<sup>2</sup>

### *Efficiency and Effectiveness through Creation of Unified State Plan*

7. **Coordinating Council for Workforce Development (CCWD)** create a comprehensive statewide education and workforce development plan in collaboration with entities including, but not limited to, the **Department of Administration's Division of State Human Resources** and agencies involved in the state **Early Childhood Advisory Council (ECAC)** and the federal **Workforce Innovation and Opportunity Act (WIOA)**. Consider existing frameworks, such as the one in the EEDA, as starting points and ensure the plan can be utilized and submitted in compliance with any agency's requirements in state or federal law to submit a plan and/or track metrics related to education and/or workforce (e.g., federal laws: WIOA, Perkins V, Every Student Succeeds Act, and state laws: Education Accountability Act, etc.). Regularly report status on implementation and metrics of plan to **EOC**, which will publish online dashboards. Request a meeting with the Committee to provide an update on the progress at the end of each of the first two years. SEE FINDINGS #6 AND #7
8. **Department of Social Services** personnel research and collaborate on sustainable options for addressing obstacles lack of available and affordable child care throughout S.C., and in particular in underserved areas, plays in individuals working and/or obtaining additional education (e.g., business utilization of the childcare program credits in S.C. Code Section 12-6-3440), with the **Department of Commerce, Department of Revenue, Department of Employment and Workforce, ECAC (e.g., First Steps, Department of Education)**, and other applicable entities (e.g., **State Technical College System, Human Affairs Commission**). Provide a joint report with information learned within one year after issuance of the House Legislative Oversight study. SEE FINDINGS #6 AND #7

### *Transparency and Accountability through Central Location of Plan, Results, and Other Information*

9. **Coordinating Council for Workforce Development** ensure creation of a single online landing page for policy makers and the public, which contains the state unified education and workforce plan and access to reports and dashboards with information related to education and workforce, in collaboration with applicable agencies, including, but not limited to, agencies involved in the **ECAC, WIOA, and EEDA**. SEE FINDINGS #6 AND #7
10. **Coordinating Council for Workforce Development, Department of Administration, and Revenue and Fiscal Affairs Office** staff have discussions to explore the feasibility of a regular applied analytics training program through partnerships with state institutions of higher education and others to

<sup>2</sup> Terms: (1) CCWD includes all entities that are members of the Coordinating Council for Workforce Development and the strategic partner group (i.e., Department of Commerce, Department of Education, Department of Employment and Workforce, Commission on Higher Education, State Technical College System, First Steps, Workforce Development Board, Revenue and Fiscal Affairs Office); (2) ECAC includes all entities that are members of the Early Childhood Advisory Council and the interagency Collaboration Committee (i.e., First Steps, Department of Education, Commission on Higher Education, Department of Social Services, Department of Health and Environmental Control, Department of Health and Human Services, Department of Disabilities and Special needs, Department of Mental Health, Education Television Network, State Library, Head Start, and Children's Trust); (3) EEDA includes all entities that are members of the Education and Economic Development Coordinating Council (i.e., Department of Education, Department of Commerce, Department of Employment and Workforce, Commission on Higher Education, Technical College System, First Steps, and Education Oversight Committee); (4) EOC means the Education Oversight Committee; (5) RFA means the Revenue and Fiscal Affairs Office; (6) WIOA means all agencies that must comply with the federal Workforce Innovation and Opportunity Act (i.e., Department of Employment and Workforce, Department of Education, Department of Social Services, Vocational Rehabilitation Department, and Commission for the Blind).

create an annual class fostering the generation of ideas and samples of more effective ways to utilize state agency data. [SEE FINDINGS #6 AND #7](#)

*Efficiency and Effectiveness through Utilization of Common Terminology and Sharing of Information*

11. **Commission on Higher Education (CHE), State Technical College System (STCS), and Department of Employment and Workforce** ensure annual publication of a return-on-investment catalogue that contains (1) return on investment for students, parents, businesses, and the state in higher education programs and post-secondary training; and (2) industry supply gap analysis at the state and region level that shows the most high-demand occupations and assesses the number of completers for relevant secondary, post-secondary education, and work-based learning through Registered Apprenticeships. CHE and STCS collaborate with applicable agencies, including, but not limited to, agencies involved in the **ECAC, WOIA, and EEDA**. [SEE FINDINGS #4, #6 AND #7](#)
12. **CCWD** publish (i.e., update and issue after communicating with applicable parties): (1) new editions of the Education and Workforce Dictionary; (2) Workforce Development Program mapping and federal funding inventory, and (3) mapping and analysis from the February 2022 Subcommittee meeting. [SEE FINDINGS #6 AND #7](#)
13. **CCWD** ensure applicable memorandums of understanding with necessary entities are entered within six months after issuance of the full House Oversight study report for establishment of evidence building system to analyze and improve long term outcomes of education and workforce programs; then work with **Revenue and Fiscal Affairs Office (RFA)** and **Education Oversight Committee (EOC)** to construct said system. [SEE FINDINGS #6 AND #7](#)
14. **Agencies participating in various education and workforce development collaborative groups discussed in the February 2022 Subcommittee meeting (i.e., CCWD, CCED, ECAC, EEDA, and WIOA)** determine any other state entities with information on credentials and licenses for workforce and request those entities enter data sharing agreements with **RFA**. As part of the data sharing agreements, they should, at a minimum, provide **RFA** permission to continuously utilize data in answering **CCWD** questions applicable to aggregate information on credentialed/licensed individuals in the state for supply/gap analysis (e.g., number of credentialed nurses, number who may retire in the next five to ten years, and number the state will need educational entities to produce). [SEE FINDINGS #6 AND #7](#)
15. **Department of Education** collaborate with the **EOC** and **RFA** to determine how school districts obtain, collect, and transmit information within the education system from the initial person with access to the information (e.g., student, teacher, etc.) forward and determine who owns and may access data at the local, state, and federal level. [SEE FINDINGS #6 AND #7](#)
16. **CCWD** convene **applicable stakeholders** and, within a year after issuance of the Committee's study report, provide the Committee options for how to efficiently obtain occupational codes and wage and hour information (e.g., central portal, etc.) to improve the value of the evidence building system along with the short- and long-term benefits to the state, businesses, education entities, and individuals of having this information and the potential burdens of each option. [SEE FINDINGS #6 AND #7](#)

## Statute Modernization

### *Agency administration*

17. **General Assembly** consider amending S.C. Code of Laws Section 13-1-320, which establishes Commerce's Division of State Development, to delete obsolete language and add objectives related to promotion of strategic planning and rural and workforce development. SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #1, #5 AND #10
18. **General Assembly** consider amending S.C. Code of Laws Section 13-1-330, which outlines specific division of Commerce and specific requirements for agency leadership. SEE AGENCY LAW CHANGE PER RECOMMENDATION #6
19. **General Assembly** consider amending S.C. Code of Laws Section 13-1-340, which outlines the director's duties, powers, and responsibilities, to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. SEE AGENCY LAW CHANGE PER RECOMMENDATION #7
20. **General Assembly** consider amending S.C. Code of Laws Section 13-1-350, which requires the director to assume duties of former boards, commissions, and councils to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. SEE AGENCY LAW CHANGE PER RECOMMENDATION #8
21. **General Assembly** consider repealing S.C. Code of Laws Section 13-1-370, which allows the Secretary of Commerce to establish an advisory committee to the Division of State Development, as provisions are duplicate. Move identification of challenges facing rural communities and solutions to agency objectives under S.C. Code of Laws Section 13-1-320. SEE AGENCY LAW CHANGE PER RECOMMENDATION #10

### *Outdated provisions relating to Commerce's interaction with the Aeronautics Commission*

22. **General Assembly** consider relocating the Aeronautics Commission's enabling legislation (Title 13, Chapter 1 of the South Carolina Code of Laws) out of middle of statutes relating to Commerce to reduce confusion as the Commission is no longer a division of Commerce. SEE AGENCY LAW CHANGE PER RECOMMENDATION #3
23. **General Assembly** consider amending S.C. Code of Laws Section 15-9-390 to revert to the Aeronautics Commission from Secretary of Commerce serving as the agent for service of process of nonresident operators of aircraft. Commerce was substituted for the Commission when Aeronautics was a division of Commerce; however, now the Aeronautics Commission has been reconstituted. SEE AGENCY LAW CHANGE PER RECOMMENDATION #21

### *Outdated provisions relating to Commerce's interaction with other state entities*

24. **General Assembly** consider repealing S.C. Code Section 11-37-200, which establishes the Water Resources Coordinating Council and makes the Secretary of Commerce a member, as the Council is defunct. SEE AGENCY LAW CHANGE PER RECOMMENDATION #19
25. **General Assembly** consider removing references to the Department of Commerce in S.C. Code Section 24-1-290, pertaining to the Prison Industries Program at the Department of Corrections, as agency personnel assert Commerce does not have the data to provide the statutorily mandated certification. SEE AGENCY LAW CHANGE PER RECOMMENDATION #14

26. **General Assembly** consider removing references in various statutes to the Department of Commerce's oversight role in housing related matters. SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #15 AND #20

*Outdated provisions relating to Coordinating Council for Economic Development*

27. **General Assembly** consider updating the enabling legislation for the Coordinating Council for Economic Development, which is chaired by the Secretary of Commerce. SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #12 AND #17

## State Personnel

28. **Department of Administration** personnel work with **Department of Commerce** personnel to ensure the data entered in NeoGov is accurate so Commerce can fully maximize the benefits of current auto-reporting capabilities, including, but not limited to, those required by **Human Affairs Commission**.

## General

29. **Agencies involved in the February 2022 Subcommittee meeting** (i.e., Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) enter a data sharing agreement with RFA to facilitate analysis that may assist the General Assembly with policy decisions.
30. **General Assembly** consider options to further ensure the accountability of funds that pass-through agencies to other entities.
31. **Department of Administration** personnel discuss with the **Department of Commerce** personnel the potential benefits of using a digital onboarding tool to determine if it may be useful to the Division of State Human Resources in addressing high turnover in some agencies across state government.
32. **Department of Administration** track the number of agency personnel projects from the certified public manager training that are implemented by agencies.



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## Legislative Oversight Committee

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>  
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# Study of the Department of Commerce 2022

SC House Legislative Oversight Committee  
Economic Development, Natural Resources, and  
Transportation Subcommittee



## S.C. House Legislative Oversight Committee



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*Research Analyst*

Members of the Economic Development, Transportation, and Natural Resources Subcommittee and the Subcommittee's primary staff person are in bold font, and an asterisk designates the chair.

The purpose of the S.C. House Legislative Oversight Committee's (Committee) work is to determine if agency laws and programs are implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. The Committee's member-driven process enhances the ability of Representatives to make informed decisions about state government and agency responsiveness to the needs of South Carolinians. The process is also a resource for public access to information about the performance of state agencies and their programs.

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FINDING #2. Business recruitment involves multiple steps by various entities:	
• Each of the 46 individual counties should have a vision and strategy and their staff take steps to make the county attractive to those industries that may help achieve its vision;	
• Each regional alliance develops a vision and mission for its region;	
• Department of Commerce aligns the state’s advantages/disadvantages with the various region/county visions, then coordinates activities to stay “top of mind” with companies in applicable industry sectors;	
• Each company decides if/when to expand or relocate;	
• When economic development staff with a county or Department of Commerce learns a company is considering South Carolina, Commerce staff work to have the company locate here;	
• Coordinating Council for Economic Development reviews and gives final approval on agreements in which state discretionary incentives are offered to a company in exchange for jobs and investment in South Carolina; and	
• Department of Commerce staff offer services to companies to help maintain jobs and investment in South Carolina and encourage companies to select the state for any expansion.	
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Revenue, Department of Transportation, Jobs Economic Development Authority, Ports Authority, Public Service Authority, Research Authority, and State Board for Technical and Comprehensive Education), the Chair of House Ways and Means Committee, and the Chair of the Senate Finance Committee. While CCED is chaired by the Secretary of Commerce and council staff provide recommendations based on research and analysis, all members of CCED have equal authority (i.e., chair's vote weighs the same as other members) and responsibility relating to approval of discretionary incentives (i.e., CCED can structure those incentives as deemed most beneficial). .....	17
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RECOMMENDATION #4. Coordinating Council for Economic Development (CCED) establish a policy where CCED members annually provide guidance to staff on the following: (1) cost/benefit and analysis (i.e., update the analysis regularly and include list of economists that verify its validity and/or recommend update); (2) violation of contract terms (e.g., job and investment requirement, etc.); and (3) potential amendments to current and future contracts with companies. ....	25
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to, the Department of Administration’s Division of State Human Resources and agencies involved in the state Early Childhood Advisory Council (ECAC) and the federal Workforce Innovation and Opportunity Act (WIOA). Consider existing frameworks, such as the one in the state Education and Economic Development Act, as starting points and ensure the plan can be utilized and submitted in compliance with any agency’s requirements in state or federal law to submit a plan and/or track metrics related to education and/or workforce (e.g., federal laws: WIOA, Perkins V, Every Student Succeeds Act, and state laws: Education Accountability Act, etc.). Regularly report status on implementation and metrics of plan to Education Oversight Committee, which will publish online dashboards. Request a meeting with the Committee to provide an update on the progress at the end of each of the first two years. ....31

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RECOMMENDATION #11. Commission on Higher Education (CHE), State Technical College System (STCS), and Department of Employment and Workforce ensure annual publication of a return-on-investment catalogue that contains (1) return on investment for students, parents, businesses, and the state in higher education programs and post-secondary training; and (2) industry supply gap analysis at the state and region level that shows the most high-demand occupations and assesses the number of completers for relevant secondary, post-secondary education, and work-based learning through Registered Apprenticeships. CHE and STCS collaborate with applicable agencies, including, but not limited to, agencies involved in the Early Childhood Advisory Council, Department of Employment and Workforces, which administers the federal Workforce Opportunity Innovation and Opportunity Act in South Carolina, and Coordinating Council for Workforce Development.....35

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## Agency Overview: Department of Commerce

### Agency Mission

“

Working together to create opportunities by promoting job creation, economic growth and improved living standards for all South Carolinians.

”

### History

The Department of Research, Planning and Development, created in 1945, changed to the State Development Board in 1954, and, during reorganization of state government in 1993, was replaced by the Department of Commerce, which also assumed duties of other entities including the Coordinating Council for Economic Development.

### Resources

(FY 19-20)

#### Organizational Units

- Administration
- Global Business Development
- International Strategy and trade
- Small Business and Existing Industry
- Community and Rural Development
- Marketing Communications
- Research
- Grants
- Workforce
- Innovation
- Palmetto Railways
- Military Base Task Force

#### Employees



98

filled FTE positions at the end of the year

#### Funding



\$256,919,111

cash and available funds

### Successes and Challenges

Identified by the agency

#### Successes

- 151,8000+ new jobs recruited
- \$41.3 billion+ capital investment
- 1,429 projects (i.e., new or expanding company, recruited and managed by agency to facilitate the creation of new jobs and taxable investment in South Carolina)

#### Challenges

##### Current:

- COVID-19
- Succession planning
- Economic development in rural South Carolina
- Infrastructure

##### Emerging:

- Diversification of economy
- Trade environment
- Adaptability to a changing economy

## Committee Overview

### Subcommittee Membership

#### Economic Development, Natural Resources, and Transportation Subcommittee

The Honorable William M. “Bill” Hixon (chair)

The Honorable Russell L. Ott

The Honorable Adam M. Morgan

The Honorable Marvin R. Pendarvis

### Oversight Purpose and Methods

#### Purpose

To determine if agency laws and programs:

- are being implemented and carried out in accordance with the intent of the General Assembly; and
- should be continued, curtailed, or eliminated.

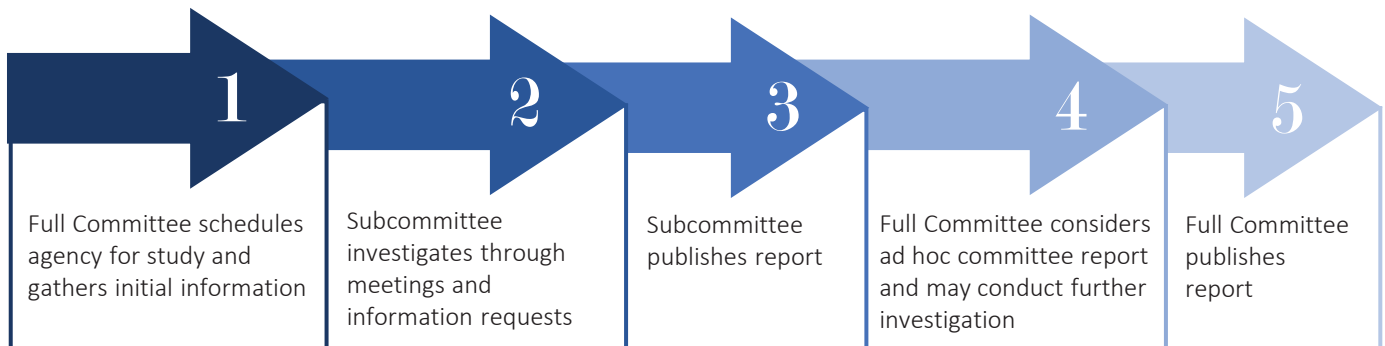
#### Methods

The Committee and Subcommittee evaluate:

- the application, administration, execution, and effectiveness of the agency’s laws and programs;
- the organization and operation of the agency; and
- any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

### Study Process



### Public Input



36

Responses to an online public survey



65

Online comments received



1

Constituents testified

### Study Milestones

#### Meetings

##### Subcommittee Meetings

3/4/21 3/11/21  
5/12/21 5/27/21  
6/4/21 6/29/21  
8/5/21 2/28/22  
4/27/22

##### Full Meetings

12/9/19  
4/8/21

#### Agency Reports

March 2015

Seven-Year Plan Report

March 2020

Program Evaluation Report

September 2021

FY 2020-2021 Accountability Report

## FINDINGS

The House Legislative Oversight Committee's (Committee) Economic Development, Transportation, and Natural Resources **Subcommittee** (Subcommittee) reviewed the Department of Commerce (agency or Commerce) and **has seven findings**.<sup>2</sup> The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee made the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

### *Business Recruitment*

The five findings relating to business recruitment are summarized in Table 1.

Table 1. Summary of findings relating to business recruitment

<b>BUSINESS RECRUITMENT</b>	<ol style="list-style-type: none"><li>1. From an aggregated statewide perspective, between 2006 and 2019, the companies the Department of Commerce landed created 57,306 jobs and invested \$16.5 billion in South Carolina, which accounts for 98% of the jobs and 129% of the investment required in associated incentive agreements with these companies. Additionally, during 2020 and 2021, the Department of Commerce increased transparency in informing the public about its processes.</li><li>2. Business recruitment involves multiple steps by various entities:<ol style="list-style-type: none"><li>a. Each of the 46 individual counties must have a vision and strategy and their staff take steps to make the county attractive to those industries that may help achieve its vision;</li><li>b. Each regional alliance develops a vision and mission for its region;</li><li>c. Department of Commerce aligns the state's advantages/disadvantages with the various region/county visions, then coordinates activities to stay "top of mind" with companies in applicable industry sectors;</li><li>d. Each company decides if/when to expand or relocate,</li><li>e. When economic development staff with a county or the Department of Commerce learns a company is considering South Carolina, Commerce staff work to have the company locate here;</li><li>f. Coordinating Council for Economic Development reviews and gives final approval on agreements in which state discretionary incentives are offered to a company in exchange for jobs and investment in South Carolina; and</li><li>g. Department of Commerce staff offer services to companies to help maintain jobs and investment in South Carolina and encourage companies to select the state for any expansion.</li></ol></li></ol> <p style="text-align: right;"><small>SEE RECOMMENDATIONS #1-2 AND #4-#6</small></p>
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3. During the study, more than 75% of the Tier III and Tier IV counties (i.e., designations released annually by the Department of Revenue noting South Carolina counties with the highest three-year unemployment rate average and lowest per capita income) did not have an active, county specific strategic plan. SEE RECOMMENDATIONS #1
4. Regional Economic Development Alliances have geographical boundaries different from Regional Workforce Advisors and Local Workforce Development Boards. Efficiencies and focus may be gained by aligning the different geographical boundaries. SEE RECOMMENDATIONS #11
5. The Coordinating Council for Economic Development (CCED) is comprised of the agency head or board chair for eleven state agencies (i.e., Department of Agriculture, Department of Commerce, Department of Employment and Workforce, Department of Parks, Recreation and Tourism, Department of Revenue, Department of Transportation, Jobs Economic Development Authority, Ports Authority, Public Service Authority, Research Authority, State Board for Technical and Comprehensive Education), the Chair of the House Ways and Means Committee, and the Chair of the Senate Finance Committee. While CCED is chaired by the Secretary of Commerce and council staff provide recommendations based on research and analysis, all members of CCED have equal authority (i.e., chair's vote weighs the same as other members) and responsibility relating to approval of discretionary incentives (i.e., CCED can structure those incentives as deemed most beneficial).

**FINDING #1.** From an aggregated statewide perspective, between 2006 and 2019, the companies the Department of Commerce landed created 57,306 jobs and invested \$16.5 billion in South Carolina, which accounts for 98% of the jobs and 129% of the investment required in associated incentive agreements with these companies. Additionally, during 2020 and 2021, the Department of Commerce increased transparency in informing the public about its processes.

The Department of Commerce administers the Coordinating Council for Economic Development (CCED).<sup>3</sup> CCED's annual report provides notice to the public about statewide economic development activities, including the statistics noted above.<sup>4</sup>

In addition to the Committee's oversight process, events in 2020 spurred additional transparency efforts at the agency, one of which included a legislative audit. The General Assembly's Legislative Audit Council reviewed incentive programs administered by the Department of Commerce and recommended improvements to advance agency transparency, oversight, and evaluation of proposed incentives<sup>5</sup>

After these events, agency staff began disclosing company names, award values, and new job counts for major programs, and additional explanations about its processes.<sup>6</sup> Also, agency staff began disclosing CCED recipient data for discretionary incentive programs (e.g., Job Development Credit and Business Development Grants). Notably, a report released in April 2022 indicated the agency increased its transparency (i.e., moved from a marginal rank in 2014

to 22<sup>nd</sup> in 2022) in making information and explanations of its processes available to the public.<sup>7</sup>

**FINDING #2.** Business recruitment involves multiple steps by various entities:

- Each of the 46 individual counties should have a vision and strategy and their staff take steps to make the county attractive to those industries that may help achieve its vision;
- Each regional alliance develops a vision and mission for its region;
- Department of Commerce aligns the state's advantages/disadvantages with the various region/county visions, then coordinates activities to stay "top of mind" with companies in applicable industry sectors;
- Each company decides if/when to expand or relocate;
- When economic development staff with a county or Department of Commerce learns a company is considering South Carolina, Commerce staff work to have the company locate here;
- Coordinating Council for Economic Development reviews and gives final approval on agreements in which state discretionary incentives are offered to a company in exchange for jobs and investment in South Carolina; and
- Department of Commerce staff offer services to companies to help maintain jobs and investment in South Carolina and encourage companies to select the state for any expansion.

Business recruitment involves multiple steps by state and local (i.e., county and regional) entities. See Figure 2 for an overview of South Carolina's business recruitment process.

At the state level, the Department of Commerce's annual accountability report outlines the state's strategy for economic development.<sup>8</sup> The agency's main objectives, which are determined internally, are to build tax base and pay rolls.<sup>9</sup> Agency personnel assert the best gauge of Commerce's performance in achieving the objectives are whether it meets or exceeds its goals for the following: (1) capital investment to create more taxable property for local communities and school districts, and (2) jobs recruited to create more job opportunities for the citizens of South Carolina to maximize their talents and abilities.<sup>10</sup>

As for the local level, Commerce personnel utilize the eight regional alliances to develop lead generation and understand the needs of each area of the state, which are different.<sup>11</sup> As economic development is a "fiercely competitive arena," there is no single, comprehensive document outlining the different regions and county visions/strategies.<sup>12</sup>

See Appendix A for more information about the business recruitment process.

Recommendations #1-2 and #4-6 address this finding.

## State Economic Development: Overview

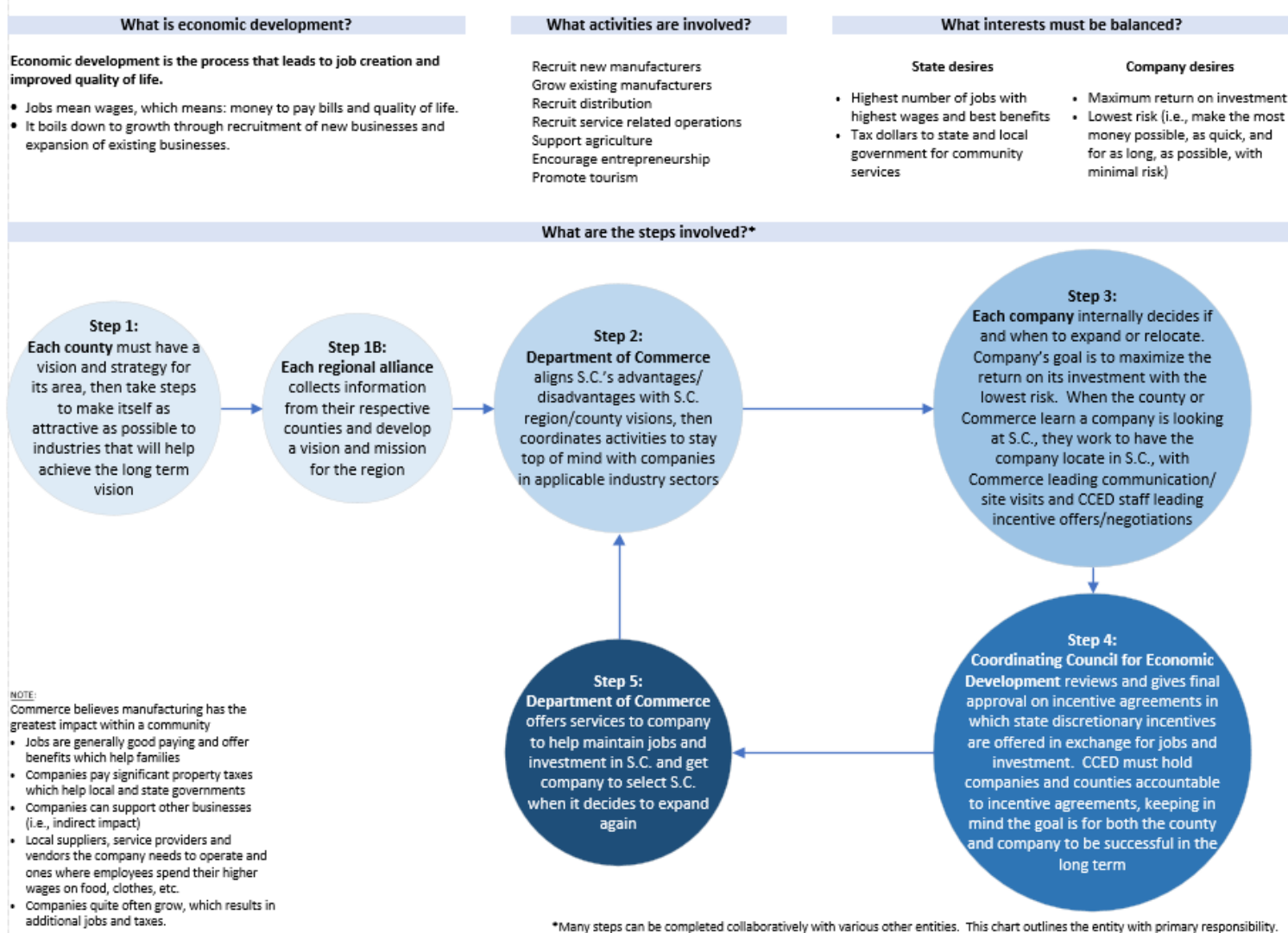
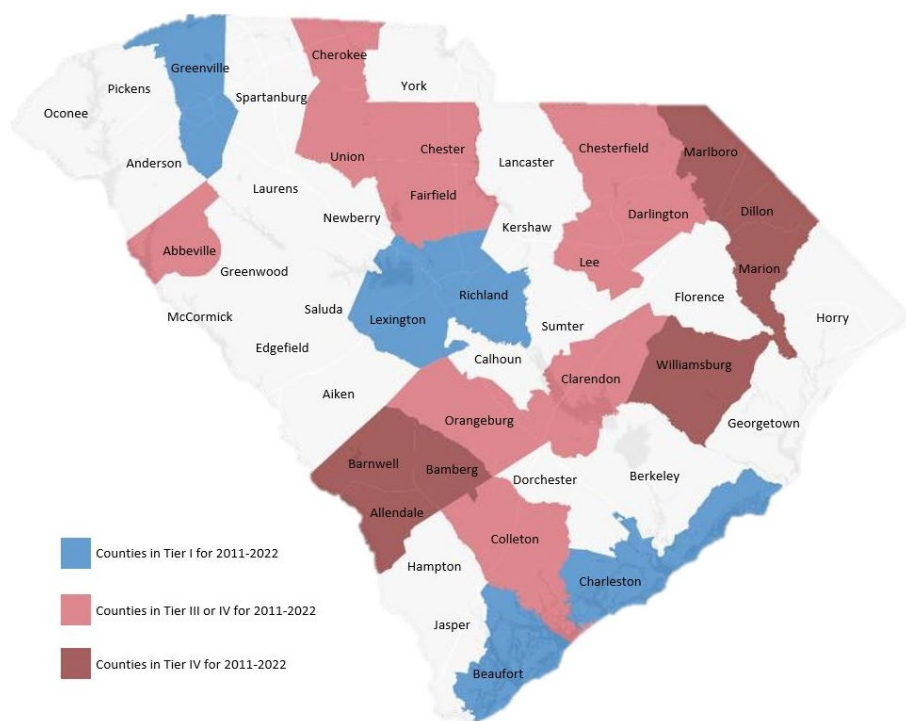


Figure 2. Overview of South Carolina's business recruitment process

**FINDING #3.** During the study, more than 75% of the Tier III and Tier IV counties (i.e., designations released annually by the Department of Revenue noting South Carolina counties with the highest three-year unemployment rate average and lowest per capita income) did not have an active, county specific strategic plan.

During the study, eleven of the Tier III and Tier IV counties did not have a strategic plan for economic development.<sup>13</sup> Having a strategic plan may increase the vitality of a county and allow it to move from the bottom tiers.<sup>14</sup> At a minimum, it will enable Department of Commerce personnel to know how they can assist the county. Notably, Department of Commerce personnel are willing to assist each Tier III and Tier IV counties in creating or updating a strategic plan.<sup>15</sup>



“South Carolina’s 46 counties are ranked and designated annually for job tax credit purposes with equal weight given to unemployment rate and per capital income. . . .”<sup>16</sup> There are four designations (i.e., tiers) made by the Department of Revenue; Tier III and Tier IV counties have the highest three-year unemployment rate average and lowest per capita income. Conversely, Tier I and Tier II

Figure 3. Selected county tier rankings from 2011-2022<sup>17</sup>

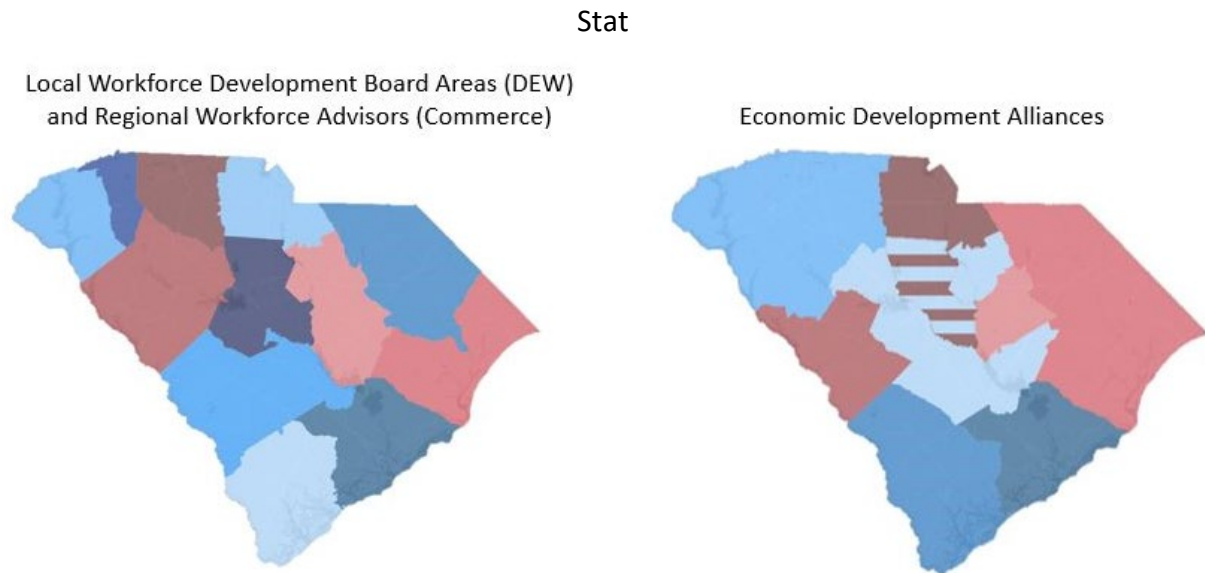
counties have lower three-year unemployment rate average and higher per capita income. Figure 3 illustrates counties that have not experienced much fluctuation in rankings over the past decade. See Appendix B for a list of county tier rankings from 2011-2022.

Recommendation #1 relates to this finding.



**FINDING #4.** Regional Economic Development Alliances have geographical boundaries different from Regional Workforce Advisors and Local Workforce Development Boards. Efficiencies and focus may be gained by aligning the different geographical boundaries.

Figure 4 shows the geographical boundaries of regional economic development alliances and regional workforce advisors and local development boards.



*Figure 4. Geographical boundaries of regional economic development alliances and regional workforce advisors and local development boards<sup>18</sup>*

In determining the statewide strategy and marketing efforts, Commerce personnel interact with personnel from the regional economic development alliances.<sup>19</sup> Each alliance operates differently based on the desires of the counties that are members of the alliance.<sup>20</sup> Each of the 46 counties belong to at least one of the eight alliances.<sup>21</sup> Some counties (e.g. Richland and Kershaw ) belong to more than one.<sup>22</sup> There is no state statute or regulation directing which communities are within which alliances.<sup>23</sup> As counties pay dues to join an alliance, the respective county personnel join an alliance based on the services offered.<sup>24</sup> If desired (e.g., receive different services from each), a county may join more than one alliance.<sup>25</sup> While membership in these alliances are subject to change, there has not been a change since 2016.<sup>26</sup>

Also, a primary goal in Commerce's recruitment of businesses is to create jobs. However, other state agencies (e.g., Department of Employment and Workforce, technical colleges, Department of Education, technical colleges, etc.) focus on strategies to provide the workforce needs, and the way those agencies group the state for strategic planning purposes does not match the groupings utilized by the regional alliances.<sup>27</sup> Accordingly, constituents and needs of regional alliances may not match constituents and needs of the overall state workforce.



In the future, efficiencies and focus may be gained by having the regional workforce advisors, local workforce development boards, and regional economic development alliances utilize standard groupings of the state. Figure 4 illustrates the varying geographical boundaries. Additionally, increased collaboration among these entities may be beneficial.

**FINDING #5.** The Coordinating Council for Economic Development (CCED) is comprised of the agency head or board chair for eleven state agencies (i.e., Department of Agriculture, Department of Commerce, Department of Employment and Workforce, Department of Parks, Recreation and Tourism, Department of Revenue, Department of Transportation, Jobs Economic Development Authority, Ports Authority, Public Service Authority, Research Authority, and State Board for Technical and Comprehensive Education), the Chair of House Ways and Means Committee, and the Chair of the Senate Finance Committee. While CCED is chaired by the Secretary of Commerce and council staff provide recommendations based on research and analysis, all members of CCED have equal authority (i.e., chair's vote weighs the same as other members) and responsibility relating to approval of discretionary incentives (i.e., CCED can structure those incentives as deemed most beneficial).

Currently, the CCED has 13 members; seven members constitute a quorum. The CCED meets quarterly. The Enterprise Committee, a subset of CCED that meets more frequently, has five members; three members constitute a quorum.<sup>28</sup> The Enterprise Committee meets monthly.

Responsibilities of the CCED chair and Enterprise Committee chair are procedural in nature and include calling the meeting to order and leading participants through the agenda.<sup>29</sup> The CCED chair and Enterprise Committee chair do not have any authority that other respective members do not have (i.e., cannot independently exercise any of the substantive functions of the CCED or Enterprise Committee).<sup>30</sup> Substantive functions of the CCED include approving grants and agricultural purchase credits. Substantive functions of the Enterprise Committee include approving job development credits, port volume increase credits, and Jobs-Economic Development projects.<sup>31</sup> CCED and Enterprise Committee approvals and decisions are made by majority vote, and the CCED chair and the Enterprise Committee chair are not accorded a greater weighted vote.<sup>32</sup>

## Education and Workforce Development

The two findings relating to education and workforce development are summarized in Table 2.

Table 2. Summary of findings relating to education and workforce development

<b>EDUCATION AND WORKFORCE DEVELOPMENT</b>	<p>6. There are numerous state agencies, councils, and committees involved in the process of education and workforce development with varying levels of coordination. During the study, representatives of ten state agencies (Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) expressed a willingness to work together toward a unified plan.<sup>SEE RECOMMENDATIONS #7-#16</sup></p> <p>7. Currently, South Carolina does not have established systems to assess whether investments in education and training produce employment in specific industries or what combination of programs assist an individual in obtaining economic advancement.<sup>SEE RECOMMENDATIONS #7-#16</sup></p>
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**FINDING #6.** There are numerous state agencies, councils, and committees involved in the process of education and workforce development with varying levels of coordination. During the study, representatives of ten state agencies (Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) expressed a willingness to work together toward a unified plan.

As evidenced by presentations made during a February 28, 2022, Subcommittee meeting, multiple state agencies are involved with South Carolina's education and workforce development pipeline, which is illustrated in Figure 5.<sup>33</sup> During this meeting, representatives from the ten state agencies stated a willingness to increase collaboration.

Recommendations #7-#16 address this finding.



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**FINDING #7.** Currently, South Carolina does not have established systems to assess whether investments in education and training produce employment in specific industries or what combination of programs assist an individual in obtaining economic advancement.

Currently, South Carolina does not analyze data to help stakeholders (e.g., parents, students, policymakers, etc.) make informed decisions about the return on investment in education and training programs.<sup>34</sup>

While South Carolina 8<sup>th</sup> through 12<sup>th</sup> grade students are required to have an individual graduation plan detailing the courses necessary to prepare for graduation and to successfully transition into the workforce or postsecondary education, there is not a system in place to determine whether students obtain employment in the field of their education, another field, or at all.<sup>35</sup>

Technical college personnel determine if students who graduate have a job, and if the job is in the field in which they studied, one year after graduation.<sup>36</sup> However, they do not track this information for continuing education programs or those who did not use federal emergency education relief funding to earn certificates.

Commission on Higher Education personnel do not have information related to employment rates, wages, or whether employment and field of study align for students who graduate from public institutions of higher education, other than technical colleges.<sup>37</sup>

Available data on workplace earnings and occupations is sparse due to survey and estimation techniques, resulting in the inability to accurately assess the needs of the workforce or the value of education and training programs.<sup>38</sup>

Communicating how education clusters, occupations within them and industry-recognized credentials correlate to occupations within various industries may benefit individuals and businesses alike.<sup>39</sup>

Also, no single entity is responsible for assisting businesses obtain employees; instead, there are numerous state agencies, using different terminology, involved in various aspects of the process of workforce development.<sup>40</sup>

For additional information, see Appendix C.

Recommendations #7-#16 address this finding.

## RECOMMENDATIONS

The Subcommittee has 32 recommendations directed to multiple entities.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, and/or eliminate agency programs, areas for potential improvement, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency's self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee's website.

### *Business Recruitment*

The Subcommittee makes six recommendations relating to business recruitment, and a summary is in Table 3.

Table 3. Summary of business recruitment recommendations

<b>BUSINESS RECRUITMENT</b>	<ol style="list-style-type: none"><li>1. <b>Department of Commerce and Department of Employment and Workforce</b> personnel meet annually with Tier III and IV county economic development personnel, document the meeting, and work with the regional alliance and county personnel to ensure at least two individuals involved in the county's strategic planning attend each economic development education opportunity.<sup>SEE FINDINGS #2 AND #3</sup></li><li>2. <b>Department of Commerce</b> include performance measures in the agency's annual accountability report to quantify the actual results versus expected outcomes of the agency's marketing strategy to show Commerce personnel regularly analyze tangible results obtained from marketing efforts and regularly revise methods/amounts of investment based on past results.<sup>SEE FINDING #2</sup></li><li>3. <b>Department of Commerce</b> provide the General Assembly and public recommendations on statewide strategic economic development infrastructure investments (e.g., water, road, rail, etc.), explain how the recommendations facilitate and support the plans and visions of each region and county, and update the plan/recommendations every three years.</li><li>4. <b>Coordinating Council for Economic Development (CCED)</b> establish a policy where CCED members annually provide guidance to staff on the following: (1) cost/benefit and analysis (i.e., update the analysis regularly and include list of economists that verify its validity and/or recommend update); (2) violation of contract terms (e.g., job and investment requirement, etc.); and (3) potential amendments to current and future contracts with companies.<sup>SEE FINDING #2</sup></li></ol>
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5. **Department of Commerce** implement a more structured internal process to transfer closed projects to the business services division to provide new companies an introduction to the ongoing resources available from the Department of Commerce and discuss with **Human Affairs Commission** potential training for companies available from them. SEE FINDING #2

6. **Department of Commerce** and **CCED** consolidate economic development information from disparate locations into a central source. SEE FINDING #2

RECOMMENDATION #1. Department of Commerce and Department of Employment and Workforce personnel meet annually with Tier III and IV county economic development personnel, document the meeting, and work with the regional alliance and county personnel to ensure at least two individuals involved in the county’s strategic planning attend each economic development education opportunity.

This recommendation addresses Findings #2 and #3. As discussed in Finding #2, county

**Discuss**

(1) county vision, strategy, and implementation; (2) education and assistance available; (3) commerce personnel feedback on hits/criteria of companies visiting the state and how the county can improve marketability

**Provide**

information specifically associated with the county’s economic development status, marketability, employment numbers, etc. *(Commerce personnel)*

**Document**

what was discussed and save that information, with the report and materials agency personnel provided the county economic development personnel during the meeting, in agency files for reference *(Commerce personnel)*

**Add**

to the Coordinating Council for Economic Development’s annual report, the name of the counties with which Commerce personnel met, names of individuals with whom it met, list of information provided, date meeting occurred, and individuals involved in county’s strategic planning that attend each Commerce and S.C. Association of Economic Developer’s economic development education opportunity

strategic economic development plans are crucial to local and state business recruitment efforts. However, as noted in Finding #3, during the study, eleven of the Tier III and IV counties (i.e., designations released annually by the Department of Revenue noting South Carolina counties with the highest three-year unemployment rate average and lowest per capita income) did not have a strategic plan for economic development.

Figure 6. Recommendation #1 -implementation considerations<sup>41</sup>

Recommendation #1 seeks to increase current collaboration between local and state economic personnel and foster local strategic planning through an annual meeting. Implementation of this recommendation should include consideration of the information in Figure 6.

Additional background information is available in Appendix D, “How Commerce Can Help a County.”



**RECOMMENDATION #2.** Department of Commerce include performance measures in the agency's annual accountability report to quantify the actual results versus expected outcomes of the agency's marketing strategy to show Commerce personnel regularly analyze tangible results obtained from marketing efforts and regularly revise methods/amounts of investment based on past results.

While Commerce personnel have experienced success in recruiting companies to South Carolina, more clarity about the process may be provided to the public through the inclusion of additional performance measures in the agency's annual accountability report.<sup>42</sup> For example, there is additional clarity provided in Commerce's

Sample terms from International Office Contract

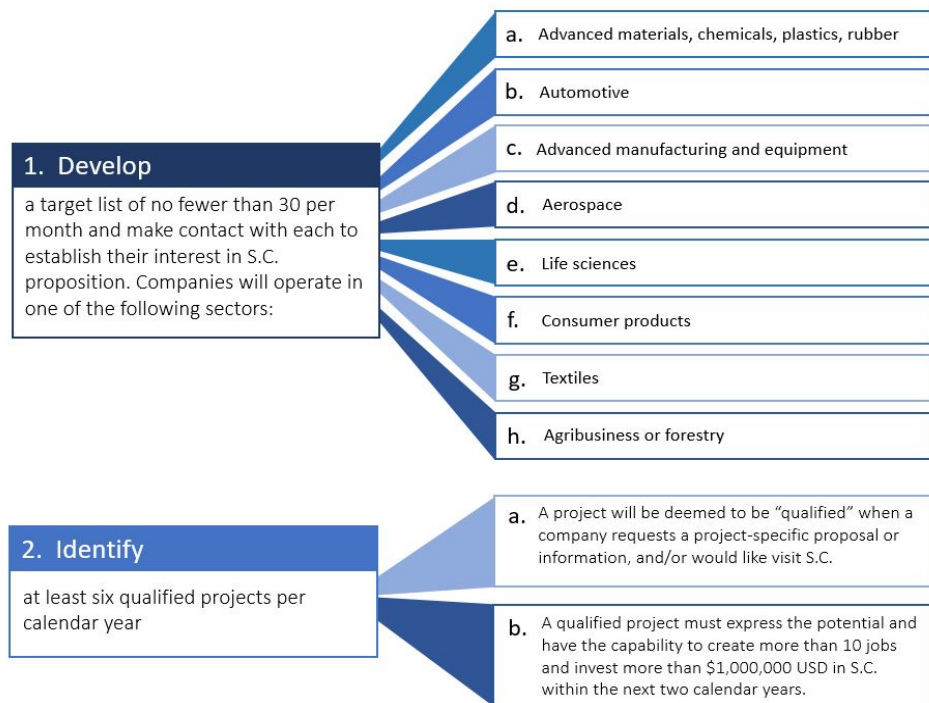


Figure 7. Examples of additional clarity provided in Commerce's contracts with international offices<sup>43</sup>

contracts with international offices; see Figure 7. Recommendation #2 seeks to increase transparency pertaining to the methods Commerce personnel use to determine the agency's marketing strategy, including analyzing and revising the amount to invest in different marketing methods based on past results.

Figure 8 includes examples of the marketing strategy used by Commerce personnel in 2019. Through marketing, Commerce personnel try to convey why South Carolina is a good place to do business and keep South Carolina top of mind for domestic and international companies.<sup>44</sup> Marketing builds geographic awareness by introducing South Carolina to parts of the world that may not even know where the state is located.<sup>45</sup> Also, through marketing, Commerce personnel convey South Carolina's story to give company representatives a level of comfort about looking at the state as a potential place to locate and explain the advantages that are gained by locating here.<sup>46</sup> This includes showcasing the companies already in the state and explaining how the size of the state is a strength.<sup>47</sup>

## Commerce Marketing Strategy

Statistics presented are from 2019.

### Main Goals

There are three main goals for Commerce attending trade shows and conducting mission trips and other events:



Figure 8. Marketing strategy used by agency personnel in 2019<sup>48</sup>

**RECOMMENDATION #3.** Department of Commerce provide the General Assembly and public recommendations on statewide strategic economic development infrastructure investments (e.g., water, road, rail, etc.), explain how the recommendations facilitate and support the plans and visions of each region and county, and update the plan/recommendations every three years.

This recommendation seeks to advance transparency in planning for statewide economic development infrastructure investments and foster collaboration among state and local economic development officials. Currently, there is not a statewide plan outlining comprehensive infrastructure needs.<sup>49</sup> However, the fiscal year 2021-22 General Appropriations Act allocates \$100M in non-recurring funds to the Department of Commerce specifically for “Strategic Economic Development Infrastructure.”<sup>50</sup> Notably, North Carolina



and Tennessee have experienced business recruitment success from funding strategic infrastructure projects.<sup>51</sup>

The term “infrastructure” is broad as there are a variety of possible statewide economic development investments (e.g., transportation, power/energy, water, and communications) and needs vary depending upon the project.<sup>52</sup> During the study, Commerce personnel noted “[s]trategic economic development infrastructure is infrastructure that cannot always be funded in connection with a specific economic development project, but is essential to attract and maintain South Carolina’s economic development success and competitiveness.”<sup>53</sup>

**RECOMMENDATION #4.** Coordinating Council for Economic Development (CCED) establish a policy where CCED members annually provide guidance to staff on the following: (1) cost/benefit and analysis (i.e., update the analysis regularly and include list of economists that verify its validity and/or recommend update); (2) violation of contract terms (e.g., job and investment requirement, etc.); and (3) potential amendments to current and future contracts with companies.

This recommendation seeks to provide additional information to Coordinating Council for Economic Development staff on a regular basis to assist them in the performance of their duties to ensure CCED members are aware of, and have an opportunity, if desired, to receive supplemental information. Additionally, the recommendation seeks to advance transparency to the public about CCED analysis in discretionary matters (e.g., decisions to claw back or write off funds owed; agreement amendments, etc.). During the study, it was evident the members of the Coordinating Council for Economic Development respected and followed staff recommendations as to discretionary matters. In response to questioning, CCED analysis appeared robust but was not readily accessible to the public.<sup>54</sup> See Appendix E for additional information on CCED analysis.

**RECOMMENDATION #5.** Department of Commerce (1) implement a more structured internal process to transfer closed projects to the business services division to provide new companies an introduction to the ongoing resources available from the Department of Commerce, and (2) discuss with Human Affairs Commission potential training for companies available from them.

Commerce personnel monitor companies for several years to: (1) see what the agency can do to improve in each step of its process, and (2) facilitate long term success for the company and community in which the company is located. Under the current process, there is not a standard time frame in which closed projects (e.g., company has satisfied investment and job creation requirements; grant termination; etc.) are transferred to the business services division.<sup>55</sup>

**RECOMMENDATION #6.** Department of Commerce and CCED consolidate economic development information from disparate locations into a central source.

Commerce's website is targeted to customers (e.g., entrepreneurs, business owners, site selectors, etc.) the agency wants to locate or expand in South Carolina. Accordingly, some information explaining economic development and processes utilized by the agency may not be readily accessible (e.g., information of interest in different reports which may or may not be online).

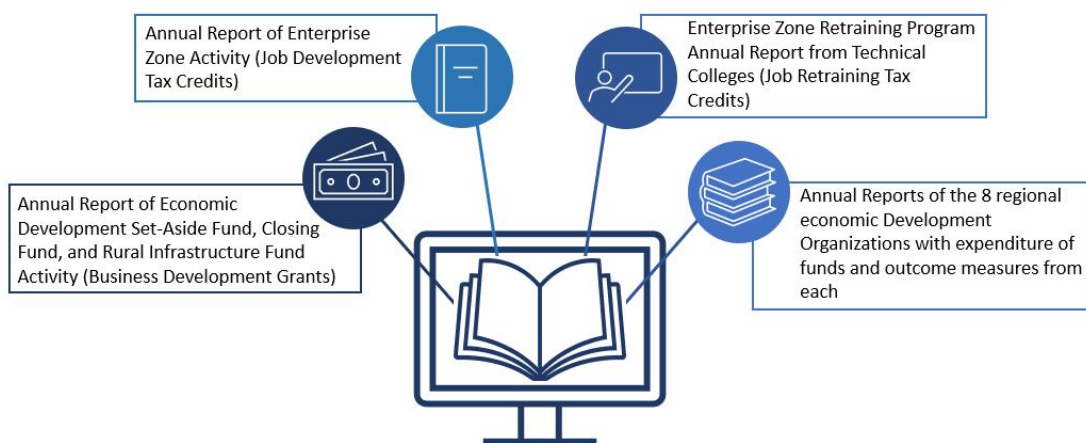


Figure 9. Examples of separate reports related to the state's activities to recruit companies that could be consolidated

Recommendation #6 seeks to increase transparency about the Department of Commerce and Coordinating Council for Economic Development operations. While everyone is not interested in the details of how processes work at the agency, increased transparency about these processes may create greater confidence in state government. Additionally, increased online transparency may provide relevant context to understand why the answers to some questions about economic development may not be straightforward (e.g., “announced” versus “recruited” jobs and investments – recruiting and landing a company may be a multiyear process).<sup>56</sup>

+Implementation of this recommendation should include consideration of the information in Figures 10 and 11.

Recommendation #6 addresses Finding #2.

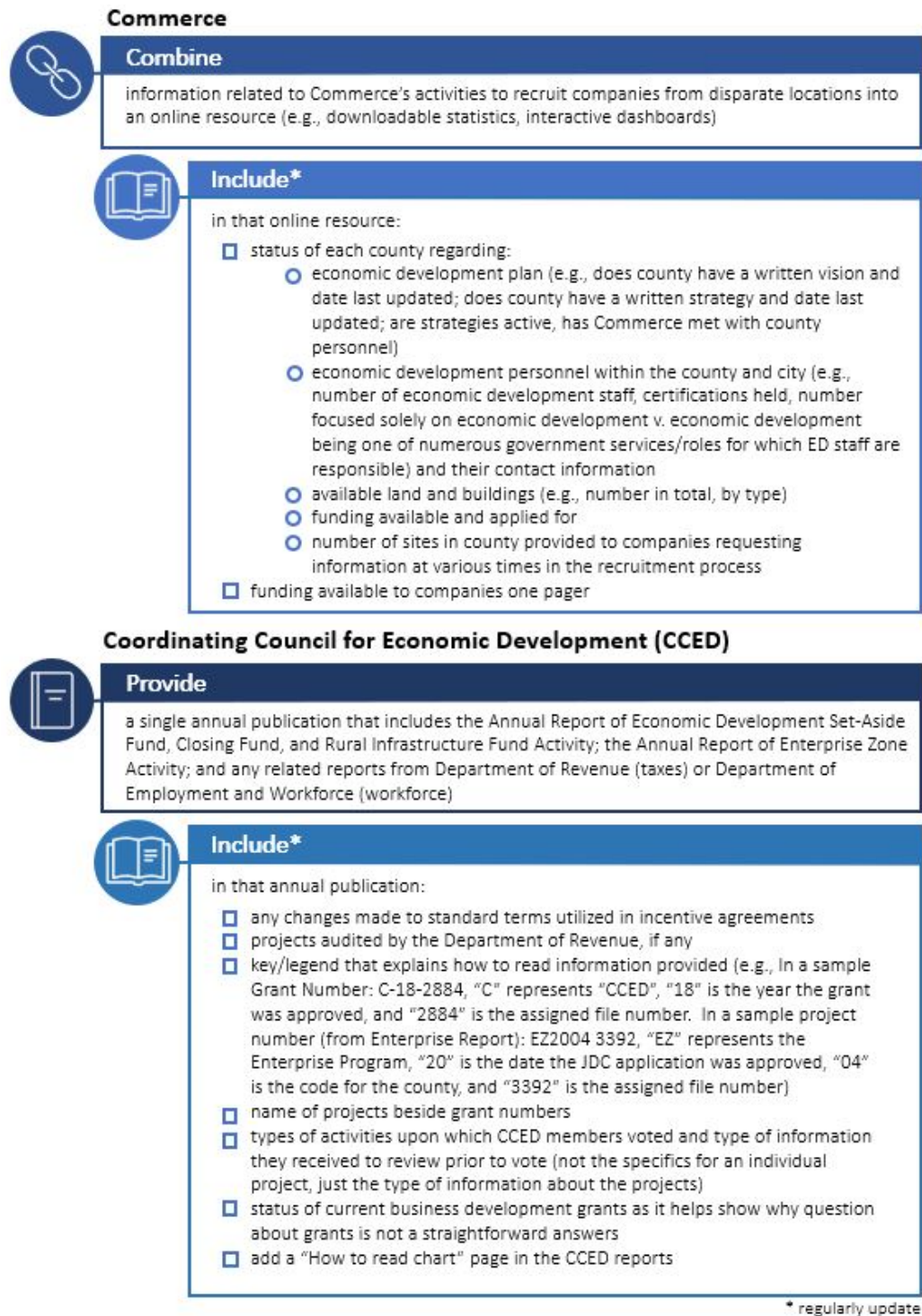


Figure 10. Recommendation #6 -implementation considerations<sup>57</sup>

## Funding Available for a County or Company

Type of funding (None, Credit (none that is agreed to for a fee or fee advance))	General use or for a specific company	For a specific company only						
	Marketability Grants* (can only be used on publicly owned property or to purchase property for public entity)	Business Development Grants (Set Aside, Rural Infrastructure Fund, Closing Fund)	Job Development Credit	Economic Development Bond (money can go to company OR local government)	Local Incentive	Statutory Incentive**	Job Retraining Credit	Other Funding
Funding COMPANY receives before company meets job/investment requirement	No direct money; any co. that locates at site in the future receives benefit of improvement to site	No direct money to co. from CCED (but local government body could reimburse co. for eligible reimbursement costs co. incurs)	None	Reimbursement for funds co. invests in property; Commerce must pre-approve budget and scope of work	Co. receives savings as investment is made (typically a fee in lieu of Taxes Agreement)	None	Reimbursement for funds co. invests in property; Tech Board must pre-approve budget and scope of work	Other funding may be available to (A) improve general marketability of an area (non-company specific) (2) to improve an area to keep it from being cut by a company that is looking for a location, and/or (3) during incentive negotiations with a specific company. Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Funding LOCAL GOVT receives before company meets job/investment requirement	Reimbursement for funds county invests in property & county could have obtained initial funds from various sources	Reimbursement for funds county invests in property; CCED must pre-approve budget and scope of work	None	Reimbursement for funds local govt invests in property; Commerce must pre-approve budget and scope of work	None	None	None	
Discretionary or Guaranteed is offering the funding discretionary or guaranteed if certain conditions are met?	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Guaranteed if co. meets requirements in law	Discretionary	
When used	(1) Before a company ever expresses interest, to improve general marketability of the community; and/or (2) To attract a specific company looking to relocate/expand that has narrowed its consideration to only 2-3 remaining, one of which is in S.C., but prior to incentive negotiations	During incentive negotiations with a specific company	During incentive negotiations with a specific company	During incentive negotiations with a specific company	During incentive negotiations with a specific company	During incentive negotiations with a specific company (Note, they are always available)	Not during negotiations; utilized to keep companies in the state	Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Authorizing Entity Who decides if funding is offered?	Commerce (LocateSC, ARC, CDBG) CCED** Full Committee (Rural Development) Rural Infrastructure Authority (Infrastructure Grants)	CCED Full Committee (meets quarterly)	CCED Enterprise Committee** (meets monthly)	JBRCA/FAA (approves); Commerce must recommend	Local Govt.	Department of Revenue	S.C. Tech Board	
Can anyone apply?	Yes, any county, city, or town can apply	No, only local government body	No, only companies working with Commerce Project Managers (PM)	No, only companies working with Commerce PM	Any company	Available to anyone and no application required	Any manufacturer	
Direct Recipient Who receives the actual funds?	Local Government Body (e.g., county, city, or town)	Local Government Body	Company	Company	Company	Company	Company	Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Annual Reports which contain details about how funds used	None	CCED Annual Report of Economic Set-Aside Fund, Closing Fund and Rural Infrastructure Fund Activity	CCED Annual Report of Enterprise Zone Activity	None	County Reports	Department of Revenue Annual Report (Corporate Tax Section)	Enterprise Zone Retraining Program Annual Report	
Other local government associated details	Grant agreement, if the grant goes to a county (some grants go to local government or regional organization)	Grant Agreement between CCED and local govt & Performance Agreement between CCED, local govt and company	Local govt is not involved in job development credits	Performance Agreement between Commerce and company	Agreement between local govt and company	None	Local govt is not involved in job retraining credits	
Agreements Local Govt is a party to	There is no job or investment requirement	Quarterly, with first required before any reimbursement requests are processed	None	Annually	None	None	None	Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Local Govt status reports required before co. meets req.	There is no job or investment requirement	None	None	None	None	None	None	
Funding local govt receives after co. meets job/inv. req.	There is no job or investment requirement	None	None	Annually	None	None	None	
Local Govt status reports required after co. meets req.	There is no job or investment requirement	None	None	Annually	None	None	None	Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Other company associated details	There is no company involved in marketability grants	Performance Agreement between CCED, local govt, and company	Revitalization Agreement (RVA) between CCED and co. Annually (referred to as "pre-certification period")	Performance Agreement between Commerce and company	Agreement between local govt and company	None	Agreement between S.C. Tech Board and company	
Co. status reports required before co. meets req.	None	Annually (referred to as "Grant Period")	Annually (referred to as "pre-certification period")	Annually	Any required by local govt.	None	None	
Funding co. receives after co. meets job/inv. req.	None	None	Tax Credit	None	Property Tax returns	Tax credits	None	Sources of other funding include, but are not limited to, the following: (1) County; (2) Economic development organizations; (3) Regional Alliance; (4) Utility companies (often through Utility Tax Credits); (5) SC Power Team; (6) Loans (Santee Cooper and other bank loans); (7) US Economic Development Administration (EDA); and (8) S.C. Rural Infrastructure Authority (RIA)
Co. status reports required after co. meets req.	None	Annually (only for grants of \$100k+ during "Maintenance Period" in contract)	Quarterly and Annually (referred to as "post-certification period")	Annually	Any required by local govt.	None	None	

\*Marketability grants include: (1) LocateSC, (2) Rural Development, (3) Appalachian Regional Commission (ARC), and (4) Community Development Block Grants (CDBG)

\*\*Statutory incentives include: (1) Sales tax exemptions (i.e., no sales tax on: (a) machinery and equipment; (b) power used in the manufacturing process; and (c) materials used in the finished product); (2) corporate income tax credits (i.e., (a) Jobs Tax Credit; (b) (Enhanced) Corporate Headquarters Tax Credit; (c) Investment Tax Credit; and (d) Research and Development Tax Credit; and (3) local level property tax abatement for manufacturers that invest at least \$50,000 in land, building, or equipment for five years.

\*\*Coordinating Council for Economic Development includes the following (those with \* are on Enterprise Committee): Secretary of Commerce (chair), DOR Director\*, DEW Director, PRT Director\*, DOT Director, Commissioner of Agriculture, Board for Technical and Community Education, State SC Research and Statistics Center, State SC Office of State Government, State SC Office of State Government, and State SC Office of State Government.

Figure 11. Examples of funding available for a county or company

## Education and Workforce Development

The Subcommittee makes ten recommendations relating to business recruitment, and a summary is in Table 4.

Table 4. Summary of business recruitment recommendations

EDUCATION AND WORKFORCE DEVELOPMENT	<b>EFFICIENCY AND EFFECTIVENESS THROUGH CREATION OF UNIFIED STATE PLAN</b>
	7. <b>Coordinating Council for Workforce Development (CCWD)</b> create a comprehensive statewide education and workforce development plan in collaboration with entities including, but not limited to, the <b>Department of Administration's Division of State Human Resources</b> and agencies involved in the state <b>Early Childhood Advisory Council (ECAC)</b> and the federal <b>Workforce Innovation and Opportunity Act (WIOA)</b> . Consider existing frameworks, such as the one in the EEDA, as starting points and ensure the plan can be utilized and submitted in compliance with any agency's requirements in state or federal law to submit a plan and/or track metrics related to education and/or workforce (e.g., federal laws: WIOA, Perkins V, Every Student Succeeds Act, and state laws: Education Accountability Act, etc.). Regularly report status on implementation and metrics of plan to <b>EOC</b> , which will publish online dashboards. Request a meeting with the Committee to provide an update on the progress at the end of each of the first two years. <sup>SEE FINDINGS #6 AND #7</sup>
	8. <b>Department of Social Services</b> personnel research and collaborate on sustainable options for addressing obstacles lack of available and affordable child care throughout S.C., and in particular in underserved areas, plays in individuals working and/or obtaining additional education (e.g., business utilization of the childcare program credits in S.C. Code Section 12-6-3440), with the <b>Department of Commerce, Department of Revenue, Department of Employment and Workforce, ECAC (e.g., First Steps, Department of Education)</b> , and other applicable entities (e.g., <b>State Technical College System, Human Affairs Commission</b> ). Provide a joint report with information learned within one year after issuance of the House Legislative Oversight study. <sup>SEE FINDINGS #6 AND #7</sup>
	<b>TRANSPARENCY AND ACCOUNTABILITY THROUGH CENTRAL LOCATION OF PLAN, RESULTS, AND OTHER INFORMATION</b>
	9. <b>CCWD</b> ensure creation of a single online landing page for policy makers and the public, which contains the state unified education and workforce plan and access to reports and dashboards with information related to education and workforce, in collaboration with applicable agencies, including, but not limited to, agencies involved in the <b>ECAC, WIOA, and EEDA</b> . <sup>SEE FINDINGS #6 AND #7</sup>
	10. <b>CCWD, Department of Administration, and RFA</b> staff have discussions to explore the feasibility of a regular applied analytics training program through partnerships with state institutions of higher education and others to create an annual class fostering the generation of ideas and samples of more effective ways to utilize state agency data. <sup>SEE FINDINGS #6 AND #7</sup>



11. **Commission on Higher Education (CHE), State Technical College System (STCS), and Department of Employment and Workforce** ensure annual publication of a return-on-investment catalogue that contains (1) return on investment for students, parents, businesses, and the state in higher education programs and post-secondary training; and (2) industry supply gap analysis at the state and region level that shows the most high-demand occupations and assesses the number of completers for relevant secondary, post-secondary education, and work-based learning through Registered Apprenticeships. CHE and STCS collaborate with applicable agencies, including, but not limited to, agencies involved in the **ECAC, WOIA, and EEDA**.<sup>SEE FINDINGS #4, #6 AND #7</sup>

**EFFICIENCY AND EFFECTIVENESS THROUGH UTILIZATION OF COMMON TERMINOLOGY AND SHARING OF INFORMATION**

12. **CCWD** publish (i.e., update and issue after communicating with applicable parties): (1) new editions of the Education and Workforce Dictionary; (2) Workforce Development Program mapping and federal funding inventory, and (3) mapping and analysis from the February 2022 Subcommittee meeting.<sup>SEE FINDINGS #6 AND #7</sup>
13. **CCWD** ensure applicable memorandums of understanding with necessary entities are entered within six months after issuance of the full House Oversight study report for establishment of evidence building system to analyze and improve long term outcomes of education and workforce programs; then work with **Revenue and Fiscal Affairs Office (RFA)** and **Education Oversight Committee (EOC)** to construct said system.<sup>SEE FINDINGS #6 AND #7</sup>
14. **Agencies participating in various education and workforce development collaborative groups discussed in the February 2022 Subcommittee meeting (i.e., CCWD, CCED, ECAC, EEDA, and WIOA)** determine any other state entities with information on credentials and licenses for workforce and request those entities enter data sharing agreements with **RFA**. As part of the data sharing agreements, they should, at a minimum, provide **RFA** permission to continuously utilize data in answering **CCWD** questions applicable to aggregate information on credentialed/licensed individuals in the state for supply/gap analysis (e.g., number of credentialed nurses, number who may retire in the next five to ten years, and number the state will need educational entities to produce).<sup>SEE FINDINGS #6 AND #7</sup>
15. **Department of Education** collaborate with the **EOC** and **RFA** to determine how school districts obtain, collect, and transmit information within the education system from the initial person with access to the information (e.g., student, teacher, etc.) forward and determine who owns and may access data at the local, state, and federal level.<sup>SEE FINDINGS #6 AND #7</sup>
16. **CCWD** convene **applicable stakeholders** and, within one year after issuance of the Committee's study report, provide the Committee options for how to efficiently obtain occupational codes and wage and hour information (e.g., central portal, etc.) to improve the value of the

evidence building system along with the short- and long-term benefits to the state, businesses, education entities, and individuals of having this information and the potential burdens of each option.<sup>SEE FINDINGS #6 AND #7</sup>

## Efficiency and Effectiveness through Creation of Unified State Plan

**RECOMMENDATION #7.** Coordinating Council for Workforce Development (CCWD) create a comprehensive statewide education and workforce development plan in collaboration with entities including, but not limited to, the Department of Administration's Division of State Human Resources and agencies involved in the state Early Childhood Advisory Council (ECAC) and the federal Workforce Innovation and Opportunity Act (WIOA). Consider existing frameworks, such as the one in the state Education and Economic Development Act, as starting points and ensure the plan can be utilized and submitted in compliance with any agency's requirements in state or federal law to submit a plan and/or track metrics related to education and/or workforce (e.g., federal laws: WIOA, Perkins V, Every Student Succeeds Act, and state laws: Education Accountability Act, etc.). Regularly report status on implementation and metrics of plan to Education Oversight Committee, which will publish online dashboards. Request a meeting with the Committee to provide an update on the progress at the end of each of the first two years.

The Coordinating Council for Workforce Development (CCWD) was established by the General Assembly in 2016 to "engage in discussions, collaboration, and information sharing concerning the state's ability to prepare and train workers to meet current and future workforce needs."<sup>58</sup> In 2018, the CCWD's Annual Report noted: "While several agencies and organizations have individual plans that focus on their core missions, these plans lack cohesion. There is a pressing need for a more overarching strategy to direct South Carolina's workforce development future and align the different workforce plans to develop our workforce."<sup>59</sup> However, priority shifts necessitated by the COVID-19 pandemic hampered the development of a comprehensive statewide workforce plan.<sup>60</sup>

A House Legislative Oversight Committee Subcommittee meeting highlighted how some entities involved in the education and workforce pipeline had never previously all met together.<sup>61</sup> Also, in the meeting various agency personnel noted their willingness to work together, as stated in Finding #6. Additionally, in 2022, the responsibilities of the Education and Economic Development Coordinating Council were placed under the CCWD, and the General Assembly tasked CCWD with facilitating and coordinating the "development of a unified statewide workforce plan that utilizes data and analysis to identify statewide workforce priorities and create measurable, time-sensitive metrics in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate."<sup>62</sup>

During and after the Subcommittee meeting, information related to topics for the statewide plan, potential obstacles in the success of such a plan, and other entities to consider including, are in Appendix F.

Creation of an effective statewide plan must consider current requirements (i.e., state and federal) on agencies to track and report certain information. Other state and federal requirements include, but are not limited to, those in Figure 12. Since agencies are required to perform that work, regardless of what is included in a statewide plan, it benefits all involved to attempt to utilize that information in the statewide plan, to the extent feasible. If the information, as required to be reported by other laws, is not included in the statewide plan, elements of it may be helpful in reporting information desired by the statewide plan.

As previously noted by the CCWD:

A Unified State Workforce Plan will allow more flexible workforce programs to align their activities and fill in workforce system gaps rather than duplicate existing actions. This plan would synchronize, not replace, existing plans such as the SC Workforce Innovation and Opportunity Act (WIOA) Unified State Plan and the State Department of Education (SDE) Perkins V State Plan. This would empower the CCWD to make programmatic recommendations, influence the system in the direction desired and assist existing workforce programs by maximizing the effectiveness of state partners. Workforce Data, and the analysis of data, will drive decision making within a Unified State Workforce Plan.<sup>63</sup>



## Collaborative Groups and Summary of Responsibilities (as of July 2022)

Indicates entity is not currently included on Pipeline for S.C. Education and Workforce Development Chart

Early Childhood Advisory Council (ECAC) <i>Required in State Law</i>	Workforce Innovation and Opportunity Act (WIOA) <i>Required in Federal Law</i>	Coordinating Council for Workforce Development (CCWD) <i>Required in State Law</i>
<b>STATE AGENCIES INVOLVED</b>		
Head Start Children's Trust First Steps (Responsible for convening group)		First Steps <sup>^</sup>
Department of Education	Department of Education – G.E.D. Program	Department of Education
		Education Oversight Committee
		Technical College System
Commission on Higher Education (4-year colleges)*		Commission on Higher Education (4-year colleges)
	Department of Employment and Workforce (Responsible for convening group)	Department of Employment and Workforce
		S.C. Workforce Development Board <sup>^</sup>
Department of Social Services Department of Health and Environmental Control Department of Health and Human Services Department of Disabilities and Special Needs Department of Mental Health* Education Television Network* State Library*	Department of Social Services Vocational Rehabilitation Department Commission for the Blind	Department of Commerce (Responsible for Convening Group)
		Revenue and Fiscal Affairs Office <sup>^</sup>
*Indicates member of Interagency Collaboration Committee		<sup>^</sup> Indicates member of Strategic Partner Group
<b>COLLABORATION OUTLINED</b>		
<b>Data integration (Child and Program Data)</b> <ul style="list-style-type: none"> <li>Early Childhood Integrated Data System (ECIDS), integrates data within early childhood programs and links them to other longitudinal data systems</li> <li>S.C. Early Learning Extension, will answer questions about children while they are enrolled in early childhood care and education programs and linking that information to K-12 outcomes, through use of an ID unrelated to social security number or other personal identifying information, to articulate the return on public investment in early childhood.</li> </ul> <b>Family-facing portals for knowledge building and access to resources</b> <ul style="list-style-type: none"> <li>First Five SC enables families and their advocates to find information about child care, health, early intervention, nutrition, and parenting support programs for which they qualify in their area by answering a few questions from a single online portal (first5sc.org)</li> <li>Palmetto Pre-K Portal is one-stop shop for finding free or subsidized educational pre-k programs for 3 and 4 year olds in S.C. Portal allows you to search based on zip code and eligibility to see at a glance available options (palmettoprek.org)</li> </ul>	<b>4-year state plan</b> <ul style="list-style-type: none"> <li>Requires modification and update in year two</li> <li>Agencies meet bi-monthly to discuss status of implementation</li> <li>Plan includes common elements on which all partners work, common operational concerns, and individual sections on each respective partner</li> </ul> <b>Data sharing (Unemployment Insurance Wage data)</b> <ul style="list-style-type: none"> <li>Employment and wage data of customers WIOA agencies served may be shared between the agencies for purposes of reporting outcomes of agency services to the federal government.</li> </ul> <b>Cost sharing and staff co-locating in "one stop centers"</b> <ul style="list-style-type: none"> <li>One stop centers in S.C. are called SC Works Centers</li> </ul> <b>Integrated business services</b> <ul style="list-style-type: none"> <li>These personnel inform businesses about services of WIOA agencies</li> </ul>	<b>CCWD responsibilities</b> <ul style="list-style-type: none"> <li><b>Unified statewide workforce plan</b> – Coordinate development of plan that ensures federal and state requirements are met; create measurable metrics in which all workforce pipeline stakeholders participate; identify two to four goals to accomplish in less than four years and update those every five years</li> <li><b>Information sharing</b> - Develop and implement procedures for sharing information and coordinating efforts among stakeholders</li> <li><b>Legislation recommendations</b> - Make recommendations to the General Assembly concerning long-term workforce needs and matters related to workforce development that exceed the CCWD member agencies' scope of authority to implement and legislation is required</li> <li><b>Program recommendations</b> - Recommending programs intended to increase student access to and incentivize workforce training within state training programs offered by businesses through scholarships, grants, loans, tax credits or other programs documented to be effective</li> <li><b>Workforce program inventory</b> - Conduct ongoing inventory of existing workforce programs to identify duplications and ineffective programs</li> </ul> <b>Education and Economic Development Coordinating Council Responsibilities</b> <i>Note: Act 194 of 2022 placed all responsibilities of the EEDC under the CCWD</i> <ul style="list-style-type: none"> <li><b>Ensure implementation of Education and Economic Development Act</b> - Advise the Department of Education (SCDE) and the Department of Commerce (Commerce) to ensure the components of the Act are implemented with fidelity. Act requires "the development of a curriculum organized around a career cluster system that must provide students with both strong academics and real-world problem solving skills." More specifically, it requires the needs of students "at risk for being poorly prepared for the next level of study or for dropping out of school" be addressed.</li> <li><b>Review performance</b> - Review accountability and performance measures for implementation of the Act.</li> <li><b>Report annually</b> - Report on the progress, results, and compliance with the Act to specifically include progress toward career pathways and its ability to provide a better prepared workforce and student success in postsecondary education to the Governor, the General Assembly, Commerce, the State Board of Education (SBE), and other appropriate governing boards.</li> <li><b>Marketing recommendations</b> - Making recommendations for the development and implementation of a communication and marketing plan to promote statewide awareness of the provisions of the Act to the SCDE and Commerce.</li> <li><b>Input on regulations</b> - Provide input for the promulgation of regulations to carry out the provisions of the Act including, but not limited to, enforcement procedures, which may include monitoring and auditing functions, and addressing consequences for noncompliance to Commerce, SBE, and other appropriate governing boards.</li> </ul>

Figure 12. Collaborative groups and summary of responsibilities (as of July 2022)

RECOMMENDATION #8. Department of Social Services personnel research and collaborate on sustainable options for addressing obstacles lack of available and affordable child care throughout S.C., and in particular in underserved areas, plays in individuals working and/or obtaining additional education (e.g., business utilization of the childcare program credits in S.C. Code Section 12-6-3440), with the Department of Commerce, Department of Revenue, Department of Employment and Workforce, ECAC (e.g., First Steps, Department of Education), and other applicable entities (e.g., State Technical College System, Human Affairs Commission). Provide a joint report with information learned within one year after issuance of the House Legislative Oversight study.

Parental employment is an indicator of a child's wellbeing.<sup>64</sup> Without at least one parent employed full time, children are more likely to fall into poverty.<sup>65</sup> One of the factors that may affect a parent's ability to obtain employment, or training for employment, is access to childcare.

There is at least one state law that encourages employers to create childcare programs to assist in this area, but the impact of it is unclear.<sup>66</sup>

While a variety of state agencies seek to assist individuals, including parents and guardians with obtaining employment or training for employment, Recommendation #8 tasks Department of Social Services (DSS) personnel with taking lead in this collaboration effort. DSS personnel are asked to take lead as the mission of the DSS Division of Early Care and Education is "to make childcare more available and affordable to parents and to increase the quality of care for all children in the state."<sup>67</sup> Further, DSS manages state and federal childcare programs and is the point of contact for federal childcare dollars in South Carolina.<sup>68</sup>

#### Transparency and Accountability through Central Location of Plan, Results, and Other Information

RECOMMENDATION #9. Coordinating Council for Workforce Development ensure creation of a single online landing page for policy makers and the public, which contains the state unified education and workforce plan and access to reports and dashboards with information related to education and workforce, in collaboration with applicable agencies, including, but not limited to, agencies involved in the Early Childhood Advisory Council and the Department of Employment and Workforce, which administers the federal Workforce Innovation and Opportunity Act in South Carolina.

Recommendation #9 seeks to increase transparency as to the work of the Coordinating Council for Workforce Development, which is chaired by the Secretary of Commerce, by making materials more readily available to the public (i.e., suite of dashboards and analytic tools that can be accessed on a single platform). Implementation of this recommendation should include consideration of the information in Figure 13.

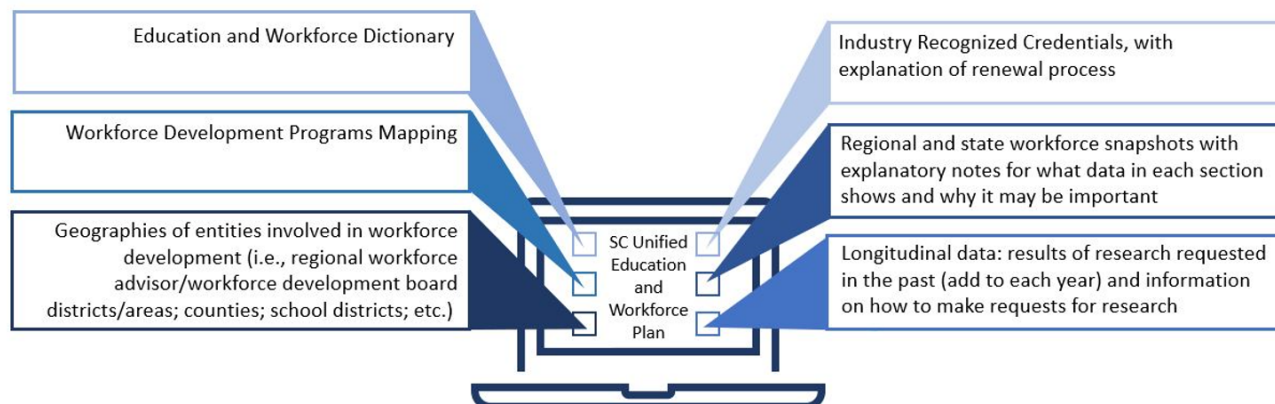


Figure 13. Recommendation #9 -implementation considerations<sup>69</sup>

**RECOMMENDATION #10.** Coordinating Council for Workforce Development, Department of Administration, and Revenue and Fiscal Affairs staff have discussions to explore the feasibility of a regular applied analytics training program through partnerships with state institutions of higher education and others to create an annual class fostering the generation of ideas and samples of more effective ways to utilize state agency data.

Recommendation #10 seeks to increase agency employee training on how to address challenges South Carolina state government entities face through the usage of data analysis tools.<sup>70</sup> Data analysis by state government agencies may help support transparency and accountability efforts and assist policymakers in making informed decisions.

Below is a brief explanation of an applied data analytics training program utilized by organizations in some states:

The Applied Data Analytics training program is a project-focused learning approach designed to train government employees and public policy analysts on how to tackle important policy problems by applying modern data analysis tools to their own confidential data. Agency staff are trained through direct use of their data to answer real, present policy questions they face and to develop practical tools after the training ends. A primary goal of the program is also to facilitate the establishment of a community of practice, by building relationships among and between agencies, universities, and non-profits.<sup>71</sup>

#### Efficiency and Effectiveness through Utilization of Common Terminology and Sharing of Information

**RECOMMENDATION #11.** Commission on Higher Education (CHE), State Technical College System (STCS), and Department of Employment and Workforce ensure annual publication of a return-on-investment catalogue that contains (1) return on investment for students, parents, businesses, and the state in higher education programs and post-secondary training; and (2) industry supply gap analysis at the state and region level that shows the most high-demand occupations and

assesses the number of completers for relevant secondary, post-secondary education, and work-based learning through Registered Apprenticeships. CHE and STCS collaborate with applicable agencies, including, but not limited to, agencies involved in the Early Childhood Advisory Council, Department of Employment and Workforces, which administers the federal Workforce Opportunity Innovation and Opportunity Act in South Carolina, and Coordinating Council for Workforce Development.

Recommendation #11 requests the publication of data of interest to help improve South Carolina's education and workforce development pipeline. As previously mentioned in Recommendation #10, data analysis by state government agencies may help support transparency and accountability efforts and assist policy makers and others (e.g., prospective students, businesses considering locating or expanding in South Carolina, educational institutions in determining curriculum offerings, etc.) in making informed decisions.

Data is available to implement this recommendation. For example, a 2017 study reported the following about South Carolina college graduates: (1) percentage found working in-state one- and five-years post-graduation, (2) annual earnings, (3) median earnings one- and five-years post-graduation, and (4) industry of employment one- and five-years post-graduation.<sup>72</sup> This information was obtained via a data sharing agreement between the Commission on Higher Education (CHE) and the Department of Employment and Workforce (DEW) to match all individuals who graduated from a public or independent institution of higher education in Fiscal Year 2009-10 and Fiscal Year 2014-15 with wage records.<sup>73</sup> Also, information on the students' degree level, state of origin, and classification of instructional program code (major) was provided by CHE while the wage record information was provided by DEW.<sup>74</sup>

As a second example, for almost 40 years, the Vocational Rehabilitation Department has reported on the cost benefit of its programs (e.g., most recent Accountability Report estimated that rehabilitated consumers will pay back \$4.49 for every dollar spent on their services by becoming taxpayers, repaying the cost of those services in approximately 3.9 years).<sup>75</sup> The purpose of this reporting was to prove whether overtime, programs from enactment of the federal Workforce Innovation Opportunity Act increased cost benefit ratio and rate of return, while decreasing the years required to repay costs.<sup>76</sup>

As a third example, since 2013, the Indiana Commission for Higher Education has produced an annual College Value Report that includes a publicly accessible, interactive dashboard detailing labor force outcomes of higher education pathways.<sup>77</sup>

Please see Appendix G for further information about industry supply gap analysis.

RECOMMENDATION #12. CCWD publish (i.e., update and issue after communicating with applicable parties): (1) new editions of the Education and Workforce Dictionary; (2) Workforce Development Program mapping and federal funding inventory, and (3) mapping and analysis from the February 2022 Subcommittee meeting.

In March 2021, the first edition of the Education and Workforce Dictionary was published; this dictionary contains “374 terms and 179 acronyms compiled by 11 separate agencies and entities.”<sup>78</sup> This resource, which identifies and defines various education workforce and economic development terminology, is posted on both Commerce’s website and on the state legislature’s website.<sup>79</sup> The dictionary facilitates conversation using common terminology to assist in evaluation and analysis of workforce development and education.<sup>80</sup> Recommendation #12 encourages annual updates to this resource.

Also, Recommendation #12 encourages completion of, and regular updates to, the Workforce Development Program mapping and federal funding inventory. An inventory was initially completed in 2005 through a grant provided by the South Carolina Chamber of Commerce.<sup>81</sup> It showed that combined there is at least \$321 million dollars of state and federal funds for employment and training services, with at least 87% being federal funds.<sup>82</sup> It further showed these state and federal workforce funds flow through numerous state agencies and programs.<sup>83</sup> Maintaining an updated inventory may assist in maximizing resources available to achieve the goals of the statewide workforce plan.<sup>84</sup>

Lastly, during a February 2022 House Legislative Oversight Subcommittee meeting, activities relating to education and workforce development were discussed from the perspective of those learning (i.e., activities for early age children through adult) as well as from those hiring (i.e., activities that help increase number of jobs available).<sup>85</sup> Figure 14 includes some of the information from that discussion. Maintaining an updated version of this flow chart may help avoid duplication and promote co-enrollment to maximize benefits.



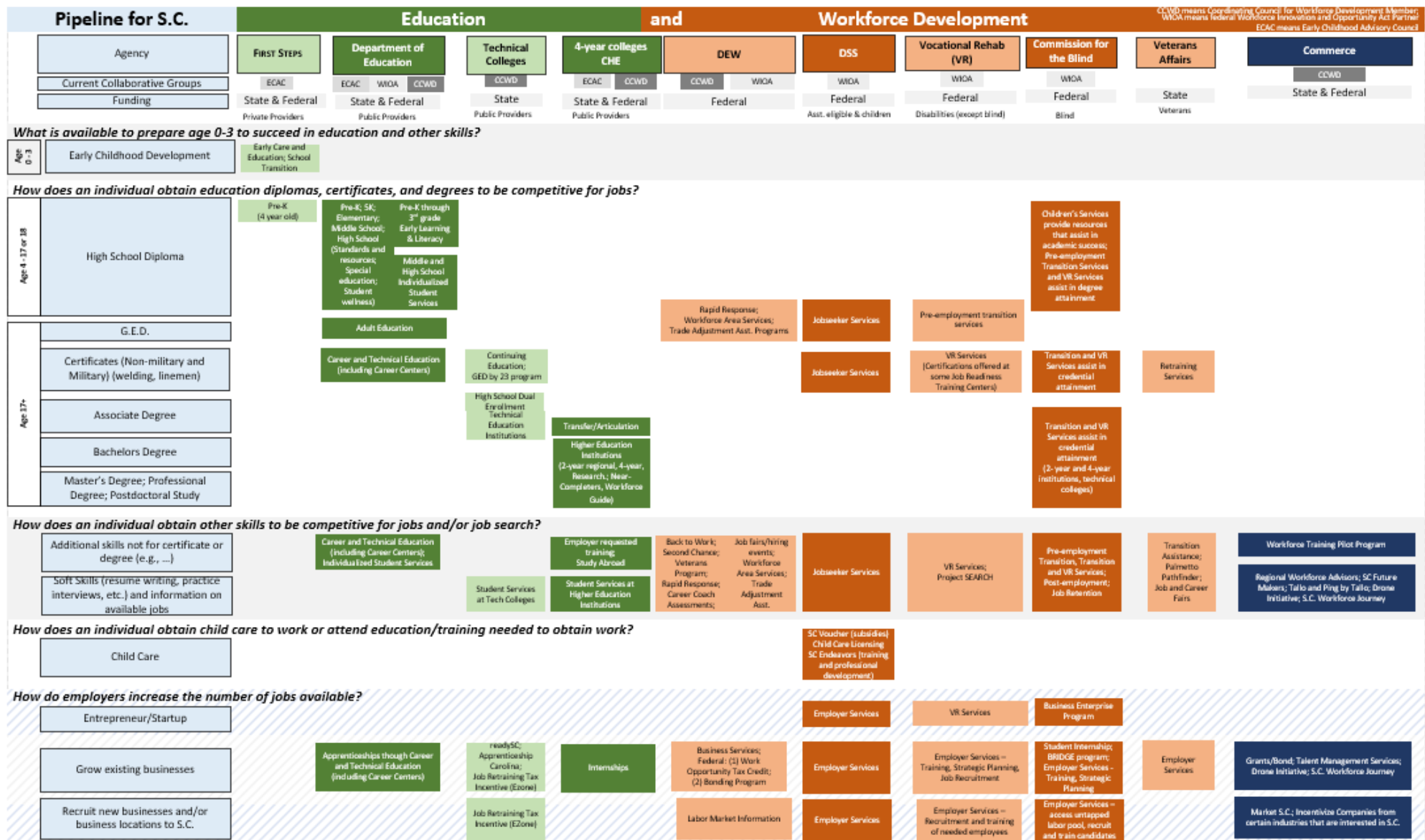


Figure 14. Education and workforce development pipeline

**RECOMMENDATION #13.** CCWD ensure applicable memorandums of understanding with necessary entities are entered within six months after issuance of the full House Oversight study report for establishment of evidence building system to analyze and improve long term outcomes of education and workforce programs; then work with Revenue and Fiscal Affairs Office (RFA) and Education Oversight Committee (EOC) to construct said system.

As previously mentioned in Recommendation #10, data analysis by state government agencies may help support transparency and accountability efforts and assist policy makers in making informed decisions. As stakeholders (i.e., affected state agencies) have determined no additional legislation is needed to move forward with creation of an evidence building system to analyze and improve long term outcomes of education and workforce programs (i.e., longitudinal data), Recommendation #13 requests these stakeholders complete requisite memorandums of understanding to establish the system.<sup>86</sup> Establishment of the system should eventually include creation of a suite of dashboards and analytics tools accessible on a single state platform by all stakeholders.<sup>87</sup>

Table 5. Selected comparison of best-in-class state longitudinal data systems (SLDS)<sup>88</sup>

Best-in-Class SLDS Data Capabilities	Best-in-Class SLDS States			
	Indiana	Kentucky	Minnesota	South Carolina
<b>Early Childhood and Elementary Education</b> Available for districts, counties, and state: • Early childhood enrollment data • Program quality and demographics • Impact on K-3 performance	✓		✓	✓
<b>Secondary Education: General</b> Available for high school graduates: • Employment and wage outcomes • Industry-level employment data • In-state versus out-of-state outcomes	✓	✓	✓	
<b>Secondary Education: CTE</b> Available for CTE participants: • Employment and wage outcomes • Industry-level employment data • In-state versus out-of-state outcomes	✓	✓	✓	
<b>Post-Secondary Education</b> Available for post-secondary graduates by institution: • Employment and wage outcomes • Industry-level employment data • In-state versus out-of-state outcomes	✓	✓	✓	
<b>Labor Market Forecasting, Analysis and In-Demand Credentials</b> Available for districts and WFD regions: • Supply-demand analyses • Programs for high-demand jobs • Employment and wage forecasts • Includes all/most non-degree credentials	✓	✓		

Capturing and analyzing longitudinal data (1) facilitates stakeholders' understanding of programmatic outcomes, and (2) promotes more informed decisions. More specifically, decision-makers can assess whether investments in education and certain training programs produce employment in specific industries (e.g., do students enrolled in certain industry clusters in K-12 ultimately obtain employment in that industry), as well as what combination of programs assist an individual in obtaining raises at current jobs or higher paying jobs at other companies.

Table 5 includes information available from states with best-in-class longitudinal data systems and information available in South Carolina.<sup>89</sup>

Table Note: For more information on Indiana, Kentucky, and Minnesota, see Appendix H.

In building the system, stakeholders may wish to consult with the United States Board of Economic Analysis' Advisory Committee on Data for Evidence Building and should consider the information in Figure 15.<sup>90</sup>

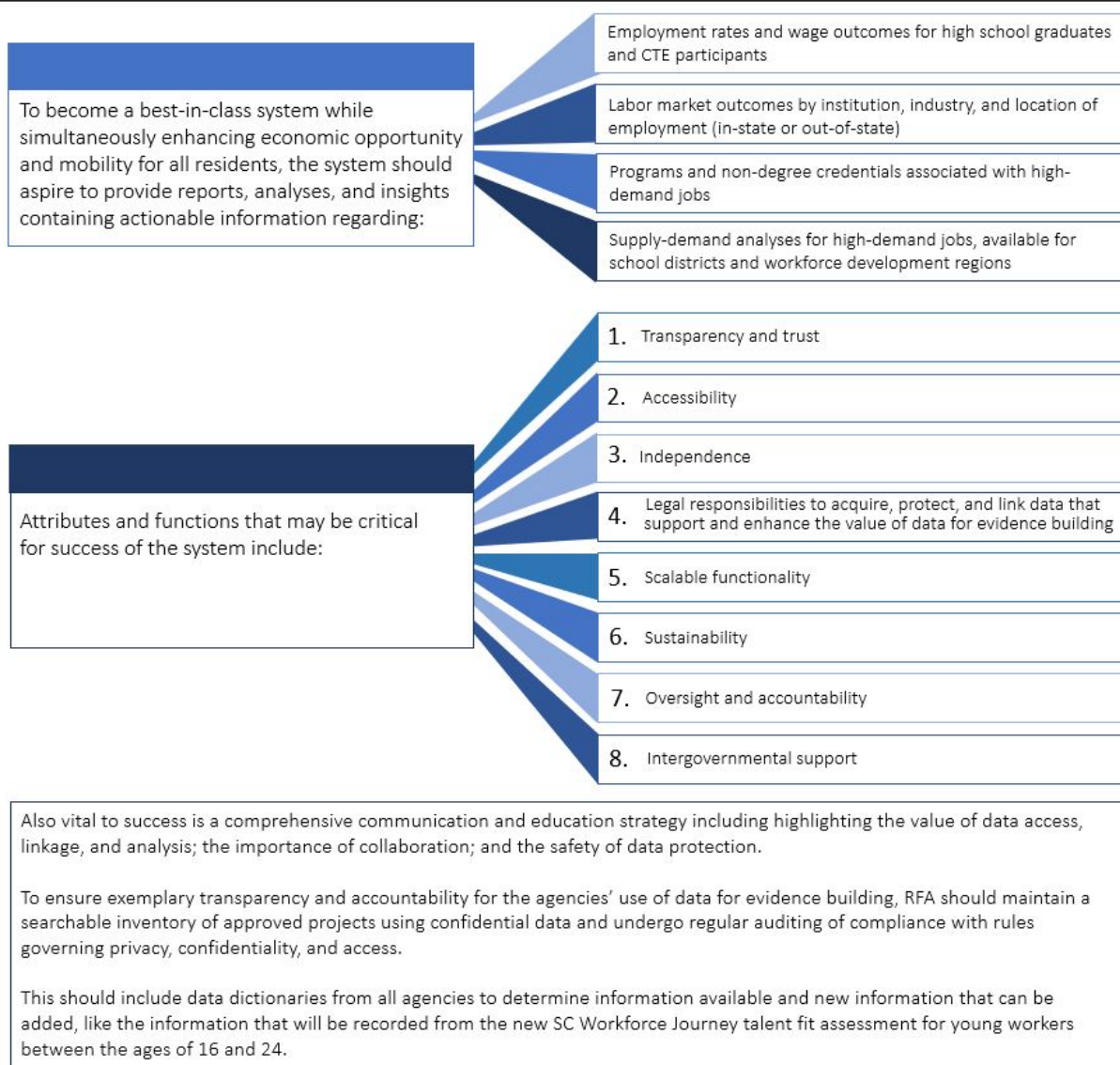


Figure 15. Recommendation #13 - implementation considerations<sup>91</sup>

**RECOMMENDATION #14.** Agencies participating in various education and workforce development collaborative groups discussed in the February 2022 Subcommittee meeting (i.e., CCWD, CCED, ECAC, EEDA, and WIOA) determine any other state entities with information on credentials and licenses for workforce and request those entities enter data sharing agreements with RFA. As part of the data sharing agreements, they should, at a minimum, provide RFA permission to continuously utilize data in answering CCWD questions applicable to aggregate information on credentialed/licensed individuals in the state for supply/gap analysis (e.g.,



number of credentialed nurses, number who may retire in the next five to ten years, and number the state will need educational entities to produce).

Recommendation #14 requests state entities with information on workforce credentials and licensing share information to help improve South Carolina's education and workforce development pipeline. As background, in 2018, a starting point for high school industry certifications was approved by the Education Oversight Committee and endorsed by the Coordinating Council for Workforce Development.<sup>92</sup> As previously mentioned in Recommendation #10, data analysis by state government agencies may help support transparency and accountability efforts and assist policy makers in making informed decisions.

**RECOMMENDATION #15.** Department of Education collaborate with the Education Oversight Committee and Revenue and Fiscal Affairs Office to determine how school districts obtain, collect, and transmit information within the education system from the initial person with access to the information (e.g., student, teacher, etc.) forward and determine who owns and may access data at the local, state, and federal level.

As previously mentioned in Recommendation #10, data analysis by state government agencies may help support transparency and accountability efforts and assist policy makers in making informed decisions. This process begins with understanding what data is available, how it is collected, and who has access to the data. For example, redundant, manual entry of data is inefficient and may lead to errors in the data.

Recommendation #15 requests the Department of Education collaborate with the Education Oversight Committee and Revenue and Fiscal Affairs Office to determine (1) data collected (e.g., students, teachers, testing) and purpose (e.g., transferring schools, applying to post-secondary, reporting at state level, etc.); and (2) how the data is currently collected and transmitted from the initial person with access to the information forward.

According to the Department of Education, a potential obstacle in successfully implementing a statewide unified workforce plan is that a majority of data is self-reported.<sup>93</sup> Specifically, in the K-12 system, most data is collected from individual school districts and is based on the information each has provided.<sup>94</sup> However, technical assistance and training on specific data needed and the process of how to report may help ensure accuracy.<sup>95</sup>

An objective of this collaboration is to generate options for how to collect the data in a more standard but flexible manner across the state that facilitates data analysis by various stakeholders (e.g., state, school districts, and schools). As the designated lead in the collaboration, Department of Education personnel are asked to provide at least three options, with costs involved of each, in a report to the Committee outlining the current issues with data collection as well as pros and cons of each option.

RECOMMENDATION #16. CCWD convene applicable stakeholders and, within one year fter issuance of the Committee’s study report, provide the Committee options for how to efficiently obtain occupational codes and wage and hour information (e.g., central portal, etc.) to improve the value of the evidence building system along with the short- and long-term benefits to the state, businesses, education entities, and individuals of having this information and the potential burdens of each option.

As evidenced by the February 2022 Subcommittee meeting involving many of the state agencies involved in the state’s education and workforce development pipeline, there are many applicable stakeholders that may benefit from access to occupational codes and wage and hour information. For example, access to this information may assist education and workforce development partners in tracking outcome of various education and training programs. As another example, access to this information may help identify and address actual workforce needs. The potential benefits (i.e., two examples noted here) from access to this information were noted five years ago in a 2017 annual report published by the Coordinating Council on Workforce Development.<sup>96</sup>

Notably, Minnesota’s Statewide Longitudinal Education Data System obtains and reports data on graduates that enter the workforce directly out of high school. Specifically, the largest school district in Minnesota analyzes how many of their high school graduates are employed and earning a living wage to improve programs and align curricula to the needs of local employers.<sup>97</sup>

Pursuant to 2022 legislative revisions, the Education and Economic Development Act (EEDA) now fall under the CCWD. Additionally, the following statutory responsibilities were added to CCWD:

Section 59-18-1950.

(A) The General Assembly recognizes the importance of having a state longitudinal data system to inform policy and fiscal decisions related to early childhood education, public education, postsecondary preparedness and success, and workforce development.

(B)(1) The Revenue and Fiscal Affairs Office, working with the Office of First Steps to School Readiness, the South Carolina Department of Education, the South Carolina Commission on Higher Education, the Department of Social Services, the South Carolina Technical College System, the Department of Commerce, the Department of Employment and Workforce, and other state agencies or institutions of higher education, shall develop, implement, and maintain a universal identification system that includes, at a minimum, the following information for measuring the continuous improvement of the state public education system and the college and career readiness and success of its graduates:

- (a) students graduating from public high schools in the State who enter postsecondary education without the need for remediation;
  - (b) working-aged adults in South Carolina by county who possess a postsecondary degree or industry credential;
  - (c) high school graduates who are gainfully employed in the State within five and ten years of graduating from high school; and
  - (d) outcome data regarding student achievement and student growth that will assist colleges of education in achieving accreditation and in improving the quality of teachers in classrooms.
- (2) All information disseminated will conform to state and federal privacy laws.

## Statute Modernization

The Subcommittee makes various recommendations relating to statute modernization, and a summary is in Table 6.

Table 6. Summary of modernizing laws recommendations

STATUTE MODERNIZATION	<p><b>AGENCY ADMINISTRATION</b></p> <p>17. Amend S.C. Code of Laws Section 13-1-320, which establishes Commerce’s Division of State Development, to delete obsolete language and add objectives related to promotion of strategic planning and rural and workforce development. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #1, #5 AND #10</small></p> <p>18. Amend S.C. Code of Laws Section 13-1-330, which outlines specific division of Commerce and specific requirements for agency leadership. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #6</small></p> <p>19. Amend S.C. Code of Laws Section 13-1-340, which outlines the director’s duties, powers, and responsibilities, to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #7</small></p> <p>20. Amend S.C. Code of Laws Section 13-1-350, which requires the director to assume duties of former boards, commissions, and councils to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #8</small></p> <p>21. Repeal S.C. Code of Laws Section 13-1-370, which allows the Secretary of Commerce to establish an advisory committee to the Division of State Development, as provisions are duplicate. Move identification of challenges facing rural communities and solutions to agency objectives under S.C. Code of Laws Section 13-1-320. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #10</small></p>
	<p><b>OUTDATED PROVISIONS RELATING TO COMMERCE’S INTERACTION WITH THE AERONAUTICS COMMISSION</b></p> <p>22. Relocate the Aeronautics Commission’s enabling legislation (Title 13, Chapter 1 of the South Carolina Code of Laws) out of middle of statutes relating to Commerce to reduce confusion as the Commission is no longer a division of Commerce. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #3</small></p> <p>23. Amend S.C. Code of Laws Section 15-9-390 to revert to the Aeronautics Commission from Secretary of Commerce serving as the agent for service of process of nonresident operators of aircraft. Commerce was substituted for the Commission when Aeronautics was a division of Commerce; however, now the Aeronautics Commission has been reconstituted. <small>SEE AGENCY LAW CHANGE PER RECOMMENDATION #21</small></p>

#### OUTDATED PROVISIONS RELATING TO COMMERCE'S INTERACTION WITH OTHER STATE ENTITIES

24. Repeal S.C. Code Section 11-37-200, which establishes the Water Resources Coordinating Council and makes the Secretary of Commerce a member, as the Council is defunct.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #19</sup>
25. Remove references to the Department of Commerce in S.C. Code Section 24-1-290, pertaining to the Prison Industries Program at the Department of Corrections, as agency personnel assert Commerce does not have the data to provide the statutorily mandated certification.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #14</sup>
26. Remove references in various statutes to the Department of Commerce's oversight role in housing related matters.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #15 AND #20</sup>

#### COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT

27. Update the enabling legislation for the Coordinating Council for Economic Development, which is chaired by the Secretary of Commerce.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #12 AND #17</sup>

As agency personnel testified during the study, the current statutory framework has not limited in any material way what Commerce can do in fulfilling its mission generally and in implementing specific programs.<sup>98</sup> That said, the Committee's review process provided an opportunity for agency personnel to offer suggestions to streamline and update the agency's statutory framework for the future.

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

#### AGENCY ADMINISTRATION

Recommendations #17-#21 seek to modernize laws relating to the operations of Department of Commerce. See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

**RECOMMENDATION #17.** Amend S.C. Code of Laws Section 13-1-320, which establishes Commerce's Division of State Development, to delete obsolete language and add objectives related to promotion of strategic planning and rural and workforce development.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #1, #5 AND #10</sup>

RECOMMENDATION #18. Amend S.C. Code of Laws Section 13-1-330, which outlines specific division of Commerce and specific requirements for agency leadership.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #6</sup>

RECOMMENDATION #19. Amend S.C. Code of Laws Section 13-1-340, which outlines the director's duties, powers, and responsibilities, to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #7</sup>

RECOMMENDATION #20. Amend S.C. Code of Laws Section 13-1-350, which requires the director to assume duties of former boards, commissions, and councils to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #8</sup>

RECOMMENDATION #21. Repeal S.C. Code of Laws Section 13-1-370, which allows the Secretary of Commerce to establish an advisory committee to the Division of State Development, as provisions are duplicate. Move identification of challenges facing rural communities and solutions to agency objectives under S.C. Code of Laws Section 13-1-320.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #10</sup>

#### OUTDATED PROVISIONS RELATING TO COMMERCE'S INTERACTION WITH THE AERONAUTICS COMMISSION

Recommendations #22 and #23 seek to modernize outdated provisions relating to the Department of Commerce's interaction with the Aeronautics Commission, which was a division of Commerce from 1993-2009. The Committee completed a review of the Aeronautics Commission in October 2019.

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

RECOMMENDATION #22. Relocate the Aeronautics Commission's enabling legislation (Title 13, Chapter 1 of the South Carolina Code of Laws) out of middle of statutes relating to Commerce to reduce confusion as the Commission is no longer a division of Commerce.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #3</sup>

RECOMMENDATION #23. Amend S.C. Code of Laws Section 15-9-390 to revert to the Aeronautics Commission from Secretary of Commerce serving as the agent for service of process of nonresident operators of aircraft. Commerce was substituted for the Commission when Aeronautics was a division of Commerce; however, now the Aeronautics Commission has been reconstituted.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #21</sup>

## OUTDATED PROVISIONS RELATING TO COMMERCE'S INTERACTION WITH OTHER STATE ENTITIES

Recommendations #24 - #26 seek to modernize outdated provisions relating to the Department of Commerce's interaction with other state entities (e.g., Department of Corrections, Rural Infrastructure Authority, etc.).

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

**RECOMMENDATION #24. Repeal S.C. Code Section 11-37-200, which establishes the Water Resources Coordinating Council and makes the Secretary of Commerce a member, as the Council is defunct.** SEE AGENCY LAW CHANGE PER RECOMMENDATION #19

Notably, this statute modernization recommendation was included in the Committee's December 2019 review of the Rural Infrastructure Authority.

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

**RECOMMENDATION #25. Remove references to the Department of Commerce in S.C. Code Section 24-1-290, pertaining to the Prison Industries Program at the Department of Corrections, as agency personnel assert Commerce does not have the data to provide the statutorily mandated certification.** SEE AGENCY LAW CHANGE PER RECOMMENDATION #14

**RECOMMENDATION #26. Remove references in various statutes to the Department of Commerce's oversight role in housing related matters.** SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #15 AND #20

These housing oversight duties were given to the State Development Board director in 1959. During the study, agency personnel noted for over 60 years, leaders of the former State Development Board and -now Commerce -have advised the General Assembly that housing oversight responsibilities refereeing the agency should be deleted from statute.

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

## OUTDATED PROVISIONS RELATING TO Coordinating Council for Economic Development (CCDE)

**RECOMMENDATION #27.** Update the enabling legislation for the Coordinating Council for Economic Development, which is chaired by the Secretary of Commerce.<sup>SEE AGENCY LAW CHANGE PER</sup>

RECOMMENDATIONS #12 AND #17

Among other things, these updates include:

- Moving reference to a strategic planning mandate that Commerce is fulfilling;
- Adds program under Coordinating Council for Economic Development (CCED) to reflect what is already occurring;
- Updates report requirements relating to discretionary grant funding and the funding mechanism for CCED that have been established by proviso for more than two decades.

See Appendix I for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Committee recommends the General Assembly consider these statutory modernization requests made by Commerce personnel.

### *State Personnel*

The Subcommittee makes two recommendations relating to state personnel, and a summary is in Table 7.

Table 7. Summary of state personnel recommendations

STATE PERSONNEL	<b>28. Department of Administration</b> personnel work with <b>Department of Commerce</b> personnel to ensure the data entered in NeoGov is accurate so Commerce can fully maximize the benefits of current auto-reporting capabilities, including, but not limited to, those required by <b>Human Affairs Commission</b> .
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**RECOMMENDATION #28.** Department of Administration personnel work with Department of Commerce personnel to ensure the data entered in NeoGov is accurate so Commerce can fully maximize the benefits of current auto-reporting capabilities, including, but not limited to, those required by Human Affairs Commission.

Recommendation #28 is offered to help increase efficiency and accuracy in state reporting. Currently, Commerce personnel must manually type information from one database into a required report to the Human Affairs Commission on the status of equal employment opportunity at the agency.<sup>99</sup> During the study, Commerce personnel suggested maximizing the benefits of current auto-reporting capabilities with existing human resources software (i.e., Neogov).<sup>100</sup> As noted in the discussion of Recommendation #15, redundant, manual entry of data is inefficient and may lead to errors in the data.



## General

The Subcommittee makes four general recommendations, and a summary is in Table 8.

Table 8. Summary of general recommendations

GENERAL	<p>29. <b>Agencies involved in the February 2022 Subcommittee meeting</b> (i.e., Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) enter a data sharing agreement with Revenue and Fiscal Affairs Office to facilitate analysis that may assist the General Assembly with policy decisions.</p> <p>30. <b>General Assembly</b> consider options to further ensure the accountability of funds that pass-through agencies to other entities.</p> <p>31. <b>Department of Administration</b> personnel discuss with the <b>Department of Commerce</b> personnel the potential benefits of using a digital onboarding tool to determine if it may be useful to the Division of State Human Resources in addressing high turnover in some agencies across state government.</p> <p>32. <b>Department of Administration</b> track the number of agency personnel projects from the certified public manager training that are implemented by agencies.</p>
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**RECOMMENDATION #29.** Agencies involved in the February 2022 Subcommittee meeting (i.e., Commission for the Blind, Commission on Higher Education, Department of Commerce, Department of Education, Department of Employment and Workforce, Department of Social Services, Department of Veterans' Affairs, First Steps, State Technical College System, and Vocational Rehabilitation Department) enter a data sharing agreement with Revenue and Fiscal Affairs Office to facilitate analysis that may assist the General Assembly with policy decisions.

Recommendation #29 seeks to foster data analysis. Data analysis by state government agencies may help support transparency and accountability efforts and assist policymakers in making informed decisions, especially when different agencies have interrelated data. See Figure 16 for examples of entities that track interrelated economic data.

The agreement among the education and workforce development pipeline state agencies should share information at least annually and include, but is not limited to, the following from Commerce: various maps; number of

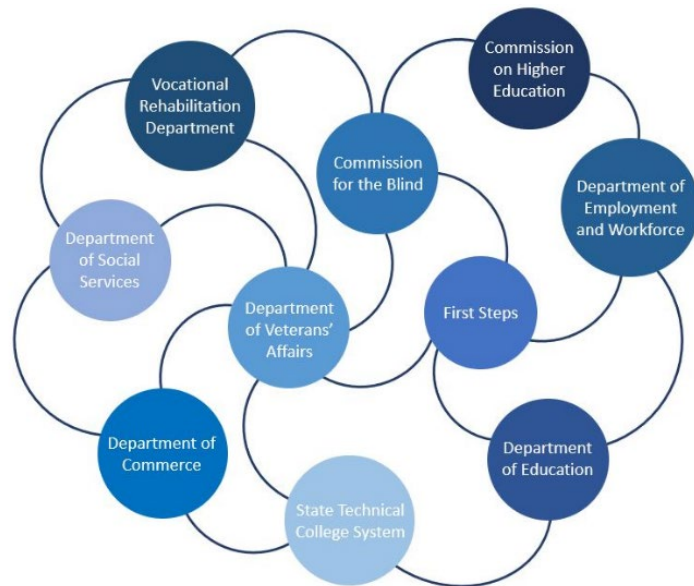


Figure 16. Examples of entities that track interrelated economic data<sup>101</sup>

recruited jobs and investment by county, sector, etc.; county development tiers with the supporting data and explanation; regional workforce advisor areas; workforce industry clusters offered by school district; locations of companies, regional alliances, and other economic development data; location of major water and sewer lines.<sup>102</sup>

**RECOMMENDATION #30.** General Assembly consider options to further ensure the accountability of funds that pass-through agencies to other entities.

The General Assembly may wish to consider options to further ensure the accountability of funds that pass-through agencies to other entities.

Observations of agency personnel directly interacting with the entities receiving the pass-through funding indicate continual review of the process may be warranted. For example, Commerce personnel testified in fiscal year 2018-2019 an entity received \$250,000 in pass-

through funding from the agency when public records reflect a little over \$32,000 worth of activity by the entity in the prior year.<sup>103</sup>

Also, Commerce personnel noted an accountability measure included in agency contracts that may

*Figure 17. Potential options that may increase accountability in pass-through funding<sup>104</sup>*

be of interest. In contracts where work is implemented over a period of months or years, Commerce personnel testified an

implementation fee paid out pro rata when certain deliverables are completed worked well and helped ensure funds were not extended until services were provided.<sup>105</sup> See Figure 17 for potential options that may increase accountability.

### Considerations that may further ensure accountability



#### Amount

Consider whether the amount provided is greater than historical revenue generated by the entity (e.g., past one or two years)



#### Timing

Consider providing installment payments based on certain milestones (e.g., amount of additional outside money raised/generated) or providing reimbursement after completion of a specific project rather than a single upfront, lump sum payment



#### Testimony

Consider receiving direct testimony from representatives of the entities receiving the funding (e.g., customer satisfaction, sustainability plans, availability of matching funds)

**RECOMMENDATION #31.** Department of Administration personnel discuss with the Department of Commerce personnel the potential benefits of using a digital onboarding tool to determine if it may be useful to the Division of State Human Resources in addressing high turnover in some agencies across state government.

During the study, Department of Commerce personnel discussed a digital onboarding tool that provides a “gaming type environment.”<sup>106</sup> Recommendation #20 encourages collaboration between personnel with Commerce and the Department of Administration to see if state agency employees/candidates for employment may benefit from digital onboarding tools simulating the actual work environment. Benefits may include improved on-boarding process, application screening, and/or retention of current employees.<sup>107</sup>

**RECOMMENDATION #32. Department of Administration track the number of agency personnel projects from the certified public manager training that are implemented by agencies.**

Established in 1996, South Carolina's Certified Public Manager Program (CPM) is accredited by the National CPM Consortium.<sup>108</sup> The 18-month program is offered by the Department of Administration for a fee of \$2,150, and the curriculum, among other things, includes a project requirement.<sup>109</sup> As of June 2022, approximately 600 final CPM project reports are in the South Carolina State Documents Depository.<sup>110</sup> Recommendation #32 seeks to obtain implementation information about these projects and in the process recognize the innovative ideas suggested by state employees. Additionally, this information may help inform individual agency decisions pertaining to participation in the CPM program, including incentivizing innovation (e.g., employee may be awarded a bonus if the CPM project is implemented).

## STUDY RELATED INTERNAL CHANGES

During the study process, there are seven internal changes implemented by the Department of Commerce and three internal changes made by other agencies, all relating to participation in the study process.

### *Internal Changes Made by Department of Commerce*

#### Human Resources

**Agency Internal Change #1.** Department of Commerce personnel completed the State Human Resources remote working toolkit, and a telecommuting plan for the agency was approved by the Department of Administration in November 2021.<sup>111</sup>

#### Business Recruitment Accountability and Transparency

**Agency Internal Change #2.** Department of Commerce personnel began utilizing the Governmental Enterprise Accounts Receivable (GEAR) program, which is administered by the Department of Revenue, to collect funds from companies that breached agreements.<sup>112</sup>

**Agency Internal Change #3.** Coordinating Council for Economic Development updated terms in in grant and incentive related agreements, including: (a) setting a period of time in which a company has to respond or is turned over to GEAR; (b) language to address if a company receiving a grant or incentives is purchased by another company; and (c) company agrees GEAR will be utilized after a set number of days.<sup>113</sup>

**Agency Internal Change #4.** Department of Commerce personnel, which staff the Coordinating Council for Economic Development (CCED) and Coordinating Council on Workforce Development (CCWD) have increased transparency in the publications of these councils. Specifically, they (1) began outlining any changes in the standard terms of incentive agreements (e.g., revitalization, grant) in the CCED annual report; (2) will add the reason for amendments to performance requirements of any existing agreements prospectively starting with the 2023 CCED annual report; (3) will include additional explanations regarding repayments CCED votes to write off or waive in part or full prospectively starting with the 2023 CCED annual report; and (4) will include statewide regional education and economic snapshots, in addition to snapshots with the same information by regional workforce advisor area, to the CCWD annual report.<sup>114</sup>

#### Coordinating Council for Economic Development

**Agency Internal Change #5.** The Coordinating Council for Economic Development (CCED) updates its policy in March 2022 to require CCED staff share with them information on all companies that owe money for failing to meet obligations on a quarterly basis. When sharing the information with CCED, CCED staff group the companies (e.g., companies that underperformed in one area but overperformed in another, companies that are bankrupt, etc.).

## *Internal Changes Made by Other Agencies*

### Performance Evaluation

**Internal Change #6.** State Technical College System personnel began requesting information to track employment success of individuals receiving continuing education.<sup>115</sup>

### Increased Collaboration

**Internal Change #7.** Multiple state agencies (i.e., Department of Administration, Department of Natural Resources, Department of Parks, Recreation and Tourism, Forestry Commission, and Conservation Bank) now provide various information to the Revenue and Fiscal Affairs Office (RFA) for use in RFA's Locateme and Public Dashboard applications.<sup>116</sup> Examples of information that will be available include location of state agency property and operations; state and federal parks, forests, conservation areas, etc.

**Internal Change #8.** Education and workforce development entities (i.e., Commission for the Blind, Commission on Higher Education, Department of Education, Department of Employment and Workforce, Department of Veterans' Affairs; and First Steps to School Readiness) have increased collaboration efforts.<sup>117</sup>

## SELECTED AGENCY INFORMATION

**Department of Commerce. “Program Evaluation Report (PER) – Complete Report (March 13, 2020)”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Commerce%20-%20PER%20-%20Full%20Report.pdf>

**Department of Commerce. “Restructuring and Seven-Year Plan Report, 2015.”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Commerce%20-%202015%20Restructuring%20and%20Seven-Year%20Plan%20Report.pdf>

**Department of Commerce. “Agency Accountability Report, 2020-2021.”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/aar2021/H470.pdf>

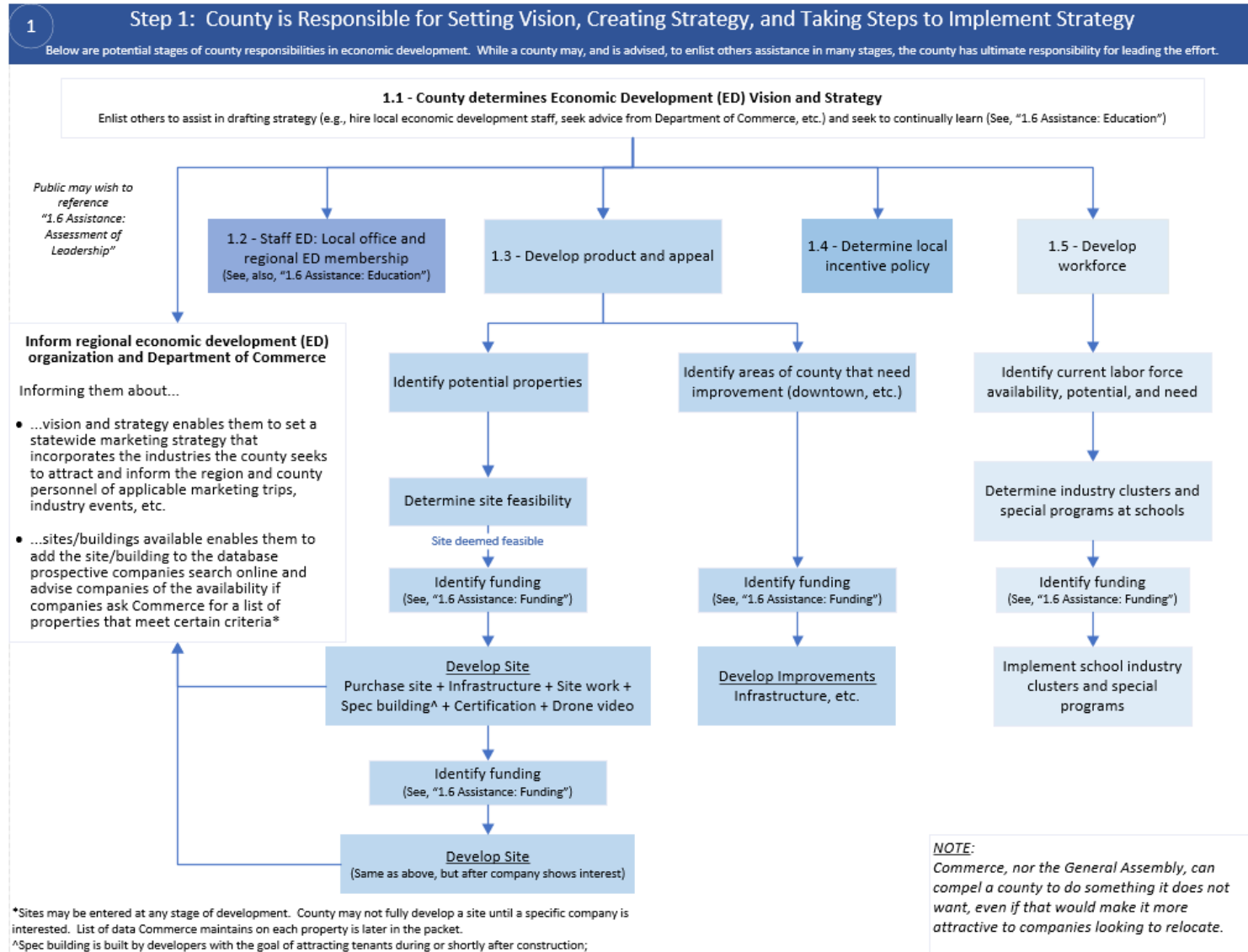
**S.C. House of Representatives, Legislative Oversight Committee. “Survey Results.”**

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public\\_Survey\\_Responses\\_2020.PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public_Survey_Responses_2020.PDF)

## REPORT ACTIONS

FULL COMMITTEE OPTIONS STANDARD PRACTICE 12.4	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
<p>(1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation;</p> <p>(2) Approve the Subcommittee’s study; or</p> <p>(3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight.</p>	<p>Subcommittee study report available for consideration</p> <p>Subcommittee study presentation and discussion</p> <p>Approval of the Subcommittee’s study</p>	

## APPENDIX A – BUSINESS RECRUITMENT PROCESS



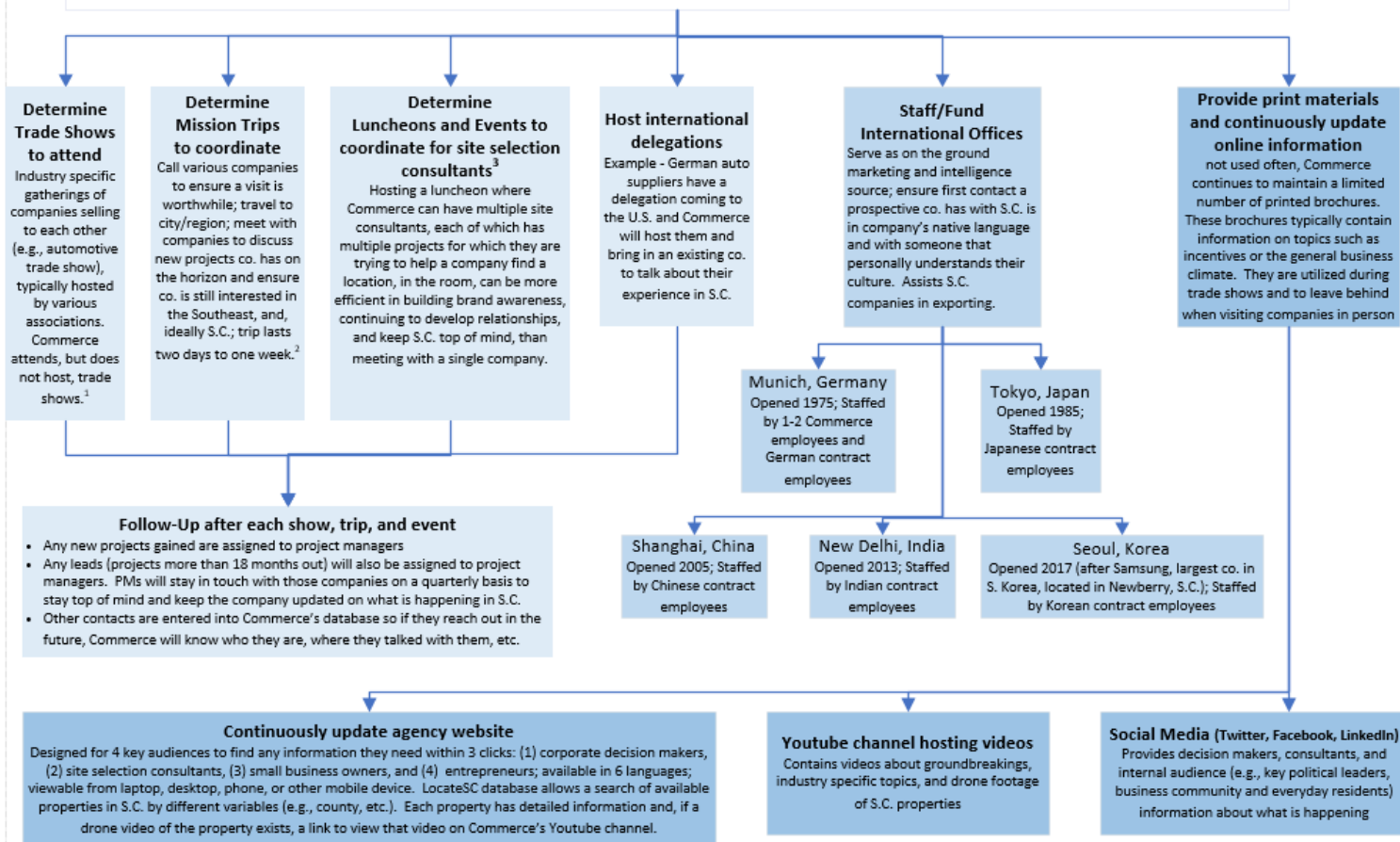
Appendix A Figure 1. Business recruitment process – Step 1: County is responsible for setting vision, creating strategy, and taking steps to implement strategy



## Step 2: Department of Commerce is Responsible for Aligning and Coordinating Marketing of S.C.

Commerce must align S.C.'s advantages/disadvantages with S.C. region/county visions, then coordinate activities to stay top of mind in sectors that best match.

### 2.1 Department of Commerce Reviews (1) Results from Previous Years and (2) Strategy for the Future



<sup>1</sup>An S.C. team attending will include personnel from Commerce, regional alliances, and local partners. Personnel will rotate around doing one of the following: (1) manning the S.C. booth; (2) attending pre-set appointments with companies at the show that Commerce has reached out to before the show; and (3) walking around the show to talk with companies with booths (this is a little more like cold calling).

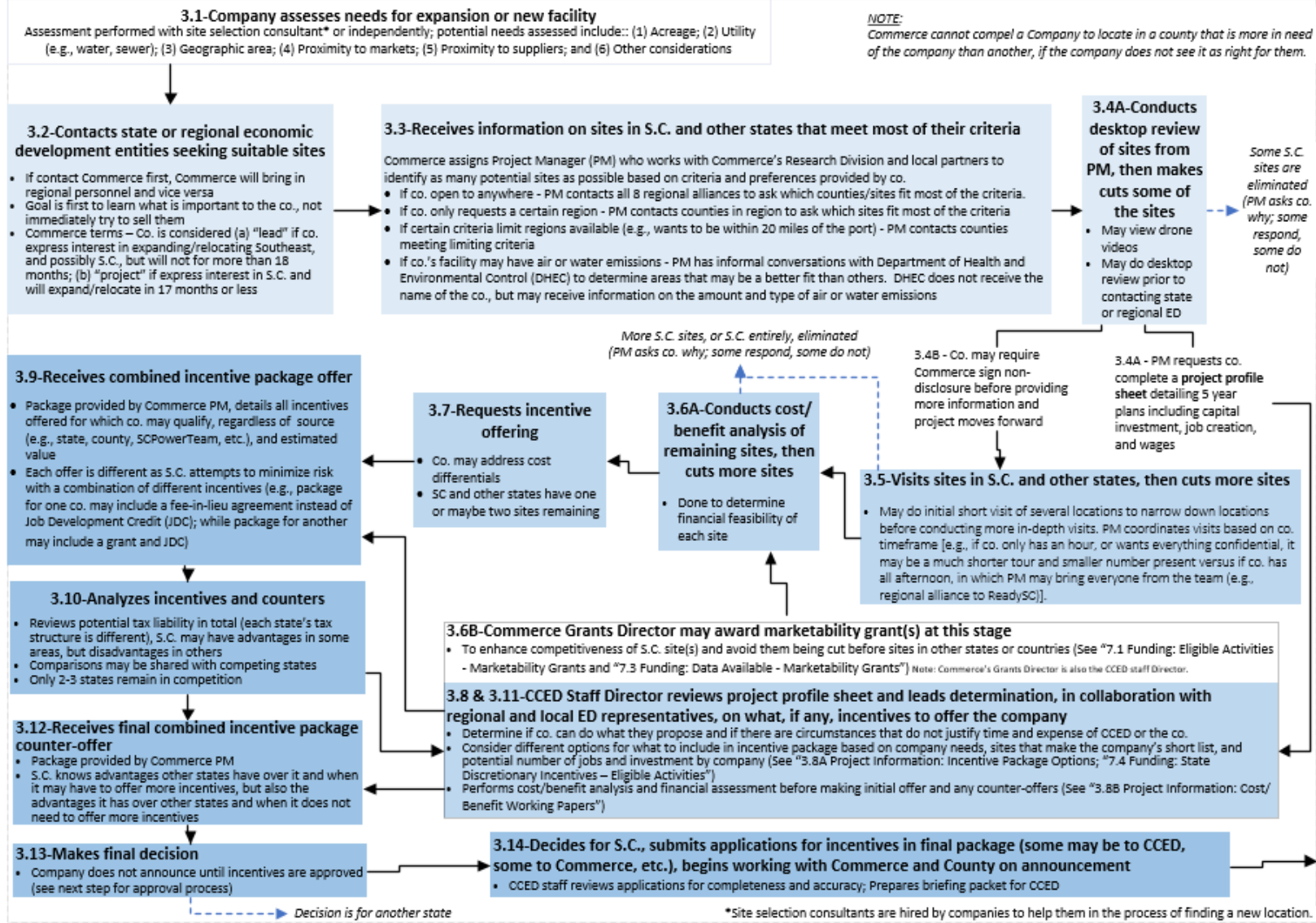
<sup>2</sup>An S.C. team on a mission trip will include personnel from Commerce, regional alliances, and local partners.

<sup>3</sup>Small to medium sized co. may hire them to guide the co. through the process because the co. does not have the expertise (e.g., they may have never done it before and don't want to make a mistake), manpower, or time to do it themselves. Larger co. may have an internal team but hire an outside person to help guide them to remove any potential internal bias their own team have for or against certain areas.

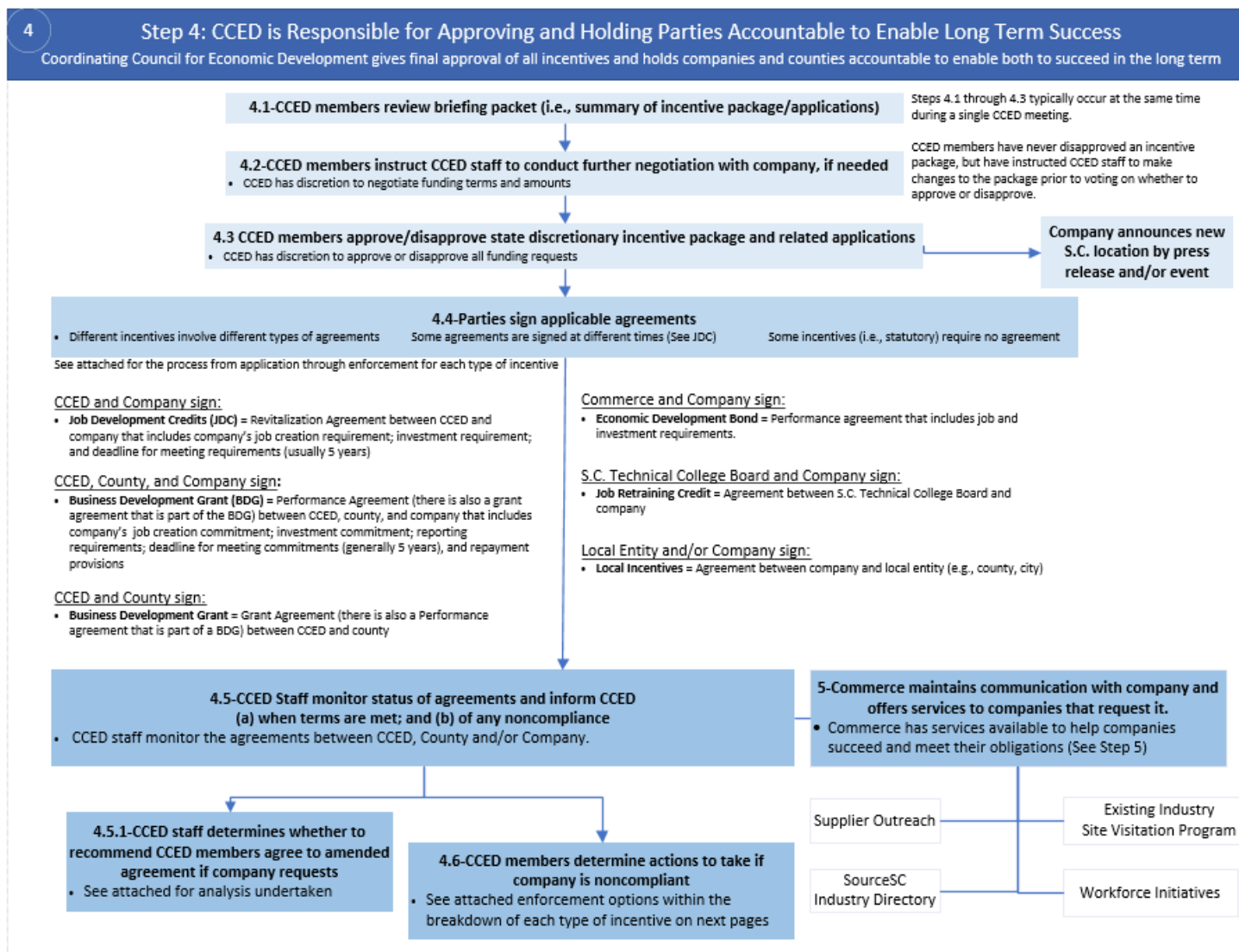
Appendix A Figure 2. Business recruitment process – Step 2: Department of Commerce is responsible for aligning and coordinating marketing of South Carolina

### Step 3: Company is Responsible for Determining Need for Expansion or New Facility and Leading Site Selection

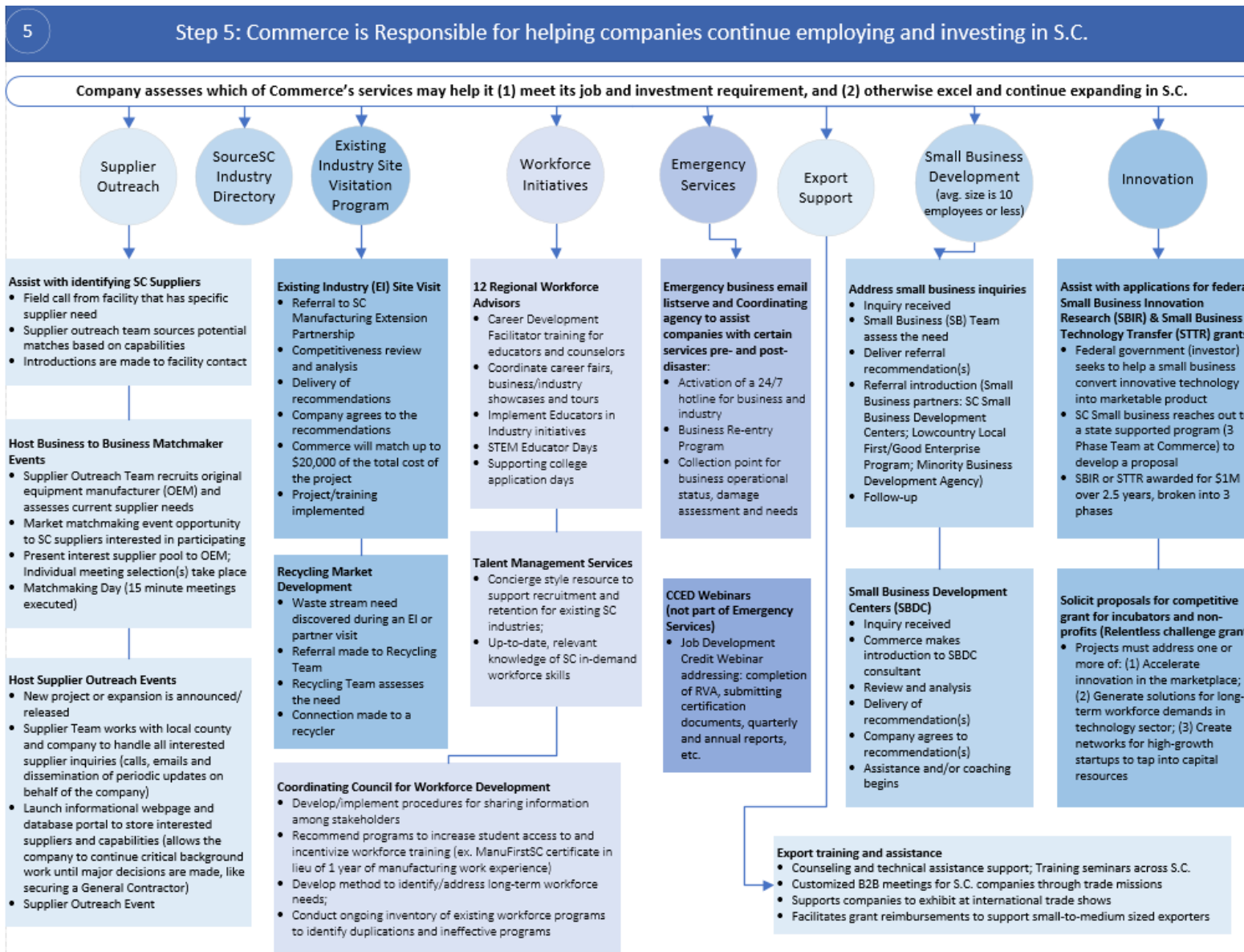
Company typically decides to expand or relocate because of a need to grow (e.g., new customer, product, market to reach, etc.)



Appendix A Figure 1. Business recruitment process – Step 3: Company is responsible for determining need for expansion or new facility and leading site selection



Appendix A Figure 1. Business recruitment process – Step 4: CCED is responsible for approving and holding parties accountable to enable long term success



Appendix A Figure 1. Business recruitment process – Step 5: Commerce is responsible for helping companies continue employing and investing in South Carolina

## APPENDIX B – COUNTY TIERS 2011-2022

“South Carolina’s 46 counties are ranked and designated annually for job tax credit purposes with equal weight given to unemployment rate and per capital income. . . .”<sup>118</sup> There are four designations (i.e., tiers) made by the Department of Revenue; Tier III and Tier IV counties have the highest three-year unemployment rate average and lowest per capita income. Conversely, Tier I and Tier II counties have lower three-year unemployment rate average and higher per capita income. Appendix B Table 1 includes the county tier rankings from 2011-2022.

Appendix B Table 1. County tier rankings from 2011-2022<sup>119</sup>

<b>*Note: 1 = Indicates high per capita income and low three-year unemployment rate</b>													
<b>County</b>	<b>Avg.</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Abbeville County	3.00	3	3	3	3	3	3	3	3	3	3	3	3
Aiken County	1.25	1	1	1	1	1	1	1	2	2	2	1	1
Allendale County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
Anderson County	1.75	2	2	2	2	2	2	2	1	1	1	2	2
Bamberg County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
Barnwell County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
Beaufort County	1.00	1	1	1	1	1	1	1	1	1	1	1	1
Berkeley County	1.17	1	2	1	1	1	1	1	2	1	1	1	1
Calhoun County	2.42	2	2	2	2	2	2	3	3	3	3	3	2
Charleston County	1.00	1	1	1	1	1	1	1	1	1	1	1	1
Cherokee County	3.08	3	3	3	3	3	3	3	3	3	3	3	4
Chester County	3.50	3	3	3	3	3	3	4	4	4	4	4	4
Chesterfield County	3.42	4	4	4	4	4	3	3	3	3	3	3	3
Clarendon County	3.83	4	4	4	4	4	4	4	4	4	4	3	3
Colleton County	3.00	3	3	3	3	3	3	3	3	3	3	3	3
Darlington County	3.00	3	3	3	3	3	3	3	3	3	3	3	3
Dillon County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
Dorchester County	1.17	1	1	1	1	1	1	2	1	1	1	1	2
Edgefield County	2.25	2	2	2	2	2	2	3	3	3	2	2	2
Fairfield County	3.08	3	3	3	3	3	3	3	3	3	3	4	3
Florence County	1.83	1	1	2	2	2	2	2	2	2	2	2	2
Georgetown County	1.75	2	1	1	2	1	2	2	2	2	2	2	2
Greenville County	1.00	1	1	1	1	1	1	1	1	1	1	1	1
Greenwood County	2.25	3	3	2	2	2	2	2	2	2	2	2	3
Hampton County	3.25	3	3	3	3	4	4	4	4	3	3	3	2
Horry County	2.83	2	2	3	3	3	3	3	3	3	3	3	3
Jasper County	2.83	2	3	3	3	3	3	3	2	3	3	3	3
Kershaw County	1.67	1	2	1	2	1	2	2	2	2	2	2	1
Lancaster County	2.83	4	4	4	4	3	3	2	2	2	2	2	2



*Note: 1 = Indicates high per capita income and low three-year unemployment rate													
County	Avg.	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Laurens County	2.75	3	3	2	3	2	3	3	3	2	3	3	3
Lee County	3.83	4	4	3	4	3	4	4	4	4	4	4	4
Lexington County	1.00	1	1	1	1	1	1	1	1	1	1	1	1
Marion County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
Marlboro County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
McCormick County	3.33	4	4	4	4	4	3	3	3	3	3	2	3
Newberry County	1.67	2	2	2	2	2	2	1	1	2	2	1	1
Oconee County	1.83	2	2	2	2	2	2	2	2	2	2	1	1
Orangeburg County	3.58	3	3	3	3	3	4	4	4	4	4	4	4
Pickens County	2.00	2	2	2	2	2	2	2	2	2	2	2	2
Richland County	1.00	1	1	1	1	1	1	1	1	1	1	1	1
Saluda County	1.50	1	1	1	1	1	1	2	2	2	2	2	2
Spartanburg County	1.67	2	2	2	2	2	2	1	1	1	1	2	2
Sumter County	2.67	3	3	3	3	3	3	2	2	2	2	3	3
Union County	3.75	3	3	4	4	4	4	4	3	4	4	4	4
Williamsburg County	4.00	4	4	4	4	4	4	4	4	4	4	4	4
York County	1.42	2	2	2	2	2	1	1	1	1	1	1	1

## Industries and Wages

The Department of Commerce targets eight “industry” sectors (i.e., Advanced Manufacturing, Advanced Materials, Aerospace, Agribusiness, Automotive, Distribution and Logistics, Life Sciences and Office/Shared Services), for recruitment to the state.<sup>120</sup> Each of Commerce’s target “industries” encompasses a variety of occupations and careers.<sup>121</sup>

Businesses’ reporting to the S.C. Department of Employment (DEW) and Workforce provide their North American Industry Classification System (NAICS) “industry code.”<sup>122</sup> NAICS industry codes are used across the country and provide data to answer questions such as the following:

- (a) Which U.S. industries are expanding fastest?
- (b) Which industries contributed most to your state’s economic growth?
- (c) How much of an industry’s growth is due to price inflation?<sup>123</sup>

Each NAICS “industry” has a variety of occupations and careers within it.

While the “industry groups” (Commerce) and “industry codes” (NAICS) do not align exactly, there is some correlation as seen in Appendix C ,Table 1.

Appendix C Table 1. Industry sectors targeted by Commerce and corresponding NAICS code<sup>124</sup>

Commerce Industry Targets	NAICS code
<b>Advanced Manufacturing</b>	Broad umbrella term that does not fit specifically into any single NAICS or small group of NAICS. The NAICS supersectors that begin with 31 through 33 include manufacturing companies of many types, including those involved with electronic products (334), motor vehicles (336), textiles (313) and plastics (326).
<b>Advanced Materials</b>	Similarly broad. The same supersectors likely apply, particularly 33, which includes companies engaged in the mechanical, physical or chemical transformation of materials, substances and components into new goods.
<b>Aerospace</b>	Aerospace Product and Parts Manufacturing (3364)
<b>Agribusiness</b>	Crosses sectors, including much of supersector 11, which pertains to agriculture and forestry, while also falling under some manufacturing categories, including food processing (311) and paper making (322)
<b>Automotive</b>	Motor Vehicle Manufacturing (3361) and Motor Vehicle Parts Manufacturing (3363)
<b>Distribution and Logistics</b>	Warehousing and Storage (493)
<b>Life Sciences</b>	Research and Development in the Physical, Engineering, and Life Sciences (541715) and Pharmaceutical Preparation Manufacturing (325412)
<b>Office/Shared Services</b>	Administrative and Support Service (561)



*Table Note: NAICS is a 2- through 6-digit hierarchical classification system, offering **five levels of detail**.<sup>125</sup> Each digit in the code is part of a series of progressively narrower categories, and the more digits in the code signify greater classification detail.<sup>126</sup> The first two digits designate the **economic sector**, the third digit designates the **subsector**, the fourth digit designates the **industry group**, the fifth digit designates the **NAICS industry**, and the sixth digit designates the **national industry**.<sup>127</sup> The 5-digit NAICS code is the level at which there is comparability in code and definitions for most of the NAICS sectors across the three countries participating in NAICS (the United States, Canada, and Mexico).<sup>128</sup> The 6-digit level allows for the United States, Canada, and Mexico each to have country-specific detail. A complete and valid NAICS code contains six digits.<sup>129</sup>*

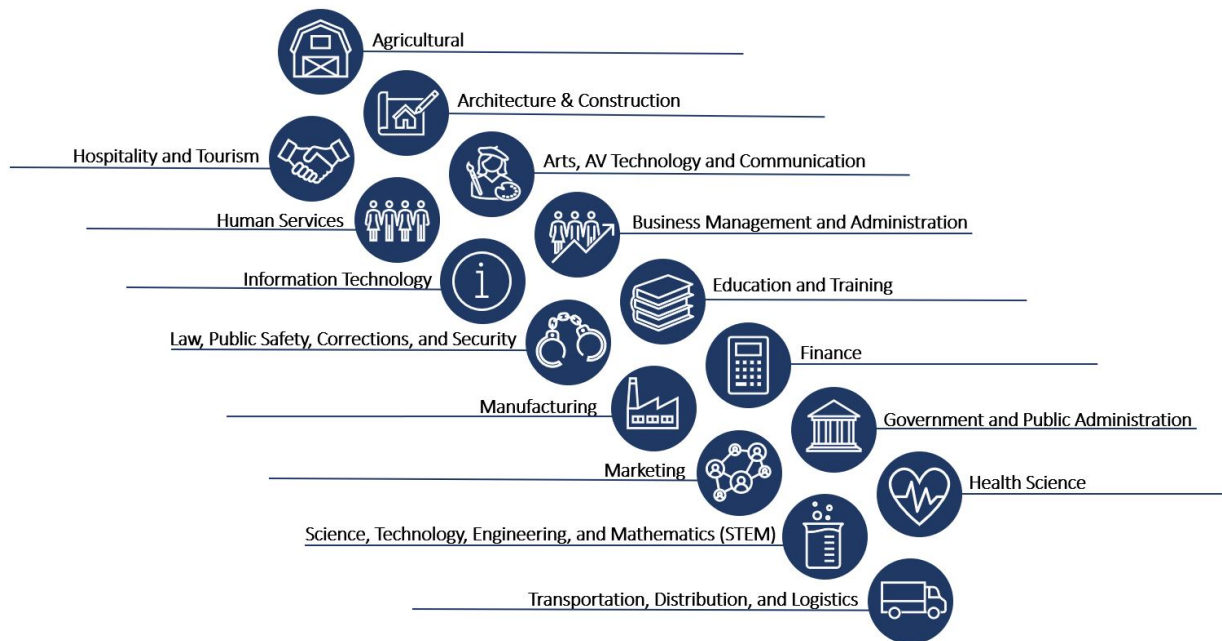
The United States Bureau of Economic Analysis (USBEA) utilizes industry groupings that generally follow the NAICS codes.<sup>130</sup> The USBEA can provide statistics on national employment and compensation by industry as well as state employment and compensation by industry.<sup>131</sup> Thus, USBEA and NAICS data can be utilized to gauge employment and compensation across an entire “industry.”

However, as previously noted, each “industry” has a variety of “occupations” and careers within it.<sup>132</sup> Occupation (e.g., sales manager, facilities manager, file clerks, data entry keyers) is a different way of grouping information about individuals.<sup>133</sup> This is significant because education and training are grouped by occupation, not industry.

### *Education and Occupations*

The Education and Economic Development Act (EEDA) requires all South Carolina students in the eighth grade to create an individual graduation plan (IGP), based on a career cluster system, to put the students on a career path once they get into ninth grade.<sup>134</sup> The clusters are broad groups of careers and industries created by the U.S. Department of Education to provide a structure for organizing and delivering quality career and technical education programs.<sup>135</sup> While S.C. currently utilizes the national career clusters, state statute does not specifically require they be used.<sup>136</sup> Each career cluster contains “occupations” in the same field of work that require similar skills.<sup>137</sup>

There are 16 clusters that students can choose from, including those in Appendix C, Figure 1.<sup>138</sup>



Appendix C Figure 1. 16 career clusters from which eighth grade students may choose for a career path.<sup>139</sup>

Note: Health Science is the number one cluster students choose, and STEM is second.<sup>140</sup> Not every school district offers all 16 clusters.<sup>141</sup> Personnel at Commerce involved in workforce development are unsure whether school districts choose clusters based on the types of industries the area is attempting to recruit or that Commerce is attempting to recruit.<sup>142</sup>

The Standard Occupational Classification (SOC) System is used by federal agencies to classify employees into categories of “occupations” for the purpose of collecting, calculating, or disseminating data.<sup>143</sup> All workers are classified into one of 867 detailed occupations according to their occupational definition.<sup>144</sup> To facilitate classification, detailed occupations are combined to form 459 broad occupations, 98 minor groups, and 23 major groups.<sup>145</sup> Detailed occupations in the SOC with similar job duties, and in some cases skills, education, and/or training, are grouped together.<sup>146</sup> The SOC was updated in 2018, 2010, and 2000.<sup>147</sup>

Each business provides DEW the “wages” paid to everyone. However, they do not provide the employee’s “occupation” codes.

The desired outcome of individual graduation plans (IGP) is detailing the courses necessary for the student to prepare for graduation and to **successfully transition into the workforce or postsecondary education**.<sup>148</sup> However, because businesses do not provide DEW information on “occupations” the state is unable to determine whether an individual obtained a job (or occupation) in the field in which their education was provided. Available data on workplace earnings and occupations is sparse due to survey and estimation techniques, resulting in the inability to accurately assess the needs of the workforce or the value of education and training programs.<sup>149</sup>

Communicating how education clusters, occupations within them, and how industry-recognized credentials correlate to occupations within various industries would benefit citizens and businesses alike.<sup>150</sup>

## APPENDIX D – HOW COMMERCE CAN HELP A COUNTY

Commerce understands the trends companies are looking for in different sectors and what is important to those companies.<sup>151</sup> Policy makers are interested in this information so they can focus their efforts on trying to provide what is most attractive to potential companies looking to locate in South Carolina.<sup>152</sup>

According to Commerce personnel, the key to successful site selection is the elimination or the reduction of risk.<sup>153</sup> “Setting the table” is the process of trying to identify and eliminate those risks.<sup>154</sup> Some of the grants available through Commerce provide funding and assistance for communities to reduce the risk companies see when considering locating in the area.<sup>155</sup> One of the key areas of risk for a company is the physical location and surrounding resources (e.g., How do we get in and out of the site? What are the water and wastewater? What is the workforce? What does the community look like?)<sup>156</sup>

Commerce is analogous to a mall with the counties being the stores in the mall and the available properties, within the county, the products in each store.<sup>157</sup> Companies looking to relocate are shoppers that can go to the South Carolina mall or another state’s mall.<sup>158</sup> When a person walks into the mall, they may know exactly what store they want to visit, or they may just look around. If a store is not inviting or they do not like the culture of a store, they may decide to shop somewhere else, even if the store has the product they want. At the same time, even if they like the way the store looks and its culture, if it does not have the product they need, they must go to a different store.

Commerce utilizes various grant programs to help communities improve the appearance of their store and develop the products they have available.<sup>159</sup>

In 2018, Commerce selected two senior personnel from their staff to interview leaders (every elected official, appointed official, Chamber of Commerce member, etc.) in rural counties that Commerce saw were not doing well.<sup>160</sup> The purpose of the interviews was to determine what the local leaders thought Commerce could do to help their county prosper.<sup>161</sup> Commerce understands each county/community has its own sense of itself and Commerce cannot come in and tell them what to fix.<sup>162</sup> **Commerce can only help them once the county has a vision for where and how it wants to develop economically.**<sup>163</sup> However, when the same six to twelve counties consistently lag behind others, something different needs to be done.<sup>164</sup>

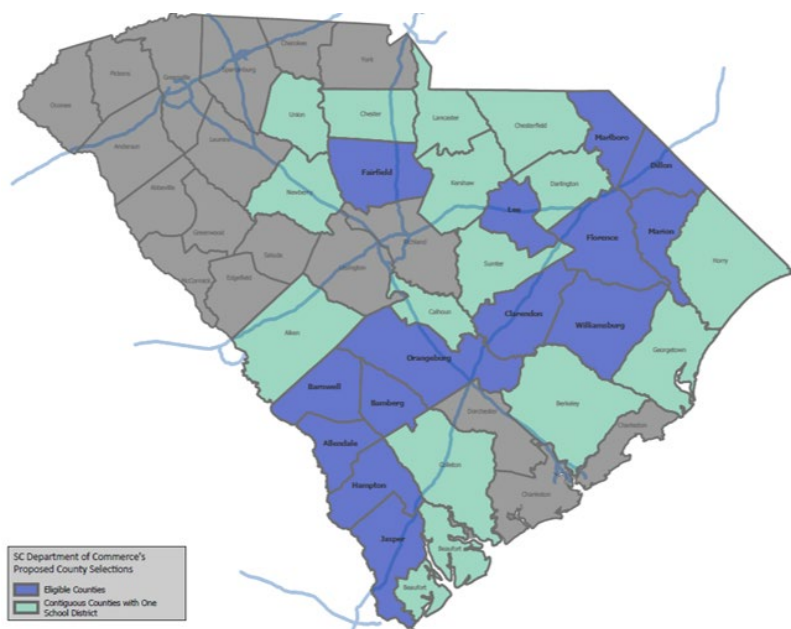
When Commerce moved these two staff members to more focused rural development roles, they created the Division of Rural Development.<sup>165</sup> Commerce personnel were in the process of talking with the communities to try to be more proactive in helping them when in July of 2019, the General Assembly allocated Commerce \$65M to facilitate economic development and infrastructure in fourteen eligible communities.<sup>166</sup>

While issues in rural counties were commonly known, Commerce had not yet made a request for funding.<sup>167</sup> However, pursuant to the proviso, Commerce was not permitted to commit or

spend the funds until they presented a plan on how it would be spent for the Joint Bond Review Committee (JBRC) to approve.<sup>168</sup> The \$65M has been in Commerce's cash budget since 2019.<sup>169</sup> Commerce presented a plan to JBRC, which JBRC approved, in January 2021.<sup>170</sup>

In Appendix D Figure 1, the purple color represents the 14 counties primarily eligible for the funding.<sup>171</sup> The counties were identified with information beyond what is analyzed to determine the tiers for incentives (e.g., population decline, poverty rate, unemployment rate).<sup>172</sup>

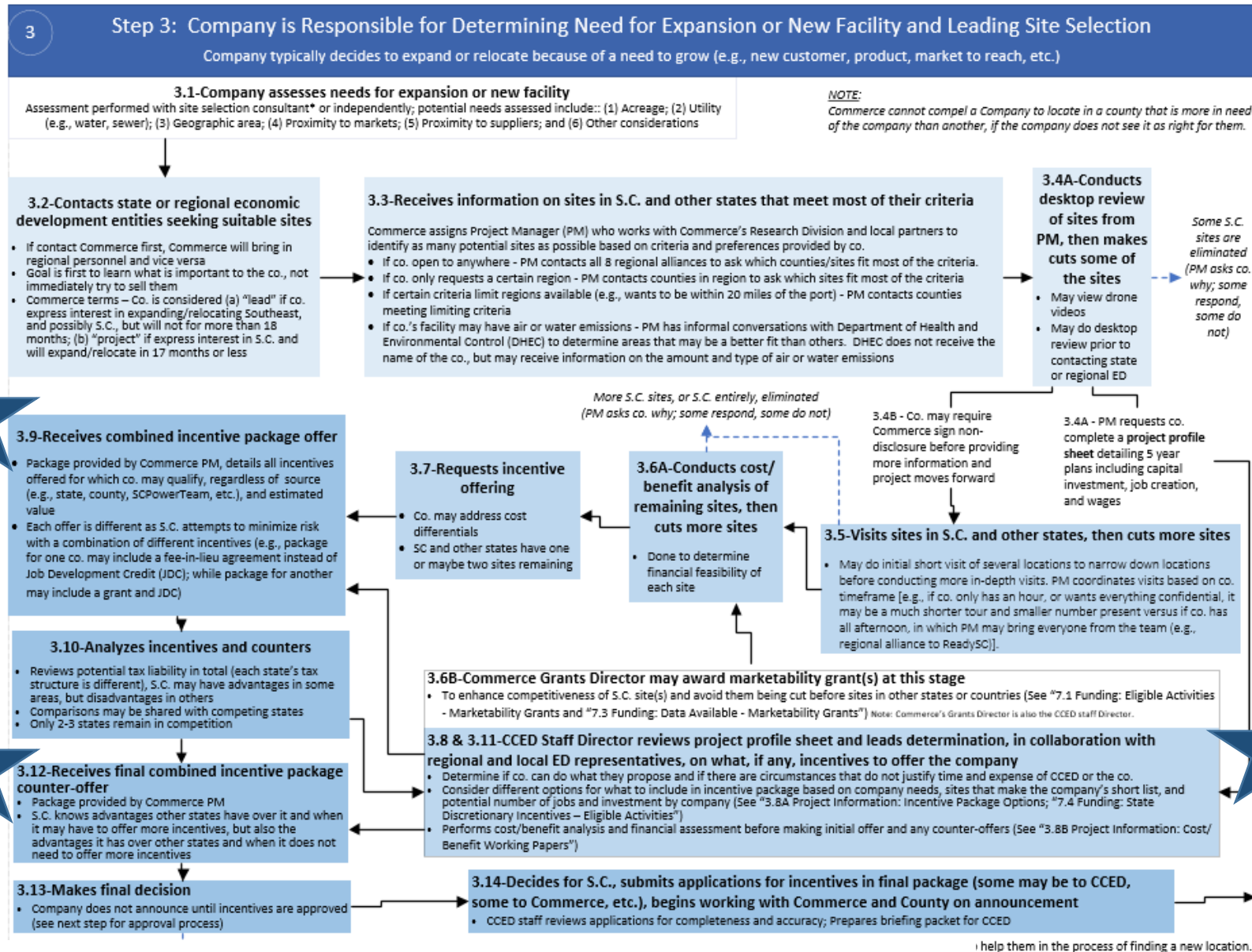
Thirty million of the \$65M is transferred to the Office of Regulatory Staff (ORS) for broadband grants and \$35M is staying at Commerce for site development/infrastructure/workforce development grants for the areas. \$15M of the \$65M can be used in adjacent counties, which are in green in Appendix D Figure 1, if work is needed in those counties to tie in the work done in the primary 14 counties (e.g., to extend water and broadband you may have to start or end in one of the adjacent counties).<sup>173</sup> In the agreement between Commerce and ORS, ORS is permitted to utilize up to \$7M of their \$30M in counties that are adjacent to the 14 primary.<sup>174</sup> Commerce can then use up to \$8M of their \$35M in the adjacent counties.<sup>175</sup> However, there is an understanding at Commerce and ORS that the priority are the primary 14 counties.<sup>176</sup>



Appendix D Figure 1. Counties eligible for business development grants from the rural infrastructure fund <sup>177</sup>

## APPENDIX E – COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT (CCED) ANALYSIS

Appendix E Figure 1 illustrates the process for when a company is provided an incentive package and when CCED staff review information.



Appendix E Figure 1 Process for when a company is provided an incentive package and when CCED staff review information

## Incentive Package Options

Appendix E Figure 2 includes potential incentives that may be included in an initial incentive package offer or negotiated as part of the final package.

Coordinating Council for Economic Development (CCED) and the county and present a single combined incentive summary.

CCED staff reviews information about the company to determine if the company may be a good fit for discretionary incentives. CCED staff are responsible for vetting the company to determine if the company can do what they are proposing they will do here in S.C.<sup>178</sup> Staff work with the company to obtain necessary information, and, if CCED staff determine the company is a good fit, the company is invited to complete an application.<sup>179</sup> CCED personnel expressed concern if every company eligible to apply for discretionary incentives was allowed to do so, without staff vetting the companies in advance, it would “create the opportunity for failure we have not had up to this point.”<sup>180</sup>

CCED staff vetting may include staff determining there are circumstances that do not justify the time and expense of CCED or company’s time. Examples may include:<sup>181</sup>

- Number of jobs is not significant and wages from them are not high paying enough
- Number of jobs and wages are good, but company has an environmental record that is not satisfactory based on events that occurred with the company in another state
- Number of jobs and wages are good, but it is a startup that does not have the finances to follow through with what the company is proposing
  - Note: Financial status is more of a concern with grants than with job development credits (JDCs) because JDCs are less of a risk for the public since the company must meet all the requirements of the revitalization agreement before receiving the job development credits and must maintain that level to continue receiving the credits.<sup>182</sup>

CCED staff select which incentives are included in the package after determining the ability of the company to deliver based on the project profile sheet the company provided, and company needs in comparison to the selection criteria in which South Carolina may not be as competitive. The county performs its own separate analysis, then CCED and the county present a single combined incentive summary. The summary details all incentives offered for which the company may qualify, including estimated value, regardless of the source (e.g., state, county, SCPowerTeam, etc.).<sup>183</sup>

Each offer is different as South Carolina attempts to minimize risk with a combination of different incentives (e.g., package for one company may include a business development grant instead of JDC; while the package for another company may include both JDC and one or more business development grants).<sup>184</sup>



Types of Incentives	Marketability Grants*	Job Development Credit	Business Development Grants (Set Aside, Rural Infrastructure Fund, Closing Fund)	Economic Development Bond	Job Retraining Credit	Local Incentive	Statutory Incentive^	Private (Regional Alliance; SC PowerTeam, etc.)
Discretionary or Guaranteed	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Guaranteed if company meets requirements in law	Discretionary
Entity from whom final approval is needed if company accepts incentive package	Commerce for LocateSC, ARC, CDBG grants CCED Full Committee for Rural Development grants	CCED Enterprise Committee (meets monthly)	CCED Full Committee (meets quarterly)	JBRC/SFAA	S.C. Tech Board	Local Govt.	DOR	Private Entity
<b>Potential packages</b>								
Package 1	These are not included in incentive packages. However, they may be offered to a county late in the process when a company is narrowing down sites after visits, to keep it from being eliminated. (See, "Company Responsible for Leading Site Selection" sheet for more information)	X	X	X	X	X	X	X
Package 2		X		X	X	X	X	X
Package 3		X			X	X	X	
Package 4			X			X	X	
Package 5						X	X	
Package 6							X	
Package 7			X	X	X	X	X	
Package 8		X	X		X	X	X	X
Package 9		X	X	X		X	X	
Package 10		X	X	X	X		X	X
Package 11			X		X	X	X	
Package 12		X	X			X	X	
Package 13		X	X	X			X	X
Package 14 and any other packages		Any other combination of the above incentive packages						

See 7.1 Funding: Eligible Activities," 7.2 Funding: Data Available" and "7.3 Funding: Processes" for more information on the different types of incentives.

\*Marketability Grants include: LocateSC, Rural Development, Appalachian Regional Commission (ARC), Community Development Block Grants (CDBG)

^Statutory incentives include: (1) Sales tax exemptions (i.e., no sales tax on: (a) machinery and equipment; (b) power used in the manufacturing process; and (c) materials used in the finished product); (2) corporate income tax credits (i.e., (a) Jobs Tax Credit; (b) (Enhanced) Corporate Headquarters Tax Credit; (c) Investment Tax Credit; and (d) Research and Development Tax Credit; and (3) local level property tax abatement for manufacturers that invest at least \$50,000 in land, building, or equipment for five years.

Appendix E Figure 2. Potential incentives that may be included in an initial incentive package offer or negotiated as part of the final package



Cost/benefit and analysis (i.e., update the analysis regularly and include list of economists that verify its validity and/or recommend update)

Appendix E, Figures 3-6 includes sample financial information analyzed and utilized to create information CCED receives on an average project CCED staff present them. Notably, it includes everything in the incentive package, not just grants or job development credits.

### 3.8 Project Information: CCED Staff Analysis - Cost/Benefit Model (Part 1 of 2)

Sample financial information analyzed and utilized to create information CCED receives on an average project presented by CCED staff for approval.

Note it includes everything in the incentive package, not just grants or job development credits.

#### Cost/Benefit Analysis (Part 1 of 2)

Commerce enters information on location of project, potential investments and job creation numbers, potential discretionary incentives, etc. and utilizes information it is able to purchase through the U.S. Bureau of Economic Analysis (U.S.BEA) based on some of these different parameters, to obtain initial cost/benefit information.

##### Header

- \***Company** = Name of company
- \***County** = County in which company is locating or expanding. This tells the computer model which County Tier to utilize for information under "Tax Variables"

##### Announced Capital Investment

- \***New or Expansion** = New to the state or company already in SC expanding a current location or building another location in SC
- \***Land, Building, Machinery & Equipment** = Type of capital in which company states it will invest
- \***Employment** = Number of jobs company states it will create
- \***Annual Payroll** = Combined salaries of all new jobs according to company
- \***Average Salary** = Combined salaries of all new jobs divided by number of new jobs
- \***Average Hourly Wage** = Combined salaries of all new jobs divided by number of hours employees in jobs will work

##### Tax Variables

- \***Job Development Credits (JDC)** Yes or No = Discretionary
- \***Total JDC eligible expenditures** - \$10M
- \***Jobs Tax Credit** = Statutory, so automatically receives if certain parameters met and auto-fills based on county where project located - \$2,750
- \***Job Development Fee** = percentage is established in S.C. Code of Laws based on wages that are updated annually by the Department of Revenue
- \***Closing Fund (Business Development Grant)** = Discretionary - \$250,000

Information in red \* = Commerce enters unique information about the company  
Information in black = Automatically appears, based on the information Commerce entered in the other areas. It is calculated from various sources, including the U.S. Bureau of Economic Analysis (U.S.BEA).

Company:	Project X	State of South Carolina	2021	CBA	Version 1.0
County:	Florence	Cost Benefit Model			
Example Of Enterprise Program Impact Analysis					
Announced Capital Investment			Project Multipliers		
New or Expansion	NEW		Industry Code	336211	
Land	\$0		Job Multiplier	2.84	
Existing Building (value of purchased or leased)	\$0		County Multi%	60%	
New Bldg cost or improvements to Existing Bldg	\$10,000,000		County Multi% Override		
Machinery & Equipment	\$40,000,000		County Multi% Used in calculation	60%	
Total Investment	\$50,000,000		Revised Multiplier	1.84	
Employment	100		Investment - Construction	2.22	
Annual Payroll	\$5,000,000		Investment - Machinery	1.40	
Average Salary	\$50,000		Employment (Total Jobs / Direct Jobs)	2.84	
Average Hourly Wage	\$25.00		County Average Annual Pay	\$40,963	
Tax Variables			Employment Impacts		
Total JDC eligible expenditures	\$10,000,000	JDC Yes/No	Employment - Direct	100	
Jobs Tax Credit (County Designation)	\$2,750	JDC Distribution	Employment - Indirect	184	
Job Development Fee (Percentage)	4.0%	Company 70%	Total Employment Impact	284	
		RIF 30%			
		JDC Years	10		
Multicounty Industrial Park?	no		\$250,000 Closing Fund		
Manufacturing?	YES \$ 600,000.00 (calc'd amt)		\$0 Infrastructure Improvements		
			(include land value, site improvement cost/value, relocation assistance, SSRB, etc. - anything the county is providing/donating/doing that has value		
Other Input Items			2019/2020 Education Breakdown		
\$ 14,608	Education Cost		45.54%	Local	
\$ 3,000	Average Cost to train an employee (SCTECH)		45.93%	State	
			8.53%	Federal	
	10% % of New Migration increase ( life style change) employment				
	3.55% Avg annual increase in education Costs				
	20% Percentage of M & E in SC				
	5.90% Percentage of Income Benefits to General Fund				
			Other Economic Variables		
			4.00%	Discount Rate	
			2.00%	Inflation Rate	

Appendix E Figure 3: Cost/benefit analysis (part 1 of 2)

## Cost/Benefit Analysis (Part 2 of 2)

Commerce is able to purchase information through the U.S. Bureau of Economic Analysis (U.S.BEA) which automatically generates based on different parameters entered by Commerce, like a company's industry code (see top right of document) and the information on our region of the country and state.

**Information in red \*** = Commerce enters unique information about the company

**Information in black** = Automatically appears, based on the information Commerce entered in the other areas. It is calculated from various sources, including the U.S. Bureau of Economic Analysis (U.S.BEA).

### Project Multipliers

- For example, in the document above, based on the industry code, the USBEA shows the job multiplier is 2.84. Therefore, if the company directly creates 100 jobs (left hand side of page, 7 rows down below "Announced Capital Investment"), there will actually be a total of 284 jobs, 184 of which are spinning off from it (right hand side of page, under "Employment Impacts"). At the bottom of the document you see "5.90% Percentage of Income Benefits to General Fund." This percentage is provided by the state's Revenue and Fiscal Affairs Office and means for every dollar that comes into the state, whether it is from wages or from investment, that is the amount the state general fund will see. Therefore, if the investment is \$100M, the general fund will see \$5.9M.

State of South Carolina Cost Benefit Model		2021	CBA	Version 1.0
Company:	Project X			
County:	Florence			
Example Of Enterprise Program Impact Analysis				
<b>Announced Capital Investment</b>		<b>Project Multipliers</b>		
New or Expansion	NEW	Industry Code	336211	
Land	\$0	Job Multiplier	2.84	
Existing Building (value of purchased or leased)	\$0	County Multi%	60%	
New Bldg cost or improvements to Existing Bldg	\$10,000,000	County Multi% Override	60%	
Machinery & Equipment	\$40,000,000	County Multi% Used in calculation	60%	
Total Investment	\$50,000,000	Revised Multiplier	1.84	
Employment	100	Investment -- Construction	2.22	
Annual Payroll	\$5,000,000	Investment -- Machinery	1.40	
Average Salary	\$50,000	Employment (Total Jobs / Direct Jobs)	2.84	
Average Hourly Wage	\$25.00	County Average Annual Pay	\$40,963	
<b>Tax Variables</b>		<b>Employment Impacts</b>		
Total JDC eligible expenditures	YES \$10,000,000	JDC Yes/No	100	
Jobs Tax Credit (County Designation)	\$2,750	JDC Distribution	184	
Job Development Fee (Percentage)	4.0%	Company 70%	284	
		RIF 30%		
JDC Years		10		
Multicounty Industrial Park?		no	\$250,000 Closing Fund	
Manufacturing?		YES \$ 600,000.00 (calc'd amt)	\$0 Infrastructure Improvements	
(include land value, site improvement cost/value, relocation assistance, SSRB, etc. -- anything the county is providing/donating/doing that has value)				
<b>Other Input Items</b>		<b>2019/2020 Education Breakdown</b>		
\$ 14,608	Education Cost	45.54%	Local	
\$ 3,000	Average Cost to train an employee (SCTECH)	45.93%	State	
	10% % of New Migration increase ( life style change) employment	8.53%	Federal	
	3.55% Avg annual increase in education Costs			
	20% Percentage of M & E in SC	<b>Other Economic Variables</b>		
	5.90% Percentage of Income Benefits to General Fund	4.00%	Discount Rate	
		2.00%	Inflation Rate	

Appendix E Figure 4. Cost/benefit analysis (part 2 of 2)

### 3.8 Project Information: CCED Staff Analysis – Income Benefits

Sample financial information analyzed and utilized to create information CCED receives on an average project presented by CCED staff for approval.

Note it includes everything in the incentive package, not just grants or job development credits.

#### Income Benefits Analysis

When a company locates or expands it brings new funds into the community. More jobs, or same number of jobs at higher wages, means individuals have more money to spend and government has more taxes to collect.

State of South Carolina Board of Economic Advisors  
South Carolina Budget and Control Board  
Enterprise Zone Impact Analysis

Company: Project X County: Florence County											
		Construction & Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 15	Present Value
Income Benefits											
Private Benefits (before taxes)	10 New Building -- Direct	\$6,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,000,000
	11 New Building -- Indirect	\$7,327,800	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,327,800
	12 Machinery & Equipment -- Direct	\$8,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$8,000,000
	13 Machinery & Equipment -- Indirect	\$3,200,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,200,000
	14 Payroll -- Direct	\$5,000,000	\$5,100,000	\$5,202,000	\$5,306,040	\$5,412,161	\$5,520,404	\$5,630,812	\$5,743,428	\$6,597,393	\$65,698,640
State Benefits	15 Payroll -- Indirect	\$7,553,168	\$7,704,231	\$7,858,316	\$8,015,482	\$8,175,792	\$8,339,308	\$8,506,094	\$8,676,216	\$9,966,245	\$99,246,577
	16 State Revenues	\$2,187,777	\$755,450	\$770,559	\$785,970	\$801,689	\$817,723	\$834,077	\$850,759	\$977,255	\$11,178,909
	17 Additional Corporate Tax for New Project	\$0	\$275,000	\$275,000	\$275,000	\$275,000	\$275,000	\$0	\$0	\$0	\$1,224,251
	18 Rural Infrastructure Fund	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$0	\$506,120
Totals	After Tax Private Benefits	\$34,893,191	\$11,773,781	\$12,014,757	\$12,260,552	\$12,511,264	\$12,766,989	\$13,302,829	\$13,568,885	\$15,586,383	\$177,069,857
	Total State Benefits	\$2,247,777	\$1,090,450	\$1,105,559	\$1,120,970	\$1,136,689	\$1,152,723	\$894,077	\$910,759	\$977,255	\$12,909,280

Note: Years 9 through 14 are available, but were not included in this document due to size restrictions

Income Benefits		Totals
<b>Private Benefits (before taxes): Funds coming into the community</b>		
<ul style="list-style-type: none"> <li><b>New Building - Direct</b> = Amount company spends on a new building</li> <li><b>New Building - Indirect</b> = Amount others, that expand to serve the additional needs created by the new company, spend on new building</li> <li><b>Machinery &amp; Equipment - Direct</b> = Same as building, but related to machinery and equipment</li> <li><b>Machinery &amp; Equipment - Indirect</b> = Same as building, but related to machinery and equipment</li> <li><b>Payroll - Direct</b> = Same as building, but related to payroll</li> <li><b>Payroll - Indirect</b> = Same as building, but related to payroll</li> </ul>		
<b>State Benefits: Funds coming to the State</b>		
<ul style="list-style-type: none"> <li><b>State Revenues</b> = (Total Private Benefits Before Taxes) x Percentage of Income Benefits to General Fund (See "Cost/Benefit Model" sheet, bottom center; in this example it is 5.90%)</li> <li><b>Additional Corporate Tax for New Project</b> = Company only receives 50% of the benefit (have to pay \$2 to get \$1 rebate). As a result, the state actually gets 50% of every dollar the company invests. Therefore, if the company is new to the state, this is a new benefit for the state.</li> <li><b>Rural Infrastructure Fund (RIF)</b> = Since the project is receiving Job Development Credits as an incentive, it is entitled to a refund for a portion of the employee state payroll taxes. However, since it is locating in a Tier II county, it only gets to keep 70% of the refund. The other 30% goes into the RIF and is available for CCED to issue as grants to encourage other companies to locate in rural areas.</li> </ul>		
		<ul style="list-style-type: none"> <li><b>After Tax Private Benefits</b> = (Total Private Benefits Before Taxes) – (Total State Benefits)</li> <li><b>Total State Benefits</b> = State Revenue + Add'l Corporate Tax + Rural Infrastructure Fund</li> </ul>
		This information appears in the "Costs/Benefit Analysis" document under "Present Values"

Appendix E Figure 5. Income benefit analysis

### 3.8 Project Information: CCED Staff Analysis – Public Costs

Sample financial information analyzed and utilized to create information CCED receives on an average project presented by CCED staff for approval.

Note it includes everything in the incentive package, not just grants or job development credits.

#### Public Costs Analysis

This page provides a summary of the information from the Cost/Benefit Model (See Page 3) during construction at the site and first year of operation as well as the present value of the impact of the project over the next 15 years

#### State of South Carolina Board of Economic Advisors South Carolina Budget and Control Board Enterprise Zone Impact Analysis

Company: Project X County: Florence County											
State Costs	Public Costs	Construction & Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 15	Present Value
	1 Corporate Jobs Tax Credit	-	275,000	275,000	275,000	275,000	275,000	-	-	-	1,224,251
	2 Multi-County Industrial Park (\$1,000)	-	-	-	-	-	-	-	-	-	-
	3 Job Development Credit, JDC (Withholding)	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	-	1,687,066
	4 Investment Tax Credit	600,000	-	-	-	-	-	-	-	-	600,000
	5 Special Schools	300,000	-	-	-	-	-	-	-	-	300,000
	6 Closing Fund	250,000	-	-	-	-	-	-	-	-	250,000
	7 Increased State Education Costs	67,095	69,476	71,943	74,497	77,141	79,880	82,716	85,652	109,342	976,500
	8 Unused	-	-	-	-	-	-	-	-	-	-
	9 Infrastructure Improvements	-	-	-	-	-	-	-	-	-	-
Totals	Total State Costs	\$1,417,095	\$544,476	\$546,943	\$549,497	\$552,141	\$554,880	\$282,716	\$285,652	\$109,342	\$5,037,818

Construction & First Year = Impact during time of applicable construction at the site to prepare it for company operations and the first year of company operations

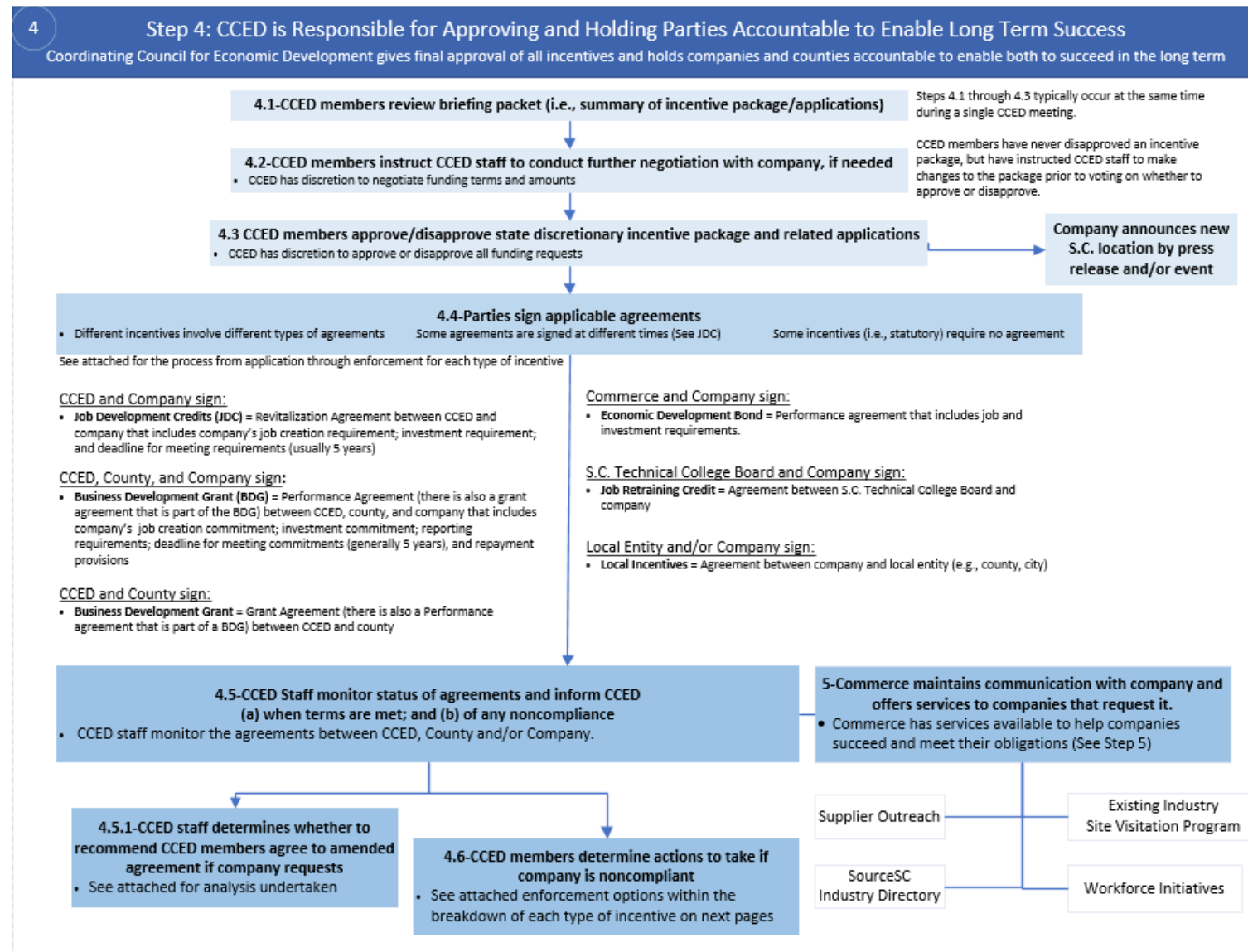
Present Value 15-Year Total = Total impact over fifteen years, reported in today's dollars (i.e., present value)

State Costs		Totals
<ul style="list-style-type: none"> <li><b>Corporate Jobs Tax Credit</b> = Amount of credit available for jobs created. Assumes all jobs are created in year one and all credits are used by the company. (statutory incentive)</li> <li><b>Multi-County Industrial Park</b> = Adds \$1,000 per job and assumes all jobs are created in year one and all credits are used. (discretionary incentive)</li> <li><b>Job Development Credit, JDC (Withholding)</b> = The JDCs are only a cost to the state for the 10 year cycle during which the company is entitled to claim that. Afterward all employee taxes come to the state.</li> <li><b>Investment Tax Credit</b> = Based off the investment the company asserts it will make in machinery</li> <li><b>Special Schools</b> = Cost to have ReadySC train individuals in the community to work at the company. The average cost is \$3,000 per person.</li> </ul>	<ul style="list-style-type: none"> <li><b>Closing Fund</b> = Any business development grant</li> <li><b>Increased State Education Costs</b> = These costs are based on an estimate of the number of employees moving to the area (migrating) and increased cost to the public school system of having those employees children in public schools.</li> <li><b>Unused</b> = Blank spaces where additional costs could be included if the project was unique (e.g., corporate headquarters, which is something that has a certain tax credit in statute)</li> <li><b>Infrastructure Improvements</b> = Value of any infrastructure improvements funded by the state, not included above.</li> </ul>	<ul style="list-style-type: none"> <li><b>Total State Costs</b> = All state/ public costs</li> </ul> <p>This information appears in the "Costs/Benefit Analysis" document under "Present Values"</p>

Appendix E Figure 6. Public costs analysis

## CCED Members Role and Types of Agreements Entered

CCED gives final approval of all incentives and holds companies and counties accountable to facilitate long term success. Appendix E, Figure 7 illustrates CCED member's role in approving and holding parties responsible.



Appendix E Figure 7. Approval and agreement flow chart



## Information CCED Receives Prior to Approval

Below is a list of typical information provided to CCED for review and discussion, prior to CCED members determining whether to further negotiate terms of the state discretionary incentives in the package with the company or approve them as negotiated by CCED staff and agreed upon by the company. Notably, when reviewing a project, CCED reviews the impact of the entire project.

### **Summary of Project Information** (See sample on next pages)

#### **Project Data**

- Announced Capital Investment: Land, Existing Building, New Building, Machinery & Equipment, Total Investment
- New Employment/Total Payroll: *Employment, Annual Payroll, Average Salary, Average Hourly Wage*

#### **Project Multipliers**

- *Industry Code, Job Multiplier, Investment – Construction, Investment – Machinery, Employment, % of multiplier in S.C., Average annual salary*

#### **Employment Impacts**

*Employment – Direct, Employment – Indirect, Total Employment Impact*

### **Cost/Benefit Analysis**

*Following information for construction first year and present value in year 15*

#### **State Costs** (costs to the state of the proposed project.

*See “3.2 Project Information: CCED Staff Analysis – Public Costs” document for more information*

- Public Costs: *Corporate Jobs Tax Credit; Multi-County Industrial Park; Job Development Credit, JDC (Withholding); Investment Tax Credit; Special Schools; Closing Fund; Increased State Education Costs; Infrastructure Improvements; Corporate headquarters; etc.*
- Totals: *Total State Costs*

#### **Income Benefits**

*See “3.2 Project Information: CCED Staff Analysis – Income Benefits” document for more information*

- Private Benefits (funds coming into the community): *New Building – Direct; New Building – Indirect; Machinery & Equipment – Direct; Machinery & Equipment – Indirect; Payroll – Direct; Payroll – Indirect*
- State Benefits (funds coming to the State): *State Revenues; Additional Corporate Tax for New Project; Rural Infrastructure Fund (RIF); etc.*
- Totals: *After Tax Private Benefits; Total State Benefits”*

#### **Present Values**

*Total Value of Private Benefits; Present Value (PV) of State Benefits; PV of State Costs; Total State Value*

## Summary of Project Information

Appendix E, Figures 8-9 includes sample project information CCED members receive.

### 4.1 CCED Briefing: Sample Project Information Summary

#### Summary of Project Information

This page provides CCED a summary of the project information

##### Header

- Project X = Project name
- Florence County = Name of county in which project is locating
- 4/28/2021 = Date as of which information in the analysis is accurate

##### Project Data

###### Announced Capital Investment

Investment company agrees to make for incentives offered\*

###### New Employment/Total Payroll

Jobs company agrees to create for incentives offered\*

- *Employment* = Number of jobs company intends to create
- *Annual Payroll* = Combined salaries of all new jobs
- *Average Salary* = Combined salaries of all new jobs divided by number of new jobs
- *Average Hourly Wage* = Combined salaries of all new jobs divided by number of hours employees in jobs will work

##### Project Multipliers

- *Industry Code* = North American Industry Classification System (NAICS) code CCED staff selected as applicable to the project. All remaining information under this section is based upon the industry code selected.
- *Job Multiplier* = From the U.S. Board of Economic Advisors based on industry code
- *Investment -- Construction* = From the U.S. Board of Economic Advisors based on industry code
- *Investment -- Machinery* = Same multiplier used for every company, regardless of industry code, and is based on estimate from economists consulted by the Department of Commerce
- *Employment* = From the U.S. Board of Economic Advisors based on industry code
- *% of multiplier in S.C.* = Based on distance of county from the North Carolina or Georgia state border since some of the multiplier will be realized by the neighboring state
- *Average annual salary* = From the U.S. Board of Labor Statistics based on county in which company is locating

##### Employment Impacts

- *Employment -- Direct* = Number of new jobs company agrees to create
- *Employment -- Indirect* = Number of new jobs projected to be created in the community if the company creates the number of jobs it agreed to create (calculated by multiplying the "job multiplier" in the section above by "Employment - Direct" number)
- *Total Employment Impact* = "Employment-Direct" + "Employment-Indirect"

Note: Below is only a sample page from the project briefing CCED receives. Additional information CCED receives includes individual business finances, etc. The briefing packet includes everything in the incentive package, not just grants or job development credits.

#### SOUTH CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT ENTERPRISE PROGRAM ECONOMIC IMPACT ANALYSIS

Project X  
Florence County  
4/28/2021

##### PROJECT DATA

###### ANNOUNCED CAPITAL INVESTMENT

Land	\$	-
Existing Building	\$	-
New Building	\$	10,000,000
Machinery & Equipment	\$	40,000,000
<b>Total Investment</b>	<b>\$</b>	<b>\$50,000,000</b>

###### NEW EMPLOYMENT/TOTAL PAYROLL

Employment	100
Annual Payroll	\$5,000,000
Average Salary	\$50,000
Average Hourly Wage	\$25.00

##### PROJECT MULTIPLIERS

Industry Code	336211-Motor vehicle body manufacturing
Job Multiplier	1.84
Investment -- Construction	2.22
Investment -- Machinery	1.40
Employment	2.84
% of Multiplier in South Carolina	60%
Average Annual Salary	\$40,963

##### EMPLOYMENT IMPACTS

Employment -- Direct	100
Employment -- Indirect	184
<b>Total Employment Impact</b>	<b>284</b>

\*Note: Until approved by CCED, an incentive offer is not final nor binding. Also, some incentives are not provided until investment and job requirement is met and, in some cases, maintained, for a set period of time.

^Based on the company's industry code (see top right of document above) and the information on our region of the country and state, the United States Bureau of Economic Advisors (USB EA) will provide various information like job multiplier, that can be utilized to determine the total potential impact from a project.

Appendix E Figure 8. Summary of project information



## Cost/Benefit Analysis

### 4.1 CCED Briefing: Sample Cost/Benefit Analysis

#### Cost/Benefit Analysis

This page provides CCED a summary of the information from the public costs analysis and the income benefits analysis (see applicable sheets) during construction at the site and first year of operation as well as the present value of the impact of the project over the next 15 years. Present value means the total impact over fifteen years, reported in today's dollars.

##### State Costs

**NOTE:** When reviewing a project, CCED reviews all state incentives at the same time, not individually

Included are costs to the state of the proposed project.  
See "3.2 Project Information: CCED Staff Analysis – Public Costs" document for more information

##### Income Benefits

Included are benefits to the community and benefits to the state from the proposed project.  
See "3.2 Project Information: CCED Staff Analysis – Income Benefits" document for more information

##### Present Values

- **Total Value of Private Benefits** = Value of economic activity created by having the project
- **Present Value (PV) of State Benefits** = Money generated in the state as a result of the estimates of the project.
- **PV of State Costs** = Costs to the state of moving forward with project, if company collects all tax credits and grants available under the agreement.
- **Total State Value** = PV of State Benefits – PV of State Costs

For this project, under "15-year total," there is approximately \$13M in state benefits and \$5M in costs (if all the tax credits and grants are paid out), resulting in a net of approximately \$8M. Note, companies often do not collect all tax credits available.

Note: Below is only a sample page from the project briefing CCED receives. Additional information CCED receives includes individual business finances, etc. The briefing packet includes everything in the incentive package, not just grants or job development credits.

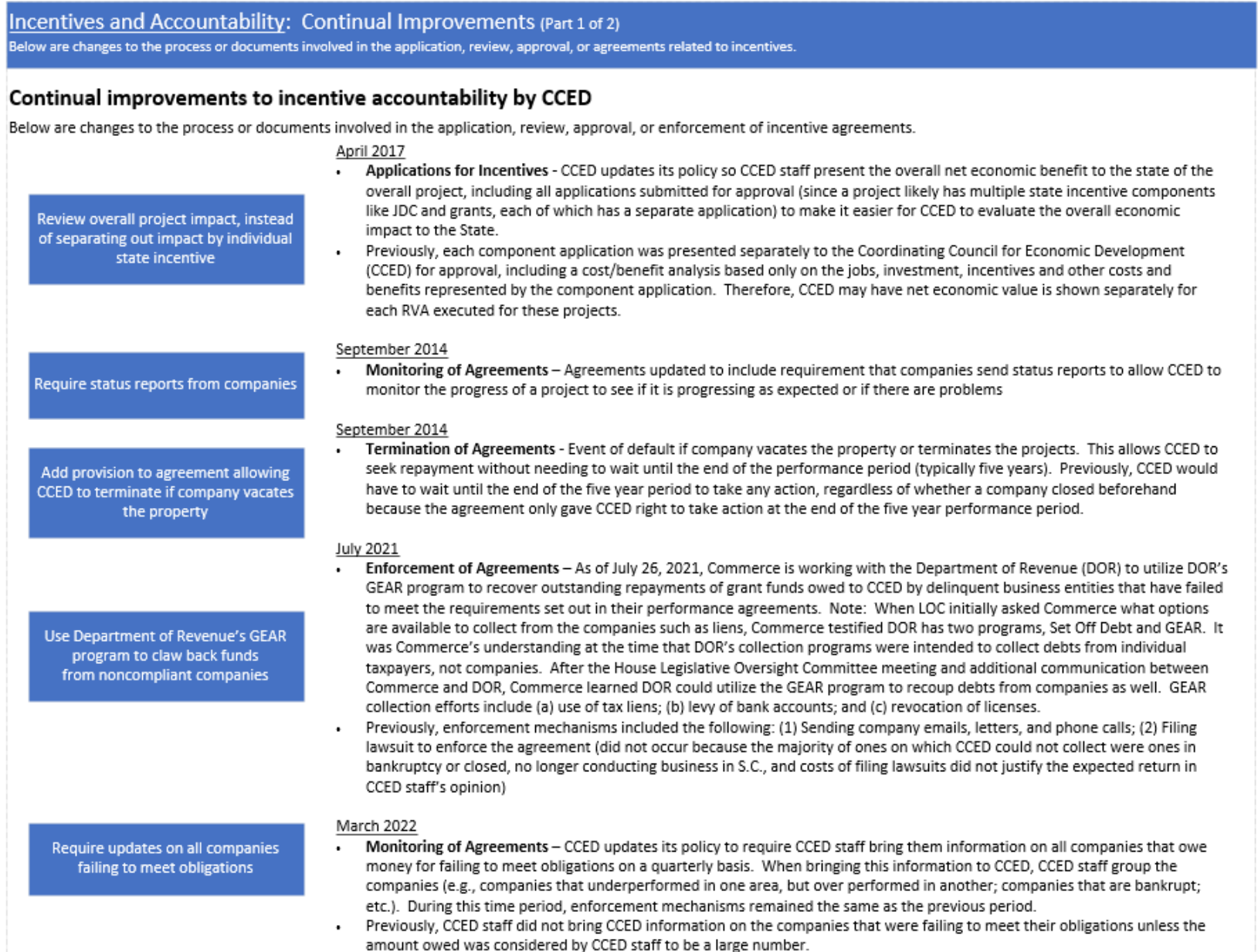
#### COST/BENEFIT ANALYSIS

	PRESENT VALUE	
	CONSTRUCTION & FIRST YEAR	15-YEAR TOTAL
STATE COSTS		
Corporate Jobs Tax Credit	-	1,224,251
Multi-County Industrial Park	-	-
Job Development Credit (JDC)	200,000	1,687,066
Investment Tax Credit	600,000	600,000
Special Schools	300,000	300,000
CCED Grants	250,000	250,000
Increased State Education Costs	67,095	976,500
Property Tax Relief	-	-
Infrastructure Improvements	-	-
Total Public Costs	1,417,095	5,037,817
INCOME BENEFITS		
Total New Building (Direct & Indirect)	13,327,800	13,327,800
Total Machinery & Equipment (Direct & Indirect)	11,200,000	11,200,000
Total Payroll (Direct)	5,000,000	65,698,640
Total Payroll (Indirect)	7,553,168	99,246,577
State Revenues	2,187,777	12,403,160
Rural Infrastructure Fund	60,000	506,120
Total Income Benefits	39,328,745	202,382,297
PRESENT VALUES		
Private		
Total Value of Private Benefits	34,893,191	177,069,856
State		
Present Value of State Benefits	2,247,777	12,909,279
Present Value of State Costs	1,417,095	5,037,819
Total State Value	830,682	7,871,461
OVERALL NET BENEFIT	35,723,873	184,941,316
COST/BENEFIT RATIO		38:1

Appendix E Figure 9. Summary of cost/benefit analysis

## Continual Improvements to Incentive Accountability by CCED

Appendix E, Figure 10 provides a timeline and summary of changes to the process or documents involved in the application, review, approval, or enforcement of incentive agreements.



Appendix E Figure 10. Timeline of improvements to incentive accountability

### Violation of contract terms (e.g., job and investment requirement, etc.)

Economic Development Set-Aside, Rural Infrastructure Fund, and Governor's Closing Fund grants are made under and in accordance with state laws.<sup>185</sup> The federal and state courts within South Carolina have exclusive jurisdiction to adjudicate any disputes arising out of or in connection with these grants.<sup>186</sup>

Failure to comply with any of the terms and conditions of the grant can cause CCED to take, in addition to any relief that it is entitled to by law, any or all the following actions:

- require repayment of all or a portion of any grant funds provided;
- cancel, terminate, or suspend the grant, in whole or in part; or,
- refrain from extending any further assistance or grant funds until such time as the local government is in full compliance with the terms and conditions of the grant agreement.<sup>187</sup>

### ***Business Development Grant Performance Agreements***

If the company has not created the minimum number of jobs and the minimum amount of investment indicated in the Performance Agreement, the company will be required to repay a pro rata portion of the grant funds disbursed in accordance with the terms of the Performance Agreement.<sup>188</sup> The CCED staff, with authorization by the CCED, may negotiate the terms of such repayment, subject to approval of the CCED.<sup>189</sup>

If CCED staff does not hear from a company, CCED staff sends an email to the company and attempts to call the company contact on the phone. A company may not respond at all, or may provide initial information, then not provide any further information. This is a rare occasion, but there were two companies recently (2021) that had not responded to CCED in over a year. CCED staff has a running spreadsheet that tracks when it calls and emails companies from which it has not received any information. During the second quarter of 2022, CCED hired a dedicated staff person who performs these monitoring and compliance duties.<sup>190</sup>

### ***Calculation of Repayment***

Performance agreements require repayment of all grant funds if a company: (a) does not locate in South Carolina; or (b) fails to create any new jobs and make any investment in South Carolina.<sup>191</sup>

A company is required to repay a portion of the grant funds expended if it: (a) creates jobs and/or makes investment but fails to meet the job requirement and/or the investment requirement; or (b) meets, but then fails to maintain, either requirement (companies receiving \$100,000+ grants have a contractual maintenance requirement).<sup>192</sup>

The portion of grant funds required to be repaid is based upon the actual number of jobs created and/or investment made.<sup>193</sup> In addition, a pro rata repayment for failure to meet either the job requirement or the investment requirement will be calculated, independently, with each calculation based on 50% of the grant funds expended.<sup>194</sup>

For example, if a company receives a \$100,000 grant and, at the end of its performance period, only creates 80% of the required jobs and makes 90% of the required investment, its repayment would be calculated as shown in table below.<sup>195</sup>

Appendix E Table 1. Example grant funds repayment calculation:

GRANT FUNDS REPAYMENT CALCULATION	
Jobs Repayment	
Grant Funds Disbursed	\$100,000
50% Funds Allocated to Jobs Requirement	x 50%
	\$50,000
Only 80% of Jobs Requirement	x 20%
Jobs Repayment	<u>\$10,000</u>
Investment Repayment	
Grant Funds Disbursed	\$100,000
50% Funds Allocated to Invest. Requirement	x 50%
	\$50,000
Only 90% of Investment Requirement	x 10%
Investment Repayment	<u>\$5,000</u>
<b>TOTAL Repayment</b>	<b><u>\$15,000</u></b>

When the money is clawed back it goes back into whichever fund from which it came (e.g., set aside, closing fund, etc.)<sup>196</sup> There are no additional penalties and fees associated with claw backs, just the formula shown in the example at the end of the chart for calculating the amount the company owes back.<sup>197</sup>

Commerce works with the Department of Revenue and others to ensure companies meet the requirements of their performance agreements.

### ***Seeking Repayment***

CCED is responsible for collecting the money when dealing with claw backs.<sup>198</sup> While a performance agreement, which is a contract, may appear to provide a bright line rule for when repayments are owed and the amount owed, but CCED has discretion to amend agreements. Under certain circumstances, CCED's executive director makes the decision on whether to recommend CCED claw back the money or not, or whether to reduce the clawback amount.<sup>199</sup> However, even if the money is not clawed back, it has been invested in something that makes the property more marketable and the company cannot take with them if they ever leave.

- Various options of what may occur include:
  - Option 1 - Demand full payment
  - Option 2 - Negotiate and reach a settlement regarding amount owed
  - Option 3 - Waive the repayment owed
  - Option 4 - Seek to collect the repayment owed through lawsuit
  - Option 5 - Seek to collect the repayment owed through the Department of Revenue's GEAR program

If a company responds to CCED staff, CCED staff will attempt to pursue option 1 or 2 above in the hopes of furthering a good relationship with the company so if the company decides to expand in five or ten years, they will choose to remain in South Carolina.<sup>200</sup>

- The CCED staff, with authorization by the CCED, may negotiate the terms of such repayment, subject to approval of the CCED.<sup>201</sup>
- CCED staff will not recommend a waiver or settlement unless there is some reason (e.g., company overperformed in one performance area or something outside of the company's control caused issues).
- Issues CCED has considered outside a company's control in the past include workforce issues for companies in rural areas where the company informs CCED they have tried job fairs and other techniques to recruit, and drug test failures that have resulted in high attrition rates.

CCED staff testify CCED must be able to enforce performance agreements, which are contracts, with the companies.<sup>202</sup>

#### Potential amendments to current and future contracts with companies

Typically, companies are conservative with the job creation and investment numbers they estimate and initially agree to in the Revitalization Agreement (RVA) because they know they have to meet those numbers to start receiving the credits, and have to maintain those numbers to continue receiving the credits.<sup>203</sup> However, a company can submit a request to CCED staff to amend the RVA.<sup>204</sup> If CCED staff receives an amendment request, they perform a new cost benefit analysis to determine if the agreement, as amended, would still be beneficial.<sup>205</sup> (See "Cost/Benefit Analysis" section below). If CCED staff determines the agreement, as amended, would still be beneficial, they present and recommend it to the CCED.<sup>206</sup>

CCED has approved amendments to the RVA after entering a final agreement.<sup>207</sup> If an amendment occurs in which a company's requirements are lowered, CCED will typically also reduce the number of years that a company can claim credits (e.g., initial agreement was 100 employees and \$3M investment to receive credits for 10 years; amended agreement is 80 employees and \$2.5M investment to receive credits for 7 years).<sup>208</sup> Since the company is reducing the benefit it is providing the state by wanting its requirements lower, CCED is reducing the benefit to the company by reducing the number of years it receives credits from the state.<sup>209</sup>

Appendix E Table 2. Job development tax credit calendar years 2016-2020<sup>210</sup>

## Enterprise Program: JDC Approvals Each Year

Calendar Year	Number of Approvals	Projected Jobs	Projected Capital Investment
2020	57	7,733	\$ 3,058,169,004
2019	48	5,649	\$ 1,462,523,260
2018	69	10,216	\$ 2,504,201,095
2017	74	13,652	\$ 3,872,722,998
2016	69	10,129	\$ 2,552,751,138
*Source: CCED Annual Reports of Enterprise Zone Activity			

During and after the February 28, 2022, House Legislative Oversight Subcommittee meeting, inquiry was made related to topics for the statewide unified workforce plan, potential obstacles in the success of such a plan, and other entities to consider including as part of the plan were discussed.<sup>211</sup> Below is a summary of information gathered from the meeting and correspondence after the meeting.

### *Topics to include in the statewide plan*

#### Common Messaging

- Develop a marketing plan
- Statewide centralized marketing platform for all entities providing education and workforce development opportunities

#### Central Agency/Provider Portal and Integrated Agency Data Sharing

- Integrating multiple case management and reporting systems
- Centralization of an integrated case management system across all organizations in the workforce ecosystem. This would alleviate the need for unnecessary duplication, both by the customer (job seeker) and agency/organization staff.
- Central portal that has the capability to interface with entity case management programs (e.g., South Carolina Veteran Coalition)
- Central portal through which information could be shared
- Creating a unified portal to access unemployment, Supplemental Nutrition and Assistance Program and other assistance

#### Central Customer Portal and Co-Enrollment Options

- Promote a centralized portal for customers
- Central portal for customers to request assistance from multiple organizations with their information shared across all collaborating agencies.
- Strategies to implement universally accepted requirements for organizations in the workforce ecosystem (such as terminology, consent to release/share information, etc.) so that a customer does not have to navigate through these requirements repetitively or without direction.
- Central portal for customers to enter information through which their information could be shared with all applicable entities
  - If not possible, at least ensure systems between agencies are able to communicate with one another

#### Resources

- Funding for adequate systems and appropriate staff to manage the data and unified workforce plan



- Revisiting the Education Economic Development Act in developing a unified workforce plan. The framework is in place and codified making it easy to redirect funding and emphasis to address workforce issues.

#### Shared Accountability and Analytics

- Shared reporting and outcomes
- Interactive scorecard to measure and record up-to-date progress toward defined goals and metrics embedded in the proposed unified workforce plan
  - Include the Commission on Higher Education Ascend 60x30 postsecondary educational attainment goal for 60% of South Carolinians to have a high-quality postsecondary credentials by 2030
- Universal performance goals (i.e., 60% certification rate)
- Data Analytics to align education and training with demand occupations
- Confirmation from the business community (beyond manufacturing) on applicability of the unified workforce plan's priorities and goals
- Labor Market Information
  - Projected job growth and hiring needs by industry and profession
  - Projected graduates from feeder education programs
  - Gap analyses

#### Ongoing Communication

- Establish on-going meeting
- Maintain open channels of communication between agency designees
- State-wide, comprehensive calendar of employment events coordinated a year in advance with all agencies involved in employment to prevent:
  - regional or chronological gaps in employment services, and
  - oversaturation of employment services in a specific area or time frame

#### Shared Priorities

- Data and focus areas geared toward examining disparities among demographic and geographic groups, along with corresponding strategic efforts designed to improve outcomes for these demographic and geographic groups.
- Prioritization of rural areas
- Utilization of Career Pathways across education and workforce partners
- Comprehensive review of the roles and functions of Operation Palmetto Employment
- Plans for supporting and investing in child and elderly care infrastructure in our state.
  - Parents of young children and adults caring for elderly family members are unable to participate fully in the labor force without these supports, as they are forced to stay at home full-time or only work part-time to juggle part-time caregiving responsibilities. To be successful, a workforce plan should address these caregiving needs that prohibit a fair proportion of those able to work from participating in the labor force. A workforce plan should also acknowledge the recent and dramatic departure of women from the workforce, should layer this information together

with women who are parents or caregivers, and should examine the connection between policies that support parents in the workforce (such as paid leave or flexible work policies) as a strategy for addressing workforce shortages.

- Addressing childcare access/barriers by working with industry and the community.
- Encouraging students, more effectively, to earn career credentials at the high school level.
- Ensuring dual credit/dual enrollment exists within all school districts.

### *Potential obstacles to success of statewide plan<sup>212</sup>*

Absence of full buy in from all agencies with responsibilities of each clearly defined will result in internal fighting for available resources, making the requisite openness and active cooperation difficult to sustain in the long term.

- Failure to
  - include voices from a diverse group of stakeholders may limit buy-in
  - continuously convene and share information with all key stakeholders beyond plan development and into plan operationalization and measurement
  - fully share all information with respective agencies
  - coordinate alignment with federally mandated strategic plans (WIOA 4-Year Combined Plan and Perkins V 4-Year Plan)
  - create adequate plan cycle
    - Currently takes months to develop strategic plans formatted to meet requirements for the Agency Accountability Reports and federal plan requirements (WIOA). Plans that require modification every one to two years 1) do not allow enough time for reportable data to be gathered and analyzed to assess service delivery, and 2) inhibit complete training and implementation of the plan itself. Because of the plan cycle, you basically must start working on developing the next plan before data are available to evaluate the current plan. A longer plan cycle for the statewide unified workforce plan, consistent with labor market projections, would allow enough time for a full implementation cycle, with adjustments, to be completed.
  - utilize common terminology (for example, “case management” means something different to each organization).
- Duplication of efforts
  - Efforts already in place with the WIOA State Plan
  - Services already provided by other agencies
- Lack of
  - support (staff and other resources) from agency leaders
  - required agency representation
  - clearly defined reporting structure
  - clear deliverables for respective agencies
  - specific timelines
  - well defined outcomes to measure success or failure

- dedicated human resource and staff training
- adequate financial resources - including upfront funding for a statewide longitudinal data system and an integrated data dashboard accessible by agency staff and stakeholders
- cross-training
- communication, cooperation, and collaboration
- reliable and consistent data (numerous data points are self-reported, specifically, in the k-12 system, most data is collected from individual school districts and is based on the information each has provided)
- Coordinating
  - common intake between agencies
  - data systems utilized by different agencies (Data concerning employment and workforce development is collected by a range of agencies, using different management systems, different categories, and different definitions of terms)
- Staff turnover and potential loss of institutional knowledge re: workforce issues
- Intentional implementation (versus checking the box)
- Program silos whether created by legislation and lack of flexibility or otherwise
- Technology infrastructure-based obstacles

### *Other entities to involve*

Entities participating in Oversight Committee joint meeting include the following: First Steps to School Readiness; Department of Education; Technical College System; Commission on Higher Education; Department of Employment and Workforce; Department of Social Services; Vocational Rehabilitation Department; Commission for the Blind; Department of Veterans' Affairs; Department of Commerce

The following were listed as other entities agencies in the joint meeting believed may be involved in the education and workforce ecosystem and role of each.<sup>213</sup> Interestingly, three of the agencies involved in the meeting did not think of any other agencies that may be involved in the ecosystem, which evidences how potential partners are missed and duplicative work could be occurring.

#### Education

1. **Head Start** - Direct federal to local funding for programs that promote school readiness for low-income young children; the Head Start Collaboration Office is housed at the Department of Social Services
2. **Private and charter schools** - Non-public school settings educating young children through high school graduation
3. **S.C. Student Loan Corporation** - SC Student Loan Corporation works exclusively with South Carolina students and parents; therefore, it is uniquely positioned to educate and connect with current and potential borrowers about the loan process as well as the risks and rewards to incurring student loans while funding a postsecondary education.

#### Military

4. **U.S. Armed Forces** - A large component of the workforce and family life in SC; there are also federally qualified childcare centers on military bases that are part of the early childhood landscape in the state

#### Mental Illness

5. **SC Department of Mental Health** - Individual Placement and Support (IPS) is a collaboration between the South Carolina Department of Mental Health (SCDMH) and the South Carolina Vocational Rehabilitation Department (SCVRD). The goal of this partnership is to place people with severe mental illness in competitive employment. SCVRD and SCDMH provide an integrated and seamless employment service delivery that results in improved patient employment outcomes.

#### Rehabilitated Offenders

6. **SC Department of Juvenile Justice** - The South Carolina Department of Juvenile Justice offers a wide range of education, prevention, job-readiness, work and other programs. These programs are designed to introduce young people to new interests and opportunities to enhance long-term outcomes, as well as support and invest in communities impacted by youth crime.
7. **SC Department of Corrections** - The Division of Programs, Reentry and Rehabilitative Services provides numerous opportunities to assist inmates in all facets of rehabilitation. Inmates can learn new job skills, obtain their GED, earn vocational certificates, receive substance abuse treatment, learn about how crimes affect victims and even assist in teaching youth about life in prison.

#### Aging

8. **S.C. Department of Aging** - The Department of Aging administers the Senior Community Service Employment Program (SCSEP) which is the only federal job-training program focused exclusively on helping low-income seniors. The program promotes personal dignity and self-sufficiency through work. People 55 and older who qualify for the program work in their local communities. The South Carolina Department on Aging is designated to administer all Older Americans Act programs, including Title V, SCSEP. The goal of South Carolina SCSEP is to provide participants with the training experiences, supportive services and information needed to improve their lives by becoming economically self-sufficient through gainful employment.

#### Disabilities

9. **Department of Disabilities and Special Needs** - Provides long-term follow along services for individuals who have had a successful VR case to maintain employment and advance in their careers. Also, collaborating on the Customized Employment service model for individuals with significant disabilities who require more intensive services, including a discovery profile and job creation/negotiation
10. **Centers for Independent Living (CIL)** - CILs are designed and operated within a local community by individuals with disabilities and provide an array of independent living

services, such as one-on-one and group training on topics such as employment soft skills, transportation utilization, accommodation requests, and transition from high school to postsecondary life. CILs have been strong resources to SC Works Centers, such as providing disability sensitivity awareness training, assessing centers for accessibility, and serving on local boards. South Carolina has three CILs: Able SC, Walton Options for Independent Living, and AccessAbility.

### Housing

Developing more purposeful linkages with housing policy can only help support a broader education and workforce strategy.

11. **S.C. Housing Finance and Development Authority** - Incentivizes private-sector development of new affordable rental homes in Opportunity Zones and near employment centers in its [Qualified Allocation Plan](#).
12. **Local Housing Authorities** - Often offer resident and family services to help residents create pathways promoting stability and resiliency to reach their full potential. They are voluntary, employment-based programs that promote family self-sufficiency. Short-term and long-term goals to overcome barriers to employment and self-sufficiency are identified.

### General

13. **Bamberg Job Corps Center** - The Bamberg Job Corps Center is federally funded by the U.S. Department of Labor and has been in operation since 1979. It is a residential training center for youth, providing a variety of workforce development and educational activities, including GED preparation and testing, academic coursework and support, career readiness training and assessment, and job placement services, among other activities.
14. **S.C. Councils of Governments** - Councils of Governments (COGs) are partnerships of – and provide resources to – the local counties, cities, and towns in their regions. In addition to local and regional partnerships, COGs partner with numerous federal and state agencies, obtaining and administering grants for a variety of community-based programs and economic development initiatives.
15. **S.C. Chamber of Commerce** - SC Chamber of Commerce is the pre-eminent statewide voice representing the interests of the private sector to promote promotes pro-job and pro-business policies at the state and federal level. The organization is committed to developing a well-educated and skilled workforce with available, capable, productive, and sustainable workers to attract and retain employers across the state of South Carolina.
16. **S.C. African American Chamber of Commerce** - Works with minority small business owners across the state.
17. **S.C. Urban Leagues** - There are multiple Urban League affiliates in SC including Urban League of the Upstate, Columbia Urban League and Charleston Trident Urban League. The Urban League chapters are multi-service, non-profit agencies that promote financial stability and racial inclusion in the communities. For example, the Columbia Urban League offers programs designed to provide economic empowerment and educational

opportunities for those in need. Among the many focus areas, education, economic and youth empowerment are closely related to the education and workforce ecosystem. Education and youth empowerment is supported through college scholarships, early childhood literacy, Head Start and after care programs. The Columbia Urban League also empowers individuals in attaining economic self-sufficiency through job training, good jobs, home ownership, entrepreneurship, and wealth accumulation.

18. **Goodwill Industries of Upstate/Midlands and Palmetto Goodwill** - Goodwill provides job training, employment placement services, and other community-based programs for people who have barriers to their employment. Goodwill also hires veterans and individuals who lack either education, job experience or face employment challenges.
19. **United Way** – Provides leadership on issues that impact the quality of life of S.C. residents
20. **Fathership Coalition** – Provides resources to strengthen fathers for family engagement
21. **SC Thrive** – Nonprofit that aids community benefit organizations by offering innovative programs and initiatives
22. **Together SC** – Focused on bringing together S.C.’s leaders and partners to strengthen the state’s entire nonprofit community
23. **SC Council on Competitiveness** - SC Competes supports multiple statewide education initiatives that work collaboratively to optimize existing resources, expertise, and ideas to develop world-class talent in South Carolina including but not limited to TransformSC, Talent-Opportunity Program, student lunch and learns, and the Lemonade Supply Chain Game.
24. **SC Aerospace** – Collaborative effort to advance and market S.C.’s aerospace industry cluster.
25. **CyberSecureSC** – CyberSecureSC helps ensure stakeholders know how to protect themselves against cyber threats, grows cybersecurity professionals, and spurs cybersecurity innovation.
26. **SC Logistics** – Works to strengthen S.C.’s economy, create jobs, attract investment, and become a global leader in transportation, distribution, and logistics
27. **SCBIO** - Actively promotes, builds, supports, expands, and convenes S.C.’s life sciences industry
28. **SC PowerTeam** – Economic development organization representing the state’s 20 electric cooperatives
29. **SC MEP** – A private, non-profit group that helps industry with innovation, solutions, and strategies.
30. **SC Manufacturers Alliance** – Provides educational forums through committee and division conferences and advances S.C. manufacturing
31. **SC Future Makers** – Public-private partnership committed exclusively to the interests of S.C.’s manufacturing community
32. **Tallo** – Online connection platform for engaging current and future job seekers

## APPENDIX G – INDUSTRY SUPPLY GAP ANALYSIS

S.C. House of Representatives, House Legislative Oversight Committee, “Department of Employment and Workforce Letter to the Subcommittee (3.25.22),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of” and under “Correspondence,”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 14, 2022). Below is an excerpt of the response to question 11.

A data-based industry supply gap analysis seeks to compare projected occupational demand information within an industry with the current and projected supply of workers qualified to assume the anticipated positions. This analysis is the basis for making appropriate training and related investment decisions at both the state and regional levels. Completing a gap analysis involves drilling down into the occupations that compose the current workforce in each industry identified as high-demand and gathering the number of postsecondary completers for those same occupations from education agencies. The difference between the two represents the forecasted “gap” between employer demand and labor supply.

### *Analysis Performed in the Past*

In 2016, the Department of Education, the State Technical College System, the Department of Commerce, the Commission on Higher Education, and DEW conducted a data analysis and determined that the highest-demand industries with family-sustaining wages:

- Construction
- Diversified Manufacturing
- Healthcare
- Information Technology
- Transportation and Logistics

South Carolina occupational demand data from BLS was then matched with related educational completion data (IPEDES) to determine what occupations had critical shortages. This analysis was reproduced in 2018, once again identifying occupations where there was a significant gap between the number of educational completers and the demand for skilled workers.

Regionally, the Charleston Metro Chamber of Commerce with support from Charleston Regional Development Alliance, produced Charleston’s first “Talent Demand Study” in 2014 to compare the fastest-growing and in-demand occupations as well as assess talent supply gaps. This information was updated 2016 and 2018.

### *Need, Benefits, and Appropriate Parties*

South Carolina should assess the latest occupational demand to determine the most high-demand occupations and assess the number of completers for relevant post-secondary education as well as work-based learning through Registered Apprenticeships. This analysis should be completed annually, especially during periods of significant economic transition.

A key benefit of a supply gap analysis is that it serves as a blueprint in identifying where public training resources should be invested and common goals across workforce and education partners in prioritizing certificates, degrees, and curriculum development.

As to the appropriate parties, a supply gap analysis could be accomplished by RFA or a vendor.



## APPENDIX H – BEST-IN-CLASS STATE LONGITUDINAL DATA SYSTEMS

Below are excerpts from a Talent 2025 publication entitled, “Longitudinal Data Systems in Michigan: SLDS Analysis, Stakeholder Input and Recommendations, APPENDIX: Best-in-Class State Longitudinal Data Systems (SLDS)” prepared by David Palmer, MPA and Tricia Cazchowski in January 2020. See pages 3-5. [http://www.talent2025.org/uploads/files/T2025\\_SLDS\\_Appendix.pdf](http://www.talent2025.org/uploads/files/T2025_SLDS_Appendix.pdf) (accessed July 14, 2022).

### **Indiana**

Since 2013, the Indiana Commission for Higher Education has produced an annual College Value Report to help residents navigate the complex decisions about post-secondary education. This includes a publicly accessible, interactive Tableau dashboard that details labor force outcomes of higher education pathways. The College Value Report strives to evaluate: (1) graduate earnings and employment rates, (2) the social and community impact of college, and (3) alumni satisfaction, as measured by the Gallup-Indiana Graduate Satisfaction Survey. The report evaluates these criteria through three lenses: Statewide, Industry, and Institution. Statewide refers to the impact on individuals and the economy, how the investment in state financial aid pays off for learners and the state alike. Industry refers to the correlation between economic demands and decisions of what to study, reflecting the perceived value an additional worker (i.e., graduate) is expected to have in a given labor market. Institution refers to tuition costs and student debt, as well as the results of satisfaction surveys distributed to alumni of Indiana public colleges.

### **Kentucky**

The primary advantage of Kentucky’s statewide longitudinal data system (KYSTATS) lies in the granularity of labor market outcomes reported for K-12 as well as post-secondary graduates. Unlike Michigan, Kentucky distinguishes between instate and out-of-state employment. Its data can be further segmented to illustrate employment and wage comparisons across institutions, regions, industries of employment, and average weekly hours worked. It even provides information to compare the effect of high school career technical education on employment and wage outcomes across degree levels, employment status (full-time or part-time), industries, counties, and K-12 institutions for three, five, and 10 years after credential attainment – robust connections that Michigan lacks.

In 2014, the Kentucky Council on Postsecondary Education asked KYSTATS to create a report to examine employment outcomes for graduates by institution. The current iteration of the Postsecondary Feedback Report is a dynamic, public-facing Tableau dashboard that covers outcomes three, five, and 10 years after graduation, award completion over time, and outcomes for transfer students. Future expansions will allow institutions to break down employment outcomes by major, for two to 10 years post-graduation. The report also will provide information on the share and earnings of graduates at each institution who are employed in-state or out-of-state, further segmented by industry.

KYSTATS also worked with the Kentucky Innovation Workforce Board (KWIB), the Kentucky Department of Education (KDE), and regional employers to create the CTE Feedback Report. This report defines the highest-demand jobs within five key job sectors, such as healthcare and construction. Users can examine high school performance for CTE students, including their pathway completions and college and career readiness. The report also presents post-secondary and workforce outcomes,

such as the percentage of students earning 30 or more credit hours during the first year of college, employment rate, and wages for pathway completers who are not enrolled in a post-secondary institution. KWIB and KDE now use the CTE Feedback Report to align high-demand jobs data and employment needs of local employers with certificates accepted for these careers.

### **Minnesota**

Minnesota's longitudinal data system excels in two fundamental areas: tracking labor market outcomes for high school graduates, and tracking labor market outcomes for post-secondary graduates across industries, programs and institutions of study, locations (in-state or out-of-state), and demographics one, five and 10 years after credential attainment. As noted previously, Michigan's ability to track labor market outcomes for graduates is limited to statewide median wages and employment counts one and five years after graduation, based on an extremely small sample of graduates who respond to a survey. Michigan also does not distinguish between in-state and out-of-state employment for any key performance indicators — which reveals nothing about the share of total graduates employed, their industries of employment, average weekly hours worked, whether high school graduates have attained the knowledge and skills demanded of local employers, and whether labor market disparities persist across Michigan's 10 Prosperity Regions. In 2018, Minnesota's Statewide Longitudinal Education Data System (SLEDs) began reporting labor market outcomes for the 23 percent of Minnesota high school graduates who entered the workforce after graduation rather than enrolling post-secondary education or training. Minnesota's reported outcomes include the number and share of graduates at the district, regional, and state levels who entered the workforce, average weekly hours worked, industries of employment, average hourly wages and employment rates across industry sectors.

Saint Paul Public Schools (SPPS), Minnesota's largest school district, has incorporated performance measures into its strategic plan using information from SLEDs to gauge how well its graduates are prepared for college, career, and life. In comparison, Michigan's SLDS can gauge only preparedness for college, with limited information about K-12s ability to prepare students for a direct transition into the workforce. The strategic plan developed by SPPS uses longitudinal data to assess many traditional benchmarks, including graduation and enrollment in college, as well the number and share of the district's graduates who are employed and earning a living wage while not being enrolled in post-secondary education in-state or out-of-state. The district used new baseline data from SLEDs to develop five-year targets for outcomes in a variety of areas, including racial and cultural achievement gaps, special education and English learner achievement, kindergarten readiness, college and career readiness, and academic growth for all students. The district continues to leverage SLEDs data to improve programs and align curricula to the needs of local employers based on the outcomes of recent graduates across a plethora of social, demographic, and labor market characteristics. This ensures economic opportunity and mobility for all students, regardless of subsequent participation in post-secondary education and training.

AGENCY ADMINISTRATION

Recommendations #17-#21 seek to modernize laws relating to the operations of Department of Commerce.

Recommendation #17. Amend S.C. Code of Laws Section 13-1-320, which establishes Commerce's Division of State Development, to delete obsolete language and add objectives related to promotion of strategic planning and rural and workforce development. SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #1, #5 AND #10

# Law Change # 1

## Law Summary

### **SECTION 1-30-25.**

Transfers former agencies, boards, and commissions into new Commerce Department during restructuring.

### **SECTION 13-1-10**

Establishes Department of Commerce.

## Recommendation

### **Eliminate References to:**

- Aeronautics Division
- Savannah Valley Authority/Savannah Valley Development Division

### **Make technical changes:**

- Eliminate “Advisory” from Coordinating Council.



Appendix I Figure 1. Excerpt from agency personnel's Law Changes (August 5, 2021) presentation to Subcommittee

Appendix I Table 1. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p><b>SECTION 1-30-25.</b> Department of Commerce.</p> <p><b>SECTION 13-1-30.</b> Secretary of Commerce; executive director; division directors; duties and responsibilities.</p>	<p><u>Current Law:</u> Transfers former agencies, boards, and commissions into the newly formed Department of Commerce as part of state government restructuring.</p> <p><u>Recommendation:</u> Modify to delete references to the following:</p> <ul style="list-style-type: none"> <li>• SC Aeronautics Commission</li> <li>• Savannah Valley Authority</li> <li>• Savannah Valley Development</li> <li>• "Advisory" from Coordinating Council name.</li> </ul>	<p>Aeronautics was transferred to the former B&amp;CB in 2009 and thereafter to DOA.</p> <p>The Savannah Valley Authority became the Savannah Valley Development Division (SVDD) during 1993 Restructuring, but no longer exists at Commerce. The remaining assets of SVDD were transferred to other interested parties in 2012.</p> <p>The Coordinating Council is not merely "Advisory." This term has been removed from some, but not all, statutory references to the Coordinating Council. Need a global change to delete "advisory" from the Coordinating Council's name.</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u></p> <ul style="list-style-type: none"> <li>• SC Aeronautics Commission</li> </ul> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p><b>SECTION 1-30-25.</b> Department of Commerce.</p> <p>The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in and must be administered as part of the Department of Commerce to be initially divided into divisions for Aeronautics, Advisory Coordinating Council for Economic Development, State Development, Public Railways, and Savannah Valley Development:</p>		<p><b>SECTION 1-30-25.</b> Department of Commerce.</p> <p>The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in and must be administered as part of the Department of Commerce to be <del>initially</del> divided into divisions for <del>Aeronautics, Advisory Coordinating Council for Economic Development, State Development, and Public Railways,</del> and Savannah Valley Development:</p> <p>(A) South Carolina Aeronautics Commission, formerly provided for at Section 55-5-</p>	

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

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

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

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

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

HISTORY: 1993 Act No. 181, Section 1; 1999 Act No. 100, Part II, Section 71; 2000 Act No. 387, Part II, Section 73; 2004 Act No. 299, Section 5, eff July 1, 2004; 2005 Act No. 56, Section 3, eff May 9, 2005, applicable to taxable years beginning July 1, 2004; 2008 Act No. 313, Section 6.A, eff upon approval (became law without the Governor's signature on June 12, 2008); 2008 Act No. 359, Section 1, eff July 1, 2008.

**SECTION 13-1-10.** Department of Commerce established.

(A) The Department of Commerce is established as an administrative agency of state government which is comprised of a Division of State Development, a Division of Savannah Valley Development, a Division of Aeronautics, a Division of Public Railways, and an Advisory Coordinating Council for Economic Development. Each division of the Department of Commerce shall have such functions and powers as provided for by law.

(B) All functions, powers, and duties provided by law to the State Development Board, the Savannah Valley Authority, the South Carolina Aeronautics Commission, the South Carolina Public Railways Commission, and the Coordinating Council for Economic Development, its officers or agencies,

~~10, et seq.;~~

~~(BA)~~ Coordinating Council for Economic Development, formerly provided for at Section 41-45-30, et seq.;

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

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

~~(EC)~~ South Carolina Public Railways Commission, formerly provided for at Section 58-19-10, et seq.

**SECTION 13-1-10.** Department of Commerce established.

(A) The Department of Commerce is established as an administrative agency of state government which is comprised of a Division of State Development, ~~a Division of Savannah Valley Development, a Division of Aeronautics,~~ a Division of Public Railways, and ~~an Advisory~~ the Coordinating Council for Economic Development. Each division of the Department of Commerce shall have such functions and powers as provided for by law.

(B) All functions, powers, and duties provided by law to the State Development Board, ~~the Savannah Valley Authority, the South Carolina Aeronautics Commission,~~ the South Carolina Public Railways Commission, and the Coordinating Council for Economic Development, its officers or agencies, are hereby transferred to the

are hereby transferred to the Department of Commerce together with all records, property, personnel, and unexpended appropriations. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993.

Department of Commerce together with all records, property, personnel, and unexpended appropriations. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.



# Law Change # 5

## Law Summary

### **SECTION 13-1-320.**

Establishes the objectives of the Division of State Development.

## Recommendation

### **Modify to update Commerce objectives:**

- Delete obsolete language.
- Add objectives related to promotion of strategic planning (moved from CCED statutes) and rural and workforce development.



# Law Change # 5

## RECOMMENDATION: Modify and update objectives

- Commerce is not the “official state liaison office”, but promotes coordination of functions and activities of various agencies at the state, federal and local level regarding planning, research and development.
- Commerce promotes, but does not implement, a system of transportation in the state.
- Since 2016, Commerce has provided staff support for the SC Coordinating Council for Workforce Development (§13-1-2030). Commerce also has responsibility for regional education centers (§13-1-1810 and -1820).



## S. C. Code Ann. §13-1-320 (2), (3), (4) (PER p. 51)

The objectives of the division are to:

...

(2) promote coordination of the functions and activities of state agencies and act as the official state liaison office between the state, federal, and local planning, research, and development agencies;

(3) promote a system of transportation for the State through development and expansion, by state, federal, and local government agencies, of the highway, railroad, port, waterway, and airport systems;

(4) promote strategic planning for economic development, through coordination and collaboration with state, federal, and local government agencies and other stakeholders, and correlate state and local activity in planning public works projects, all for the purpose of diversifying and expanding the economic base of the State;

...

# Law Change # 5

## **RECOMMENDATION:** Modify and update objectives.

- Finding ways to overcome challenges faced by rural communities to attract jobs, investment and new residents is an important objective.
- Connecting education, communities and businesses regarding workforce has been an objective since 2003 Restructuring.
- Since 2014, Commerce has provided staff support for the SC Education and Economic Development Coordinating Council (§59-59-175). Commerce also has responsibility for regional education centers (§13-1-1810 and 1820).

S. C. Code Ann. §13-1-320 (9), (10), (11) *(PER p. 52)*

The objectives of the division are to:

...

(9) identify challenges facing rural communities in the State and solutions to overcome those challenges for the purpose of diversifying and expanding the economic base of the State;

(10) facilitate interaction by and among education, communities, and private businesses to ensure that all South Carolina citizens are knowledgeable and prepared to meet the current and future workforce needs of new and existing businesses in the State;

(911) advance the general welfare of the people.



Appendix I Table 2. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #5			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 13-1-320. Objectives of division.	<p><u>Current Law</u> Establishes the objectives of the Division of State Development.</p> <p><u>Recommendation</u> Modify to update objectives.</p> <ul style="list-style-type: none"> <li>• Delete reference to division as the "official state liaison office."</li> <li>• Clarify that promotion of system of transportation does not infer that division actually implements the development and expansion statewide of highway, railroad, port, waterway, and airport systems.</li> <li>• Add promotion of strategic planning for economic development (moved from Coordinating Council enabling legislation in Law Change 12).</li> <li>• Add objective to identify and overcome challenges in rural communities.</li> <li>• Add objective to facilitate coordination by and among education, communities, and businesses to ensure workforce needs are being met in the State.</li> </ul>	<p>While not the "official state liaison office", Commerce promotes coordination of functions and activities of various agencies at the state, federal and local level regarding planning research and development.</p> <p>Commerce promotes, but does not actually implement, a system of transportation in the state (other than through its Division of Public Railways, which is separate from the Division of State Development).</p> <p>Since 1993 Restructuring Commerce, not the Coordinating Council, has undertaken and funded strategic planning in collaboration with other public and private stakeholders in the State. Recommend repeal of strategic planning and related mandates of the Coordinating Council in Sections 13-1-1720(A)(1)-(5). (See also Law Change 12.)</p> <p>Finding ways to overcome the unique challenges faced by rural communities to attract jobs, investment and new residents is and has been an important objective of Commerce.</p> <p>Connecting education, communities and businesses regarding workforce needs is</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>

		an objective the General Assembly has given Commerce since Commerce was created during 2003 Restructuring. Since 2014, Commerce has been responsible, along with the Department of Education, to provide staff support for the SC Education and Economic Development Coordinating Council (Section 59-59-175). Commerce also now has responsibility for and oversight of regional education centers (Sections 13-1-1810 and 1820).	
Current Law Wording		Proposed Revisions to Law Wording	
<p>The objectives of the division are to:</p> <p>(1) conserve, restore, and develop the natural and physical, the human and social, and the economic and productive resources of the State;</p> <p>(2) promote coordination of the functions and activities of state agencies and act as the official state liaison office between the state, federal, and local planning, research, and development agencies;</p> <p>(3) promote a system of transportation for the State through development and expansion of the highway, railroad, port, waterway, and airport systems;</p> <p>(4) promote and correlate state and local activity in planning public works projects;</p> <p>(5) promote public interest in the development of the State through cooperation with public agencies, private enterprises, and charitable and social institutions;</p> <p>(6) promote and encourage industrial development, private business and commercial enterprise, agricultural production, transportation, and the utilization and investment of capital within the State;</p>		<p>The objectives of the division are to:</p> <p>(1) conserve, restore, and develop the natural and physical, the human and social, and the economic and productive resources of the State;</p> <p>(2) promote coordination of the functions and activities of <del>state agencies and act as the official state liaison office between the state, federal, and local</del> planning, research, and development agencies;</p> <p>(3) promote a system of transportation for the State through development and expansion, <u>by state, federal, and local government agencies</u>, of the highway, railroad, port, waterway, and airport systems;</p> <p>(4) promote <u>strategic planning for economic development, through coordination and collaboration with state, federal, and local government agencies and other stakeholders</u>, and correlate state and local activity in planning public works projects, <u>all for the purpose of diversifying and expanding the economic base of the State;</u></p> <p>(5) promote public interest in the development of the State through cooperation with public agencies, private enterprises, and charitable and social institutions;</p> <p>(6) promote and encourage industrial development, private business and</p>	

(7) assist the development of existing state and interstate trade, commerce, and markets for South Carolina goods and in the removal of barriers to the industrial, commercial, and agricultural development of the State;

(8) assist in ensuring stability in employment, increase the opportunities for employment of the citizens of the State, and devise ways and means to raise the living standards of the people of the State;

(9) advance the general welfare of the people.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

commercial enterprise, agricultural production, transportation, and the utilization and investment of capital within the State;

(7) assist the development of existing state and interstate trade, commerce, and markets for South Carolina goods and in the removal of barriers to the industrial, commercial, and agricultural development of the State;

(8) assist in ensuring stability in employment, increase the opportunities for employment of the citizens of the State, and devise ways and means to raise the living standards of the people of the State;

(9) identify challenges facing rural communities in the State and solutions to overcome those challenges for the purpose of diversifying and expanding the economic base of the State;

(10) facilitate interaction by and among education, communities, and private businesses to ensure that all South Carolina citizens are knowledgeable and prepared to meet the current and future workforce needs of new and existing businesses in the State;

~~(911)~~ advance the general welfare of the people.

.

# Law Change # 10

## Law Summary

**SECTION 13-1-370.**

Allows Secretary to establish advisory committee to the Division of State Development.

## Recommendation

Repeal as duplicative, but move identification of challenges facing rural communities and solutions to agency objectives under Section 13-1-320. (See Law Change #5.)





Appendix I Table 3. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #10			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>SECTION 13-1-370.</b> Advisory committee of the Division of State Development.	<p><u>Current Law:</u> Allows director to establish advisory committee of the Division of State Development.</p> <p><u>Recommendation:</u> Repeal.</p>	While the State Library is researching whether the advisory committee has ever existed, a 46-year Commerce employee who previously worked for the State Development Board confirms that it has not. Additionally, the Secretary of Commerce has authority pursuant to Section 13-1-40 to form advisory councils so this statutory provision is not needed.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording			Proposed Revisions to Law Wording
<p>The director may, in his discretion, establish an advisory committee of the Division of State Development (hereafter, in this section, the "advisory committee") which if established, would be comprised of twenty-four citizens of the State to be appointed by the Governor upon the advice and consent of the Senate. One member must be appointed from each of the following two-county areas:</p> <ol style="list-style-type: none"> <li>1. Richland and Kershaw counties;</li> <li>2. Spartanburg and Cherokee counties;</li> <li>3. Laurens and Newberry counties;</li> <li>4. Abbeville and Greenwood counties;</li> <li>5. Berkeley and Charleston counties;</li> <li>6. Oconee and Anderson counties;</li> <li>7. Florence and Marion counties;</li> <li>8. Greenville and Pickens counties;</li> <li>9. Horry and Georgetown counties;</li> <li>10. Union and York counties;</li> <li>11. Lee and Darlington counties;</li> <li>12. Marlboro and Dillon counties;</li> <li>13. Chester and Fairfield counties;</li> </ol>			Repeal entire statute and add the identification of challenges facing rural communities and solutions to those challenges as a Division of State Development objective under Section 13-1-320. See Law Change 5.

14. Lancaster and Chesterfield counties;
15. Sumter and Calhoun counties;
16. Clarendon and Williamsburg counties;
17. Beaufort and Jasper counties;
18. Dorchester and Colleton counties;
19. Orangeburg and Bamberg counties;
20. Allendale and Hampton counties;
21. Aiken and Barnwell counties;
22. Lexington and Saluda counties;
23. Edgefield and McCormick counties.

The Governor shall appoint one member from the State at large who shall serve as chairman. The terms of the members are for a period of four years and until their successors are appointed and qualify. Terms for all members commence on July first of the year of appointment. Of the members initially appointed from the two-county areas, the Governor shall appoint one member from each of the following counties for a term of two years: Kershaw, Cherokee, Newberry, Greenwood, Charleston, Anderson, Marion, Pickens, Georgetown, York, Darlington, and Dillon, and the Governor shall appoint one member from each of the following counties for a term of four years: Fairfield, Chesterfield, Calhoun, Williamsburg, Jasper, Colleton, Bamberg, Hampton, Barnwell, Lexington, and McCormick. Upon the expiration of the initial terms of the members appointed from the two-county areas, the Governor shall rotate the appointment of these members between the counties in each of the two-county areas. The advisory committee may select other officers from its membership to serve for terms designated by it. Vacancies must be filled in the manner of the original appointments for the unexpired portions of the terms. The members of the advisory committee must be paid the usual mileage and subsistence as is provided by law for members of state boards, commissions, and committees. The advisory committee must meet four times a year, and may meet more often if the chairman considers it necessary or if ten members request the chairman to call a meeting, and the director approves such additional meetings. The advisory committee may not meet at any location outside the boundaries of South Carolina. The advisory committee shall advise and consult with the director on the following matters:

- (a) the condition of and prospects for economic development in the State - particularly in the rural areas;
- (b) the fostering of a close working relationship between the primarily rural, or primarily agricultural, counties of the State and the counties which are primarily nonrural or nonagricultural;
- (c) the identification of problems facing smaller rural counties and of solutions to those problems;
- (d) having input to the director regarding industrial prospects throughout the State; and

<p>(e) any other matter which the director considers necessary to assist the director, in the way of consultation or advice, in carrying out any of the director's duties or functions under this article.</p>	
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<p>HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.</p>	
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**Recommendation #18.** Amend S.C. Code of Laws Section 13-1-330, which outlines specific division of Commerce and specific requirements for agency leadership.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #6</sup>

# Law Change # 6

## Law Summary

### **SECTION 13-1-330.**

Requires that the Division of State Development be made up of certain bureaus and be headed by individuals with certain qualifications.

## Recommendation

### **Modify limiting language:**

- Give Secretary of Commerce discretion on how to organize division and staff with qualified personnel.
- Delete obsolete language.



# Law Change # 6

**RECOMMENDATION:** Update obsolete language re: agency and staff organization

- Bureau language is outdated and does not reflect organization of Commerce since 1993 Restructuring.
- Removing limiting language clarifies that current and future Secretaries have the ability to organize the Division of State Development, or Commerce, in the way that best meets the needs of the state.

**S. C. Code Ann. §13-1-330 (PER p. 53)**

~~The division shall be organized at the discretion of the director, with approval of the Secretary, and staffed by personnel with the necessary qualifications and experience to perform the duties required consist of a bureau of research, a bureau of planning, a bureau of development, and such other bureaus as the director may establish. Each bureau may be headed by a bureau chief selected on the basis of his technical and administrative qualifications and experience to perform the duties required by his position. The chief for the bureau of research shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of research and economics. The chief for the bureau of planning shall be an industrial engineer experienced in that type of work. The chief for the bureau of development shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of developing a program of advertising and salesmanship.~~



Appendix I Table 4. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #6			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>SECTION 13-1-330.</b> Division made up of bureaus.	<p><u>Current Law:</u> Requires that the Division of State Development be made up of certain bureaus and headed by individuals with certain qualifications.</p> <p><u>Recommendation:</u> Modify to update obsolete language and provide discretion to director, with approval of Secretary of Commerce, to organize and staff division with qualified personnel.</p>	Bureau language is outdated and does not reflect organization of Commerce since 1993 Restructuring. Removing limiting language clarifies that current and future Secretaries have the ability to organize the Division of State Development, or Commerce, in the way that best meets the needs of the state.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>The division shall consist of a bureau of research, a bureau of planning, a bureau of development, and such other bureaus as the director may establish. Each bureau may be headed by a bureau chief selected on the basis of his technical and administrative qualifications and experience to perform the duties required by his position. The chief for the bureau of research shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of research and economics. The chief for the bureau of planning shall be an industrial engineer experienced in that type of work. The chief for the bureau of development shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of developing a program of advertising and salesmanship.</p> <p>HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.</p>		<p>The division shall <u>be organized at the discretion of the director, with approval of the Secretary, and staffed by personnel with the necessary qualifications and experience to perform the duties required</u> <del>consist of a bureau of research, a bureau of planning, a bureau of development, and such other bureaus as the director may establish. Each bureau may be headed by a bureau chief selected on the basis of his technical and administrative qualifications and experience to perform the duties required by his position. The chief for the bureau of research shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of research and economics. The chief for the bureau of planning shall be an industrial engineer experienced in that type of work. The chief for the bureau of development shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of developing a program of advertising and salesmanship.</del></p>	



Recommendation #19. Amend S.C. Code of Laws Section 13-1-340, which outlines the director's duties, powers, and responsibilities, to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. SEE AGENCY LAW CHANGE PER RECOMMENDATION #7

# Law Change # 7

## Law Summary

**SECTION 13-1-340.**

Establishes duties, powers, and responsibilities of Director of Division of State Development.

## Recommendation

Modify and update to consolidate into this section the broad powers of former boards, commissions, and councils to the extent those duties, powers, and responsibilities are still relevant and useful. (See Law Change #8.)



# Law Change # 7

**RECOMMENDATION:** Consolidate and update §13-1-340 and §13-1-350

- This is the primary section outlining S.C. Commerce's duties, powers, and responsibilities, which have not been updated since 1993.

## S. C. Code Ann. §13-1-340(7) & (11) (*PER p. 55*)

The director is vested with duties, powers, and responsibilities involved in accomplishing the division's objectives outlined in this article ...The director may:

...

(7) publish and distribute the division's findings through ~~written reports, brochures, magazine and newspaper articles, and other appropriate forms~~ and use the radio, periodicals, and other recognized forms of advertising and marketing, personal interviews, exhibits, and displays in order that governmental agencies, corporations, and individual citizens may become acquainted with the development program of the State;

...

(11) accept gifts, grants, loans, funds, and property to accomplish the division's objectives, administer and disburse gifts, grants, loans, and funds, and dispose of property to counties, municipalities, and local agencies performing a public service or function which may disburse the gifts, grants, and funds or make the property available to eligible participants in a program established to perform and implement the public service or function subject to the approval of the State Fiscal Accountability Authority.



Appendix I Figure 9. Excerpt from agency personnel's Law Changes (August 5, 2021) presentation to Subcommittee

# Law Change # 7

**RECOMMENDATION:** Consolidate and update §13-1-340 and §13-1-350

- While most of the duties, powers, and responsibilities under Section 13-1-340 are still relevant, many of the additional duties, powers, and responsibilities set forth in Section 13-1-350 are obsolete, unconstitutional, duplicative of duties being performed by other state agencies, or can be updated and consolidated into one section. (See Law Change #8.)



## S. C. Code Ann. §13-1-340 (12), (13), (14) (PER p. 56)

The director is vested with duties, powers, and responsibilities involved in accomplishing the division's objectives outlined in this article ...The director may:

...

(12) compile surveys showing the nature and extent of the natural resources and of the manufactured products and raw materials found or produced in the State which may move in domestic or foreign commerce;

(13) determine the areas throughout the world where commodities and products of this State may find advantageous markets and secure perfection of arrangements between citizens of this State and producers and consumers in other areas whereby there may be carried on greater interchange of commerce.

(14) purchase, hold, use, lease, sell, transfer, convey, assign, or otherwise to acquire or dispose of any property, real, personal or mixed, or any estate or interest therein, all subject to requisite approvals;

...

Appendix I Table 5. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #7			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p><b>SECTION 13-1-340.</b> Director of division; duties, powers and responsibilities.</p>	<p><u>Current Law:</u> Establishes duties, powers, and responsibilities of the Director of the Division of State Development, or Commerce.</p> <p><u>Recommendation:</u> Modify and consolidate duties, powers, and responsibilities set forth in Section 13-1-350 with Section 13-1-340 to update, eliminate duplication, and remove obsolete and/or unconstitutional statutory language. (See Law Change 8.)</p>	<p>This is the primary section outlining Commerce's duties, powers, and responsibilities, which have not been updated since 1993. While most of the duties, powers, and responsibilities under Section 13-1-340 are still relevant, many of the additional duties, powers, and responsibilities set forth in Section 13-1-350 (related to former boards, commissions, and councils restructured into Commerce) are obsolete, unconstitutional, duplicative of duties being performed by other state agencies, or can be updated and consolidated into this one section of the duties, powers, and responsibilities. (See Law Change 8.)</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p><b>SECTION 13-1-340.</b> Director of division; duties, powers and responsibilities.</p> <p>The director is vested with duties, powers, and responsibilities involved in accomplishing the division's objectives outlined in this article within the appropriations provided by the General Assembly. The director may:</p> <p>(1) advise and make recommendations to the Governor and the General Assembly on matters concerning the division's objectives;</p> <p>(2) cooperate with the operating agencies of the State in the development of plans;</p> <p>(3) have access to the records and studies of each state agency pertaining to the division's objectives;</p>		<p><b>SECTION 13-1-340.</b> Director of division; duties, powers and responsibilities.</p> <p>The director is vested with duties, powers, and responsibilities involved in accomplishing the division's objectives outlined in this article within the appropriations provided by the General Assembly. The director may:</p> <p>(1) advise and make recommendations to the Governor and the General Assembly on matters concerning the division's objectives;</p> <p>(2) cooperate with the operating agencies of the State in the development of plans;</p> <p>(3) have access to the records and studies of each state agency pertaining to the division's objectives;</p>	

<p>(4) conduct studies on his own initiative pertaining to the division's objectives and others at the request of the Governor, the General Assembly, or state or local agencies;</p> <p>(5) make special studies on area problems or specific subjects, establish local agencies, and furnish staff or financial aid;</p> <p>(6) stimulate and encourage local, state, and federal governmental agencies with similar and related objectives and purposes and cooperate with local, regional, and federal planning and development programs;</p> <p>(7) publish and distribute the division's findings through written reports, brochures, magazine and newspaper articles, and other appropriate forms and use the radio, periodicals, and other recognized forms of advertising, personal interviews, exhibits, and displays in order that governmental agencies, corporations, and individual citizens may become acquainted with the development program of the State;</p> <p>(8) advertise the advantages of the State for industrial, agricultural, and commercial development by paid publicity;</p> <p>(9) provide information to and make contact with private business enterprises and local, state, and federal governmental agencies to acquaint them with industrial, agricultural, and commercial opportunities in the State and encourage the establishment of new or the expansion of existing industries and enterprises;</p> <p>(10) provide advice upon request by local, state, and federal agencies, private citizens, and business and commercial enterprises upon matters of economic development, industrial and business expansion, and agricultural activity upon which his knowledge, sources of information, and findings and decisions qualify him to speak;</p> <p>(11) accept gifts, grants, funds, and property to accomplish the division's objectives, administer and disburse gifts, grants, and funds, and dispose of</p>	<p>(4) conduct studies on his own initiative pertaining to the division's objectives and others at the request of the Governor, the General Assembly, or state or local agencies;</p> <p>(5) make special studies on area problems or specific subjects, establish local agencies, and furnish staff or financial aid;</p> <p>(6) stimulate and encourage local, state, and federal governmental agencies with similar and related objectives and purposes and cooperate with local, regional, and federal planning and development programs;</p> <p>(7) publish and distribute the division's findings through <del>written reports, brochures, magazine and newspaper articles, and other appropriate forms and use the radio, periodicals, and other</del> <u>recognized forms of advertising and marketing</u>, personal interviews, exhibits, and displays in order that governmental agencies, corporations, and individual citizens may become acquainted with the development program of the State;</p> <p>(8) advertise the advantages of the State for industrial, agricultural, and commercial development by paid publicity;</p> <p>(9) provide information to and make contact with private business enterprises and local, state, and federal governmental agencies to acquaint them with industrial, agricultural, and commercial opportunities in the State and encourage the establishment of new or the expansion of existing industries and enterprises;</p> <p>(10) provide advice upon request by local, state, and federal agencies, private citizens, and business and commercial enterprises upon matters of economic development, industrial and business expansion, and agricultural activity upon which his knowledge, sources of information, and findings and decisions qualify him to speak;</p> <p>(11) accept gifts, grants, <u>loans</u>, funds, and property to accomplish the division's objectives, administer and disburse gifts, grants, <u>loans</u>, and funds, and dispose of property to counties, municipalities, and local agencies performing a public service or function which may disburse the gifts, grants, and funds or make the property</p>
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property to counties, municipalities, and local agencies performing a public service or function which may disburse the gifts, grants, and funds or make the property available to eligible participants in a program established to perform and implement the public service or function subject to the approval of the State Fiscal Accountability Authority.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

available to eligible participants in a program established to perform and implement the public service or function subject to the approval of the State Fiscal Accountability Authority.

(12) compile surveys showing the nature and extent of the natural resources and of the manufactured products and raw materials found or produced in the State which may move in domestic or foreign commerce;

(13) determine the areas throughout the world where commodities and products of this State may find advantageous markets and secure perfection of arrangements between citizens of this State and producers and consumers in other areas whereby there may be carried on greater interchange of commerce.

(14) purchase, hold, use, lease, sell, transfer, convey, assign, or otherwise to acquire or dispose of any property, real, personal or mixed, or any estate or interest therein, all subject to requisite approvals;

(15) employ attorneys and other consultants and contractors upon such reasonable basis of compensation commensurate with the services rendered or to be rendered to the end that no excessive or unreasonable fees or compensation shall be allowed;

(16) promulgate regulations in accordance with Chapter 23 of Title 1.

(17) have the power of eminent domain;

(18) borrow money from the United States or any corporation or agency created, designed or established by the United States;

(19) have all additional powers, not inconsistent with this article, that are vested by law in corporations generally.



Recommendation #20. Amend S.C. Code of Laws Section 13-1-350, which requires the director to assume duties of former boards, commissions, and councils to remove obsolete, unconstitutional, or duplicative duties performed by other state agencies. SEE AGENCY LAW CHANGE PER RECOMMENDATION #8

# Law Change # 8

## Law Summary

### **SECTION 13-1-350.**

Outlines additional duties and powers vested in Commerce from former entities that were restructured into the Division of State Development.

## Recommendation

Repeal and consolidate duties that are still relevant and useful (and not duplicative of duties being performed by other agencies, obsolete and/or unconstitutional) into Section 13-1-340. (See Law Change #7.)



# Law Change # 8

**RECOMMENDATION:** Consolidate §13-1-350 as appropriate into §13-1-340

- Repeal and consolidate duties that are still relevant and useful (and not duplicative of duties being performed by other agencies, obsolete and/or unconstitutional) into Section 13-1-340. (See Law Change #7.)

**S. C. Code Ann. §13-1-350**

For proposed statutory revisions and whether proposed language is recommended to be **MOVED** or repealed as **DUPLICATIVE, OBSOLETE** or **UNCONSTITUTIONAL . . .**

Please see *PER pp. 56 – 63*



Appendix I Table 6. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #8			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 13-1-350. Director to assume duties of certain former boards, commissions, and councils.	<p><u>Current Law:</u> Outlines additional duties and powers vested in Commerce from former boards, commissions, and councils restructured into the Division of State Development.</p> <p><u>Recommendation:</u> Repeal and consolidate certain duties into Section 13-1-340. (See Law Change 7.)</p>	<p>Many of the duties, powers, and responsibilities of these former boards, commissions, and councils are obsolete (most if not all had not been amended long before 1993 Restructuring), unconstitutional, duplicative of duties being performed by other state agencies, or can be updated and consolidated into the duties, powers, and responsibilities under Section 13-1-340. (See Law Change 7.)</p> <p>Under "Proposed Revisions to Law Wording," each section of the statute is in a separate row for ease in referencing which statutes are proposed to be eliminated, and why, and which to be moved to Section 13-1-340. Duties, powers, and responsibilities that remain and are proposed to be moved to Section 13-1-340 are in <b>BOLD</b>.</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u></p> <ul style="list-style-type: none"> <li>• SC State Housing &amp; Finance Development Authority</li> <li>• Parks, Recreation &amp; Tourism</li> <li>• DHEC</li> <li>• Department of Agriculture</li> </ul> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
The former State Planning Board, State Board of Housing, Building Council of South Carolina, South Carolina Commerce Development Board, South Carolina Intra-Coastal Waterway Commission, South Carolina Board for Promotion of External Trade, and Natural Resources Commission and their successor the State Development Board having been abolished, the director shall have the following additional duties formerly imposed on such boards, commissions and councils:		<p>Repeal entire statute and add the duties, powers, and responsibilities that remain relevant and useful to the list of duties powers and responsibilities of the Division of State Development in Section 13-1-340. (See Law Change 7.)</p> <p>Certain duties of the State Board of Housing may be duplicative of current duties of the SC State Housing Finance &amp; Development Authority, but Commerce makes no recommendation regarding housing-related duties other than to repeal/remove responsibilities the Secretary of Commerce has for housing-related matters. (See Law Change 15.)</p>	

	Each section of the statute is in a separate row below for ease in referencing which statutes are proposed to be eliminated, and why, and which to be moved to Section 13-1-340. Duties, powers, and responsibilities that remain and are proposed to be moved to Section 13-1-340 are in <b>BOLD</b> .
<p>(1) State Planning Board:</p> <p>(a) to confer and cooperate with the executive, legislative and planning authorities of the United States and of neighboring states and of subdivisions thereof;</p> <p>(b) to promote interest in the understanding of the problems of state planning; and</p> <p>(c) to cooperate with the United States and any of its agencies in the planning, conservation, utilization and development of state resources and in the planning of its public works programs and to act, when so designated, as an agency of the United States, or of any agency thereof.</p>	<ul style="list-style-type: none"> <li>• (1)(a)-(c) is <b>DUPLICATIVE</b>: Duties already contained in Sections 30-4-340(2), (4), (5), (6).</li> </ul>
<p>(2) State Board of Housing: to perform the duties imposed upon him under Title 31 of this Code;</p> <p>(3) Building Council of South Carolina: to promulgate and recommend to the General Assembly of the State a building code for adoption;</p>	<ul style="list-style-type: none"> <li>• (2) and (3) are <b>OBSOLETE</b> as to Commerce: These provisions predated the creation of SC State Housing Finance &amp; Development Authority (“SC Housing”) and have not been amended for decades.</li> <li>• Certain provisions may be <b>DUPLICATIVE</b> of current duties of SC Housing. (See Law Change 15.)</li> </ul>
(4) Commerce Development Board:	
<p><b>(a) to purchase, hold, use, lease, mortgage, sell, transfer, convey, assign, pledge or otherwise to acquire, encumber or dispose of any property, real, personal or mixed, or any estate or interest therein, including, but without limiting the foregoing, stock in any corporation;</b></p>	<ul style="list-style-type: none"> <li>• (4)(a) is <b>MOVED</b> as appropriate and not unconstitutional into Section 13-1-340(14). Proposed language for Section 13-1-340(14) is as follows:</li> </ul> <p>(14) purchase, hold, use, lease, sell, transfer, convey, assign, or otherwise to acquire or dispose of any property, real, personal or</p>

	<p>mixed, or any estate or interest therein, all subject to requisite approvals;</p> <ul style="list-style-type: none"> <li>• Wording not in bold is unconstitutional and not moved into Section 13-1-340. Mortgaging, pledging, encumbering state property and state ownership of stock in any corporation is unconstitutional.</li> </ul>
<p>(b) to employ attorneys upon such reasonable basis of compensation as may be agreed upon, or as he may determine, commensurate with the services rendered or to be rendered to the end that no excessive or unreasonable fees or compensation shall be allowed;</p>	<ul style="list-style-type: none"> <li>• (4)(b) is <b>MOVED</b> into Section 13-1-340(15) and added to the duties of Division of Development. Proposed language for Section 13-1-340(15) is as follows:</li> </ul> <p>(15) employ attorneys and other consultants and contractors upon such reasonable basis of compensation commensurate with the services rendered or to be rendered to the end that no excessive or unreasonable fees or compensation shall be allowed;</p>
<p>(c) to build, acquire, construct and maintain power houses and any and all structures, ways and means necessary, useful or customarily used and employed in the construction of highways, in the construction and operation of railroads and in the manufacture, generation and distribution of electricity and any and all other kinds of power, including power transmission lines, poles, telephone and telegraph lines, substations, transformers and generally all things used or useful in the manufacture, distribution and purchase of power and electricity; provided, that electric current produced shall be used by the director and that none of it shall be sold;</p>	<ul style="list-style-type: none"> <li>• (4)(c) is OBSOLETE.</li> </ul>
<p>(d) to acquire or to build, construct, equip, maintain and operate one or more railroads with any motive power, one or more highways or other methods, means or ways of commerce or transportation or of communication, telegraph or telephone lines, electric lines, pipe lines, commissaries, houses, camps, lakes, fills, dams, reservoirs, ditches, drains, roads, tunnels, culverts, bridges, conduits, shops and depots and equipment; provided, that telegraph or telephone lines shall be used by the director and that no telegraph or telephone service shall be sold to the general public;</p>	<ul style="list-style-type: none"> <li>• 4(d) is DUPLICATIVE: Commerce’s Division of Public Railways, to be studied at a later date, has the authority to build, construct, equip, maintain and operate railroads. DHEC is responsible for flood prevention and dam regulation under the Dams and Reservoirs Safety Act, Section 49-110 thru 260 and associated regulations R.72.1- thru .71.9. SCDOT is responsible for construction and maintenance of state highways and bridges and electric power and</li> </ul>

	telephone service infrastructure and services are almost exclusively in the private sector.
(e) to engage in the business of a common carrier of freight <i>or passengers</i> for hire;	<ul style="list-style-type: none"> <li>• (4)(e) is partly DUPLICATIVE and partly OBSOLETE: Commerce's Division of Public Railways is a common carrier of freight.</li> <li>• Words in italics are obsolete.</li> </ul>
(f) to build, construct, equip, maintain and operate, or cause the same to be done, a railroad or a highway connecting the existing lines of railroad at Walhalla, South Carolina, and at or near Maryville, Tennessee, or as near to such points as practicable and to do every act and thing necessary or proper to accomplish that result and to secure improvement of such existing lines connecting the same with the Atlantic seaboard;	<ul style="list-style-type: none"> <li>• (4)(f) is OBSOLETE.</li> </ul>
(g) to transport goods, freight, <i>mail, passengers and intelligence for hire</i> and to fix and collect proper charges therefor;	<ul style="list-style-type: none"> <li>• (4)(g) is partly DUPLICATIVE and partly OBSOLETE: Commerce's Division of Public Railways is a common carrier of freight.</li> <li>• Words in italics are obsolete.</li> </ul>
(h) to construct or establish parks or playgrounds for the use, benefit, recreation and amusement of the people of this State under such rules and regulations and subject to such charges as it may establish, determine or fix, with all necessary or proper appurtenances, roadways, lakes, reservoirs, pipe lines, wires, buildings or other structures and equipment which it may from time to time deem desirable;	<ul style="list-style-type: none"> <li>• (4)(h) is DUPLICATIVE: PRT has confirmed it has this responsibility under Section 51-1-60(h).</li> </ul>
(i) to take such steps as may be proper to prevent and control soil erosion and floods in the areas served by it;	<ul style="list-style-type: none"> <li>• (4)(i) is DUPLICATIVE: DHEC has confirmed it has authority to undertake these duties and maintain regulatory programs to control stormwater runoff and sediment erosion. Sections 48-14-10 thru 170 and associated regulations.</li> </ul>
(j) to cooperate with the United States to promote the national defense;	<ul style="list-style-type: none"> <li>• (4)(j) is OBSOLETE</li> </ul>



<p>(k) to develop and increase commerce, intrastate, interstate and foreign, by shortening and improving existing routes, by constructing new routes and facilities and by equipping, maintaining and operating or leasing the same, or causing it to be done, by procuring or endeavoring to procure a reduction in freight, passenger, power, light, water, telegraph and telephone rates and tolls and by any other means or method which shall tend so to do and securing to the people of this State the annual saving of large sums and an improvement in their living conditions and general welfare;</p>	<ul style="list-style-type: none"> <li>• (4)(k) is <b>DUPLICATIVE</b>: Division of Public Railways (rail routes and freight). SCDOT (road and highway routes)</li> </ul>
<p>(l) to cooperate with the health authorities in the areas served by it to the end that the public health may be improved and disease and suffering reduced;</p>	<ul style="list-style-type: none"> <li>• (4)(l) is <b>DUPLICATIVE</b>: DHEC has confirmed that it has broad authority to fulfill this mandate. Sections 44-1-80 thru 44-1-170.</li> </ul>
<p>(m) to fix, alter, charge and collect tolls, freight and other charges for the use of the division's facilities or for the services rendered by or for any commodities furnished by it, at rates to be determined by the director, such rates to be at least sufficient to provide for payment of all expenses of the director under this subparagraph (4) of this section, the conservation, maintenance and operation of its facilities and properties, the payment of principal and interest on its notes, bonds and other evidences of indebtedness or obligation and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any of the division's notes, bonds or other evidences of indebtedness or obligation;</p>	<ul style="list-style-type: none"> <li>• (4)(m) language is <b>OBSOLETE</b></li> <li>• BUT any authority here to charge for use of facilities would be captured in catchall provision related to corporate powers in Section 13-1-140(19).</li> </ul>
<p><b>(n) to have the power of eminent domain;</b></p>	<ul style="list-style-type: none"> <li>• (4)(n) is <b>MOVED</b> to Section 13-1-340(17) and added to the duties of Division of Development. Proposed language for 13-1-340(17) is as follows:</li> </ul> <p>(17) have the power of eminent domain;</p>
<p><b>(o) to acquire by purchase, gift, condemnation or in any other manner any lands, waters, water rights, riparian rights, flowage rights, rights of way, easements, licenses, franchises, engineering data, maps, construction plans or estimates or any other property of any kind, real, personal or mixed, necessary or useful in carrying out any of his powers;</b></p>	<ul style="list-style-type: none"> <li>• (4)(o) is <b>MOVED</b> to Section 13-1-340(14) and added to the duties of Division of Development. Words that are <b>OBSOLETE</b> and/or not needed are omitted. Proposed language for Section 13-1-340(14) is as follows:</li> </ul>

	<p>(14) purchase, hold, use, lease, sell, transfer, convey, assign, or otherwise to acquire or dispose of any property, real, personal or mixed, or any estate or interest therein, all subject to requisite approvals;</p>
<p><b>(p) to borrow money, to make and issue negotiable notes, bonds and other evidences of indebtedness and to secure the payment of such obligations or any part thereof by mortgage, lien, pledge or deed of trust on any or all of the division's property, contracts, franchises or revenues and to make such agreements with the purchasers or holders of such notes, bonds or other evidences of indebtedness or with others in connection with any such notes, bonds or other evidences of indebtedness, whether issued or to be issued, as the director shall deem advisable and in general to provide for the security for such notes, bonds or other evidences of indebtedness and the rights of the holders thereof;</b></p>	<ul style="list-style-type: none"> <li>• (4)(p) is <b>MOVED</b> as appropriate and not unconstitutional into Section 13-1-340(18) and added to the duties of Division of Development. Words that are OBSOLETE and/or not needed are omitted Proposed language for Section 13-1-340(18) is as follows:</li> </ul> <p>(18) borrow money from the United States or any corporation or agency created, designed or established by the United States;</p> <ul style="list-style-type: none"> <li>• Wording not in bold is UNCONSTITUTIONAL.</li> <li>• Accepting and disbursing “loans” is also proposed to be added to Section 13-1-340(11). See Law Change 7.</li> </ul>
<p>(q) to endorse or otherwise to guarantee the obligations of any corporation all of the voting stock of which the division may own or acquire;</p> <p>(r) to mortgage, pledge, hypothecate or otherwise to encumber any or all of the division's property, real, personal or mixed, facilities or revenues as security for notes, bonds, evidences of indebtedness or other obligations;</p>	<ul style="list-style-type: none"> <li>• (4)(q)-(r) is UNCONSTITUTIONAL.</li> </ul>
<p><b>(s) to borrow money from the United States or any corporation or agency created, designed or established by the United States;</b></p>	<ul style="list-style-type: none"> <li>• (4)(s) is <b>MOVED</b> into Section 13-1-340(18) and added to the duties of Division of Development. Proposed language for Section 13-1-340(18) is as follows:</li> </ul> <p>(18) borrow money from the United States or any corporation or agency created, designed or established by the United States;</p>

	<ul style="list-style-type: none"> <li>Accepting and disbursing “loans” is also proposed to be added to Section 13-1-340(11). See Law Change 7.</li> </ul>
<p>(t) to exercise the powers and to do the things authorized by subsubparagraph (4) of this section either by and with his own efforts and resources or to procure or to cause the same to be done by the United States or any agency or instrumentality thereof, by any one or more of the states affected or their political subdivisions, agencies or instrumentalities, by any private corporation, association or individual, contractor or otherwise or by the joint efforts of any or all of them or by cooperation with any or all of them, having in mind that the primary objective to be achieved is the construction, maintenance and operation of the railroad, highways, lines of communication and other facilities authorized by this subsubparagraph, regardless of the particular method, manner or agency by or through which the same may be done, and to do any and all acts and things and to make any and all agreements or contracts necessary thereunto, including also the power to lease the whole or any part of the division's facilities or to contract or agree upon a particular method, manner or agency of or for the maintenance or operation of such facilities;</p> <p>(u) to make, alter and repeal reasonable rules and regulations governing the use of the division's facilities and to fix and collect the charges, tolls, prices or rate of compensation it shall receive for the same, but nothing herein contained shall prevent the director, when in his opinion the public interest will best be served thereby and when the division's financial condition will permit, from allowing the use of its parks, places of amusement and recreation, roads, highways and the like, to be designated by the director from time to time, free of charge or at a merely nominal charge for the benefit of the people of this State;</p>	<ul style="list-style-type: none"> <li>(4)(t)-(u) are largely OBSOLETE. The authorization to make regulations in subsection (u) is <b>MOVED</b> to Section 13-1-340(16) and added to the duties of the Division of Development. Proposed language for Section 13-1-340(16) is as follows:  (16) promulgate regulations in accordance with Chapter 23 of Title 1.</li> </ul>
<p><b>(v) to sell or otherwise to dispose of any surplus property which the division may acquire and which the director may decide is not needed; and</b></p>	<ul style="list-style-type: none"> <li>(4)(v) is <b>MOVED</b> into Section 13-1-340(14) and added to the duties of Division of Development. Proposed language for Section 13-1-340(14) is as follows:</li> </ul>

	<p>(14) purchase, hold, use, lease, sell, transfer, convey, assign, or otherwise to acquire or dispose of any property, real, personal or mixed, or any estate or interest therein, all subject to requisite approvals;</p>
<p>(w) to have all additional powers, not inconsistent with this article, that are vested by law in common carriers of freight, passengers, electricity and intelligence for hire and in corporations generally.</p>	<ul style="list-style-type: none"> <li>(4)(w) is <b>MOVED</b> as appropriate into Section 13-1-340(19) and added to the duties of Division of Development. Proposed language for Section 13-1-340(19) is as follows:</li> </ul> <p>(19) have all additional powers, not inconsistent with this article, that are vested by law in corporations generally.</p>
<p>(5) South Carolina Intra-Coastal Waterway Commission: to perform the duties imposed upon it by Chapter 5 of Title 3 of this Code;</p>	<ul style="list-style-type: none"> <li>(5) is <b>DUPLICATIVE</b>: This reference has not been updated since 1993 Restructuring. In Chapter 3 of Title 5, DHEC was substituted for the SC Coastal Council during 1993 Restructuring when the former SC Intra Coastal Waterway Commission was made part of Commerce. DHEC has confirmed that it's Office of Coastal Resource Management (OCRM) has statutory authority, previously exercised by the State Development Board, and continues to perform the functions set forth in the Grants of Perpetual Rights and Easements to the United States for Development of Waterways Act. See Act No. 0508 of 1978.</li> </ul>
<p>(6) Board for Promotion of External Trade:</p> <p>(a) to compile surveys showing the nature and extent of the natural resources and of the manufactured products and raw materials found or produced in the State which may move in domestic or foreign commerce; and</p>	<ul style="list-style-type: none"> <li>(6)(a) is <b>MOVED</b> into Section 13-1-340(12) and added to the duties of Division of Development. Proposed language for Section 13-1-340(12) is as follows:</li> </ul> <p>(12) compile surveys showing the nature and extent of the natural resources and of the manufactured products and raw materials found or produced in the State which may move in domestic or foreign commerce;</p>

<p>(b) to determine the areas throughout the world where commodities and products of this State may find advantageous markets and secure perfection of arrangements between citizens of this State and producers and consumers in other areas whereby there may be carried on greater interchange of commerce.</p>	<ul style="list-style-type: none"> <li>• (6)(b) is <b>MOVED</b> into Section 13-1-340(13) and added to the duties of Division of Development. Proposed language for Section 13-1-340(13) is as follows:</li> </ul> <p>(13) determine the areas throughout the world where commodities and products of this State may find advantageous markets and secure perfection of arrangements between citizens of this State and producers and consumers in other areas whereby there may be carried on greater interchange of commerce.</p>
<p>(7) Natural Resources Commission:</p> <p>(a) to select a label, have it copyrighted and registered in the United States copyright office, which label shall in the judgment of the director be used to advertise the chemical and other contents of food products grown in South Carolina or to advertise other articles;</p> <p>(b) to promulgate and register the conditions upon which such label may be used and fix the charges for such use; and</p> <p>(c) to promulgate information furnished by the South Carolina Research Laboratories and other educational institutions and such other information as has bearing upon value of South Carolina products.</p> <p>HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993</p>	<ul style="list-style-type: none"> <li>• (7)(a)-(c) is DUPLICATIVE: The Department of Agriculture confirms it has broad authorization to promote and market SC agricultural products and does so through its Certified South Carolina trademarked program. The Department of Agriculture also works with Clemson University and its Clemson Extension offices to receive and disseminate information that affects agricultural marketing efforts in SC.</li> </ul>

Recommendation #21. Repeal S.C. Code of Laws Section 13-1-370, which allows the Secretary of Commerce to establish an advisory committee to the Division of State Development, as provisions are duplicate. Move identification of challenges facing rural communities and solutions to agency objectives under S.C. Code of Laws Section 13-1-320.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATION #10</sup>

# Law Change # 10

## Law Summary

**SECTION 13-1-370.**

Allows Secretary to establish advisory committee to the Division of State Development.

## Recommendation

Repeal as duplicative, but move identification of challenges facing rural communities and solutions to agency objectives under Section 13-1-320. (See Law Change #5.)



Appendix I Table 7. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #10			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>SECTION 13-1-370.</b> Advisory committee of the Division of State Development.	<p><u>Current Law:</u> Allows director to establish advisory committee of the Division of State Development.</p> <p><u>Recommendation:</u> Repeal.</p>	While the State Library is researching whether the advisory committee has ever existed, a 46-year Commerce employee who previously worked for the State Development Board confirms that it has not. Additionally, the Secretary of Commerce has authority pursuant to Section 13-1-40 to form advisory councils so this statutory provision is not needed.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording			Proposed Revisions to Law Wording
<p>The director may, in his discretion, establish an advisory committee of the Division of State Development (hereafter, in this section, the "advisory committee") which if established, would be comprised of twenty-four citizens of the State to be appointed by the Governor upon the advice and consent of the Senate. One member must be appointed from each of the following two-county areas:</p> <ol style="list-style-type: none"> <li>1. Richland and Kershaw counties;</li> <li>2. Spartanburg and Cherokee counties;</li> <li>3. Laurens and Newberry counties;</li> <li>4. Abbeville and Greenwood counties;</li> <li>5. Berkeley and Charleston counties;</li> <li>6. Oconee and Anderson counties;</li> <li>7. Florence and Marion counties;</li> <li>8. Greenville and Pickens counties;</li> <li>9. Horry and Georgetown counties;</li> <li>10. Union and York counties;</li> <li>11. Lee and Darlington counties;</li> <li>12. Marlboro and Dillon counties;</li> <li>13. Chester and Fairfield counties;</li> </ol>			Repeal entire statute and add the identification of challenges facing rural communities and solutions to those challenges as a Division of State Development objective under Section 13-1-320. See Law Change 5.



14. Lancaster and Chesterfield counties;
15. Sumter and Calhoun counties;
16. Clarendon and Williamsburg counties;
17. Beaufort and Jasper counties;
18. Dorchester and Colleton counties;
19. Orangeburg and Bamberg counties;
20. Allendale and Hampton counties;
21. Aiken and Barnwell counties;
22. Lexington and Saluda counties;
23. Edgefield and McCormick counties.

The Governor shall appoint one member from the State at large who shall serve as chairman. The terms of the members are for a period of four years and until their successors are appointed and qualify. Terms for all members commence on July first of the year of appointment. Of the members initially appointed from the two-county areas, the Governor shall appoint one member from each of the following counties for a term of two years: Kershaw, Cherokee, Newberry, Greenwood, Charleston, Anderson, Marion, Pickens, Georgetown, York, Darlington, and Dillon, and the Governor shall appoint one member from each of the following counties for a term of four years: Fairfield, Chesterfield, Calhoun, Williamsburg, Jasper, Colleton, Bamberg, Hampton, Barnwell, Lexington, and McCormick. Upon the expiration of the initial terms of the members appointed from the two-county areas, the Governor shall rotate the appointment of these members between the counties in each of the two-county areas. The advisory committee may select other officers from its membership to serve for terms designated by it. Vacancies must be filled in the manner of the original appointments for the unexpired portions of the terms. The members of the advisory committee must be paid the usual mileage and subsistence as is provided by law for members of state boards, commissions, and committees. The advisory committee must meet four times a year, and may meet more often if the chairman considers it necessary or if ten members request the chairman to call a meeting, and the director approves such additional meetings. The advisory committee may not meet at any location outside the boundaries of South Carolina. The advisory committee shall advise and consult with the director on the following matters:

- (a) the condition of and prospects for economic development in the State - particularly in the rural areas;
- (b) the fostering of a close working relationship between the primarily rural, or primarily agricultural, counties of the State and the counties which are primarily nonrural or nonagricultural;
- (c) the identification of problems facing smaller rural counties and of solutions to those problems;
- (d) having input to the director regarding industrial prospects throughout the State; and

(e) any other matter which the director considers necessary to assist the director, in the way of consultation or advice, in carrying out any of the director's duties or functions under this article.	
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HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

#### OUTDATED PROVISIONS RELATING TO COMMERCE'S INTERACTION WITH THE AERONAUTICS COMMISSION

Recommendations #22 and #23 seek to modernize outdated provisions relating to the Department of Commerce's interaction with the Aeronautics Commission, which was a division of Commerce from 1993-2009. The Committee completed a review of the Aeronautics Commission in October 2019.

Recommendation #22. Relocate the Aeronautics Commission's enabling legislation (Title 13, Chapter 1 of the South Carolina Code of Laws) out of middle of statutes relating to Commerce do reduce confusion as the commission is no longer a division of Commerce.

SEE AGENCY LAW CHANGE PER RECOMMENDATION #3

## Law Change # 3

### Law Summary

**SECTIONS 13-1-1000 thru 1-1090.**

Enabling legislation for the  
Aeronautics Commission.

### Recommendation

Relocate these provisions out of  
Commerce's enabling legislation to  
an appropriate location in SC Code.



Appendix I Table 8. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #3			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>SECTIONS 13-1-1000 thru 13-1-1090.</b> Aeronautics Division	<p><u>Current Law:</u> Enabling legislation for Aeronautics Commission.</p> <p><u>Recommendation:</u> Relocate the Aeronautics Commission's enabling legislation out of Title 13, Chapter 1 of the Code to an appropriate location in the enabling legislation of SFAA.</p>	The Aeronautics Commission is no longer a part of Commerce, but its enabling legislation continues to reside in middle of the enabling statutes applicable to Commerce, which creates confusion.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u></p> <ul style="list-style-type: none"> <li>• Aeronautics Division</li> <li>• State Fiscal Accountability Authority</li> </ul> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording			Proposed Revisions to Law Wording
<p style="text-align: center;">ARTICLE 6 Aeronautics Commission</p> <p><b>SECTION 13-1-1000.</b> Definitions. Notwithstanding any other provision of law, the following terms, when used in this article, have the following meanings unless the context clearly requires otherwise:</p> <p>(1) "Authority" means the State Fiscal Accountability Authority.</p> <p>(2) "Executive director" means the Executive Director for the Division of Aeronautics.</p> <p>(3) "Division" means the Division of Aeronautics.</p> <p>(4) "Commission" means the Aeronautics Commission.</p> <p>HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 12, eff June 18, 2012.</p>			Transfer provisions to enabling legislation of SFAA.

**SECTION 13-1-1010.** Commission created; purpose; purchase and sale of aeronautics assets.

Notwithstanding any other provision of law, the Aeronautics Commission is hereby created within the State Fiscal Accountability Authority. The State Fiscal Accountability Authority shall provide administrative support functions to the division. The commission shall oversee the operation of the division as the division's governing body. The Joint Bond Review Committee must review, prior to approval by the Aeronautics Commission, purchases or sales of any aeronautics assets, the value of which exceeds fifty thousand dollars. There may be no purchase or sale of any aeronautics assets without the approval of the commission.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 13, eff June 18, 2012.

**SECTION 13-1-1020.** Commission districts; election and appointment of members.

Notwithstanding any other provision of law, the congressional districts of this State are constituted and created commission districts of the State, designated by numbers corresponding to the number of the respective congressional districts. The commission shall be composed of one member from each district elected by the delegations of the congressional district and one member appointed by the Governor, upon the advice and consent of the Senate, from the State at large. The elections or appointments shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State and shall comply with the provisions of Chapter 13, Title 8. However, consideration of these factors in making an appointment or in an election does not create a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be appointed or elected. HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1030.** County-commission district overlap; consecutive terms; two commissioners from same county.

(A) Notwithstanding any other provision of law, a county that is divided among two or more commission districts, for purposes of electing a commission member, is considered to be in the district which contains the largest number of residents from that county.

(B) Notwithstanding any other provision of law, no county within a commission district shall have a resident commission member for more than one consecutive term and in no event shall any two persons from the same county serve as a commission member simultaneously.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1040.** Delegations to elect commissioner from district; organization of delegation; certification and issuance of commission.

Notwithstanding any other provision of law, legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a majority vote of the members of the delegation.

The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt rules they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person after he has taken the usual oath of office, a certificate of election as commissioner. The Governor then shall issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified. HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1050.** Terms of commission members; vacancies; forfeiture of office; at-large commission member as chairman.

(A) Notwithstanding any other provision of law, beginning February 15, 2005, commissioners must be elected by the legislative delegation of each congressional district. For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides. All commission members must serve for a term of office of four years that expires on February fifteenth of the appropriate year. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve until their successors are elected and qualify, and provided that a commissioner may only serve in a hold-over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner must be filled by election in the manner provided in this article for the unexpired term only. No person is eligible to serve as a commission member who is not a resident of that district at the time of his appointment, except that the at-large commission member may be appointed from any county in the State regardless of whether another commissioner is serving from that county. Failure by a commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office. The at-large commission member, upon confirmation by the Senate, shall serve as chairman of the commission.

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

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



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

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

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

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 11, eff June 18, 2012; 2012 Act No. 279, Section 6, eff June 26, 2012.

**SECTION 13-1-1060.** Oath of office.

Notwithstanding any other provision of law, each voting commission member, within thirty days after his election or appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1070.** Official seal; adoption of rules and procedures; reimbursement for official expenses.

(A) The commission may adopt an official seal for use on official documents of the division.

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

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

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1080.** Appointment of executive director.

Notwithstanding any other provision of law, the executive director shall be appointed in accordance with the following procedures:

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

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

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

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

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

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13-1-1090.** Qualifications for commission chairman and members.

Notwithstanding any other provision of law, individuals serving on the commission must meet the following minimum qualifications to be qualified:

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

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

(a) general aviation experience;

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

(c) aviation service provider experience;

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

(e) legal experience; or

(f) active involvement in a recognized aviation association.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

ARTICLE 7  
Division of Aeronautics

**SECTION 13-1-1110.** Organization and objectives of division.

The organization and objectives of the division are stated in Chapters 1 through 9 of Title 55.

HISTORY: 1993 Act No. 181, Section 246, eff July 1, 1993.

Recommendation #23. Amend S.C. Code of Laws Section 15-9-390 to revert to the Aeronautics Commission from Secretary of Commerce serving as the agent for service of process of nonresident operators of aircraft. Commerce was substituted for the commission when Aeronautics was a division of Commerce; however, now the Aeronautics Commission has been reconstituted. SEE AGENCY LAW CHANGE PER RECOMMENDATION #21

# Law Change # 21

## Law Summary

### **SECTION 15-9-390.**

Provides for service of process on nonresident operators of aircraft and requires service on Secretary of Commerce as agent of nonresident operator.

## Recommendation

### **Modify:**

- Remove Secretary of Commerce and replace with Aeronautics Commission.
- Commerce was substituted for Commission during 1993 Restructuring when Aeronautics was made a division of Commerce.
- Aeronautics Commission has been reconstituted.



Appendix I Figure 15. Excerpt from agency personnel's Law Changes (August 5, 2021) presentation to Subcommittee

## OUTDATED PROVISIONS RELATING TO COMMERCE'S INTERACTION WITH OTHER STATE ENTITIES

Recommendations #24 - #26 seek to modernize outdated provisions relating to the Department of Commerce's interaction with other state entities (e.g., Department of Corrections, Rural Infrastructure Authority, etc.).

Recommendation #24. Repeal S.C. Code Section 11-37-200, which establishes the Water Resources Coordinating Council and makes the Secretary of Commerce a member, as the council is defunct. SEE AGENCY LAW CHANGE PER RECOMMENDATION #19

# Law Change # 19

## Law Summary

**SECTION 11-37-200.**

Establishes Water Resources Coordinating Council and makes Secretary of Commerce a member.

## Recommendation

Repeal because Water Resources Coordinating Council is defunct. (See Rural Infrastructure Authority Law Change #4.)



Appendix I Table 9. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #19			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>SECTION 11-37-200.</b> Water Resources Coordinating Council established.	<p><u>Current Law:</u> Establishes Water Resources Coordinating Council and makes Secretary of Commerce a member.</p> <p><u>Recommendation:</u> Repeal.</p>	Water Resources Coordinating Council is defunct. See Rural Infrastructure Authority Law Change #4.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> None.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p><b>SECTION 11-37-200.</b> Water Resources Coordinating Council established.</p> <p>(A) There is established by this section the Water Resources Coordinating Council which shall establish the priorities for all sewer, wastewater treatment, and water supply facility projects addressed in this chapter, except as otherwise established by Section 48-6-40. The council shall consist of a representative of the Governor, the Director of the Department of Health and Environmental Control, the Director of the South Carolina Department of Natural Resources, the Director of the Rural Infrastructure Authority, the Secretary of Commerce, the Chairman of the Jobs Economic Development Authority, and the Chairman of the Joint Bond Review Committee. These representatives may designate a person to serve in their place on the council, and the Governor shall appoint the chairman from among the membership of the council for a one-year term. The council shall establish criteria for the review of applications for projects. Not less often than annually, the council shall determine its priorities for projects. The council after evaluating applications shall notify the authority of the priority projects. The South Carolina Jobs Economic Development Authority shall provide the staff to</p>		Repeal entire statute.	



receive, research, investigate, and process applications for projects made to the coordinating council and assist in the formulating of priorities. Upon notification by the council, the authority shall proceed under the provisions of this chapter. The authority may consider applications for projects based upon the existence of a documented emergency consistent with regulations that may be promulgated by the authority. In determining which local governments are to receive grants, the local governments shall provide not less than a fifty percent match for any project. The authority may provide financing for the local matching funds on terms and conditions determined by the authority.	
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Notably, this statute modernization recommendation was included in the Committee’s December 2019 review of the Rural Infrastructure Authority.

Recommendation #25. Remove references to the Department of Commerce in S.C. Code Section 24-1-290, pertaining to the Prison Industries Program at the Department of Corrections, as agency personnel assert Commerce does not have the data to provide the statutorily mandated certification.<sup>SEE AGENCY LAW</sup>

CHANGE PER RECOMMENDATION #14

# Law Change # 14

## **RECOMMENDATION:** Eliminate Commerce involvement with prison industries program

- S.C. Commerce:
  - has no role in recruiting or marketing the types of companies that perform the services that the prison industries program provides; and
  - cannot make the certification required by statute because Commerce does not have the data required.
- The Prison Industries Program has value, but Corrections can provide public notice and take note of any objections without S.C. Commerce.



### **S.C. Code Ann. § 24-1-290** (PER pp. 84-85)

(A) The Department of Corrections, ~~in conjunction with the Department of Commerce,~~ shall develop and maintain a marketing plan to attract private sector service businesses for the employment of inmates through the prison industries program.

(B) Prior to entering into new contracts and renewals of existing contracts with private sector service entities that want to hire inmates through the prison industries program, the Department of Corrections must provide public notice of its intention to establish or continue a prison-based industry at a particular facility ~~and receive certification by the Department of Commerce that an unfair competitive wage disadvantage to the local economy is not created by each new contract for prison labor.~~

...

(B)(1)(a) The Department of ~~Commerce~~ Corrections must maintain a copy of any objections filed for a period of three years from the date that the objections were received.

...

(B)(1)(C) No contract may be negotiated or executed prior to forty days after the last date that the notice required by subsection (A) appears. New contracts and renewals of existing contracts between private sector entities and the Department of Corrections must be negotiated in accordance with procedures established ~~jointly by the Department of Commerce and the Department of Corrections.~~ The procedures must be drafted to ensure fairness and consistency in establishing contracts with private sector entities seeking to establish or continue prison-based operations whenever the wage to be paid is less than the federally established minimum wage.

...

Appendix I Table 10. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #14			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 24-1-290. Employment of inmates through prison industries program; development of marketing plan; certification by Department of Commerce as to unfair competitive wage disadvantage; publication of notice.	<p><u>Current Law:</u> Requires Corrections and Commerce to develop and maintain a marketing plan for prison industries program. Requires Commerce to certify that prison industries contracts do not create an unfair competitive wage disadvantage to the local economy.</p> <p><u>Recommendation:</u> Modify to eliminate Commerce involvement with prison industries program.</p>	Commerce has no role in recruiting or marketing the types of companies that perform the services that the prison industries program provides. Commerce also cannot make the certification required by statute because Commerce does not have the data needed to do so. Having Commerce involved potentially and unnecessarily creates liability exposure for Commerce. The prison industries program has value, but Corrections can provide public notice and take note of objections, if any, without Commerce's involvement.	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> SC Department of Corrections.</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>(A) The Department of Corrections, in conjunction with the Department of Commerce, shall develop and maintain a marketing plan to attract private sector service businesses for the employment of inmates through the prison industries program.</p> <p>(B) Prior to entering into new contracts and renewals of existing contracts with private sector service entities that want to hire inmates through the prison industries program, the Department of Corrections must provide public notice of its intention to establish or continue a prison-based industry at a particular facility and receive certification by the Department of Commerce that an unfair competitive wage disadvantage to the local economy is not created by each new contract for prison labor.</p> <p>(1) The public notice required in this subsection must be forwarded to a newspaper of general circulation in the county where the prison-based industry is or will be located, with a request that it be published at least once</p>		<p>(A) The Department of Corrections, <del>in conjunction with the Department of Commerce,</del> shall develop and maintain a marketing plan to attract private sector service businesses for the employment of inmates through the prison industries program.</p> <p>(B) Prior to entering into new contracts and renewals of existing contracts with private sector service entities that want to hire inmates through the prison industries program, the Department of Corrections must provide public notice of its intention to establish or continue a prison-based industry at a particular facility <del>and receive certification by the Department of Commerce that an unfair competitive wage disadvantage to the local economy is not created by each new contract for prison labor.</del></p> <p>(1) The public notice required in this subsection must be forwarded to a newspaper of general circulation in the county where the prison-based industry is or will be located, with a request that it be published at least once a week for two</p>	

a week for two consecutive weeks. The notice must include a description of the work to be performed, the intent to contract for inmate labor, and provide that objections to the proposed hiring of prison labor may be filed with the Department of Commerce within thirty days of the last date that the notice appears.

(a) The Department of Commerce must maintain a copy of any objections filed for a period of three years from the date that the objections were received.

(b) Advertising costs associated with the publication of notice must be borne by the entity seeking to contract for prison labor.

(2) The certification required by this subsection must be based upon objections to the establishment of a prison-industry program provided for in item (1).

(C) No contract may be negotiated or executed prior to forty days after the last date that the notice required by subsection (A) appears. New contracts and renewals of existing contracts between private sector entities and the Department of Corrections must be negotiated in accordance with procedures established jointly by the Department of Commerce and the Department of Corrections. The procedures must be drafted to ensure fairness and consistency in establishing contracts with private sector entities seeking to establish or continue prison-based operations whenever the wage to be paid is less than the federally established minimum wage.

(D) The marketing plan and the procedures for negotiating new contracts and contract renewals must be submitted to and approved by the Department of Administration prior to implementation. The Department of Corrections shall annually submit an audit report of the program to the Senate Corrections and Penology Committee and the House Medical, Military, Public and Municipal Affairs Committee. The provisions of the section may not be construed to apply to traditional prison industries as authorized in Section 24-3-320.  
HISTORY: 2007 Act No. 68, Section 1, eff August 1, 2007.

consecutive weeks. The notice must include a description of the work to be performed, the intent to contract for inmate labor, and provide that objections to the proposed hiring of prison labor may be filed with the Department of Commerce within thirty days of the last date that the notice appears.

(a) The Department of ~~Commerce~~Corrections must maintain a copy of any objections filed for a period of three years from the date that the objections were received.

(b) Advertising costs associated with the publication of notice must be borne by the entity seeking to contract for prison labor.

(2) The certification required by this subsection must be based upon objections to the establishment of a prison-industry program provided for in item (1).

(C) No contract may be negotiated or executed prior to forty days after the last date that the notice required by subsection (A) appears. New contracts and renewals of existing contracts between private sector entities and the Department of Corrections must be negotiated in accordance with procedures established ~~jointly~~ by the ~~Department of Commerce and the~~ Department of Corrections. The procedures must be drafted to ensure fairness and consistency in establishing contracts with private sector entities seeking to establish or continue prison-based operations whenever the wage to be paid is less than the federally established minimum wage.

(D) The marketing plan and the procedures for negotiating new contracts and contract renewals must be submitted to and approved by the Department of Administration prior to implementation. The Department of Corrections shall annually submit an audit report of the program to the Senate Corrections and Penology Committee and the House Medical, Military, Public and Municipal Affairs Committee. The provisions of the section may not be construed to apply to traditional prison industries as authorized in Section 24-3-320.

**Recommendation #26.** Remove references in various statutes to the Department of Commerce’s oversight role in housing related matters.<sup>SEE AGENCY LAW CHANGE</sup>  
PER RECOMMENDATIONS #15 AND #20

# Law Change # 15

## Law Summary

**SECTIONS 31-1-30, 31-1-110 through -230; 31-3-20, -340, -370, 390, -750.**

Establishes duties of Commerce related to housing, limited dividend housing corporations, and oversight over municipal housing authorities/commissions.

## Recommendation

**Repeal/remove Commerce from housing matters:**

- Move statutory duties and authorization to Secretary of State; or
- Repeal to the extent obsolete. (See Law Change #8.)



Appendix I Figure 18. Excerpt from agency personnel's Law Changes (August 5, 2021) presentation to Subcommittee

# Law Change # 15

**RECOMMENDATION:** Remove participation of Secretary of Commerce from housing-related matters and move duties to Secretary of State

- Many of these statutory provisions are likely obsolete or should be handled by Secretary of State.
- The Secretary of Commerce should not have oversight over housing-related matters. (See Law Change #8.)

SC Housing and the SC State Library have provided information and background to Commerce, which is included in the Proposed Revisions to Law Wording found on pp. 87 – 88 of the PER.

Commerce takes no position on the disposition of these statutes other than that any housing-related responsibilities do not appropriately reside with the Secretary of Commerce.





Appendix I Figure 11. Excerpt from agency personnel's Law Changes (August 5, 2021) presentation to Subcommittee

LAW CHANGE #15			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p><b>SECTION 31-1-30.</b> General duties of Secretary of Commerce with respect to housing.</p> <p><b>SECTION 31-1-110.</b> Incorporation of limited dividend housing corporations.</p> <p><b>SECTION 31-1-120.</b> Purposes of limited dividend housing corporations.</p> <p><b>SECTION 31-1-140.</b> Declaration required in articles.</p> <p><b>SECTION 31-1-150.</b> Income debentures.</p> <p><b>SECTION 31-1-160.</b> Consideration for issuance of stocks, bonds, and income debentures.</p> <p><b>SECTION 31-1-170.</b> Limited return on stock.</p> <p><b>SECTION 31-1-180.</b> Limitations on actions by companies.</p> <p><b>SECTION 31-1-190.</b> Conveyances, leases, or subleases in violation of Section 31-1-180 shall be void.</p> <p><b>SECTION 31-1-200.</b> Regulation of limited dividend housing companies.</p> <p><b>SECTION 31-1-210.</b> Investigation of limited dividend housing companies.</p>	<p><u>Current Law:</u> Section 31-1-40 establishes duties of Secretary of Commerce with regard to housing.</p> <p>Sections 31-1-110 thru 31-1-230 establishes statutory framework for limited dividend housing corporations.</p> <p>Sections 31-3-20, 31-3-340, 31-3-370, 31-3-390, and 31-3-750 require local housing commissioner appointments and removals to be filed in the office of the Secretary of Commerce and give the Secretary discretion to extend territorial jurisdiction of local housing authorities.</p> <p><u>Recommendation:</u> Concept recommendation. Repeal/remove participation of Secretary of Commerce in housing-related matters and either move statutory duties and authorization to the SC</p>	<p>Many of these statutory provisions are likely obsolete or more appropriately should be handled by SC Housing, which came into existence in 1971, well after enactment of these provisions. The statutes have not been amended for decades. Regardless of the ultimate disposition of these statutes, the Secretary of Commerce should not have oversight over housing related matters. (See Law Change 8.)</p> <p>SC Housing and the SC State Library have provided information and background to Commerce, which is included in the Proposed Revisions to Law Wording below. Commerce takes no position on the disposition of these statutes other than that any housing-related responsibilities do not appropriately reside with the Secretary of Commerce.</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> South Carolina State Housing Finance and Development Authority (SC Housing)</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>

<p><b>SECTION 31-1-220.</b> Fees.</p> <p><b>SECTION 31-1-230.</b> Provisions of general corporation law applicable.</p> <p><b>SECTION 31-3-20.</b> Definitions.</p> <p><b>SECTION 31-3-340.</b> Commissioners.</p> <p><b>SECTION 31-3-370.</b> Removal of commissioners.</p> <p><b>SECTION 31-3-390.</b> Territorial jurisdiction.</p> <p><b>SECTION 31-3-750.</b> Territorial jurisdiction.</p>	<p>State Housing Finance and Development Authority (“SC Housing”) or repeal to the extent obsolete. (See Law Change 8.)</p>		
Current Law Wording	Proposed Revisions to Law Wording		
<p><b>SECTION 31-1-30.</b> General duties of Secretary of Commerce with respect to housing.</p> <p>The Secretary of Commerce, hereafter in this chapter sometimes called the director, may:</p> <p>(1) study housing conditions and needs throughout the State to determine in what areas congested and unsanitary housing conditions constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the State;</p> <p>(2) prepare programs for correcting such conditions;</p> <p>(3) collect and distribute information relating to housing;</p> <p>(4) investigate all matters affecting the cost of construction or production of dwellings;</p> <p>(5) study means of lowering rents of dwellings by securing economy in the construction and arrangement of buildings;</p>	<p><u>SC HOUSING PROVIDED BACKGROUND</u></p> <ul style="list-style-type: none"> <li>• Section 31-13-300 permits SC Housing to make determinations concerning availability of decent, safe and sanitary housing.</li> <li>• Section 31-13-180 permits SC Housing to provide technical, consultative and project assistance services, which furthers the ability to make determinations of housing needs as well as creating programs that address such needs.</li> <li>• SC Housing does not have the authority to “investigate all matters affecting the cost of construction or production of dwellings”.</li> <li>• SC Housing is limited to programs that support its beneficiary class (moderate to low income), which limits its statutory powers.</li> </ul>		

<p>(6) recommend and approve the areas within which or adjacent to which the construction of housing projects by limited dividend housing companies may be undertaken; and</p> <p>(7) cooperate with local housing officials and planning commissions or similar bodies in cities and other localities in the development of projects they at any time may have under consideration.</p> <p>HISTORY: 1962 Code Section 36-3; 1952 Code Section 36-3; 1942 Code Section 5271-10; 1933 (38) 176; 1945 (44) 156; 1954 (48) 1745; 1993 Act No. 181, Section 1994 Act No. 361, Section 8.</p>	
<p><b>SECTION 31-1-110.</b> Incorporation of limited dividend housing corporations.</p> <p>Any number of natural persons, not less than three, a majority of whom are citizens of the United States, may become a limited dividend housing corporation by subscribing, acknowledging and filing in the office of the Secretary of State articles of incorporation, hereinafter called "articles," setting forth the information required by Chapter 7 of Title 33; except as herein modified or changed.</p> <p>HISTORY: 1962 Code Section 36-11; 1952 Code Section 36-11; 1942 Code Section 5271-18; 1933 (38) 176.</p> <p><b>SECTION 31-1-120.</b> Purposes of limited dividend housing corporations.</p> <p>The purposes for which a limited dividend housing corporation is to be formed shall be as follows: To acquire, construct, maintain and operate housing projects when authorized by and subject to the supervision of the director.</p> <p>HISTORY: 1962 Code Section 36-12; 1952 Code Section 36-12; 1942 Code Section 5271-18; 1933 (38) 176; 1993 Act No. 181, Section 491.</p> <p><b>SECTION 31-1-130.</b> Par value shares.</p> <p>The shares of which the capital of a limited dividend housing corporation shall</p>	<p><u>SC HOUSING PROVIDED BACKGROUND</u></p> <ul style="list-style-type: none"> <li>• SC Housing has never come across a “limited dividend housing corporation” and speculates that this article may be obsolete.</li> </ul> <p><u>STATE LIBRARY PROVIDED BACKGROUND</u></p> <ul style="list-style-type: none"> <li>• Limited dividend housing corporations first appear in London in the 1840’s, and were a method of providing affordable housing using private investment. They were used throughout Europe and spread to the United States. New York passed the first <a href="#">Limited Dividend Housing Companies Act in 1926</a>. Several other states, including South Carolina, followed with similar laws in the early 1930’s. In some states, they are still used today.</li> <li>• Regarding the housing mandates - previous versions of the SC Code include:</li> </ul>

consist shall have a par value.

HISTORY: 1962 Code Section 36-13; 1952 Code Section 36-13; 1942 Code Section 5271-18; 1933 (38) 176.

**SECTION 31-1-140.** Declaration required in articles.

The articles of a limited dividend housing corporation shall contain a declaration (a) that the corporation has been organized to serve a public purpose and that it shall remain at all times subject to the supervision and control of the director or of other appropriate state authority, (b) that all real estate acquired by it and all structures erected by it shall be deemed to be acquired for the purpose of promoting the public health and safety and subject to the provisions of the State Housing Law and (c) that the stockholders of the corporation shall be deemed, when they subscribe to and receive the stock thereof, to have agreed that they shall at no time receive or accept from the company, in repayment of their investment in its stock, any sums in excess of the par value of the stock, together with cumulative dividends at the rate of six percent per annum and that any surplus in excess of such amount if the company shall be dissolved, shall revert to the State.

HISTORY: 1962 Code Section 36-14; 1952 Code Section 36-14; 1942 Code Section 5271-18; 1933 (38) 176; 1993 Act No. 181, Section 492.

**SECTION 31-1-150.** Income debentures.

The articles of a limited dividend housing corporation may authorize the issuance of income debenture certificates bearing no greater interest than six percent per annum. After the incorporation of a limited dividend housing corporation, the directors thereof may, with the consent of two thirds of the holders of any preferred stock that may be issued and outstanding, offer to the stockholders of the company the privilege of exchanging their preferred and common stock in such quantities and at such times as may be approved by the director for such income debenture certificates, whose value shall not exceed the par value of the stock exchanged therefor.

- HISTORY: 1962 Code Section 36-3; 1952 Code Section 36-3; 1942 Code Section 5271-10; 1933 (38) 176; 1945 (44) 156; 1954 (48) 1745; 1993 Act No. 181, Section 1994 Act No. 361, Section 8.
- 1933 (38) 176 – this refers to SC Act 143 of 1933 (page 176, Vol. 38), which enacted the State Housing Law and established a State Board of Housing. Among other duties, the State Board of Housing regulated limited dividend housing corporations. There is no mention in the Act of any relationship to the Department of Commerce or previous versions of the department.
- 1942 Code Section 5271-10 – this section codified SC Act 143.
- 1945 (44) 156 – This refers to SC Act 122 of 1945 (page 156, Vol. 44), which established the Department of Research, Planning, and Development (the Research, Planning, and Development Act of 1945), a predecessor of today’s Department of Commerce. In Section 10 of the Act, the State Board of Housing was abolished and its duties and powers transferred to the new Department of Research, Planning, and Development.

COMMERCE PROVIDED BACKGROUND

- Duties of the former State Board of Housing were assumed by the Director of the Division of State Development as part of 1993 State Restructuring in Section 13-1-350.
- Commerce recommends that the Secretary of Commerce be removed from any responsibility for housing-related matters. (See Law Change 8.)

HISTORY: 1962 Code Section 36-15; 1952 Code Section 36-15; 1942 Code Section 5271-21; 1933 (38) 176; 1993 Act No. 181, Section 493

**SECTION 31-1-160.** Consideration for issuance of stocks, bonds, and income debentures.

No limited dividend housing company incorporated under this chapter shall issue stock, bonds or income debentures, except for money, services or property actually received for the use and lawful purposes of the corporation. No stock, bonds or income debentures shall be issued for property or services except upon a valuation approved by the director and such valuation shall be used in computing actual or estimated cost.

The director may permit stock or income debentures to be issued for working capital to be used in connection with such project to any amount not exceeding three percent of the estimated total cost or three percent of the actual cost, if actual cost should exceed estimated cost, of a project.

HISTORY: 1962 Code Section 36-16; 1952 Code Section 36-16; 1942 Code Section 5271-20; 1933 (38) 176; 1993 Act No. 181, Section 494.

**SECTION 31-1-170.** Limited return on stock.

No stockholder in any corporation formed hereunder shall receive any dividend in any one year in excess of six per cent per annum except that when in any preceding year dividends in the amount prescribed in the articles of incorporation shall not have been paid on the stock the stockholders may be paid such deficiency without interest out of any surplus earned in any succeeding year.

HISTORY: 1962 Code Section 36-17; 1952 Code Section 36-17; 1942 Code Section 5271-19; 1933 (38) 176.

**SECTION 31-1-180.** Limitations on actions by companies.

No limited dividend housing company incorporated under this chapter shall:

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| <p>(1) acquire any real property or interest therein unless it shall first have obtained from the Secretary of Commerce a certificate that such acquisition is necessary or convenient for the public purpose defined in Section 31-1-140;</p> <p>(2) sell, transfer, assign or lease any real property without first having obtained the consent of the Secretary of Commerce, except that leases conforming to the regulations and rules of the Department of Commerce and for actual occupancy by the lessees may be made without the consent of the Secretary of Commerce;</p> <p>(3) pay interest returns on its mortgage indebtedness and its income debenture certificates at a higher rate than six percent per annum;</p> <p>(4) issue its stock, debentures and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of such project, including the lands, improvements, charges for financing and supervision approved by the Secretary of Commerce and interest and other carrying charges during construction and an allowance for working capital to be approved by the Secretary of Commerce but not exceeding three percent of the estimated cost or of the total actual final cost if the final cost of the project shall be greater than the estimated cost;</p> <p>(5) mortgage any real property without first having obtained the consent of the Secretary of Commerce;</p> <p>(6) issue any securities or evidences of indebtedness without first having obtained the approval of the Secretary of Commerce and the approval of the Director of the Department of Insurance, or his designee;</p> <p>(7) use any building erected or acquired by it for other than housing purposes, except that when permitted by law the story of the building above the cellar or basement and the space below such story may be used for stores, commercial, cooperative or community purposes and when permitted by law the roof may be used for cooperative or community purposes;</p> <p>(8) charge or accept any rental fee or other charge for housing accommodations in any building constructed, acquired, operated or managed by it in excess of the prices</p> |  |
|---|--|

prescribed by the Secretary of Commerce;

(9) enter into contracts for the construction of housing projects or for the payments of salaries to officers or employees except subject to the inspection and revision of the Secretary of Commerce and under such regulations as the Department of Commerce from time to time may prescribe;

(10) voluntarily dissolve without first having obtained the consent of the Secretary of Commerce; or

(11) make any guaranty without the approval of the Secretary of Commerce.

HISTORY: 1962 Code Section 36-18; 1952 Code Section 36-18; 1942 Code Section 5271-22; 1933 (38) 176; 1993 Act No. 181, Section 495; 1993 Act No. 181, Section 496; 1994 Act No. 361, Section 9.

**SECTION 31-1-190.** Conveyances, leases, or subleases in violation of Section 31-1-180 shall be void.

Any conveyance, encumbrance, lease or sublease made in violation of the provisions of Section 31-1-180 and any transfer or assignment thereof shall be void.

HISTORY: 1962 Code Section 36-19; 1952 Code Section 36-19; 1942 Code Section 5271-22; 1933 (38) 176

**SECTION 31-1-200.** Regulation of limited dividend housing companies.

In pursuance of its power to supervise and regulate the operations of limited dividend housing companies incorporated under this chapter the Secretary of Commerce may:

(1) order any such corporation to make, at its expense, such repairs and improvements as will preserve or promote the health and safety of the occupants of buildings and structures owned or operated by such corporations;

(2) order all such corporations to do such acts as may be necessary to comply with

the provisions of the law, the rules and regulations adopted by the Department of Commerce or the terms of any project approved by the Secretary of Commerce or to refrain from doing any acts in violation thereof;

(3) examine all such corporations and keep informed as to their general condition, their capitalization and the manner in which their property is constructed, leased, operated or managed;

(4) either through its members or agents duly authorized by it, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any such corporation, examine all books, contracts, records, documents and papers of any such corporation and by subpoena duces tecum compel the production thereof;

(5) in its discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such corporations and prescribe by order accounts in which particular outlays and receipts shall be entered, charged or credited;

(6) require every such corporation to file with the Secretary of Commerce an annual report setting forth such information as the Secretary of Commerce may require, verified by the oath of the president and general manager or receiver, if any, thereof or by the person required to file such report, such report to be in the form, cover the period and be filed at the time prescribed by the Secretary of Commerce;

(7) require specific answers to questions upon which the Secretary of Commerce may desire information and require such corporation to file periodic reports in the form covering the period and at the time prescribed by the Secretary of Commerce; and

(8) from time to time make, amend and repeal rules and regulations for carrying into effect the provisions of this chapter.

HISTORY: 1962 Code Section 36-20; 1952 Code Section 36-20; 1942 Code Section 5271-12; 1933 (38) 176; 1993 Act No. 181, Section 497; 1994 Act No. 361, Section 9.



**SECTION 31-1-210.** Investigation of limited dividend housing companies.

The director may investigate the affairs of limited dividend housing companies incorporated under this chapter and the dealings, transactions or relationships of such companies with other persons. Any of the investigations provided for in this chapter may be conducted by the director or by a committee to be appointed by the director. Each member of the committee may administer oaths, take affidavits and make personal inspections of all places to which their duties relate. The committee may subpoena and require the attendance of witnesses and the production of books and papers relating to the investigations and inquiries authorized in this chapter, examine them in relation to any matter it has power to investigate and issue commissions for the examination of witnesses who are out of the State or unable to attend before the committee or excused from attendance.

HISTORY: 1962 Code Section 36-21; 1952 Code Section 36-21; 1942 Code Section 5271-9; 1933 (38) 176; 1993 Act No. 181, Section 498.

**SECTION 31-1-220.** Fees.

The Secretary of Commerce may charge and collect from a limited dividend housing corporation, incorporated under this chapter, reasonable fees in accordance with the rates to be established by the rules of the Department of Commerce:

- (1) for the examination of plans and specifications and the supervision of construction, an amount not to exceed one half of one percent of the cost of the project;
- (2) for the holding of a public hearing upon application of a housing corporation, an amount sufficient to meet the reasonable cost of advertising the notice thereof and of the transcript of testimony taken thereat; and
- (3) for any examination or investigation made upon application of a housing corporation and for any act done by the Department of Commerce, or any of its employees, in performance of their duties under this chapter, an amount reasonably calculated to meet the expenses of the department incurred in connection therewith. In no event shall any part of the expenses of the department incurred

<p>under the provisions of this chapter ever be paid out of the State Treasurer. The Secretary of Commerce may authorize a housing corporation to include such fees as part of the cost of a project or as part of the charges specified in Section 31-1-620 pursuant to rules to be established by the Department of Commerce.</p> <p>HISTORY: 1962 Code Section 36-22; 1952 Code Section 36-22; 1942 Code Section 5271-29; 1933 (38) 176; 1993 Act No. 181, Section 499; 1994 Act No. 361, Section 9.</p> <p><b>SECTION 31-1-230.</b> Provisions of general corporation law applicable.</p> <p>The provisions of the general corporation law shall apply to limited dividend housing corporations, except when such provisions are in conflict with the provisions of this chapter.</p> <p>HISTORY: 1962 Code Section 36-23; 1952 Code Section 36-23; 1942 Code Section 5271-18; 1933 (38) 176.</p>	
<p><b>SECTION 31-3-10.</b> Short title.</p> <p>This chapter and Chapter 11 may be known as the "Housing Authorities Law."</p> <p>HISTORY: 1962 Code Section 36-101; 1952 Code Section 36-101; 1942 Code Section 5271-31; 1934 (38) 1368.</p> <p><b>SECTION 31-3-20.</b> Definitions.</p> <p>The following terms, wherever used or referred to in this chapter and Chapter 11 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context:</p> <p>(1) The term "director" shall mean the Secretary of Commerce;</p> <p>(2) "Authority" or "housing authority" shall mean a corporate body organized in accordance with the provisions of this chapter and Chapter 11 for the purpose, with the powers and subject to the restrictions hereinafter set forth;</p> <p>(3) "Mayor" shall mean the chief executive of the municipality, whether the official</p>	

designation of his office be mayor, city manager or some other title;

(4) "Municipality" shall mean any city, town or other municipality in the State;

(5) "City" shall mean any incorporated municipality in the State and "the city" shall mean the particular city or town for which a particular housing authority is created;

(6) "Council" shall mean the chief legislative body of the municipality;

(7) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this article;

(8) "Government" shall include the State and Federal governments and any subdivision, agency or instrumentality, corporate or otherwise of either of them;

(9) The "State" shall mean the State of South Carolina;

(10) "Project" shall include all lands, buildings and improvements acquired, owned, leased, managed or operated by a housing authority and all buildings and improvements constructed, reconstructed or repaired by a housing authority, designed to provide housing accommodations or stores, offices and community facilities appurtenant thereto, whether or not acquired or constructed at one time and the term may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the clearing of land, the construction, reconstruction and repair of improvements and all other work in connection therewith;

(11) "Community facilities" shall include lands, buildings and equipment for recreation or social assembly, for educational, health or welfare activities and other necessary utilities primarily for the use and benefit of the occupants of housing accommodations to be constructed and operated hereunder;

(12) The term "bonds" shall include bonds, notes, debentures or other written evidences of indebtedness carrying either the general credit of the authority or payable solely out of pledged revenues;

(13) The term "mortgage" shall include mortgages, deeds of trusts or other instruments creating a lien or security interest;

(14) The term "real property" shall include lands, lands under water, structures and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise;

(15) "Persons of low income" means those individuals who are members of households whose gross income falls below seventy-five percent of the "median gross income" of all households in South Carolina as determined on the basis of the latest available statistics furnished to the Authority by the Revenue and Fiscal Affairs Office. Gross income means income derived from any source whatsoever. An allowance for each member of the family equal to an amount for personal exemptions as defined by the South Carolina Income Tax Law, Section 12-7-310, must be deducted from gross income in order to qualify a person or family as a member of the "beneficiary class"; and

(16) "Obligee of the authority" or "obligee" shall include any bondholder, trustee for any bondholders, lessor demising to an authority property used in connection with a project, any assignee of such lessor's interest or any part thereof or the Federal Government when it is a party to any contract with an authority.

(17) "Persons of moderate to low income" means those individuals who are members of households whose gross income falls between seventy-five percent and one hundred fifty percent of the "median gross income" of all households in South Carolina as determined on the basis of the latest available statistics furnished to the Authority by the Revenue and Fiscal Affairs Office. Gross income means income derived from any source whatsoever. An allowance for each member of the family equal to an amount for personal exemptions as defined by the South Carolina Income Tax Law, Section 12-7-310, must be deducted from gross income in order to qualify a person or family as a member of the "beneficiary class".

HISTORY: 1962 Code Section 36-102; 1952 Code Section 36-102; 1942 Code Sections 5271-31, 5271-32; 1934 (38) 1368; 1937 (40) 431; 1942 (42) 1742; 1945 (44) 156; 1954 (48) 1745; 1969 (56) 200; 1970 (56) 2288, 2402; 1986 Act No. 369, Sections 2,

3; 1993 Act No. 181, Section 503; 1994 Act No. 361, Section 8.

#### Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Pursuant to the directive to the Code Commissioner in 2018 Act No. 246, Section 10, "Revenue and Fiscal Affairs Office" was substituted for all references to "Office of Research and Statistics of the Revenue and Fiscal Affairs Office".

#### Editor's Note

Section 12-7-310, referred to in items (15) and (17) of this section, which provided for exemptions from the State Income Tax, was repealed by 1985 Act No. 101, Section 22, effective May 21, 1985, for tax years after December 31, 1984.

#### **SECTION 31-3-340.** Commissioners.

When the council of a municipality adopts a resolution as provided in this chapter, the council shall appoint not less than five nor more than seven persons as commissioners of the authority created for the municipality. At least one of the commissioners appointed shall be a person who is directly assisted by the public housing authority. However, there shall be no requirement to appoint such a person if the authority (1) operates less than three hundred public housing units, (2) provides reasonable notice to the resident advisory board, if applicable, of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (3) within a reasonable time after receipt of the notice by the resident advisory board, has not been notified of the intention of any such person to serve. The mayor shall appoint the person directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are directly assisted by the authority.

The commissioners, other than the commissioner who is directly assisted by the authority, shall serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, but thereafter commissioners, other than the commissioner who is directly assisted by the authority, shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term. The commissioner who is directly assisted by the authority must remain as an assisted resident in order to continue service on the board of commissioners.

No commissioner who is also a person directly assisted by the public housing authority shall be qualified to vote on matters affecting his official conduct or matters affecting his own individual tenancy, as distinguished from matters affecting tenants in general. No more than one-third of the members of any housing authority commission shall be tenants of the authority or recipients of housing assistance through any program operated by the authority. No commissioner of an authority may be an officer or employee of the municipality for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner must be filed in the office of the clerk of the circuit court of the county in which the municipality is located, in the office of the Secretary of State, and in the office of the Secretary of Commerce, and the certificate is conclusive evidence of the due and proper appointment of the commissioner.

HISTORY: 1962 Code Section 36-114; 1952 Code Section 36-114; 1942 Code Section 5271-34; 1934 (38) 1368; 1937 (40) 431; 1938 (40) 1909; 1993 Act No. 181, Section 504; 1994 Act No. 360, Section 1; 1994 Act No. 361, Section 8; 1999 Act No. 50, Section 1.

**SECTION 31-3-370.** Removal of commissioners.

(A) For inefficiency, neglect of duty, or misconduct in office a commissioner of an authority may be removed by the council, but a commissioner may be removed only after he has been given a copy of the charges at least ten days before the hearing on it and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings on it, must be filed in the office of the clerk of the circuit court of the county in which the municipality is located, in the office of the Secretary of

State, and in the office of the Secretary of Commerce.

(B) The commissioner who is directly assisted by the authority must remain as an assisted resident in order to continue service on the board of commissioners. In the event that the commissioner who is directly assisted by the authority vacates the public housing unit or is evicted from the public housing unit, the mayor must automatically remove the commissioner from the board of commissioners with no opportunity to be heard or to contest the removal.

HISTORY: 1962 Code Section 36-118; 1952 Code Section 36-118; 1942 Code Section 5271-34; 1934 (38) 1368; 1937 (40) 431; 1938 (40) 1909; 1993 Act No. 181, Section 505; 1994 Act No. 360, Section 2; 1994 Act No. 361, Section 8; 1999 Act No. 50, Section 2.

**SECTION 31-3-390.** Territorial jurisdiction.

The territorial jurisdiction of each authority, except as otherwise specially provided, shall be coterminous with the boundaries of the city creating the authority unless this territory is extended by the director. The director may extend the territorial jurisdiction of any housing authority over territory contiguous to that of the housing authority if such extension does not conflict with any other housing authority.

HISTORY: 1962 Code Section 36-120; 1952 Code Section 36-120; 1942 Code Section 5271-37; 1934 (38) 1368; 1993 Act No. 181, Section 506.

**SECTION 31-3-750.** Territorial jurisdiction.

The territorial jurisdiction of a housing authority of a county shall be coterminous with the boundaries of the county in which such authority is situated but shall not include that portion of the county within the territorial jurisdiction of any housing authority of a city. But notwithstanding the provisions of this section the director may extend the territorial jurisdiction of a housing authority of a city over territory contiguous thereto, including territory included within the territorial jurisdiction of the housing authority of a county, and such extension of the territorial jurisdiction of a housing authority of a city and limitation of the territorial jurisdiction of the housing authority of the county affected thereby shall not be deemed to conflict

COMMERCE PROVIDED BACKGROUND

- Commerce acknowledges receipt and maintains a file of certificates of appointments.
- Commerce acknowledges receipt and maintains a file of records of proceedings related to removal of commissioners, if and when any are received.

with the housing authority of the county within the meaning of Section 31-3-390 unless a housing project shall have been constructed or acquired or the director shall determine that such a project is about to be constructed or acquired by the housing authority of such county within the territory proposed to be included within the territorial jurisdiction of the housing authority of the city.

HISTORY: 1962 Code Section 36-185; 1952 Code Section 36-185; 1942 Code Section 5271-54; 1934 (38) 1368; 1935 (39) 500; 1937 (40) 267; 1993 Act No. 181, Section 507.

- The Secretary of Commerce has never sought to extend the territorial jurisdiction of a municipal housing authority.



	<ul style="list-style-type: none"><li>• The Secretary of Commerce has never sought to extend the territorial jurisdiction of a municipal housing authority.</li></ul>
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# Law Change # 20

## Law Summary

### **SECTION 38-75-470.**

Establishes membership of Advisory Committee to Director and SC Building Codes Council Loss Mitigation Grant Program, and SC Comprehensive Hurricane Damage Mitigation Program.

## Recommendation

### **Modify:**

- Remove Commerce representative because membership originates from obsolete duties related to housing.
- Commerce currently designates a private construction company executive to serve.



Appendix I Table 12. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #20			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p><b>SECTION 38-75-470.</b> Appointment of advisory committee; duties; membership.</p>	<p><u>Current Law:</u> Establishes membership of Advisory Committee to the Director and the South Carolina Building Codes Council, Loss Mitigation Grant Program, and South Carolina Comprehensive Hurricane Damage Mitigation Program, including a representative of Commerce.</p> <p><u>Recommendation:</u> Delete requirement that committee have a Commerce representative.</p>	<p>Commerce's membership on this committee likely originated from obsolete Commerce duties related to housing. Commerce designates a construction company executive to serve as Commerce's designee.</p>	<p><u>Presented and approved by agency's governing body:</u> Review by Governor pending.</p> <p><u>Other entities potentially impacted:</u> SC Department of Insurance Labor Licensing and Regulation SC Building Codes Council</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>(A) The Director of Insurance shall appoint an advisory committee to the director to study issues associated with the development of strategies for reducing loss of life and to address the mitigation of property losses due to hurricane, earthquake, flood, and fire. The advisory committee also shall consider the associated costs to individual property owners. The advisory committee is composed of:</p> <p>(1) the director or his designee;</p> <p>(2) the Chairman of the Building Codes Council or his designee;</p> <p>(3) a representative from Clemson University involved with wind engineering;</p> <p>(4) a representative from an academic institution involved with the study of earthquakes;</p>		<p>(A) The Director of Insurance shall appoint an advisory committee to the director to study issues associated with the development of strategies for reducing loss of life and to address the mitigation of property losses due to hurricane, earthquake, flood, and fire. The advisory committee also shall consider the associated costs to individual property owners. The advisory committee is composed of:</p> <p>(1) the director or his designee;</p> <p>(2) the Chairman of the Building Codes Council or his designee;</p> <p>(3) a representative from Clemson University involved with wind engineering;</p> <p>(4) a representative from an academic institution involved with the study of earthquakes;</p>	

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

(6) a representative from the Department of Commerce;

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

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

(9) a representative from the Homebuilders Association;

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

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

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

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

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

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

(16) a general contractor;

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

(18) a structural engineer.

(B) Members shall serve for terms of two years and shall receive no per diem, mileage, or subsistence. Vacancies must be filled in the same manner as the original appointment.

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

~~(6) a representative from the Department of Commerce;~~

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

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

(9) a representative from the Homebuilders Association;

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

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

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

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

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

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

(16) a general contractor;

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

(18) a structural engineer.

(C) Within thirty days after its appointment, the advisory committee shall meet at the call of the Director of Insurance. The advisory committee shall elect from its members a chairman and a secretary and shall adopt rules not inconsistent with this chapter. Meetings may be called by the chairman on his own initiative and must be called at the request of three or more members of the advisory committee. All members must be notified by the chairman of the time and place of the meeting at least seven days in advance of the meeting. All meetings must be open to the public. At least two-thirds vote of those members in attendance at the meeting shall constitute an official decision of the advisory committee. Implementation of this program and continued existence of this program is subject to the availability of funding through legislative appropriations or alternative funding sources.

HISTORY: 1997 Act No. 123, Section 5; 2000 Act No. 312, Section 20; 2002 Act No. 190, Section 6, eff March 12, 2002; 2007 Act No. 78, Section 11, eff June 11, 2007, applicable to taxable years beginning after December 31, 2006; 2017 Act No. 28 (S.315), Section 1, eff May 10, 2017.

#### Effect of Amendment

2017 Act No. 28, Section 1, in (A), deleted "and the South Carolina Building Codes Council" following "to the director", substituted "to address the mitigation of" for "mitigating", inserted "flood," after "earthquake,", and substituted "associated costs" for "costs associated with these strategies".

These housing oversight duties were given to the State Development Board director in 1959. During the study, agency personnel noted for over 60 years, leaders of the former State Development Board -and now Commerce - have advised the General Assembly that housing oversight responsibilities refereeing the agency should be deleted from statute.

## COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT (CCDE)

**Recommendation #27.** Update the enabling legislation for the Coordinating Council for Economic Development, which is chaired by the Secretary of Commerce.<sup>SEE AGENCY LAW CHANGE PER RECOMMENDATIONS #12 AND #17</sup>

Among other things, these updates include:

- Moving reference to a strategic planning mandate that Commerce is fulfilling;
- Adds program under CCDE to reflect what is already occurring;
- Updates report requirements relating to discretionary grant funding and the funding mechanism for CCDE that have been established by proviso for more than two decades.

# Law Change # 12

## **RECOMMENDATION:** Modify Coordinating Council duties regarding strategic planning & move to Division of Development

- Coordinating Council mandates related to strategic planning predated 1993 creation of the Department of Commerce.
- Coordinating Council commissioned a strategic plan for economic development in late 1980s.
- Following 1993 Restructuring, Commerce has been responsible for strategic planning in collaboration with other public and private stakeholders in the State. (See Law Change #5.)



## **S.C. Code Ann. §13-1-1720 (PER p. 77)**

(A) ... It shall enhance the economic growth and development of the State through ~~strategic planning and~~ coordinating activities that include:

~~(1) development and revision of a strategic state plan for economic development. "Strategic state plan for economic development" means a planning document that outlines strategies and activities designed to continue, diversify, or expand the economic base of South Carolina, based on the natural, physical, social, and economic needs of the State;~~

~~(2) monitoring implementation of a strategic plan for economic development through an annual review of economic development activities of the previous year and modifying the plan as necessary;~~

...

~~(24) use of federal funds, foundation grants, and private funds in the development, implementation and, revision, and promotion of a strategic plan for economic development...~~

~~(35) evaluation of plans and programs in terms of their compatibility with state objectives and priorities as outlined in the strategic plan for economic development;~~

# Law Change # 12

**RECOMMENDATION:** Add programs under Coordinating Council jurisdiction that post-dated 1993 Restructuring

- Approval of Rural Infrastructure grants pursuant to Section 12-10-85.
- Approval of Enterprise Zone Act applications and negotiation of revitalization agreements pursuant to Chapter 10 of Title 12 of the Code.
- Approval of Port Volume Increase credits pursuant to Section 12-6-3375.

## S.C. Code Ann. § 13-1-1720 (*PER p. 78*)

(~~46~~) approval of infrastructure and other economic development grants for local units of government pursuant to Section 12-10-85, Section 12-28-2910 or any other source designated for administration by the council;

(~~57~~) approval of infrastructure development grants for local units of government pursuant to Section 12-21-6540;

(~~68~~) approval of applications submitted under the Enterprise Zone Act of 1996 and negotiation of revitalization agreements pursuant to Section 12-10-60;

(~~79~~) approval of applications submitted under Section 12-6-3375.

...





# Law Change # 12

**RECOMMENDATION:** Repeal Council's responsibility to review Commerce appropriation requests and to report on strategic planning; update reporting.

- Since 1993 Restructuring, the Council has no role in reviewing Commerce's budget; as a cabinet agency, Commerce submits its budget to the Governor.
- Update Coordinating Council reporting requirements to include grants that do not otherwise have a statutory reporting requirement.



## S.C. Code Ann. § 13-1-1730 (PER p. 78)

The coordinating council shall make reports to the Governor, the chairmen of the Senate Finance and House Ways and Means Committees, and the General Assembly at least annually regarding grant programs administered by the council that do not otherwise have a statutory reporting requirement. Such reports shall itemize the expenditures for the preceding calendar year and include, at a minimum, the following information:

- (a) company name or confidential project number;
- (b) location of the project;
- (c) amount of the grant award; and
- (d) scope of grant award.

Reports required by this section are in addition to any other reporting requirements applicable to the council.  
in the Department of Commerce's annual report, on the status and progress of economic development goals which have been set for the State as a part of the ongoing planning process and on the commitments, expenditures, and balance of the Economic Development Account, with appropriate recommendations.

# Law Change # 12

**RECOMMENDATION:** Repeal Council duties to make strategic planning recommendations and to review agency appropriation requests

- The Coordinating Council is no longer involved in strategic planning or in reviewing agency appropriation requests.
- Following 1993 Restructuring, Commerce has been responsible for strategic planning in collaboration with other public and private stakeholders in the State. (See Law Change #5.)
- Commerce reports annually on economic development goals and status.



## S.C. Code Ann. § 13-1-1740 (PER p. 79)

~~(A) The coordinating council shall make recommendations to the Governor, the General Assembly, and the State Fiscal Accountability Authority as to the policies and programs involved in the state's economic development it considers necessary to carry out the objectives of the strategic plan.~~

~~(B) The coordinating council shall review agency requests for legislative appropriations for economic development and may make recommendations to the Office of the Governor and the State Fiscal Accountability Authority and the General Assembly concerning requests compatible with the objectives of the strategic plan. This section does not limit an agency's direct access to the General Assembly, and comment by the coordinating council is not a part of the budget process.~~

# Law Change # 12

**RECOMMENDATION:** Update funding of Coordinating Council: repeal funding mechanism in §13-1-1750 and codify Proviso 50.2 (See Law Change 17)

- Funding mechanism in §13-1-1750 is obsolete.
- For over 20 years, staff support for the Council has been authorized by proviso and funded via a percentage of the Set Aside Fund. (See Law Change #17)



## S.C. Code Ann. § 13-1-1750 (PER pp. 79-80)

**SECTION 13-1-1750.** Funding; technical advisory committees; data sources.

Funds for technical, administrative, and clerical assistance and other expenses of the coordinating council must be provided by the member agencies. The coordinating council may establish technical advisory committees to assist in the development of a strategic plan for economic development. The coordinating council shall seek to utilize data available from the Department of Transportation, the University of South Carolina, Clemson University, and other state agencies and organizations and relevant to the economic growth and development of the State.

From the amount set aside in Section 12-28-2910, the council is authorized to use up to ten percent of such amount for actual operating expenses in support of administrative program costs and business recruitment and retention and up to \$60,000 to support the Geographic Information Systems (GIS) program, as approved by council. Any balance on June thirtieth of the prior fiscal year may be carried forward and expended for the same purposes in the current fiscal year.

# Law Change # 12

**RECOMMENDATION:** Modify language regarding Downtown Redevelopment Program to make discretionary

- Mandate originated in a 1998 proviso.
- While a formal downtown redevelopment program was never officially established, the Coordinating Council has funded these types of activities with Rural Infrastructure Funds and Commerce has done so with CDBG funds.

## S.C. Code Ann. § 13-1-1770 (PER p. 80)

(A) The coordinating council ~~shall~~ may establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing the viability of downtown areas through partnerships of municipal government, county government, and private investors.

....



# Law Change # 12

## **RECOMMENDATION:** Update language in §13-1-1780

- The language in §13-1-1780 uses an incorrect fund name.
- Department of Agriculture agrees with the proposed change.

## **S.C. Code Ann. § 13-1-1780 (PER p. 80)**

In awarding grants or other incentives benefits for economic development projects, ~~including awards from the Governor's Closing Fund,~~ the Department of Commerce and the coordinating council must consider agricultural businesses. The Department of Commerce and the coordinating council must consider the number of jobs created, including full-time, part-time, and seasonal jobs, and the total investment made, including the cost of the real property.





Appendix I Table 12. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #12			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<p><b>SECTION 13-1-1720.</b> Purpose and duties of council.</p> <p><b>SECTION 13-1-1730.</b> Reports.</p> <p><b>SECTION 13-1-1740.</b> Recommendations by council; review of agency requests for appropriations.</p> <p><b>SECTION 13-1-1750.</b> Funding; technical advisory committees; data sources.</p> <p><b>SECTION 13-1-1770.</b> Downtown Redevelopment Program; purpose; guidelines for evaluating and awarding grants.</p> <p><b>SECTION 13-1-1780.</b> Agricultural businesses considered for economic development awards.</p>	<p><u>Current Law:</u></p> <ul style="list-style-type: none"> <li>Establishes the purpose and duties of Coordinating Council; establishes annual reporting requirements.</li> <li>Requires Coordinating Council to make recommendations concerning policies or programs necessary to carry out the state's strategic plan.</li> <li>Requires Coordinating Council to review appropriation requests by Commerce and make recommendations to General Assembly regarding same.</li> <li>Establishes that member agencies must fund staff and technical support to Coordinating Council.</li> <li>Requires the Coordinating Council to establish a Downtown Redevelopment Program.</li> </ul> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> <li>Modify duties to remove Coordinating Council responsibilities related to strategic planning and add those duties to the State Division of Development.</li> </ul>	<p>The Coordinating Council mandates related to strategic planning predated the creation of the Department of Commerce in 1993. Within two years of the Coordinating Council's formation in 1986, the Council commissioned a strategic plan for economic development after the General Assembly appropriated \$250,000 for that purpose. The Council remained</p>	<p><u>Presented and approved by agency's governing body:</u> Coordinating Council approved recommended Law Changes 11 and 16 at its March, 5, 2020 meeting.</p> <p><u>Other entities potentially impacted:</u></p> <ul style="list-style-type: none"> <li>SC Department of Agriculture</li> <li>Department of Employment &amp; Workforce</li> <li>SC Department of Parks &amp; Tourism</li> <li>State Board for Technical &amp; Comprehensive Education</li> <li>SC Ports Authority</li> <li>SC Public Service Authority</li> <li>SC Jobs Economic Development Authority</li> <li>SC Department of Revenue</li> <li>SC Department of Transportation</li> <li>SC Research Authority</li> </ul> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>

	<ul style="list-style-type: none"> <li>• Modify duties to add programs under Coordinating Council jurisdiction that post-dated 1993 Restructuring.</li> <li>• Repeal responsibility of Coordinating Council to review Commerce appropriation requests and to report on strategic planning, which is now a Commerce function.</li> <li>• Update Coordinating Council reporting requirements to capture incentive programs with no statutory reporting mandate.</li> </ul>	<p>active in strategic planning from 1989 until Restructuring in 1993. After that time Commerce, not the Coordinating Council, has undertaken and funded strategic planning in collaboration with other public and private stakeholders in the State. (See Law Change 5.)</p> <p>Approval of Rural Infrastructure grants pursuant to Section 12-10-85 post-dated 1993 Restructuring.</p> <p>Approval of Enterprise Zone Act applications and negotiation of revitalization agreements pursuant to Chapter 10 of Title 12 of the Code post-dated 1993 Restructuring.</p> <p>Approval of Port Volume Increase credits pursuant to Section 12-6-3375 post-dated 1993 Restructuring.</p> <p>Prior to 1993 Restructuring the Coordinating Council approved appropriation requests by the former State Development Board. Commerce is now a cabinet agency and must submit its budget to the Governor.</p> <p>The Coordinating Council reports annually on its various incentive programs; Commerce, not the Council, reports annually on economic development goals and status.</p>	
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	<ul style="list-style-type: none"> <li>• Update funding of Coordinating Council by repealing funding mechanism in Section 13-1-1750 and codifying Proviso 50.2 (See Law Change 16.)</li> <li>• Modify requirement to establish the Downtown Redevelopment Program to make it discretionary, not mandatory.</li> <li>• Modify to update language in Section 13-1-1780.</li> </ul>	<p>Funding mechanism in Section 13-1-1750 is obsolete. For over 20 years, staff support for the Coordinating Council has been authorized by proviso and funded via a percentage of the Set Aside Fund. (See also Law Change 16.)</p> <p>The Downtown Redevelopment Program originated in a 1998 proviso that was later codified at the request of a local legislative delegation for a particular project. The intent was the for the Coordinating Council to use Set Aside funds for this purpose, but the Coordinating Council did not believe that downtown redevelopment was an appropriate use of Set Aside funds so the program was never established. The Council, through its Rural Infrastructure Fund, and Commerce through CDBG funds, has the ability to fund downtown redevelopment, but doing so has lower priority than other needs, and cities and towns generally create their own programs when such development is a priority.</p> <p>When Section 13-1-1780 was added, Commerce was not consulted, and the language includes an incorrect fund name. Department of Agriculture agrees with the proposed change.</p>	
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Current Law Wording		Proposed Revisions to Law Wording	
<p><b>SECTION 13-1-1720.</b> Purpose and duties of council.</p> <p>(A) The coordinating council shall meet at least quarterly. It shall enhance the economic growth and development of the State through strategic planning and coordinating activities that include:</p> <p>(1) development and revision of a strategic state plan for economic development. "Strategic state plan for economic development" means a planning document that outlines strategies and activities designed to continue, diversify, or expand the economic base of South Carolina, based on the natural, physical, social, and economic needs of the State;</p> <p>(2) monitoring implementation of a strategic plan for economic development through an annual review of economic development activities of the previous year and modifying the plan as necessary;</p> <p>(3) coordination of economic development activities of member agencies of the coordinating council and its advisory committees;</p> <p>(4) use of federal funds, foundation grants, and private funds in the development, implementation, revision, and promotion of a strategic plan for economic development. Funds from foundation grants and private funds used for these purposes are public monies, notwithstanding their private source, and must be treated like public monies. These monies are subject to</p>		<p><b>SECTION 13-1-1720.</b> Purpose and duties of council.</p> <p>(A) The coordinating council shall meet at least quarterly. It shall enhance the economic growth and development of the State through <del>strategic planning and</del> coordinating activities that include:</p> <p><del>(1) development and revision of a strategic state plan for economic development. "Strategic state plan for economic development" means a planning document that outlines strategies and activities designed to continue, diversify, or expand the economic base of South Carolina, based on the natural, physical, social, and economic needs of the State;</del></p> <p><del>(2) monitoring implementation of a strategic plan for economic development through an annual review of economic development activities of the previous year and modifying the plan as necessary;</del></p> <p><del>(13)</del> coordination of economic development activities of member agencies of the coordinating council and its advisory committees;</p> <p><del>(24)</del> use of federal funds, foundation grants, and private funds in the development, implementation and, revision, and promotion of a strategic plan for economic development. Funds from foundation grants and private funds used for these purposes are public monies, notwithstanding their private source, and must be treated like public monies. These monies are subject to all accountability</p>	

all accountability requirements governing public monies, including compliance with the South Carolina Consolidated Procurement Code, unless exempt by formal approval of the State Fiscal Accountability Authority. These monies are also subject to all disclosure requirements governing public monies, unless exempt by Section 30-4-40;

(5) evaluation of plans and programs in terms of their compatibility with state objectives and priorities as outlined in the strategic plan for economic development;

(6) approval of infrastructure and other economic development grants for local units of government pursuant to Section 12-28-2910;

(7) approval of infrastructure development grants for local units of government pursuant to Section 12-21-6540.

(B) The coordinating council may not engage in the delivery of services.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 1993 Act No. 164, Part II, Section 46B, eff July 1, 1993; 1994 Act No. 497, Part II, Section 22A, eff July 1, 1994; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000; 2003 Act No. 86, Section 2, eff July 14, 2003.

#### **SECTION 13-1-1730. Reports.**

The coordinating council shall make reports to the Governor, the chairmen of the Senate Finance and House Ways and Means Committees, and the General Assembly at least annually, in the Department of Commerce's annual report, on the status and progress of economic development goals which have been set for the State as a part of the ongoing planning process and on the commitments, expenditures, and balance of the Economic Development Account, with appropriate recommendations.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387,

requirements governing public monies, including compliance with the South Carolina Consolidated Procurement Code, unless exempt by formal approval of the State Fiscal Accountability Authority. These monies are also subject to all disclosure requirements governing public monies, unless exempt by Section 30-4-40;

~~(35)~~ evaluation of plans and programs in terms of their compatibility with state objectives and priorities ~~as outlined in the strategic plan for economic development;~~

~~(46)~~ approval of infrastructure and other economic development grants for local units of government pursuant to Section 12-10-85, Section 12-28-2910 or any other source designated for administration by the council;

~~(57)~~ approval of infrastructure development grants for local units of government pursuant to Section 12-21-6540;

~~(68)~~ approval of applications submitted under the Enterprise Zone Act of 1996 and negotiation of revitalization agreements pursuant to Section 12-10-60;

~~(79)~~ approval of applications submitted under Section 12-6-3375.

(B) The coordinating council may not engage in the delivery of services.

#### **SECTION 13-1-1730. Reports.**

The coordinating council shall make reports to the Governor, the chairmen of the Senate Finance and House Ways and Means Committees, and the General Assembly at least annually regarding grant programs administered by the council that do not otherwise have a statutory reporting requirement. Such reports shall itemize the expenditures for the preceding calendar year and include an identification of the following information:

(a) company name or confidential project number;

Part II, Section 57A, eff July 1, 2000.

**SECTION 13-1-1740.** Recommendations by council; review of agency requests for appropriations.

(A) The coordinating council shall make recommendations to the Governor, the General Assembly, and the State Fiscal Accountability Authority as to the policies and programs involved in the state's economic development it considers necessary to carry out the objectives of the strategic plan.

(B) The coordinating council shall review agency requests for legislative appropriations for economic development and may make recommendations to the Office of the Governor and the State Fiscal Accountability Authority and the General Assembly concerning requests compatible with the objectives of the strategic plan. This section does not limit an agency's direct access to the General Assembly, and comment by the coordinating council is not a part of the budget process.

(b) location of the project;

(c) amount of the grant award; and

(d) scope of grant award.

Reports required by this section are in addition to any other reporting requirements applicable to the council.

~~in the Department of Commerce's annual report, on the status and progress of economic development goals which have been set for the State as a part of the ongoing planning process and on the commitments, expenditures, and balance of the Economic Development Account, with appropriate recommendations.~~

**SECTION 13-1-1740.** Recommendations by council; review of agency requests for appropriations.

Repeal.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13-1-1750.** Funding; technical advisory committees; data sources.

Funds for technical, administrative, and clerical assistance and other expenses of the coordinating council must be provided by the member agencies. The coordinating council may establish technical advisory committees to assist in the development of a strategic plan for economic development. The coordinating council shall seek to utilize data available from the Department of Transportation, the University of South Carolina, Clemson University, and other state agencies and organizations and relevant to the economic growth and development of the State.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13-1-1770.** Downtown Redevelopment Program; purpose; guidelines for evaluating and awarding grants.

(A) The coordinating council shall establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing the viability of downtown areas through partnerships of municipal government, county government, and private investors.

(B) The council shall establish program guidelines, regulations, and criteria by which grants must be evaluated and awarded including, but not limited to:

(1) a nonstate match requirement of at least one hundred fifty percent of state grant funds; and

**SECTION 13-1-1750.** Funding; technical advisory committees; data sources.

~~Funds for technical, administrative, and clerical assistance and other expenses of the coordinating council must be provided by the member agencies. The coordinating council may establish technical advisory committees to assist in the development of a strategic plan for economic development. The coordinating council shall seek to utilize data available from the Department of Transportation, the University of South Carolina, Clemson University, and other state agencies and organizations and relevant to the economic growth and development of the State.~~

From the amount set aside in Section 12-28-2910, the council is authorized to use up to ten percent of such amount for actual operating expenses in support of administrative program costs and business recruitment and retention and up to \$60,000 to support the Geographic Information Systems (GIS) program, as approved by council. Any balance on June thirtieth of the prior fiscal year may be carried forward and expended for the same purposes in the current fiscal year.

**SECTION 13-1-1770.** Downtown Redevelopment Program; purpose; guidelines for evaluating and awarding grants.

(A) The coordinating council ~~shall~~ may establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing the viability of downtown areas through partnerships of municipal government, county government, and private investors.

(B) The council shall establish program guidelines, regulations, and criteria by which grants must be evaluated and awarded including, but not limited to:

(1) a nonstate match requirement of at least one hundred fifty percent of state grant funds; and

(2) completion of an economic impact before an award is made.

HISTORY: 1998 Act No. 419, Part III, Section 3(A), eff July 1, 1998; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13-1-1780.** Agricultural businesses considered for economic development awards.

In awarding benefits for economic development projects, including awards from the Governor's Closing Fund, the Department of Commerce and the coordinating council must consider agricultural businesses. The Department of Commerce and the coordinating council must consider the number of jobs created, including full-time, part-time, and seasonal jobs, and the total investment made, including the cost of the real property.

HISTORY: 2016 Act No. 256 (S.427), Section 6, eff June 8, 2016.

(2) completion of an economic impact before an award is made.

**SECTION 13-1-1780.** Agricultural businesses considered for economic development awards.

In awarding grants or other incentives benefits for economic development projects, ~~including awards from the Governor's Closing Fund,~~ the Department of Commerce and the coordinating council must consider agricultural businesses. The Department of Commerce and the coordinating council must consider the number of jobs created, including full-time, part-time, and seasonal jobs, and the total investment made, including the cost of the real property.

# Law Change # 17

## Law Summary

### **Proviso 50.2**

Provides for funding administration of Coordinating Council from up to 10% of Set Aside Fund and authorizes up to \$60k to be spent on GIS system.

## Recommendation

### **Codify:**

- Commerce has funded staff for the Council for 20 years pursuant to this proviso.
- Section 13-1-1750 should be updated to reflect existing funding model in proviso. (See Law Change #12.)



Appendix I Table 13. Excerpt from agency's Program Evaluation Report submitted to Committee on March 13, 2022

LAW CHANGE #17			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<b>Proviso 50.2.</b> (CMRC: Economic Dev. Coordinating Council - Set Aside Fund)	<p><u>Current Law:</u> Provides for funding for administration of the Coordinating Council from up to 10 percent of the Set Aside Fund and authorizes expenditure of up to \$60,000 to support a GIS system, as approved by the Council.</p> <p><u>Recommendation:</u> Codify to Section 13-1-1750 as amended.</p>	<p>Commerce has funded administration of the Coordinating Council pursuant to this proviso for over 20 years and the funding should be provided for in permanent law. Section 13-1-1750 has been outdated from the time Commerce was created and the Coordinating Council became a division of Commerce in 1993. (See also Law Change 12.)</p>	<p><u>Presented and approved by agency's governing body:</u> Coordinating Council approved recommended Law Changes 12 and 17 at its March, 5, 2020 meeting.</p> <p><u>Other entities potentially impacted:</u></p> <ul style="list-style-type: none"> <li>• SC Department of Agriculture</li> <li>• Department of Employment &amp; Workforce</li> <li>• SC Department of Parks &amp; Tourism</li> <li>• State Board for Technical &amp; Comprehensive Education</li> <li>• SC Ports Authority</li> <li>• SC Public Service Authority</li> <li>• SC Jobs Economic Development Authority</li> <li>• SC Department of Revenue</li> <li>• SC Department of Transportation</li> <li>• SC Research Authority</li> </ul> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> Not applicable.</p>

Current Law Wording	Proposed Revisions to Law Wording
<p>From the amount set aside in Section 12-28-2910, the council is authorized to use up to ten percent of such amount for actual operating expenses in support of administrative program costs and business recruitment and retention and up to \$60,000 to support the Geographic Information Systems (GIS) program, as approved by council. Any balance on June thirtieth of the prior fiscal year may be carried forward and expended for the same purposes in the current fiscal year.</p>	<p><b>SECTION 13-1-1750.</b> Funding; technical advisory committees; data sources.</p> <p><del>Funds for technical, administrative, and clerical assistance and other expenses of the coordinating council must be provided by the member agencies. The coordinating council may establish technical advisory committees to assist in the development of a strategic plan for economic development. The coordinating council shall seek to utilize data available from the Department of Transportation, the University of South Carolina, Clemson University, and other state agencies and organizations and relevant to the economic growth and development of the State.</del></p> <p><u>From the amount set aside in Section 12-28-2910, the council is authorized to use up to ten percent of such amount for actual operating expenses in support of administrative program costs and business recruitment and retention and up to \$60,000 to support the Geographic Information Systems (GIS) program, as approved by council. Any balance on June thirtieth of the prior fiscal year may be carried forward and expended for the same purposes in the current fiscal year.</u></p>



## ENDNOTES

1 Figure 1 is compiled from information in the Department of Commerce study materials available online under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and then under “Commerce, Department of” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Commerce.php> (accessed July 19, 2022).

2 The study did not include a review of the South Carolina Palmetto Railways, which is a division of the Department of Commerce.

3 Department of Commerce, “About,” <https://www.sccommerce.com/about> (accessed May 27, 2022). See also, Department of Commerce, “SC Coordinating Council for Economic Development,” <https://www.sccommerce.com/sc-coordinating-council-economic-development> (accessed July 19, 2022). Hereinafter, “Coordinating Council for Economic Development.”

4 Coordinating Council for Economic Development, “2021 Annual Report of Economic Development Set-Aside Fund, Closing Fund and Rural Infrastructure Authority Fund Activity,” [www.sccommerce.com/sites/default/files/2022-03/Economic%20Development%202021%20Annual%20Report%20%20283.2022%29.pdf](http://www.sccommerce.com/sites/default/files/2022-03/Economic%20Development%202021%20Annual%20Report%20%20283.2022%29.pdf) (accessed May 27, 2022). See page 22, which provides in part that “On an aggregate basis, the 398 grants that have closed or begun maintenance have created 98% of the 57,306 of jobs required and 129% of the \$16.5 billion investment required.” Hereinafter, “2021 Annual Report of Economic Development Set-Aside Fund, Closing Fund and Rural Infrastructure Authority Fund Activity.”

5 South Carolina General Assembly Legislative Audit Council, “Review of Incentive Programs Administered by the S.C. Department of Commerce,” <https://lac.sc.gov/reports/reports-agency-a-k/doc-2020> (accessed May 26, 2022).

6 This statement is based upon House Legislative Oversight Committee staff review of reports differences in the Coordinating Council for Economic Development Annual Reports issued in 2019, 2020, and 2021. These three reports may be accessed on the General Assembly’s website under “Publications,” under “State Agency Publications,” under “Current State Agency Reports,” under “COMMERCE, DEPARTMENT OF,” <https://www.scstatehouse.gov/reports/reports.php> (accessed June 7, 2022).

7 “Financial Exposure Rating the States on Economic Development Transparency a P R I L 2 0 2 2.” n.d. <https://www.goodjobsfirst.org/sites/default/files/docs/pdf/Financial%20Exposure.pdf> (accessed May 24, 2022).

8 S.C. House of Representatives, House Legislative Oversight Committee, “Letter from Commerce to Subcommittee (4.6.22),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Commerce%20to%20Subcommittee%20\(4.6.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Commerce%20to%20Subcommittee%20(4.6.22).pdf) (accessed June 2, 2022). See response to questions #3 and #5. Hereinafter “Letter from Commerce to Subcommittee (4.6.22).”

Note: The agency’s annual accountability reports are available online for review.

9 S.C. House of Representatives, House Legislative Oversight Committee, “Letter from Commerce to Subcommittee (4.16.21),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Commerce%20to%20Subcommittee%20with%20attachment%20\(4.16.21\)%20-%20PDF.pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Commerce%20to%20Subcommittee%20with%20attachment%20(4.16.21)%20-%20PDF.pdf) (accessed July 20, 2022). See response to question #41. Hereinafter “Letter from Commerce to Subcommittee (4.16.21).”

S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (March 4, 2021), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of,” and under “Meetings,” [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/March%204,%202021%20-%20Meeting%20Minutes.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/March%204,%202021%20-%20Meeting%20Minutes.pdf) (accessed July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=10871>. The meeting packet is available at [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/March%204,%202021%20-%20Meeting%20Packet%20\(3.4.21\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/March%204,%202021%20-%20Meeting%20Packet%20(3.4.21).pdf). Hereinafter, “March 4, 2021, Minutes, Video, and Meeting Packet.”

Note: Former Secretary of Commerce Robert “Bobby” M. Hitt testified in the March 4, 2021, subcommittee meeting that the agency’s two main objectives are to build tax base and pay rolls. See video at 00:12:56-00:13:15.

10 Letter from Commerce to Subcommittee (4.16.21). See response to question #41.

11 March 4, 2021, Minutes, Video, and Meeting Packet. See video (part 1) at 00:07:42-00:08:29.

12 Letter from Commerce to Subcommittee (4.6.22). See response to question #2.

13 Christopher Huffman, Chief Financial Officer for the Department of Commerce interviewed by House Legislative Oversight Committee Legal Counsel, Charles Appleby, July 13, 2022.

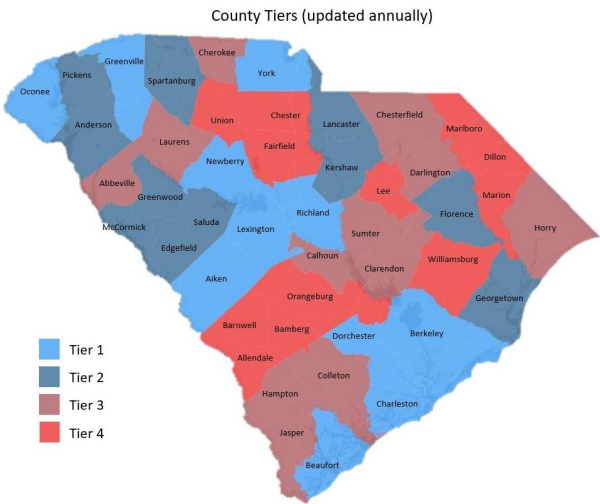
Note: Fourteen of the eighteen counties in Tier III and IV or Tier IV for 2011-2022 do not have a county specific strategic plan.

14 Letter from Commerce to Subcommittee (4.6.22). See response to question #74.

15 Letter from Commerce to Subcommittee (4.6.22). See response to question #75.

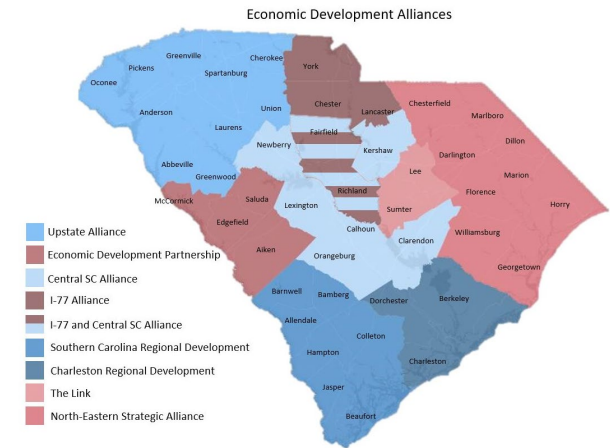
16 Department of Revenue, “SC Information Letter #21-28,” <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/IL21-28.pdf> (accessed June 3, 2022).

17 The Department of Revenue calculates county tiers annually. Therefore, a county’s tier ranking may fluctuate from year to year. See Appendix B for information about county tier rankings from 2011-2022. See below for the 2022 county tier rankings.



Endnote Figure 1. 2022 county tier rankings

18



Endnote Figure 2. Economic development alliances – names and county boundaries

Map of South Carolina counties colored by average number of children per woman in 2014. The map shows 15 counties with their names and corresponding average values. The colors range from light blue (low values) to dark blue (high values).

County	Average Number of Children per Woman (2014)
Pickens	1
Oconee	1
Anderson	2
Greenville	3
Spartanburg	3
Cherokee	3
Union	4
York	4
Chester	4
Fairfield	11
Newberry	11
Lexington	11
Richland	11
Calhoun	12
Sumter	12
Lee	12
Marlboro	5
Dillon	5
Marion	5
Florence	5
Darlington	5
Chesterfield	5
Williamsburg	6
Georgetown	6
Horry	6
Clarendon	6
Orangeburg	9
Aiken	9
Edgefield	9
Greenwood	10
Abbeville	10
McCormick	10
Saluda	10
Barnwell	9
Bamberg	9
Allendale	9
Hampton	8
Jasper	8
Beaufort	8
Colleton	8
Dorchester	7
Berkeley	7
Charleston	7

**Technical Colleges and County Service Areas**

This map illustrates the distribution of technical colleges and their county service areas across South Carolina. The state is divided into three primary regions, each represented by a different color: blue for the Upstate, red for the Midlands, and dark blue for the Lowcountry. Technical colleges are indicated by white stars and labeled with their names. The map also includes labels for numerous counties, providing a comprehensive overview of the state's educational and administrative landscape.

**Technical Colleges (marked with stars):**

- Greenville Technical College
- Spartanburg Community College
- York Technical College
- Tri-County Technical College
- Union Technical College
- Chester Technical College
- Northeastern Technical College
- Chesterfield Technical College
- Marlboro Technical College
- Dillon Technical College
- Florence Technical College
- Marion Technical College
- Horry-Georgetown Technical College
- Williamsburg Technical College
- Wilmington Technical College
- Georgetown Technical College
- Charleston Technical College
- Beaufort Technical College
- Jasper Technical College
- Hampton Technical College
- Colleton Technical College
- Bamberg Technical College
- Allendale Technical College
- Barnwell Technical College
- Aiken Technical College
- Edgefield Technical College
- Piedmont Technical College
- Saluda Technical College
- Greenwood Technical College
- Abbeville Technical College
- McCormick Technical College
- Lexington Technical College
- Richland Technical College
- York Technical College
- Sumter Technical College
- Columbia Technical College
- Clarendon Technical College
- Dorchester Technical College
- Berkeley Technical College
- Bluffton Technical College

**Counties (labeled on the map):**

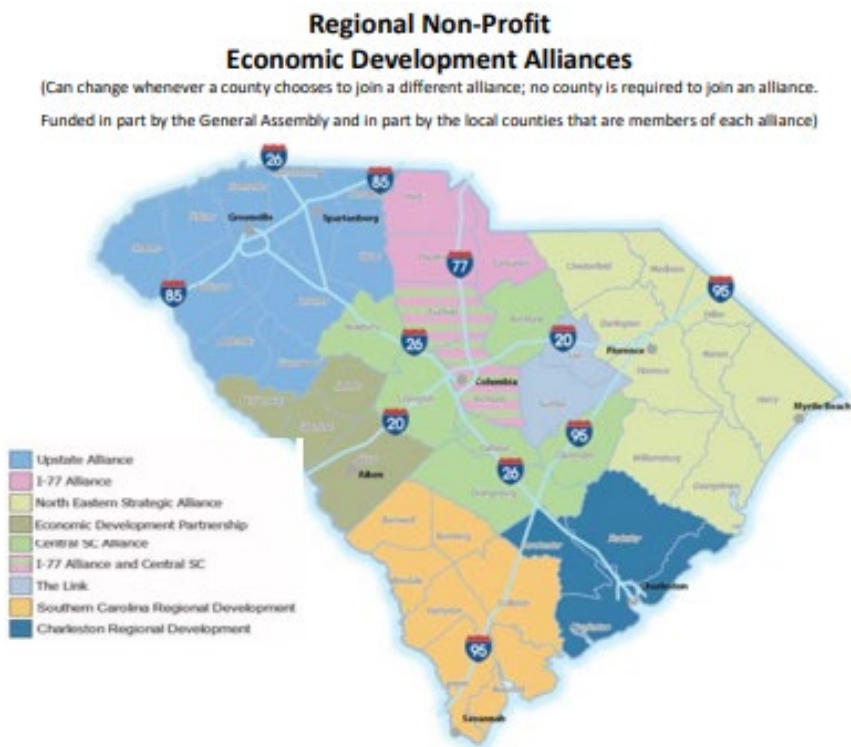
- Oconee
- Pickens
- Greenville
- Spartanburg
- Cherokee
- York
- Union
- Chester
- Lancaster
- Northeastern
- Chesterfield
- Marlboro
- Dillon
- Florence
- Marion
- Horry-Georgetown
- Williamsburg
- Wilmington
- Georgetown
- Charleston
- Beaufort
- Jasper
- Hampton
- Colleton
- Bamberg
- Allendale
- Barnwell
- Aiken
- Edgefield
- Piedmont
- Saluda
- Greenwood
- Abbeville
- McCormick
- Lexington
- Richland
- York
- Sumter
- Columbia
- Clarendon
- Dorchester
- Berkeley
- Bluffton

19 Note: Department of Commerce personnel work with each alliance differently. For example:

- 10.4.22 Meeting Packet, Page 221

21 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) 02:41:40-02:43:11.

Note: The eight economic development alliances are: (1) Upstate Alliance; (2) I-77 Alliance; (3) North Eastern Strategic Alliance; (4) Economic Development Partnership; (5) Central SC Alliance; (6) The Link; (7) Southern Carolina Regional Development; and (8) Charleston Regional Development.



Endnote Figure 5. Excerpt from March 11, 2021, meeting packet (page 48)

22 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:41:40-02:43:11.

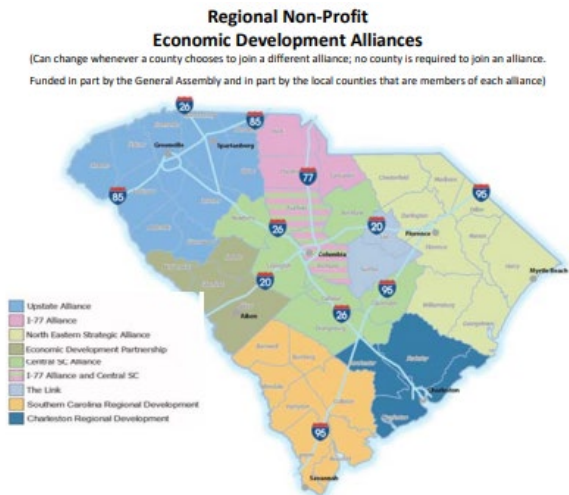
23 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:47:10-02:47:33.

24 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:47:10-02:47:33.

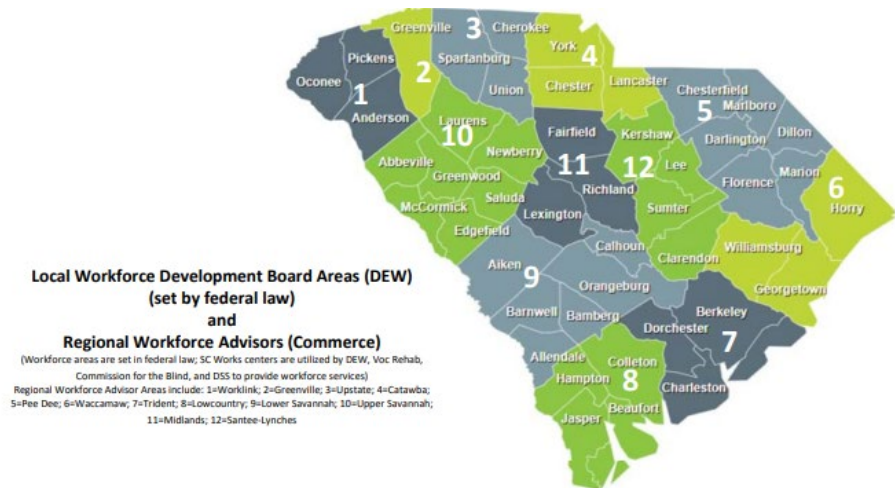
25 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:48:00-02:48:20.

26 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:47:10-02:47:33.

Note: Pursuant to proviso, \$5M is split between the alliances annually and distributed through Commerce. The proviso outlines the amount received by each alliance, which is disbursed based on population. If there are changes in the makeup of one or more alliances (e.g., one added another county or lost county; or another alliance was created), Commerce informs leadership in the General Assembly so the General Assembly leadership can determine how to update the funding each would receive in the next year’s annual appropriation act. To receive funding an alliance must match each dollar it receives with a dollar of private money that is raised for the same specific purpose. The funds cannot be used for the alliance’s normal operations (e.g., salaries, overhead, etc.).



Endnote Figure 6. Excerpt from March 11, 2021, meeting packet (page 48)



Endnote Figure 7. Adapted from SCwork.org statewide centers map available at <https://scworks.org/about-us/statewide-centers>



31 Letter from Commerce to Subcommittee (4.6.22). See response to question #22.

32 Letter from Commerce to Subcommittee (4.6.22). See responses to questions #21 and #22.

33 S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (February 28, 2022), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of” and under “Meetings and Agency Presentations,” chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/February%2028,%202022%20-%20Meeting%20Minutes.pdf (June 7, 2022). A video of the meeting is available at https://www.scstatehouse.gov/video/archives.php?key=11897. The meeting packet, which includes the agency presentations, is available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/February%2028,%202022%20-%20Meeting%20Packet.pdf. Also, links to individual agency presentations are available under the “Agency Presentations” heading. Hereinafter, “February 28, 2022, meeting minutes, packet, and video.”

34 Department of Administration, “How much of the General Fund is spent on education?”  
<https://www.admin.sc.gov/budget/faq#:~:text=Does%20South%20Carolina%20have%20a,General%20Reserve%20Fund%20> (accessed July 20, 2022).

Note: For FY 2021–2022, more than \$4.3 billion, or 41% of the General Fund, was appropriated for educational initiatives in South Carolina. Additionally, over \$800 million was appropriated for colleges and universities.

35 S.C. House of Representatives, House Legislative Oversight Committee, “Letter from Department of Education to Subcommittee (3.25.22),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of,” and under “Correspondence,” chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Subcommittee%20to%20Department%20of%20Education%20(3.11.22).pdf (accessed June 7, 2022). See response to question #2. Hereinafter “Letter from Department of Education to Subcommittee (3.25.22).”

36 S.C. House of Representatives, House Legislative Oversight Committee, “Pipeline of education and workforce development entities in S.C.,” under “Committee Studies of Agencies and Issues,” under “Flow Charts,” and under “Workforce Development,”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SC%20Education%20and%20Workforce%20Development%20Pipeline.pdf> (accessed July 20, 2022). Hereinafter, “Pipeline of education and workforce development entities in S.C. flow chart.”

37 Pipeline of education and workforce development entities in S.C. flow chart.

38 S.C. General Assembly, “2018 Coordinating Council for Workforce Development Annual Report,” under “Publications,” under “State Agency Publications,” under “Current State Agency Reports,” under “COMMERCE, DEPARTMENT OF,” <https://www.scstatehouse.gov/reports/DeptofCommerce/CCWD%202018%20Report.pdf> (accessed June 7, 2022). See pages 50-51. Hereinafter, “2018 Coordinating Council for Workforce Development Annual Report.”

39 Letter from Commerce to Subcommittee (4.6.22). See response to question #70.

40 Letter from Commerce to Subcommittee (4.6.22). See response to question #60.

See also, Letter from Department of Education to Subcommittee (3.25.22).

Note: The process of assisting businesses with obtaining workers, includes educating potential workers.

41 Economic Development opportunities are listed in Endnote Figure 10.



## 1.6 Assistance: Economic Development Education – Increase your knowledge and skills to make your county more competitive

### Assistance – Economic Development Education

Below is information on opportunities the Department of Commerce and S.C. Economic Development Association provide to teach elected officials and local economic development staff how to make their county competitive and hone their economic development skills.

Other sources for information and assistance include, but is not limited to, those below

- S.C. Main Street Program through the Municipal Association
- International Downtown Association
- Urban Land Institute
- Riley Institute
- S.C. Economic Development Association

Available to Counties	2019	2020	2021
<b>Economic Development Institute</b> <b>Cost:</b> \$300 per attendee <b>Description:</b> Broad overview for all leaders in communities of any size who want to better understand how economic development works. It answers questions such as, “What is the ecosystem that makes economic development work? Why is my community not competitive? <i>What could I take home and try to change in my community to make it competitive?</i> ”	Allendale Anders on Bamberg Barnwell Calhoun Charleston Chester Clarendon Colleton Dillon	Abbeville Allendale Bamberg Beaufort Calhoun Cherokee Chester Clarendon Colleton Dillon	Abbeville Allendale Bamberg Barnwell Cherokee Chester Clarendon Colleton Darlington Dillon
<b>Rural Summit Institute</b> <b>Cost:</b> \$225 per attendee in 2019 and 2020. No charge in 2020, as it was held virtually <b>Description:</b> Annual conference that focuses on rural South Carolina to share best practices and learn about resources available. <i>All state and federal grant programs are discussed at the conference</i>	Abbeville Allendale Calhoun Cherokee Colleton Darlington Dillon	Abbeville Allendale Darlington Dillon Dorchester	Allendale Colleton Dillon
<b>Advanced Symposium</b> <b>Cost:</b> \$1,800 per attendee; successful completion resulted in certification <b>Description:</b> Intense educational program required to become a certified S.C. Economic Developer. It is centered around a project to <i>hone the economic developer's skills so they can be a better representative of their county; giving them best practice ideas on how to make their county better.</i>	Abbeville Aiken Allendale Bamberg Beaufort Berkeley Calhoun Charleston Cherokee Chester Chesterfield Clarendon Colleton Darlington Dillon	Abbeville Allendale Darlington Dillon Dorchester	Allendale Colleton Dillon

Endnote Figure 10. Economic development education

42 S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (May 12, 2021), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of” and under “Meetings and Agency Presentations,” [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Minutes.pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Minutes.pdf) (July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11324>. See video at 00:49:41-00:52:05. The meeting packet, which includes the agency presentations, is available at <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Packet.pdf>. Also, links to individual agency presentations are available under the “Agency Presentations” heading. Hereinafter, “May 12, 2021, meeting minutes, packet, and video.” Note: 1,200+ international firms, representing 34 different countries, are in the state and employ over 132,000 South Carolinians. Germany has the largest representation of the international countries. Between 2015 and 2020, S.C. was one of the top four countries in the U.S. for foreign direct investment on a per capita basis.

43 Letter from Commerce to Subcommittee (4.6.22). See page 116.

44 May 12, 2021, meeting minutes, packet, and video.” See video at 00:08:38-00:08:48.

45 May 12, 2021, meeting minutes, packet, and video. See video at 00:09:29-00:10:34.

2021.05.12 - Commerce - Marketing the State and Project Management [00:09:29-00:10:17] Nelson Lindsay, Director of Global Business Development, Department of Commerce: We're also introducing ourselves to parts of the world that don't know where South Carolina is. If you think about it, think about Asian companies. They may know where the U.S. is and they may know some of the major cities, New York, Washington, L.A., things like that, maybe Orlando, if they've been to Disney World. But they



don't know the differences between our regions. And likewise, if you think about, say, China, we know the major cities in China, Beijing, Shanghai and a few others, but it's hard to tell the difference in their regions. Right. So it's the same concept. We don't know as much about their regional differences and they don't know as much about our. So part of our marketing efforts is around getting the word about where we are physically as a state.

2021.05.12 - Commerce - Marketing the State and Project Management [00:10:17-00:10:34] Nelson Lindsay, Director of Global Business Development, Department of Commerce: Hopefully they know where the U.S. is. Ideally, they know where the southeast U.S. is. If they know where the Carolinas are, we're doing very well. And if they know South Carolina is you know, we're so far ahead of the game at that point. So that is our goal is to **build that geographic awareness** as well.

They may know about New York, Washington, DC, and Los Angeles, but have no idea about South Carolina. If they are aware of the Southeastern region of the United States, or South Carolina, it may be from old stereotypes (e.g., things are slower in the south, poor education system, being a smaller state means less resources, etc.). Therefore, marketing efforts are needed to overcome these stereotypes because the current understanding of the region and state is one in which they do not want to locate.

46 May 12, 2021, meeting minutes, packet, and video. See video at 00:11:26-00:11:41.

<sup>47</sup> May 12, 2021, meeting minutes, packet, and video. See video at 00:11:42.

48 March 4, 2021, Minutes, Video, and Meeting Packet.

See also, May 12, 2021, meeting minutes, packet, and video.

49 Letter from Commerce to Subcommittee (4.6.22). See response to question #57.

50 Act No. 239 of 2022. See Part II, Proviso 50.23.

(CMRC: Strategic Economic Development Fund) In the current fiscal year, there is established, within the Department of Commerce, the Strategic Economic Development Fund for the purpose of funding projects that are essential to the State's ongoing and future economic development success. The Secretary of Commerce shall identify and recommend potential projects for review and comment by the Joint Bond Review Committee before any funds may be awarded or expended. Any unexpended funds at the end of the fiscal year shall be carried forward and expended in the current fiscal year by the Department of Commerce for the same purposes.

51 Letter from Commerce to Subcommittee (4.6.22). See response to question #58.

Please provide examples from other states of how funding of strategic infrastructure independent of specific economic development projects has assisted them in recruiting business.

In North Carolina, key economic development stakeholders recognized that historically dominant industries (textiles, furniture makers, etc.) in the region were struggling. To prepare to be able attract future industry and create jobs, state and local governments and partners pieced together parcels of land to create an 1,800-acre megasite with convenient access to highways, airports, seaports and a diverse workforce pool. Investments were also made in onsite rail and renewable energy availability. As a result, Toyota announced in 2021 that it would build a \$1.29 billion lithium battery plant on this site, creating 1,750 jobs.

In Tennessee, the state had struggled to attract industry to its Memphis Regional Megasite despite significant investment over a number of years. A study found that the lack of utility connections was one of the main obstacles for site development. Subsequently, the state committed \$52 million into developing water and wastewater infrastructure to improve the area and the site's marketability. In 2021, Ford announced it would invest \$5.6 billion and create 5,700 at the site where the company will build electric trucks and electric vehicle batteries.

52 Letter from Commerce to Subcommittee (4.6.22). See responses to questions #56 and #57.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes" (August 5, 2021), under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of" and under "Meetings and Agency Presentations," <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/August%205,%202021%20-%20Meeting%20Minutes.pdf> (July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11449>. See video (part 1) at 00:20:20-00:20:48. The meeting packet, which includes the agency presentations, is available at <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/August%205,%202021%20-%20Meeting%20Packet.pdf>. Also, links to individual agency presentations are available under the "Agency Presentations" heading. Hereinafter, "August 5, 2021, meeting minutes, packet, and video."

Note: The COVID-19 pandemic emphasized lack of statewide internet access, which the state is in the process of addressing. However, once infrastructure is in place, affordable access becomes the next question. The state is in the process of addressing the issue regarding inability to have internet due to lack of infrastructure.

53 Letter from Commerce to Subcommittee (4.6.22). See response to question #58.

54 Letter from Commerce to Subcommittee (4.6.22). See response to questions #24, #27, and #30.

55 Letter from Commerce to Subcommittee (4.6.22). See response to questions #98 and #99.

56 Letter from Commerce to Subcommittee (4.6.22). See response to question #41, which discusses examples of why answers to certain questions about agency operations may not be straightforward.

57 Note: House Oversight Committee staff can provide additional context and information relating to implementation.

58 Act 252 of 2016.

See also, S.C. General Assembly, "2017 Coordinating Council for Workforce Development Annual Report," under "Publications," under "State Agency Publications," under "Current State Agency Reports," under "COMMERCE, DEPARTMENT OF," <https://www.scstatehouse.gov/reports/DeptofCommerce/CCWD%20Report%202017.pdf> (accessed June 7, 2022). See page 3. Hereinafter, "2017 Coordinating Council for Workforce Development Annual Report."

59 2018 Coordinating Council for Workforce Development Annual Report. See page 8.

60 Note: The concept for the Comprehensive Workforce plan began after the 2019 WorkforceONE Summit. The Coordinating Council for Workforce Development agreed to take the priorities and themes gathered and turn them into a plan that would fulfill the council's legislative mandate, S.C. Code Section 13-1-2030(B)(1)(d), to develop a method for identifying and addressing long-term workforce needs. Crafting such an in-depth blueprint required assistance from an entity with tangible experience in project management. The South Carolina Council on Competitiveness was engaged and asked to draft a proposed scope of work for the development of a comprehensive statewide workforce plan. While these initial steps were taken, priorities shifted during the COVID-19 pandemic. During the study, Commerce personnel testified it is a good time to begin to re-engage the conversation about this plan.

61 Note: When the meeting was held, legislation was pending to consolidate the Education and Economic Development Coordinating Council into the Coordinating Council for Workforce Development.

62 Act 194 of 2022 placed the responsibilities of the Education and Economic Development Coordinating Council under the Coordinating Council for Workforce Development (CCWD).

Act 194 of 2022, SECTION 2. The Code Commissioner is directed to change or correct all references to the "Education and Economic Development Coordinating Council" to the "Coordinating Council for Workforce Development." References to the Education and Economic Development Coordinating Council in the 1976 Code or other provisions of law are considered to be and must be construed to mean the "Coordinating Council for Workforce Development."

Additionally, statutes previously applicable to the CCWD were amended including the one below:

Section 13-1-2030

(B)(1) The coordinating council shall:

(a) **facilitate and coordinate the development of a unified, statewide workforce plan that utilizes data and analysis to identify statewide workforce priorities and create measurable, time-sensitive metrics in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate. The statewide workforce plan must ensure that federal and state requirements are met and agency constituents remain served. The plan also must establish standardized education and workforce terminology and definitions to be used across all agencies and sectors. The plan must**

**identify at least two, but not more than four, goals to be accomplished in less than four years and update those goals every five years;**

(b) advise appropriate agencies and governing boards to ensure the components of Chapter 59, Title 59, are implemented with fidelity to provide a better prepared workforce, student success in postsecondary education, and enhanced coordination between K-12, higher education, and employers. The council shall review accountability and performance measures for implementation of this article and make recommendations for the promulgation of regulations to carry out its provisions including, but not limited to, enforcement procedures, which may include monitoring and auditing functions, and addressing consequences for noncompliance;

(c) utilize data and analysis to develop a method for identifying and addressing long-term workforce needs and make evidence-based recommendations to the General Assembly;

63 S.C. General Assembly, "2019 Coordinating Council for Workforce Development Annual Report," under "Publications," under "State Agency Publications," under "Current State Agency Reports," under "COMMERCE, DEPARTMENT OF," [https://www.scstatehouse.gov/reports/DeptofCommerce/CCWD%202019%20Annual%20Report\\_7\\_19.pdf](https://www.scstatehouse.gov/reports/DeptofCommerce/CCWD%202019%20Annual%20Report_7_19.pdf) (accessed June 7, 2022). See page 10. Hereinafter, "2019 Coordinating Council for Workforce Development Annual Report."

64 Note: The Annie E. Casey Foundation tracks data on child wellbeing, and 2021 marks the 32nd edition of the foundation's Kids Count publication.

65 SC Kids Count Data Center, <https://datacenter.kidscount.org/data/customreports/42/7288,7246,43,5043,7244,5062,7247,7188,5116,5119,7245,7248,5425,7249,7243,7253,7250,106,5203,6795,7259> (accessed June 20, 2022).

See also, Joint Citizens and Legislative Committee on Children, "2022 Data Reference Book," under "Publications," [https://www.sccommitteeonchildren.org/\\_files/ugd/587cb7\\_c057fbf59d2849218f3cee75fd7e7b02.pdf](https://www.sccommitteeonchildren.org/_files/ugd/587cb7_c057fbf59d2849218f3cee75fd7e7b02.pdf) (accessed July 20, 2022).

Note: In 2019, 311,000 South Carolina children (28%) had parents that lacked secure employment. In 2019, 12 children entered foster care due to lack of employment by a parent.

66 Note: S.C. Code Section 12-6-3440 provides that an employer may claim as a credit against its income tax, bank tax, or insurance premium tax liability an amount equal to **(a)** 50% of its capital expenditures in South Carolina but no more than \$100,000, for costs incurred in establishing a childcare program for its employees' children and **(b)** 50% of the child care payments made not to exceed \$3,000 for each participating employee per year.

The program and operation of the program must meet the licensing, registration, and certification standards prescribed by law. The credit taken in any one tax year cannot exceed 50% of the employer's tax liability for that year. Any unused credit can be carried forward for 10 years. The credit is claimed on Form TC-9, "Credit for Child Care Program."

For purposes of the capital expenditures portion of the credit, qualifying expenditures for establishing a childcare program include, but are not limited to:

1. Mortgage or lease payments for childcare facilities.
2. Purchases of playground and classroom equipment, kitchen appliances, and cooking equipment.
3. Purchases of real property and improvements.
4. Donations to a nonprofit organization that qualifies under Internal Revenue Code §501(c)(3) in order to help that organization establish a child care facility for the employees' children. The employer may not, however, also claim a charitable deduction for the contribution made to the §501(c)(3) organization.
5. Expenses incurred in the first year for organizing and administering a direct payment program (see discussions below) for paying employees' childcare expenses.

For purposes of the childcare portion of the credit, 50% of the following payments, not to exceed \$3,000 for each participating employee per year, qualify for the credit:

1. Payments incurred by the taxpayer to operate a childcare program for the taxpayer's employees in South Carolina.
2. Payments made directly to licensed or registered independent childcare facilities in the name of, and for the benefit of, the employer's employees who are residents of, and employed in, South Carolina qualify if the children are kept at the facility during the employee's working hours. In addition, the employer may include any administrative costs, not to exceed 2%, that are associated with payments to a licensed or registered independent childcare facility.

The requirements of the childcare payment portion of the credit include:

1. The payment may not exceed the amount charged to non-employee's children of like age and abilities.
2. The taxpayer must retain information concerning the childcare facility's federal identification number, license or registration number, payment amount, and in whose name and for whose benefits the payments were made.

67Department of Social Services, "Child Care," <https://dss.sc.gov/child-care/> (accessed June 20, 2022). Hereinafter, "Department of Social Services Child Care."

68 Department of Social Services Child Care.

69 S.C. General Assembly, “2020 Coordinating Council for Workforce Development Annual Report,” under “Publications,” under “State Agency Publications,” under “Current State Agency Reports,” under “COMMERCE, DEPARTMENT OF,” <https://www.scstatehouse.gov/reports/DeptofCommerce/2020%20Annual%20Report.pdf> (accessed June 7, 2022). . Hereinafter, “2020 Coordinating Council for Workforce Development Annual Report.”

Note: South Carolina’s workforce system is tracked and measured by a multitude of federal, state, and institutional metrics which helps inform policymakers. With such a wide variety of measurements coming from a multitude of sources, it becomes difficult to ensure that information, in its proper context, is available for all stakeholders. Therefore, capturing all the components of S.C.’s workforce system, in a centralized format, will help identify areas of strength and areas of need.

Regional Workforce Snapshots were created to present specific workforce, industry recruitment and educational data within a one-page, front, and back document. This information has been compiled for each of the 12 local workforce regions. The front page offers an overview of each region’s footprint by providing current information such as employment statistics, industry data, announced economic development recruitment and educational attainment for residents in those counties. The back page delves into a region’s educational outcomes by providing one consecutive school year’s educational awards for students, both secondary and postsecondary. The information shows educational awards and the fields in which they were awarded, which can then be compared to the front page, providing a sense of where alignment exists. This data was collected from the most readily available, public information which is the 2017-2018 school year, in combination with data directly provided from CCWD member agencies. The regional snapshots are only limited by availability of more recent data.

These snapshots are meant to offer basic insights, prompting the reader to then ask more comprehensive questions about the workforce system as a whole. The next level of questions would require the use of longitudinal data, which could then be integrated into regional snapshots to provide a more dynamic understanding of South Carolina’s workforce system.

70 Note; For example, the Coleridge Initiative, a nonprofit organizations established in 2016 at the New York University, has worked with many federal, state, and local government entities to provide applied data analytics training programs. For more information about the Coleridge Initiative, visit <https://coleridgeinitiative.org/> (accessed June 28, 2022).

71 U.S. Bureau of Economic Analysis (BEA), “Advisory Committee on Data for Evidence Building: Year 1 Report,” <https://www.bea.gov/system/files/2021-10/acdeb-year-1-report.pdf> (accessed July 20, 2022). See page 69 -70. Hereinafter, “Advisory Committee on Data for Evidence Building: Year 1 Report.”

The Applied Data Analytics training program is structured to leverage the ADRF to produce evidence that is relevant, timely, actionable, and scalable.

Administrative Data Research Facility (ADRF). The ADRF is a secure cloud-based computing platform that allows agencies to safely host and analyze de-identified data sets. The platform was designed to promote collaboration, facilitate documentation, and provide information about data use to agency data owners. The ADRF was established by the Census Bureau with funding identified, in part, to inform the decision-making of the Evidence Commission.

The ADRF has enabled secure access to over 150 confidential data sets owned by more than 75 different agencies at all levels of government. The facility is FedRAMP moderate certified and is listed on the FedRAMP Marketplace. The ADRF has received authorization to operate from the Census Bureau, the U.S. Department of Agriculture, and the National Science Foundation and has an Authorization to Use from the U.S. Department of Health and Human Services. The platform won a 2018 Government Innovation Award.

The platform’s data processing and management capabilities include data ingestion, data documentation, data analytics tools, and data stewardship. All access to the ADRF is exclusively via web browser over secure connections, and the system leverages cloud-based services for efficiency, reusability, and cost transparency.

Advisory Committee on Data for Evidence Building: Year 1 Report. See page 29.

NSDS should feature a sandbox for testing new and innovative technologies and software for multiple data access tiers, data protection protocols, and data analysis. The NSDS should be a neutral ground between agencies where secure testing of new data linkages, privacy-preserving technologies, and model approaches can occur. This sandbox should support the development and refinement of disclosure limitation techniques and multiple access modes, in line with existing efforts by the Interagency Council on Statistical Policy and the Federal Committee on Statistical Methodology

Note: The Advisory Committee on Data for Evidence Building was established as part of the federal Foundations for Evidence-Based Policymaking Act of 2018.

72 S.C. House of Representatives, House Legislative Oversight Committee, "Department of Employment and Workforce Letter to Subcommittee (March 25, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #8. Hereinafter "Department of Employment and Workforce Letter to Subcommittee (March 25, 2022)."

73 Department of Employment and Workforce Letter to Subcommittee (March 25, 2022).

74 Department of Employment and Workforce Letter to Subcommittee (March 25, 2022).

75 S.C. House of Representatives, House Legislative Oversight Committee, "Department of Vocational Rehabilitation Letter to Subcommittee (March 25, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCVRD%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCVRD%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #1. Hereinafter "Department of Vocational Rehabilitation's Letter to Subcommittee (March 25, 2022)."

76 Department of Vocational Rehabilitation's Letter to Subcommittee (March 25, 2022). See response to question #1.

77 Talent 2025 publication entitled, "Longitudinal Data Systems in Michigan: SLDS Analysis, Stakeholder Input and Recommendations, APPENDIX: Best-in-Class State Longitudinal Data Systems (SLDS)" prepared by David Palmer, MPA and Tricia Caczowski in January 2020. See pages 3-4. [http://www.talent2025.org/uploads/files/T2025\\_SLDS\\_Appendix.pdf](http://www.talent2025.org/uploads/files/T2025_SLDS_Appendix.pdf) (accessed July 14, 2022). Hereinafter, "Logitudinal Data Systems in Michigan: SLDS Analysis, Stakeholder Input and Recommendations, APPENDIX: Best-in-Class State Longitudinal Data Systems (SLDS)."

78 S.C. General Assembly, "2021 Coordinating Council for Workforce Development Annual Report," under "Publications," under "State Agency Publications," under "Current State Agency Reports," under "COMMERCE, DEPARTMENT OF," [www.scstatehouse.gov/reports/DeptofCommerce/CCWD%202021%20Annual%20Report-compressed.pdf](http://www.scstatehouse.gov/reports/DeptofCommerce/CCWD%202021%20Annual%20Report-compressed.pdf) (accessed June 7, 2022). See page 10. Hereinafter, "2021 Coordinating Council for Workforce Development Annual Report."

79 Letter from Commerce to Subcommittee (4.6.22). See response to question #63.

<sup>80</sup> Note: Act 194 of 2022 as it also requires common terminology as part of the unified workforce plan.

81 2017 Coordinating Council for Workforce Development Annual Report. See page 8.

82 2017 Coordinating Council for Workforce Development Annual Report. See page 8.

See also, 2019 Coordinating Council for Workforce Development Annual Report. See page 8.

83 2017 Coordinating Council for Workforce Development Annual Report. See page 8.

Agency Name	Public / Private	Program Name	Description of Program	Area of State	Type of Assistance	Target Population	Funding Agency	State/ Federal	Annual Award/ Appropriation	Recurring/ Non-recurring	Contact Name	Contact Phone #	Contact Email
SC Department of Employment and Workforce (DEW)	Public	Workforce Innovation and Opportunity Act (WIOA)-Adult											
SC Department of Employment and Workforce (DEW)	Public	Workforce Innovation and Opportunity Act (WIOA)-Youth											
SC Department of Employment and Workforce (DEW)	Public	Workforce Innovation and Opportunity Act(WIOA)-Dislocated Worker											
SC Department of Employment and Workforce (DEW)	Public	Veteran Services											
SC Department of Employment and Workforce (DEW)	Public	Wagner-Peyser											
SC Department of Employment and Workforce (DEW)	Public	Trade Adjustment Assistance (TAA)											
SC Department of Employment and Workforce (DEW)	Public	Reemployment Services and Eligibility Assessment (RESEA)											
SC Department of Employment and Workforce (DEW)	Public	Worker Adjustment and Retraining Notification (WARN)											
SC Department of Employment and Workforce (DEW)	Public	SC Work Ready Communities											
SC Department of Employment and Workforce (DEW)	Public	Work Opportunity Tax Credit (WOTC)											
SC Department of Education	Public	Other											
SC Technical College System	Public	ReadySC											
SC Technical College System	Public	Apprenticeship Carolina											
SC Technical College System	Public	E-Zone											
SC Technical College System	Public	Other											
SC Technical College System	Public												
16 Technical Colleges	Public												
SC Department of Commerce	Public	Regional Education Centers											



In 2018, Minnesota's Statewide Longitudinal Education Data System (SLEDs) began reporting labor market outcomes for the 23 percent of Minnesota high school graduates who entered the workforce after graduation rather than enrolling post-secondary education or training. Minnesota's reported outcomes include the number and share of graduates at the district, regional, and state levels who entered the workforce, average weekly hours worked, industries of employment, average hourly wages and employment rates across industry sectors.

Saint Paul Public Schools (SPPS), Minnesota's largest school district, has incorporated performance measures into its strategic plan using information from SLEDs to gauge how well its graduates are prepared for college, career, and life. ...The strategic plan developed by SPPS uses longitudinal data to assess many traditional benchmarks, including graduation and enrollment in college, as well the number and share of the district's graduates who are employed and earning a living wage while not being enrolled in post-secondary education in-state or out-of-state. The district used new baseline data from SLEDs to develop five-year targets for outcomes in a variety of areas, including racial and cultural achievement gaps, special education and English learner achievement, kindergarten readiness, college and career readiness, and academic growth for all students. The district continues to leverage SLEDs data to improve programs and align curricula to the needs of local employers based on the outcomes of recent graduates across a plethora of social, demographic, and labor market characteristics. This ensures economic opportunity and mobility for all students, regardless of subsequent participation in post-secondary education and training

<sup>98</sup> August 5, 2021, meeting minutes, packet, and video. See video beginning at 01:54:32.

99 Letter from Commerce to Subcommittee (4.6.22). See response to question #116.

100 Letter from Commerce to Subcommittee (4.6.22). See response to question #117.

101 Letter from Commerce to Subcommittee (4.6.22). See response to question #51.

102 Department of Commerce, "Area Maps," <https://www.sccommerce.com/area-maps> (accessed July 21, 2022).

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Service After the Sale Agency Presentation (June 4, 2021)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of" and under "Meetings and Agency Presentations," <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Presentation%20-%20Service%20after%20the%20Sale.pdf> (accessed July 21, 2022). See slide 55.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Marketing the State and Project Management Agency Presentation (May 12, 2021)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of" and under "Meetings and Agency Presentations," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Presentation%20-%20Marketing%20the%20State%20and%20Project%20Management.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Presentation%20-%20Marketing%20the%20State%20and%20Project%20Management.pdf) (accessed July 21, 2022). See slides 27-28.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Incentives Agency Presentation (May 27, 2021)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of" and under "Meetings and Agency Presentations," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Incentives%20-%20\(5.21.21\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Incentives%20-%20(5.21.21).pdf) (accessed July 21, 2022). See slide 6. Hereinafter, "Incentives Agency Presentation (May 27, 2021)."

103 Letter from Commerce to Subcommittee (4.6.22). See response to question #112.

The Paxville Community Development Center Corporation submitted its 2017 990-EZ short form return of Organization exempt from Income Taxes to the Department of Commerce as part of the documentation requirements prior to issuance of a grant. This form reported the entity received \$32,354 in revenue for the calendar year. In FY 2018-19, the entity was appropriated \$250,000 in pass through funds.

Clarendon County Community Development received \$100,000 in pass through funding in FY 2018-019. After expending all of its appropriation, the Corporation notified the Department of Commerce that it would close and cease operations by the end of 2021.

104 August 5, 2021, meeting minutes, packet, and video. See video at 01:17:59 – 01:22:04.

See also, Letter from Commerce to Subcommittee (4.6.22). See response to question #113.

Please provide suggestions for alternative methods of providing funding to outside entities (e.g., matching, build up over time, incorporation of stated outcome in agreement, reimbursement, etc.).

Some of the pass-through-funding appropriations are made to small towns and meant to renovate dilapidated buildings. Small towns do not always have the capacity to complete these projects and granting the funds to the County or Council of Government would increase the likelihood of a successful outcome. In addition, giving a large appropriation to a small entity may assist the entity/community in the short term, but spreading the appropriation over a longer period of time could allow the entity to build public support and allow the entity to attract more resources in the future to sustain the program and entity after the appropriation is expended.

105 S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Commerce to Subcommittee (3.29.21)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Subcommittee%20to%20Dept.%20of%20Commerce%20\(3.29.21\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Subcommittee%20to%20Dept.%20of%20Commerce%20(3.29.21).pdf) (accessed July 20, 2022). See response to question #21.

106 Letter from Commerce to Subcommittee (4.6.22). See response to question #115.

107 Letter from Commerce to Subcommittee (4.6.22). See response to question #115.

108 S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Packet" (June 27, 2022), under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Library, State" and under "Meetings" <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/StateLibrary/Complete%20Meeting%20Packet%206.27.22.pdf> (accessed July 21, 2022). See page 112. Hereinafter, "June 27, 2022, Education and Cultural Subcommittee meeting packet."

109 Department of Administration, "Certifications," <https://admin.sc.gov/Training/Certifications> (accessed July 21, 2022).

110 June 27, 2022, Education and Cultural Subcommittee meeting packet. See page 112.

111 Letter from Commerce to Subcommittee (4.6.22). See responses to questions #102 and #106.

Note: The move to remote work across state government and the private sector has led to a paradigm shift regarding where staff do their work. As private sector industries embrace remote work, state government must also adapt as recruitment and retention is likely to become more challenging as employees seek opportunities for increased flexibility.

During the COVID-19 office closures, an average of 65% of the Commerce staff was telecommuting. Commerce invested approximately \$97,000 in IT infrastructure to facilitate remote work capability for staff. Two surveys were completed by agency personnel to assess interest, support, and challenges with telecommuting at Commerce. While telecommuting may not be appropriate for all Commerce employees, it may be a viable option for some employees.

Remote work (i.e., telecommuting) that results in greater efficiency and cost savings is authorized by state statute.

112 2021 Annual Report of Economic Development Set-Aside Fund, Closing Fund and Rural Infrastructure Authority Fund Activity. See page 26.

113 2021 Annual Report of Economic Development Set-Aside Fund, Closing Fund and Rural Infrastructure Authority Fund Activity. See page 21.

114 Letter from Commerce to Subcommittee (4.6.22). See responses to questions #15, 29, and 31.

115 S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Coordinating Council for Workforce Development to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20CCWD%20to%20Subcommittee%20\(3.28.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20CCWD%20to%20Subcommittee%20(3.28.22).pdf) (accessed July 20, 2022).

116 S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Administration Facilities Management Division to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DoA%20to%20Subcommittee%20\(3.25.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DoA%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). Hereinafter, "Letter from Department of Administration Facilities Management Division to Subcommittee (3.25.22)."

S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Natural Resources to Subcommittee (3.22.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DNR%20to%20Subcommittee%20\(3.22.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DNR%20to%20Subcommittee%20(3.22.22).pdf) (accessed July 20, 2022). Hereinafter, "Letter from Department of Natural Resources to Subcommittee (3.22.22)."

S.C. House of Representatives, House Legislative Oversight Committee, "Letter from State Forestry Commission to Subcommittee (4.9.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence,"



[www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Forestry%20to%20Subcommittee%20\(4.9.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20Forestry%20to%20Subcommittee%20(4.9.22).pdf) (accessed July 20, 2022). Hereinafter, "Letter from State Forestry Commission to Subcommittee (4.9.22)."

S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Parks, Recreation and Tourism to Subcommittee (3.16.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20PRT%20to%20Subcommittee%20\(3.16.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20PRT%20to%20Subcommittee%20(3.16.22).pdf) (accessed July 20, 2022). Hereinafter, "Letter from Department of Parks, Recreation and Tourism to Subcommittee (3.16.22)."

Note: Examples of information include:

- a. Department of Administration - Location of state agency property and operations
- b. Department of Natural Resources - Maps of state and federal properties known to the agency, along with activities allowed on each
- c. Department of Parks, Recreation, and Tourism - Maps of state and federal properties known to the agency, along with activities allowed on each
- d. Forestry Commission - Maps of state and federal properties known to the agency, along with activities allowed on each
- e. Conservation Bank- Maps of state and federal properties known to the agency, along with activities allowed on each

117 S.C. House of Representatives, House Legislative Oversight Committee, "Letter from First Steps to School Readiness to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20First%20Steps%20to%20Subcommittee%20\(3.25.22\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20First%20Steps%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #1. Hereinafter, "Letter from First Steps to School Readiness to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Employment and Workforce to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DEW%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #1. Hereinafter, "Letter from Department of Employment and Workforce to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Education to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCDE%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCDE%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #4. Hereinafter, "Letter from Department of Education to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Commission on Higher Education to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20CHE%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20CHE%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #3. Hereinafter, "Letter from Commission on Higher Education to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Veterans' Affairs to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCDVA%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCDVA%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #1. Hereinafter, "Letter from Department of Veterans' Affairs to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Commission for the Blind to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCCB%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20SCCB%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #1. Hereinafter, "Letter from Commission for the Blind to Subcommittee (3.25.22)."

Note:

- First Steps has followed up with a contact at SC Department of Employment and Workforce (DEW) about joining the Labor Force Participation Task Force.
- Director of Strategic Partnerships at DEW reached out to the Early Childhood Advisory Council's (ECAC) Two-Generation Coordinator and a partnership is forming between the two entities centered around the state's 2Gen Community of Practice, First Five SC and integration points and opportunities between the early childhood state system and DEW.
- Director of Strategic Partnerships at DEW presented information to a statewide network of 46 county-level First Steps executive directors about the public workforce system and available services to job seekers with the desired outcome of building connections at the local level. DEW encouraged the availability of SC Works outreach material for First Steps families.
- SC's Two-Generation Coordinator (staff of the ECAC) presented to the directors of the SC Works Centers on 2Gen approaches, the early childhood system, and using First Five SC as a resource at SC Works Centers.
- State Director of First Steps 4K presented at the Department of Commerce's Rural Summit. The presentation was entitled "Rural Child Care Expansion."
- SCDE continued working on collaborative initiatives such as the creation of extended career certification and badging by meeting with key stakeholders also present at the subcommittee meeting to discuss the expansion of such programs.

- CHE staff worked with staff at the Education Oversight Committee to review plans for presentation and analysis of NSC data to SC high schools, districts, 2-year and 4-year colleges re: student success and progress metrics for recent high school graduates, including those who enroll at higher education institutions but do not graduate. Letter from Commission on Higher Education to Subcommittee (3.25.22), Question 3
- DEW provided a file securely to the Revenue and Fiscal Affairs Office (RFA) with a full list of all businesses in DEW's tax system with their applicable industry (NAICS) code and has committed to including the industry information in all future data extracts submitted to RFA as part of DEW's normal process. Letter from Department of Employment and Workforce to Subcommittee (3.25.22), Question 13
- Commission for the Blind prepared a Memorandum of Agreement with SC Department of Vocational Rehabilitation and forwarded an initial draft to its governing body U.S. Department of Education, Rehabilitation Services Administration for review/approval. Letter from Commission for the Blind to Subcommittee (3.25.22), Question 1
- Department of Veterans Affairs has added three Chambers of Commerce to its existing employment working group, to include Spartanburg, Greenville, and Columbia and are working more closely with the leaders of the Department of Commerce as they develop a cooperative strategic plan for Veteran employment. Letter from Department of Veterans' Affairs to Subcommittee (3.25.22), Question 1

118 Department of Revenue, "SC Information Letter #21-28," <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/IL21-28.pdf> (accessed June 3, 2022).

119 Christopher Huffman, Chief Financial Officer for the Department of Commerce email to House Legislative Oversight Committee Legal Counsel, Charles Appleby, June 14, 2022.

120 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

121 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

122 Note: The North American Industry Classification System (NAICS) - Classification of business establishments by type of economic activity. NAICS is reviewed every five years for potential revisions, so that the classification system can keep pace with the changing economy. This is the only time that new NAICS codes can be considered.

123 U.S. Bureau of Economic Analysis, "Industries," <https://www.bea.gov/resources/learning-center/what-to-know-industries> (accessed 10.7.21). Hereinafter, "U.S. Bureau of Economic Analysis Industries."

124 Letter from Commerce to Subcommittee (4.6.22). See response to question #76.

123 U.S. Census Bureau, "North American Industry Classification System (NAICS)," <https://www.census.gov/naics/#q5> (accessed July 21, 2022). Hereinafter, "North American Industry Classification System (NAICS)."

Note: NAICS is a classification system developed jointly by the U.S., Canada, and Mexico to provide improved comparability in industrial statistics across North America. NAICS replaced the U.S. Standard Industrial Classification (SIC) system.

124 North American Industry Classification System (NAICS).

127 North American Industry Classification System (NAICS).

128 North American Industry Classification System (NAICS).

129 North American Industry Classification System (NAICS).

130 U.S. Bureau of Economic Analysis Industries.

131 U.S. Bureau of Economic Analysis Industries.

Note: The information is provided in U.S. Bureau of Economic Analysis' (BEA) Interactive Data in Section 6 of the National Income and Product Account Tables.

132 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

133 U.S. Bureau of Labor Statistics, "Standard Occupational Classification (SOC) System," <https://www.bls.gov/soc/> (accessed July 21, 2022). Hereinafter, "Standard Occupational Classification (SOC) System." See Attachment C STEM [https://www.bls.gov/soc/Attachment\\_C\\_STEM\\_2018.pdf](https://www.bls.gov/soc/Attachment_C_STEM_2018.pdf).

134 S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes" (June 29, 2021), under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of" and under "Meetings and Agency Presentations," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/June%202021%20Meeting%20Minutes.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/June%202021%20Meeting%20Minutes.pdf) (July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11345>. See video at 00:10:23-00:10:23. The meeting packet, which includes the agency presentations, is available at [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/June%202021%20-](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/June%202021%20-)

%20Meeting%20Packet.pdf. Also, links to individual agency presentations are available under the “Agency Presentations” heading. Hereinafter, “June 29, 2021, meeting minutes, packet, and video.”

See also, Letter from Department of Education to Subcommittee (3.25.22). See response to question #2.

135 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

136 S.C. Code Section 59-59-50, “The clusters of study may be based upon the national career clusters and may include, but are not limited to: ...” (emphasis added).

137 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

138 June 29, 2021, meeting minutes, packet, and video. See video at 00:10:23-00:10:57.

See also, Department of Education, “Career Clusters,” <https://ed.sc.gov/instruction/career-and-technical-education/programs-and-courses/career-clusters/> (accessed July 21, 2022). Hereinafter, “Department of Education Career Clusters.”

139 June 29, 2021, meeting minutes, packet, and video. See video at 00:10:23-00:10:57.

See also, Department of Education Career Clusters.”

140 June 29, 2021, meeting minutes, packet, and video. See video at 2021.06.00:11:41-00:11:59.

141 June 29, 2021, meeting minutes, packet, and video. See video at 00:12:38-00:13:04.

142 June 29, 2021, meeting minutes, packet, and video. See video at 00:12:38-00:13:04.

143 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

144 Letter from Commerce to Subcommittee (4.6.22). See response to question #69.

145 Standard Occupational Classification (SOC) System.”

146 Standard Occupational Classification (SOC) System.

147 Standard Occupational Classification (SOC) System.

148 Letter from Department of Education to Subcommittee (3.25.22). See response to question #2.

149 2018 Coordinating Council for Workforce Development Annual Report. See pages 50-51.

150 Letter from Commerce to Subcommittee (4.6.22). See response to question #70.

151 S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (May 12 2021), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of” and under “Meetings and Agency Presentations,” [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Minutes.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Minutes.pdf) (July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11324>. See video at 01:15:58-01:17:15. The meeting packet, which includes the agency presentations, is available at <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2012,%202021%20-%20Meeting%20Packet.pdf>. Also, links to individual agency presentations are available under the “Agency Presentations” heading. Hereinafter, “May 12, 2021, meeting minutes, packet, and video.”

152 May 12, 2021, meeting minutes, packet, and video. See video at 01:15:58-01:17:15.

153 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:56:43-00:57:34.

154 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:56:43-00:57:34.

155 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:56:43-00:57:34.

156 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:56:43-00:57:34.

157 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:57:34-00:58:03.

158 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:57:34-00:58:03.

159 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:59:52-01:00:00.

160 March 4, 2021, Minutes, Video, and Meeting Packet. See video at 02:23:09-02:23:24.

161 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:30:26-00:31:50.

162 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:30:26-00:31:50.

163 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:30:26-00:31:50.

164 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:30:26-00:31:50.

165 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:26:01-02:27:19.

166 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:26:01-02:27:47.

167 March 4, 2021, Minutes, Video, and Meeting Packet. See video at 02:42:09-02:43:02.

168 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:26:01-02:27:19.

169 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:26:01-02:27:19.

170 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:26:01-02:27:19.

171 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:27:47-02:29:25.

172 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:27:47-02:29:25.

173 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:36:44-02:38:01.

174 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:36:44-02:38:01.

175 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:36:44-02:38:01.

176 March 11, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:36:44-02:38:01.

177 S.C. House of Representatives, House Legislative Oversight Committee, “Setting the Table: TeamSC; Grants (e.g., LocateSC, CDBG, ARC, Rural Development, Applied Research Agency Presentation (March 11, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of” and under “Meetings and Agency Presentations,” [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Setting%20the%20Table%20presentation%20\(3.11.21\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Setting%20the%20Table%20presentation%20(3.11.21).pdf) (accessed July 21, 2022). See slide 35.

178 S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (May 27, 2021), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Commerce, Department of,” and under “Meetings,” [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%202021%20-%20Meeting%20Minutes.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%202021%20-%20Meeting%20Minutes.pdf) (accessed July 20, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11325>. See video (part 2) at 00:31:59-00:32:35. The meeting packet is available at <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/May%2027,%202021%20-%20Meeting%20Packet.pdf>. Hereinafter, “May 27, 2021, Minutes, Video, and Meeting Packet.”

179 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:31:59-00:32:35.

180 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:37:08-00:38:32.

181 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:34:24-00:37:07.

182 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:47:17-00:48:24.

183 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 1) at 00:54:18-00:55:45. See also, video (part 2) at 00:54:18-00:55:05.

184 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 1) at 00:55:08-00:55:45. See also, video (part 2) at 00:54:18-00:55:05.

185 Christopher Huffman, Chief Financial Officer for the Department of Commerce email to House Legislative Oversight Committee Legal Counsel, Charles Appleby, October 2021. Hereinafter, “S.C. Coordinating Council for Economic Development, Policies and Procedures for the State Grant Programs: Economic Development Set-Aside Fund; Rural Infrastructure Fund; and Governor’s Closing Fund (undated document).”

186 S.C. Coordinating Council for Economic Development, Policies and Procedures for the State Grant Programs: Economic Development Set-Aside Fund; Rural Infrastructure Fund; and Governor’s Closing Fund (undated document).

187 S.C. Coordinating Council for Economic Development, Policies and Procedures for the State Grant Programs: Economic Development Set-Aside Fund; Rural Infrastructure Fund; and Governor’s Closing Fund (undated document).

188 S.C. Coordinating Council for Economic Development, Policies and Procedures for the State Grant Programs: Economic Development Set-Aside Fund; Rural Infrastructure Fund; and Governor’s Closing Fund (undated document).

189 S.C. Coordinating Council for Economic Development, Policies and Procedures for the State Grant Programs: Economic Development Set-Aside Fund; Rural Infrastructure Fund; and Governor’s Closing Fund (undated document).

**190** Christopher Huffman, Chief Financial Officer for the Department of Commerce interviewed by House Legislative Oversight Committee Legal Counsel, Charles Appleby, August 11, 2022.

191 Incentives Agency Presentation (May 27, 2021). See slide 51.

192 Incentives Agency Presentation (May 27, 2021). See slide 51.

See also, S.C. Coordinating Council for Economic Development, Policies and Procedures for Monitoring Performance for Economic Development Grants and the Enterprise Program (date not stated on document).

193 Incentives Agency Presentation (May 27, 2021). See slide 51.

194 Incentives Agency Presentation (May 27, 2021). See slide 51.

195 Incentives Agency Presentation (May 27, 2021). See slide 51.

196 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:23:43-02:24:04.

197 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:10:27-02:11:23.

198 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 02:23:31-02:23:43.

199 August 5, 2021, meeting minutes, packet, and video. See video (part 1) at 00:50:05 -00:51:13.

200 August 5, 2021, meeting minutes, packet, and video. See video (part 1) at 00:50:05 -00:53:50.

201 Incentives Agency Presentation (May 27, 2021). See slides 39-40.

See also, May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:33:24-01:35:25.

202 August 5, 2021, meeting minutes, packet, and video. See video (part 1) at 01:07:06-01:09:12.

203 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:13:21-01:14:38.

204 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:14:39-01:15:29.

205 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:13:21-01:14:38.

206 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:14:39-01:15:29.

207 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:13:21-01:14:38.

208 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:13:21-01:14:38.

209 May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 01:13:21-01:14:38.

210 Incentives Agency Presentation (May 27, 2021). See slide 26.

See also, May 27, 2021, Minutes, Video, and Meeting Packet. See video (part 2) at 00:59:16-00:59:41.

211 Letter from First Steps to School Readiness to Subcommittee (3.25.22). See response to question #6.

See also, Letter from Department of Employment and Workforce to Subcommittee (3.25.22). See response to question #19

See also, Letter from Department of Education to Subcommittee (3.25.22). See response to question #10.

See also, Letter from Commission on Higher Education to Subcommittee (3.25.22). See response to question #9.

See also, Letter from Department of Veterans' Affairs to Subcommittee (3.25.22). See response to question #7.

See also, Letter from Commission for the Blind to Subcommittee (3.25.22). See response to question #7.

See also, Department of Vocational Rehabilitation's Letter to Subcommittee (March 25, 2022). See response to question #9.

See also, Letter from Commerce to Subcommittee (4.6.22). See response to question #125.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from State Technical College System to Subcommittee (3.25.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20State%20Technical%20College%20to%20Subcommittee%20\(3.25.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20State%20Technical%20College%20to%20Subcommittee%20(3.25.22).pdf) (accessed July 20, 2022). See response to question #12. Hereinafter, "Letter from State Technical College System to Subcommittee (3.25.22)."

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Department of Social Services to Subcommittee (3.30.22)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Commerce, Department of," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DSS%20to%20Subcommittee%20\(3.30.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Commerce/Letter%20from%20DSS%20to%20Subcommittee%20(3.30.22).pdf) (accessed July 20, 2022). See response to question #7. Hereinafter, "Letter from Department of Social Services to Subcommittee (3.30.22)."

212 Letter from First Steps to School Readiness to Subcommittee (3.25.22). See response to question #6.

See also, Letter from Department of Employment and Workforce to Subcommittee (3.25.22). See response to question #20.

See also, Letter from Department of Education to Subcommittee (3.25.22). See response to question #11.

See also, "Letter from Commission on Higher Education to Subcommittee (3.25.22). See response to question #10.

See also, Letter from Department of Veterans' Affairs to Subcommittee (3.25.22). See response to question #8.

See also, "Letter from Commission for the Blind to Subcommittee (3.25.22). See response to question #8.

See also, Letter from Commerce to Subcommittee (4.6.22). See response to question #126.

See also, Letter from Department of Social Services to Subcommittee (3.30.22). See response to question #8.

See also, Department of Vocational Rehabilitation's Letter to Subcommittee (March 25, 2022). See response to question #10.

213 Letter from First Steps to School Readiness to Subcommittee (3.25.22). See response to question #5.

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## EXECUTIVE SUMMARY - ATTORNEY GENERAL'S OFFICE



# Study of the Attorney General's Office 2022

SC House Legislative Oversight Committee  
Law Enforcement and Criminal Justice Subcommittee

## Executive Summary

## Committee Overview

### Subcommittee Membership

#### Law Enforcement and Criminal Justice Subcommittee

The Honorable Chris Wooten (chair)

The Honorable Josiah Magnuson

The Honorable Kimberly O. Johnson

The Honorable John R. McCravy, III

### Oversight Purpose and Methods

#### Purpose

To determine if agency laws and programs:

- are being implemented and carried out in accordance with the intent of the General Assembly; and
- should be continued, curtailed, or eliminated.

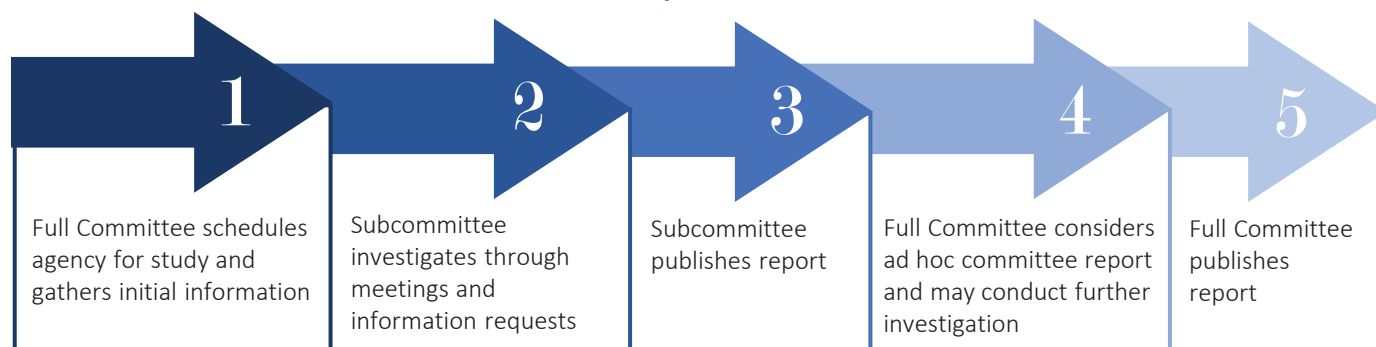
#### Methods

The Committee and Subcommittee evaluate:

- the application, administration, execution, and effectiveness of the agency's laws and programs;
- the organization and operation of the agency; and
- any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

### Study Process



### Public Input



20

Responses to an online public survey



2

Online comments received



2

Constituents testified

### Study Milestones

#### Meetings

##### Subcommittee Meetings

3/31/22 6/14/22  
4/26/22 6/22/22  
5/25/22 8/9/22  
6/1/22  
6/8/22

##### Full Meetings

12/9/19  
4/8/21

#### Agency Reports

March 2015

Seven-Year Plan Report

March 2020

Program Evaluation Report

September 2021

FY 2020-2021 Accountability Report

# Agency Overview: Attorney General's Office

## Agency Mission

“

To serve the citizens of the State of South Carolina by providing legal representation of the highest quality to state government entities, by supporting the law enforcement communities and the legal and judicial branches through the legislative process, and by honorably and vigorously carrying out the constitutional and statutory responsibilities of the Attorney General.

”

## History and Resources (FY 18-19)

### History

**1776** – The first State Constitution identifies the Attorney General (AG) and provides that the position is elected by the General Assembly

**1868** – Revised State Constitution provides for a general election of the AG

**1929** – State and US Supreme Courts affirm the authority of the AG as “the chief law enforcement officer”

**1974** – Criminal Appeals section is formed

**1978** – Post Conviction Relief actions primarily handled by the Office

**1983** – Opinions section is created

**1992** – AG statutorily responsible for litigation involving any state entity

**1995** – Capital and Collateral Litigation section is formed

**2004** – Consumer Protection and Antitrust Division is formed

**2017** – South Carolina Crime Victim Services Division is created

### Organizational Units

- Legal Services Division
- Opinions Division
- Criminal Division
- Victim Services Division
- Administration Division
- Executive

### Employees



**275.2**  
authorized FTEs

### Funding



**\$78,758,364**  
appropriated and authorized

## Successes and Challenges

Identified by the agency

### Successes

- Increasing efficiency and outreach of services to victims after separate state Crime Victim entities were merged into a single division of the AG
- Creating regularly occurring self-evaluation practices
- Upgrading technology hardware and desktop software

### Challenges

#### Current:

- Providing competitive attorney salaries
- Retaining attorneys in the Post-Conviction Relief section
- Funding to implement the S.C. Anti-Money Laundering Act of 2016
- Obtaining a seat on the Commission on Prosecution Coordination

#### Emerging:

- Raising the salary of the AG which has been stagnant for over 28 years and is less than half that of a circuit solicitor
- Lacking office space to accommodate the current size of the agency
- Aging case management system that needs updating

## Findings

The House Legislative Oversight Committee's Law Enforcement and Criminal Justice **Subcommittee made 17 findings** in its review of the Attorney General's Office. The Subcommittee recommendations address some, but not all, of these findings. However, the Subcommittee makes the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

### Understanding and Collaboration

1. Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult.<sup>See Recommendations #1-5</sup>
2. Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system.<sup>See Recommendations #1-#4 and #12-13</sup>
3. Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.)<sup>See Recommendations #1-#5 and #15</sup>
4. Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims.<sup>See Recommendation #6</sup>
5. Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks.<sup>See Recommendations #12 and #13</sup>

6. During the study, agency personnel note lack of a clear definition of "unconscionable price" makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.

### Operations

7. Annual briefings conducted by the Attorney General's Office may be a best practice all state agencies consider adopting.
8. Recruitment and retention of employees is an issue with the Attorney General's Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award).<sup>See Recommendations #16 and #22</sup>
9. The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state's chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).
10. Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.
11. Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths.<sup>See Recommendation #14</sup>
12. Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant.

## Resources

13. Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down.<sup>See Recommendation #28</sup>
14. The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General's Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel.
15. While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.
16. Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.
17. Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility.

## Recommendations

The Subcommittee has 49 recommendations to various entities that continue, curtail, and/or eliminate agency programs, and include areas for potential improvement. Unless otherwise noted, recommendations are to the Attorney General's Office. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.

### Criminal Justice Processes

1. **LAW ENFORCEMENT TRAINING COUNCIL** -Approve process charts related to the criminal justice system for internal use by stakeholders (e.g., agency personnel, legislators, etc.).<sup>Collaboration; See Findings #1 - #3</sup>
2. Maintain accuracy of crime victim process charts.<sup>Collaboration; See Findings #1 - #3</sup>
3. Maintain accuracy of prosecution and appeal process charts.<sup>Collaboration; See Findings #1 - #3</sup>
4. Create interactive crime victim statistics dashboard.<sup>Effectiveness; See Findings# 1 and #3</sup>
5. Create a publication to help victims understand the complex criminal justice system.<sup>Collaboration; See Findings #1 and #3</sup>
6. **DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES** -Collaborate about victim information issues to support a centralized victim information repository.<sup>Efficiency; See Finding #4</sup>
7. Streamline process for victims to obtain services (i.e., co-enrollment).<sup>Efficiency</sup>
8. Create a victim service provider directory and track performance of the service providers.<sup>Effectiveness</sup>
9. Annually publish information on crime victim grants issued and utilized.<sup>Transparency</sup>
10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year.<sup>Efficiency</sup>
11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities.<sup>Efficiency; See Finding #14</sup>
12. **ATTORNEY GENERAL'S OFFICE, COMMISSION ON PROSECUTION COORDINATION, COMMISSION ON INDIGENT DEFENSE, DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, DEPARTMENT OF JUVENILE JUSTICE, DEPARTMENT OF SOCIAL SERVICES, DEPARTMENT OF CORRECTIONS, DEPARTMENT OF PUBLIC SAFETY, STATE LAW ENFORCEMENT DIVISION, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF INSURANCE, DEPARTMENT OF REVENUE, AND DEPARTMENT OF EMPLOYMENT AND WORKFORCE** - Reach agreement on set data standards for criminal justice entities.<sup>Collaboration; See Findings #2 and 5</sup>
13. Link Attorney General's Office and circuit solicitor case management systems<sup>Collaboration; See Findings #2 and #5</sup>

### Law Enforcement

14. Discuss feasibility of a uniform statewide process for officer involved shooting reviews<sup>Accountability</sup>
15. Determine feasibility of a central learning portal.<sup>Effectiveness; See Finding #3</sup>

### State Employees

16. **DEPARTMENT OF ADMINISTRATION** - Improve meaning and usability of Employee Performance Management System.<sup>Effectiveness; See Finding #8</sup>

### Specialized Prosecutions

17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution.<sup>Efficiency</sup>
18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution.<sup>Efficiency</sup>
19. Determine appropriate parties for regulation versus prosecution of money services businesses.<sup>Effectiveness</sup>



## Laws

### *General*

20. **GENERAL ASSEMBLY** - Consider eliminating bonds for positions or identify entity responsible for enforcement.
21. **GENERAL ASSEMBLY** - Consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products.
22. **GENERAL ASSEMBLY** - Consider increasing the limitation on tokens of recognition for state employees.
23. **GENERAL ASSEMBLY** - Consider establishing a victim address confidentiality program.
24. **GENERAL ASSEMBLY** - Consider updating statutes related to the Sexually Violent Predator Act.
25. **GENERAL ASSEMBLY** - Consider establishing a federal Department of Health and Human Services Office of the Inspector General approved False Claims Act.
26. **GENERAL ASSEMBLY** - Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.
27. **GENERAL ASSEMBLY** - Consider updating statutes to add a fentanyl trafficking provision.
28. **GENERAL ASSEMBLY** - Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.
29. **GENERAL ASSEMBLY** - Consider updating statutes related to venue for State Grand Jury cases.
30. **GENERAL ASSEMBLY** - Consider updating statutes to enable more potential State Grand Jury review of

cases with possible health effects on the community.

### *Modernization*

31. **GENERAL ASSEMBLY** - Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General's Office.
32. **GENERAL ASSEMBLY** - Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General's Office devolved to another state agency.
33. **GENERAL ASSEMBLY** - Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General's Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.
34. **GENERAL ASSEMBLY** - Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers' bonds by the Attorney General.
35. **GENERAL ASSEMBLY** - Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General's "school safety phone line" when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.
36. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General's website to serve as notice to Department of Revenue and Secretary of State's Office.
37. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a "grandfather provision" exempting victim service providers employed prior to 2008 from taking a basic certification course.
38. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.

39. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-910 to delete the final phrase, “unless sentenced for murder as provided in Section 16-3-20.” During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.
  40. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term “criminal offense” a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.
  41. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading “except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)”. S.C. Code Section 16-3-655(3) no longer exists.
  42. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 14-1-211.5 (A) and (B) to correct a reference (i.e., replace references to the “Department of Crime Victim Assistance Grants” with references to the “Department of Crime Victim Compensation”).
  43. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to “S.C. Code Section 16-3-1110(8)” with references to “S.C. Code Section 16-3-1110(9)”).
  44. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1420(1)(b) by adding “mental health clinician licensed in South Carolina” to the list of exemptions of professionals that are not included in the definition of “victim service provider.”
  45. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).
  46. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).
  47. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.
  48. **GENERAL ASSEMBLY** - Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General’s Office and renamed the Department of Crime Victim Compensation.
- Regulations*
49. **HOUSE LEGISLATIVE OVERSIGHT COMMITTEE** - Provide House Regulations and Administrative Procedures Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.



## *Study Related Internal Changes*

During the study process, there are **two internal changes** implemented by the Attorney General's Office directly related to participation in the study process. Those changes are listed below.

1. Updated process for agency's internal regulations review.
2. Clarified language in the agency's litigation retention agreements.



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### Legislative Oversight Committee

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>  
HCommLegOv@schouse.gov • (803) 212-6810

## STUDY REPORT - ATTORNEY GENERAL'S OFFICE

# Study of the Attorney General's Office 2022

SC House Legislative Oversight Committee  
Law Enforcement and Criminal Justice Subcommittee



## S.C. House Legislative Oversight Committee



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*Research Analyst*

Members of the Law Enforcement and Criminal Justice Subcommittee and the Subcommittee's primary staff person are in bold font, and an asterisk designates the chair. A plus symbol denotes the report editor and double plus symbol denotes the assistant report editors.

The purpose of the S.C. House Legislative Oversight Committee's (Committee) work is to determine if agency laws and programs are implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. The Committee's member-driven process enhances the ability of Representatives to make informed decisions about state government and agency responsiveness to the needs of South Carolinians. The process is also a resource for public access to information about the performance of state agencies and their programs.

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# Agency Overview: Attorney General's Office

## Agency Mission

“

To serve the citizens of the State of South Carolina by providing legal representation of the highest quality to state government entities, by supporting the law enforcement communities and the legal and judicial branches through the legislative process, and by honorably and vigorously carrying out the constitutional and statutory responsibilities of the Attorney General.

”

## History and Resources (FY 18-19)

### History

**1776** – The first State Constitution identifies the Attorney General (AG) and provides that the position is elected by the General Assembly

**1868** – Revised State Constitution provides for a general election of the AG

**1929** – State and US Supreme Courts affirm the authority of the AG as “the chief law enforcement officer”

**1974** – Criminal Appeals section is formed

**1978** – Post Conviction Relief actions primarily handled by the Office

**1983** – Opinions section is created

**1992** – AG statutorily responsible for litigation involving any state entity

**1995** – Capital and Collateral Litigation section is formed

**2004** – Consumer Protection and Antitrust Division is formed

**2017** – South Carolina Crime Victim Services Division is created

### Organizational Units

- Legal Services Division
- Opinions Division
- Criminal Division
- Victim Services Division
- Administration Division
- Executive

### Employees



**275.2**  
authorized FTEs

### Funding



**\$78,758,364**  
appropriated and authorized

## Successes and Challenges

Identified by the agency

### Successes

- Increasing efficiency and outreach of services to victims after separate state Crime Victim entities were merged into a single division of the AG
- Creating regularly occurring self-evaluation practices
- Upgrading technology hardware and desktop software

### Challenges

#### Current:

- Providing competitive attorney salaries
- Retaining attorneys in the Post-Conviction Relief section
- Funding to implement the S.C. Anti-Money Laundering Act of 2016
- Obtaining a seat on the Commission on Prosecution Coordination

#### Emerging:

- Raising the salary of the AG which has been stagnant for over 28 years and is less than half that of a circuit solicitor
- Lacking office space to accommodate the current size of the agency
- Aging case management system that needs updating

## Committee Overview

### Subcommittee Membership

#### Law Enforcement and Criminal Justice Subcommittee

The Honorable Chris Wooten (chair)  
The Honorable Josiah Magnuson

The Honorable Kimberly O. Johnson  
The Honorable John R. McCravy, III

### Oversight Purpose and Methods

#### Purpose

To determine if agency laws and programs:

- are being implemented and carried out in accordance with the intent of the General Assembly; and
- should be continued, curtailed, or eliminated.

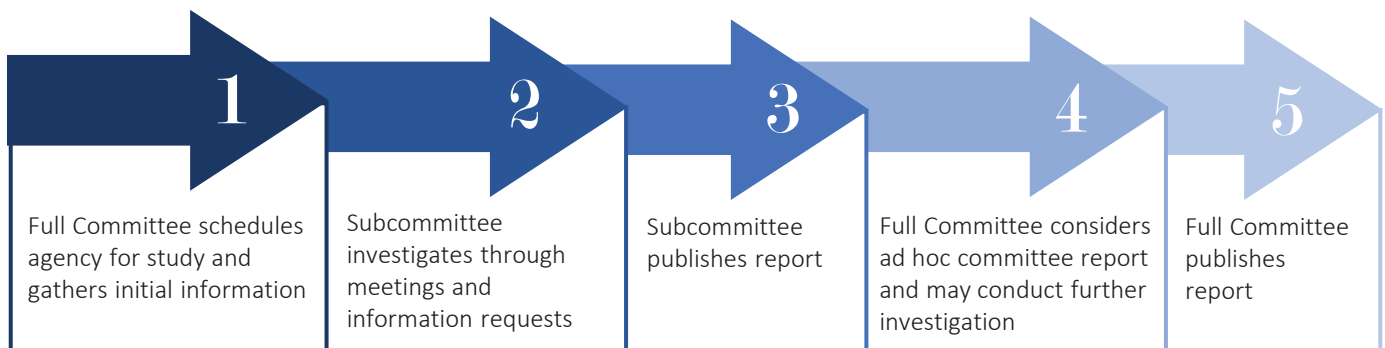
#### Methods

The Committee and Subcommittee evaluate:

- the application, administration, execution, and effectiveness of the agency's laws and programs;
- the organization and operation of the agency; and
- any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

### Study Process



### Public Input



20

Responses to an online public survey



2

Online comments received



2

Constituents testified

### Study Milestones

#### Meetings

##### Subcommittee Meetings

3/31/22 6/14/22  
4/26/22 6/22/22  
5/25/22 8/9/22  
6/1/22  
6/8/22

##### Full Meetings

12/9/19  
4/8/21

#### Agency Reports

March 2015

Seven-Year Plan Report

March 2020

Program Evaluation Report

September 2021

FY 2020-2021 Accountability Report

## FINDINGS

The House Legislative Oversight Committee’s (Committee) Law Enforcement and Criminal Justice **Subcommittee** (Subcommittee) reviewed the Attorney General’s Office (agency) and **has 17 findings**. The Subcommittee has recommendations to address some, but not all, of these findings. However, the Subcommittee made the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

### *Understanding and Collaboration*

The six findings relating to this topic are summarized in Table 1.

*Table 1. Summary of findings relating to understanding and collaboration by stakeholders in the criminal justice system*

<p style="text-align: center;"><b>UNDERSTANDING AND COLLABORATION BY STAKEHOLDERS IN THE CRIMINAL JUSTICE SYSTEM</b></p>	<ol style="list-style-type: none"> <li>1. Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult. <small>See Recommendations #1-#5</small></li> <li>2. Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system. <small>See Recommendations #1-#4 and #12-13</small></li> <li>3. Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.) <small>See Recommendations #1-#5 and #15</small></li> <li>4. Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims. <small>See Recommendation #6</small></li> <li>5. Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks. <small>See Recommendations #12 and #13</small></li> <li>6. During the study, agency personnel note lack of a clear definition of “unconscionable price” makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.</li> </ol>
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**FINDING #1.** Numerous entities in local and state government are involved in the complex criminal justice system, which may make understanding the system and working to improve its overall efficiency difficult.

The Attorney General's Office is one of the many state agencies and local entities comprising South Carolina's criminal justice system. Over the years, the House Legislative Oversight Committee, with the assistance of the personnel with various state agencies, has developed flow charts illustrating the complexity of the criminal justice system.<sup>2</sup> Appendix A includes examples of these flow charts. During the study of the Attorney General's Office, additional information (e.g., list of state agencies authorized to prosecute matters) was obtained about the complexities of the system.<sup>3</sup>

**FINDING #2.** Numerous entities involved in the criminal justice system are striving to improve their internal storage and processes related to data and case management, but it is unclear the extent to which these entities are collaborating with all who are impacted by their data and actions, which may result in missed opportunities to gain efficiencies across the entire system.

As noted in a data sharing grant application submitted jointly by personnel with three state agencies (i.e., Department of Probation, Parole and Pardon Services; the State Law Enforcement Division; and the Department of Corrections):

One impediment within South Carolina's justice system has been the method by which information is transferred or shared. There is not one coordinated system for sharing data with justice partners that does not involve entering or reentering information from paper copies. The South Carolina Legislature has appropriated funding for some forms of justice information to be automated but that project is expected to extend for years.<sup>4</sup>

Notably, the three agencies were awarded the grant and are working to increase their collaboration efforts.

As expressed in the grant application, the various state and local agencies comprising South Carolina's criminal justice system have individual case management systems with varying levels of interaction with one another. In recent years, funding has been provided by the General Assembly to update case management systems at some agencies (e.g., Commission on Prosecution Coordination, solicitors' offices, and Court Administration). Also, the Attorney General's Office is "seeking to develop a better case management system" that can connect with the different case management systems utilized by solicitors to electronically obtain information, when necessary (e.g., appeals and conflict case transfers).<sup>5</sup>

However, there is still no consensus among prosecutors, courts, and public defenders on (1) how cases will be counted (e.g., defendant, warrant, indictment) or (2) minimum ways in which information on cases will be stored. As noted in the House Legislative Oversight Committee's

## 2022 study of the Department of Probation, Parole and Pardon Services:

Agencies focus on their own individual operations when purchasing technology (e.g., case management and other data management systems). While understandable, this siloed focus facilitates duplication of efforts across multiple agencies using the same information. If the General Assembly desires increased efficiency across all of state government operations, it will need to create incentives or provide consequences to change current agency purchasing practices.<sup>6</sup>

**FINDING #3.** Currently, there is no single online landing page from which an individual can access and/or link to information related to the criminal justice system in the state (e.g., information available on the websites of the different agencies involved in the criminal justice system such as victim information, location of prisons, crime statistics, disposition of charges in multiple counties pertaining to a single defendant, etc.).

Currently, there is not a single landing page with an overview of the criminal justice system. For those who do not understand how the criminal justice process works, an overview (i.e., single landing page) may help them know which entity to contact for what information. See Figure 1 for examples of the many agencies that make up the criminal justice system. Examples of information that may be helpful on the landing page can be found in Recommendations #1-#5.

During the study, agency personnel were asked to provide pros and cons of having a single landing page for criminal justice matters.<sup>7</sup> Pros listed centered on public convenience (e.g., “one-stop location for the public to understand



Figure 1. Examples of the many agencies that make up the criminal justice system

the criminal justice system” and “save time . . . in trying to find the proper entity”).<sup>8</sup>

Additionally, it may be helpful to have statistics from the various entities more easily available. For example, the Revenue and Fiscal Affairs Office provides statistics statewide on household, employment, and health, which can be seen at various lower levels (e.g., county), on their public dashboard.<sup>9</sup> Cons listed pertained to details with execution (i.e., sustaining, funding, and central responsibility) rather than the concept itself.<sup>10</sup>

**FINDING #4.** Presently, there is no central system to confirm law enforcement entities are meeting the constitutional mandate to contact victims.

All states have provisions acknowledging victims' rights, and most states have included victims' rights into their state constitution.<sup>11</sup> When presented the issue in 1996, qualified electors in South Carolina overwhelmingly (i.e., more than 80%) supported inclusion of victims' rights in the State Constitution.<sup>12</sup> In 1998, the South Carolina Constitution was amended to include a Victims' Bill of Rights.<sup>13</sup> The twelve enumerated rights are listed in Figure 2.

Opportunities exist to streamline and confirm appropriate contact of victims is occurring.<sup>14</sup> Figure 3 illustrates examples of recommendations the House Legislative Oversight Committee has already approved.<sup>15</sup>

To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:			
<b>01</b> be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute	<b>02</b> be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped	<b>03</b> be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present	<b>04</b> be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail
<b>05</b> be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing	<b>06</b> be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process	<b>07</b> confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition	<b>08</b> have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial
<b>09</b> receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;	<b>10</b> be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;	<b>11</b> a reasonable disposition and prompt a final conclusion of the case;	<b>12</b> have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

Figure 2. Victims' Bill of Rights listed in South Carolina Constitution<sup>16</sup>

Probation, Parole, and Pardon Services Study		
Recommendation 8	Recommendation 9	Recommendation 10
<b>Victim Notification:</b>  Collaborate with the Department of Corrections (SCDC), Board of Juvenile Parole, Attorney General's Office, victim groups, and any other applicable agencies or entities on utilization of a common system to offer an electronic notification option to victims. Within a year, report to the Committee on the discussion that occurred, decisions made, and how victims can expect more consistency in how they receive notifications from state agencies.	<b>Victim Information Repository:</b>  Convene representatives from Department of Corrections, Attorney General's Office, Department of Juvenile Justice, Board of Juvenile Parole, Court Administration, Prosecution Coordination Commission, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities, to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to victims. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies.	<b>Offender Restitution and Debt Collaboration:</b>  Convene applicable representatives from Department of Corrections, Attorney General's Office, Department of Juvenile Justice, Court Administration, Prosecution Coordination Commission, application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to enable secure data sharing and/or creation of a centralized directory of information related to restitution and debt owed by offenders. Within a year, report to the Committee the steps taken, information gathered, results of analysis performed, and decision of the agencies.

Figure 3. Examples of recommendations the House Legislative Oversight Committee has approved relating to victims<sup>17</sup>



**FINDING #5.** Attorney General employees, like employees with many other state agencies, perform numerous tasks requiring the manual re-entry of information, which diverts their time from other tasks.

Multiple examples of opportunities to improve efficiency and accuracy of the transmission of information have been observed during prior agency studies.<sup>18</sup> Accordingly, the House Legislative Oversight Committee collaborated with the Executive Budget Office within the Department of Administration to collect information from agencies on the type of data they receive that they manually input into their own database/system, from whom the data is received, and the cost to manually enter the data into the agency's system.

According to an internal poll the Attorney General's Office conducted during the study, 137 of the 217 respondents (i.e., 63% of its agency personnel) indicated they manually enter data as part of their regular duties.<sup>19</sup> Of the 137 respondents, 94 (69%) cited another state agency as the source of the data.<sup>20</sup> The total cost to the agency of manually entering data is \$3,164,983.<sup>21</sup>

**FINDING #6.** During the study, agency personnel note lack of a clear definition of "unconscionable price" makes prosecution of the state price gouging statute difficult, thereby potentially defeating the intent of the statute.

Two decades ago, after the tragic events of September 11, 2001, the General Assembly enacted the "South Carolina Homeland Security Act."<sup>22</sup> Among other things, this legislation included provisions to prevent price gouging during an emergency.<sup>23</sup> Below is the current definition of the term "unconscionable price" as provided in state statute:

"Unconscionable price" means an amount charged which:

- (i) represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends; or
- (ii) grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends.<sup>24</sup>



During the study, agency personnel expressed concern that the existing definition is “vague and provides 12 jurors to each define unconscionable.”<sup>25</sup> Agency personnel noted that “percentages have been applied in other states to create an objective standard.”<sup>26</sup> Figure 4 highlights the states, noted by agency personnel, that have less ambiguity in statute.

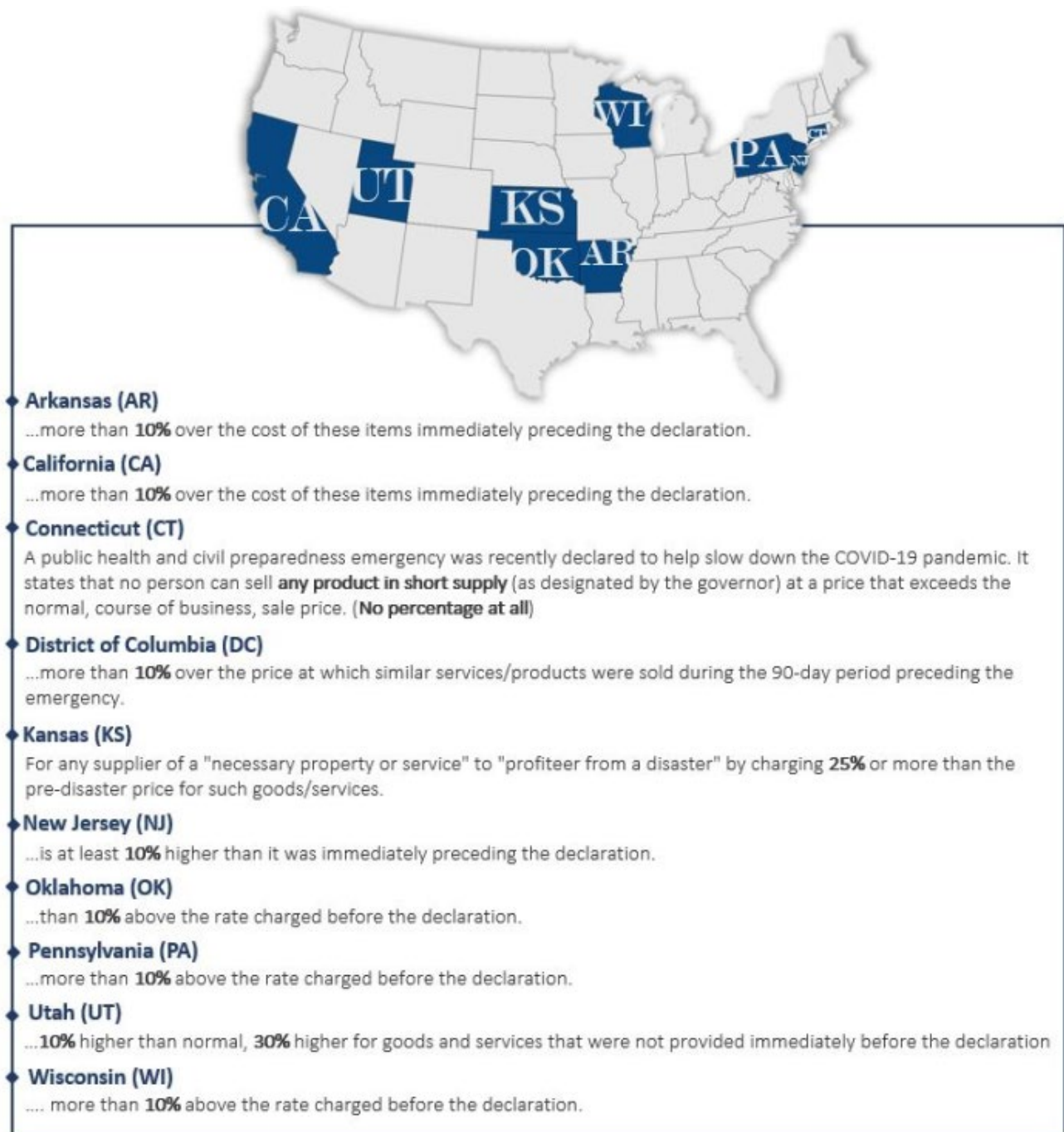


Figure 4. States identified by the Attorney General's Office personnel as having less ambiguity in their price gouging statutes<sup>27</sup>

## Operations

The six findings relating to agency operations are summarized in Table 2.

Table 2. Summary of findings relating to agency operations

OPERATIONS	7. Annual briefings conducted by the Attorney General’s Office may be a best practice all state agencies consider adopting.
	8. Recruitment and retention of employees is an issue with the Attorney General’s Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award). <sup>See Recommendations #16 and #22</sup>
	9. The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state’s chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).
	10. Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.
	11. Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths. <sup>See Recommendation #14</sup>
	12. Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant.

**FINDING #7.** Annual briefings conducted by the Attorney General’s Office may be a best practice all state agencies consider adopting.

Annually, in August, the Attorney General receives briefings about agency operations from each section leader.<sup>28</sup> When first implemented in 2011, agency personnel were wary about the burden of a new process.<sup>29</sup> However, agency personnel now acknowledge the benefits outweigh the burdens. The briefings provide “a mandated period for managers to self-assess” and seek information from managers about section successes and concerns. Results reported include, but are not limited to, “section personnel . . . aware[ness] of their key performance indicators.”<sup>30</sup>

Over the past decade, this “method for managing resources” has evolved to have a set structure, which facilitates assessment of performance.<sup>31</sup> The timing of the briefings (i.e., six weeks after the close of the fiscal year) helps inform leadership strategic planning “before beginning the accountability and budgeting cycles of the state government” (e.g., resource

needs noted in section briefings may be included in budget requests, etc.).<sup>32</sup> Additionally, having support areas (i.e., information technology, human resources, and finance) personnel present during the briefings allows sections to identify any technical barriers (e.g., incompatible software, security threats, etc.) related to requests or provide for immediate resolutions to issues.<sup>33</sup>

**FINDING #8.** Recruitment and retention of employees is an issue with the Attorney General's Office as it is with many other state agencies. Contributing factors may include working in traumatic areas of the criminal justice system (e.g., internet crimes against children, sexually violent predator, etc.); heavy workloads (e.g., post-conviction relief); frustration from lack of access to convenient parking; and limitations on how agencies can recognize employees (i.e., \$50 cap per award).

A benefit of the House Legislative Oversight Committee's process is the ability for members to observe issues that affect multiple state agencies. Overcoming barriers to employee recruitment and retention is a challenge expressed by many state agency leaders during the House's oversight review process.<sup>34</sup>

A frequent barrier mentioned during reviews is competitive employee compensation. Notably, the 2022-2023 General Appropriations Act included a three percent raise for state employees, the largest pay raise in six years, a \$1,500 bonus; and fully covered state employee health and dental insurance increase.<sup>35</sup>

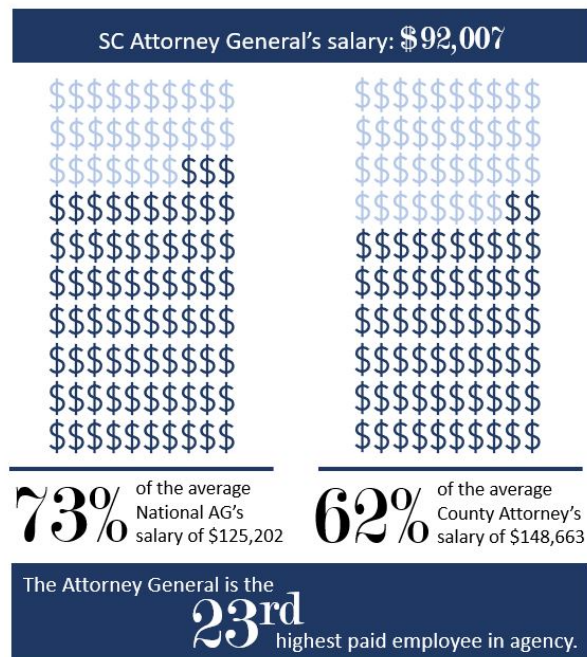
A barrier to recruitment and retention to the Attorney General's Office is the unique subject matter. For example, there is high turnover in the Internet Crimes Against Children (ICAC) Unit due to the traumatic nature of the material; during the study, the ICAC section manager noted it takes around 14 months to fill an attorney vacancy.<sup>36</sup> To help mitigate this barrier, the agency has an Employee Assistance Program that offers free short-term counseling.<sup>37</sup> As another example, the Post-Conviction Relief Unit personnel have high caseloads (e.g., 205 cases per attorney if fully staffed) that are increasing in complexity.<sup>38</sup> To help mitigate this barrier, the agency is no longer viewing this as an entry level position.

Another barrier to recruitment and retention at the Attorney General's Office is lack of convenient parking for all agency personnel that desire it.<sup>39</sup> The Attorney General's Office is located on the capitol complex grounds, which has an underground parking facility administered by the Department of Administration for executive state agencies.<sup>40</sup> Parking in this facility is assigned on a first come, first served basis (i.e., seniority at the agency), and allotments to the agency are limited. Multiple state entities, including the legislature, utilize this parking facility.<sup>41</sup> Also, surface parking lots, without assigned parking (i.e., first come, first served), are available. Accordingly, an employee who arrives later in the morning may have to walk farther to work. To help mitigate this barrier of lack of convenient parking for all personnel, the agency leases additional parking spots.<sup>42</sup> These are allotted on a seniority basis.

A specific barrier to retention noted by agency leadership is the limitations on how state agencies can recognize employees.<sup>43</sup> Recommendation 22 discusses this issue in more detail and recommends the General Assembly consider increasing the \$50 limitation on tokens of appreciation for employees.

**FINDING #9.** The current Attorney General is the 23rd highest paid employee in his office. Over the last three decades the salary of the Attorney General, the state’s chief prosecutor, has only increased a total of two percent, while salaries of others in the criminal justice system have increased between 200% and 300% (e.g., Circuit Solicitors-237%; Circuit Judges-213%; Chief, State Law Enforcement Division-233%; Executive Director, Indigent Defense-362%; Executive Director, Prosecution Coordination Commission-193%).

See Figure 5 for a visual comparison of the South Carolina’s Attorney General’s salary with his national counterparts, within the agency, and with attorneys representing large counties.<sup>44</sup>



For nearly three decades, salaries of South Carolina constitutional officers have remained stagnant. With the passage of Act No. 76 of 2021, now salaries of certain constitutional officers, including the Attorney General, must be based on recommendations by the Agency Head Salary Commission to the General Assembly. Beginning with fiscal year 2022-2023, the Agency Head Salary Commission “shall authorize a study be conducted every four years to recommend a salary range for each state constitutional officer . . . based on their job duties and responsibilities as well as the pay of state constitutional officers in other states.”<sup>45</sup>

Figure 5. Visual comparison of the South Carolina’s Attorney General’s salary with his national counterparts, within the agency, and with attorneys representing large counties in South Carolina<sup>46</sup>

**FINDING #10.** Lessons can be learned from the fraud committed through the federal COVID economic programs (i.e., Paycheck Protection Program, Small Business Administration loans, etc.) to apply in future financial situations.

During the study, agency personnel shared the following:

Federal government estimates are that fraud totals related to the Paycheck Protection Program are as high as \$80 billion. Federal prosecutors are calling this theft of taxpayer money intended to help those harmed by the coronavirus pandemic “the largest fraud in U.S. history” as it

represents approximately 10 percent of the \$800 billion handed out to small businesses in low-interest uncollateralized loans from April 3, 2020, through May 31, 2021.<sup>47</sup>

Also, agency personnel estimated inmate gang activity within the Department of Corrections has been funded for the next decade through misuse of the federal Paycheck Protection Act program.<sup>48</sup> It is agency personnel's understanding that between five to seven percent of the inmate population benefited from this program because they were able to apply for the funding directly from prison.<sup>49</sup> Fast-tracked processes with "little guidance about what verifications could or should be done" resulted in little applicant vetting and a relaxation of internal fraud controls institutions generally utilize . . . .<sup>50</sup>

To help prevent fraud in future financial situations, agency personnel recommended requiring "approved financial institutions (i.e., those allowed to disburse funds) to verify the existence of the requesting company prior to disbursement, and to do other basic checking, just as the institutions would if an applicant came in to apply for a loan that was not going to be fully indemnified against risk of loss by the federal government."<sup>51</sup>

**FINDING #11.** Presently, there is no uniform statewide process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths.

Figure 6 shows different processes used for review of officer involved shootings, crimes, or in-custody death.<sup>52</sup> Figure 7 highlights counties in which the local solicitor has referred officer involved shootings matters to the Attorney General's Office for review.<sup>53</sup> Solicitors' opinions on this issue may vary. Some solicitors may prefer a completely independent review and resolution, and others may prefer local review and resolution.<sup>54</sup>

Figure 6 (larger version is available in Appendix A). Agency presentation – excerpt - Different processes utilized for review of officer involved shootings, crimes, or in-custody death<sup>55</sup>

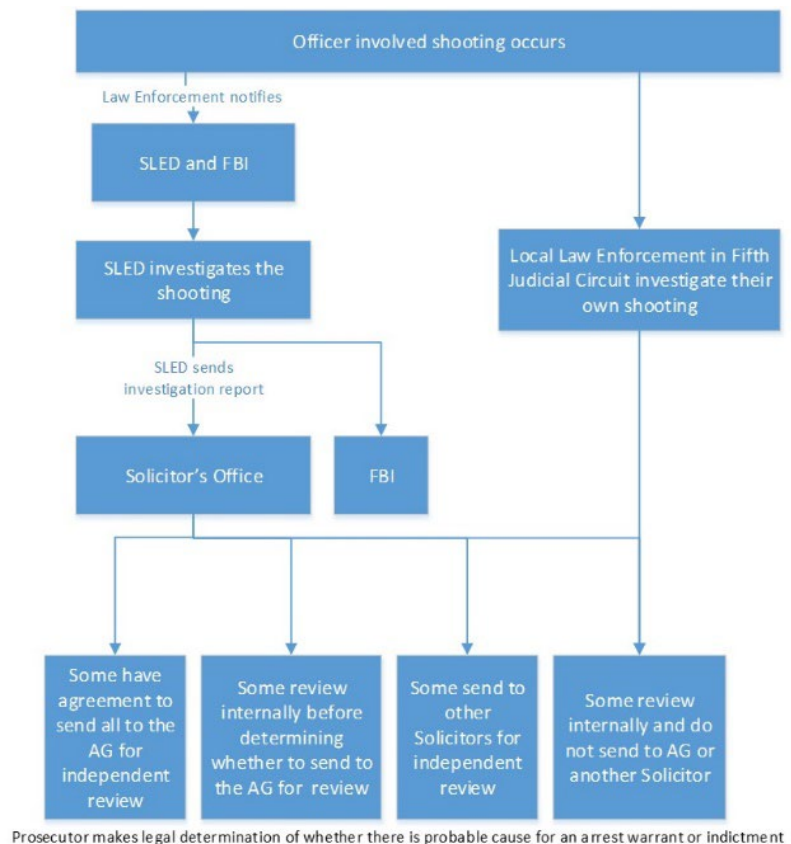


Table Note: Fifth judicial circuit is comprised of Kershaw and Richland Counties



## Officer Involved Shooting Cases in which Solicitor Sent Cases to AG for Review

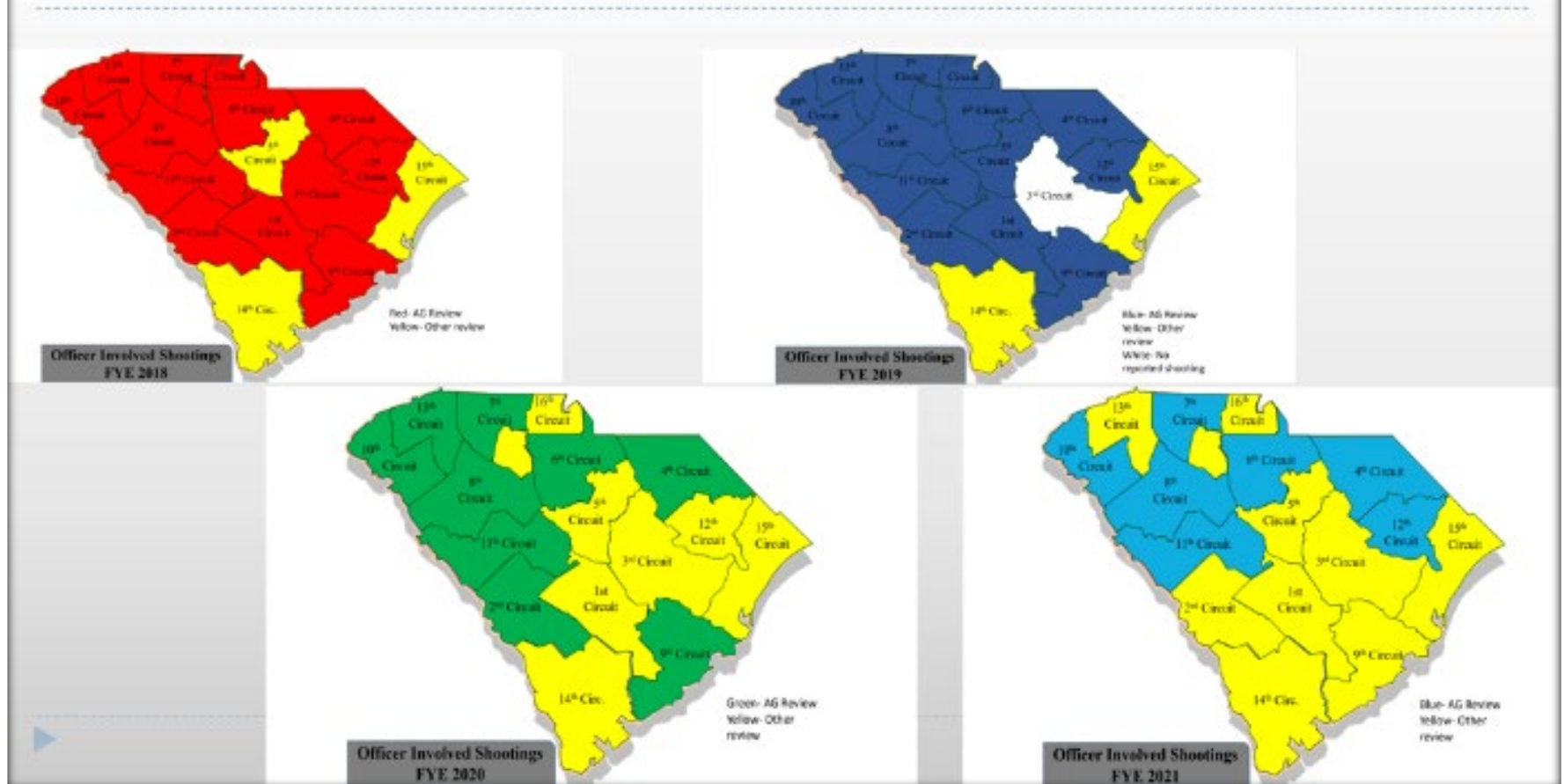


Figure 7. Agency presentation excerpt -counties in which officer involved shootings in which the local solicitor referred the matter to the Attorney General's Office for review<sup>56</sup>

During the study, agency personnel noted two potential benefits of a uniform, statewide process. First, “[t]his would allow for record keeping as to what the trends are showing in these cases that could facilitate training,” and second this would create “the ability to create awareness among law enforcement and the community of what happens in these cases and how they are handled.”<sup>57</sup>

“It is the position of the Attorney General’s Office that at a minimum, all officer involved shootings that result in injury or death should be reviewed by the Attorney General’s Office.”<sup>58</sup> Notably, the Attorney General’s Office personnel consult with a nationally recognized expert, and agency personnel testified that some states do have a requirement for an independent review by their respective Attorney Generals’ Offices.<sup>59</sup>

**FINDING #12.** Many states have methods where law enforcement can apply to obtain search warrants electronically; however, S.C. still requires law enforcement physically appear before magistrates to obtain a warrant.

S.C. Code of Laws Section 17-13-140 provides that “[a] warrant issued hereunder shall be issued **only** (emphasis added) upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant.” During the study, agency personnel noted “other states have methods where law enforcement can apply to obtain search warrants via electronic means, and this would be more efficient for all parties<sup>60</sup>.”

## Resources

The five findings relating to agency resources are summarized in Table 3.

*Table 3. Summary of findings relating to agency resources*

<p><b>AGENCY RESOURCES</b></p>	<p>13. Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down. <small>See Recommendation #28</small></p> <p>14. The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General’s Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel.</p> <p>15. While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.</p> <p>16. Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.</p> <p>17. Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility.</p>
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**FINDING #13.** Currently, there are not enough investigators to investigate all tips relating to internet crimes against children. Further, the number of tips related to child sexual assault material accessible on the internet is increasing with no expectation of slowing down.

Figure 8 shows how the number of these cases have increased.<sup>61</sup> Investigation of tips relating to internet crimes against children is “split amongst 100+ other agencies.”<sup>62</sup> Agency personnel estimate that “approximately half of all cyber tips are being investigated,” and “[m]any of these investigations are not as thorough as desired.” To adequately investigate all cyber tips, agency personnel estimate a need of an additional 20 full-time investigators as well as proportional increases in additional prosecutors, forensic investigators, and support staff. During the study, agency personnel emphasized quality investigations over quantity and noted legislative changes (i.e., administrative subpoena power) would increase investigation efficiency.<sup>63</sup>

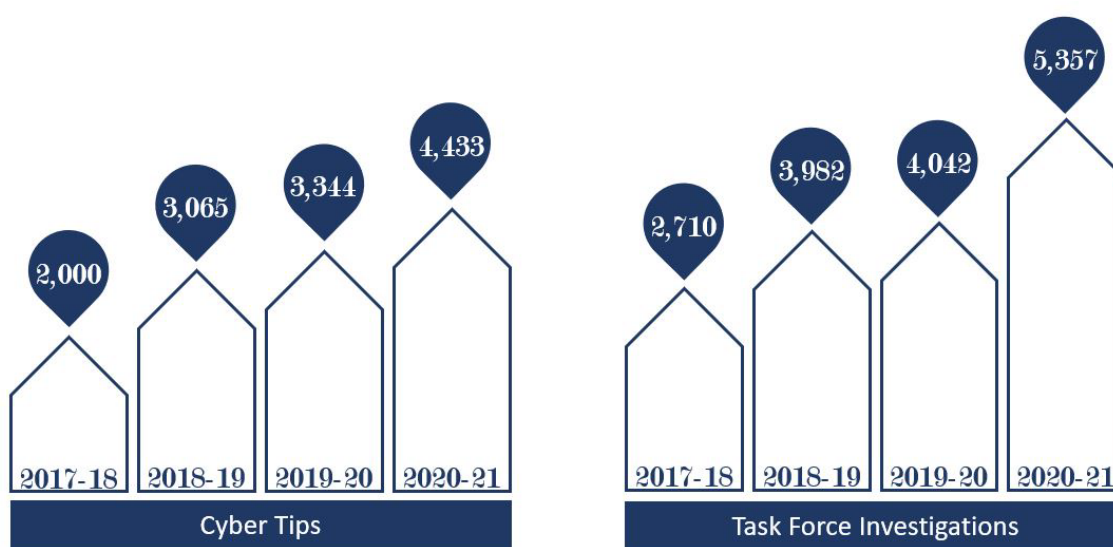


Figure 8. Increasing number of cyber tips and task force investigations relating to internet crimes against children<sup>64</sup>

**FINDING #14.** The S.C. Code of Laws does not identify who represents the state in post-conviction relief (PCR) actions. More than half a century ago, the Attorney General’s Office voluntarily assumed the responsibility to handle PCR actions. However, the current PCR process is no longer efficient (e.g., increase in number of PCR actions) or economical (e.g., location of prisoners, travel cost and time) for AG personnel.

“Today, the PCR section is among the largest sections in the [Attorney General’s Office], even though the mandate is unclear.”<sup>65</sup> While there may be historical reasons (e.g., all PCR cases were originally heard near the Attorney General’s Office in Richland County), during the study, agency personnel emphasized now “the taxpayer funds travel from the [Attorney General’s Office] to the courthouses across the state that are walking distance for the solicitor.”<sup>66</sup>



**FINDING #15.** While the S.C. Constitution states the Attorney General is the chief prosecutor for the state, the Attorney General is not a member of the Commission on Prosecution Coordination.

During the 124<sup>th</sup> General Assembly, the House of Representatives approved and sent to the Senate legislation requiring the Attorney General or his designee to be included as a member of the Commission on Prosecution Coordination.<sup>67</sup> The legislation was approved unanimously in the House of Representatives, and it received a favorable report from the Senate Judiciary Committee.<sup>68</sup> While the legislation received second reading in the Senate on May 11, 2022, it did not receive the requisite third reading on May 12, 2022, (the last day of the second regular session of the 124<sup>th</sup> General Assembly).<sup>69</sup>

During the study, agency personnel expressed support for the legislation that would add the Attorney General or his designee to the Commission on Prosecution Coordination.<sup>70</sup> Conversely, when asked for what reasons, if any, support the Attorney General not serving as a member of the Commission on Prosecution Coordination, the commission opined:

If the Attorney General is placed on the SCCPC as a commission member, he will immediately become the de facto chair of the commission. The responsibility of representing the sixteen solicitors will go to the Attorney General and away from a commission that has been representing the solicitors for thirty-two years. ***The Attorney General does not have the perspective nor the understanding of the unique challenges of the solicitors***; nevertheless, he would become the sole voice for the solicitors. (emphasis added)<sup>71</sup>

**FINDING #16.** Prosecutors assisting in the investigation of cases do not have absolute immunity because investigation is not considered by the U.S. Supreme Court as a normal prosecution function.

“Prosecutors have absolute immunity for all actions that fall within their normal prosecution function.”<sup>72</sup> However, during the study, agency personnel note “the lack of absolute immunity causes prosecutors to hesitate to act in pre-arrest situations where absolute immunity does not exist.”<sup>73</sup>

Figure 9 includes examples of when legal advice may be desired during an investigation.<sup>74</sup>

Notably, prior inquiry by the House Legislative Oversight Committee indicates that some law enforcement entities employ in-house counsel which could assist with the examples included in Figure 9, but as agency personnel noted during the study “it may be impracticable to hire such an individual for periodic advice.”<sup>75</sup>

Examples of when legal advice may be desired:	
	Advice on search warrant language and advice on whether probable cause to search exists
	The use of search warrants
	Subpoenas or court orders in certain investigative situations concerning digital evidence
	Arrest warrant language and applicability of particular crime to the factual situation or legal alternatives and whether probable cause to arrest exists
	Legal advice on types of entry without warrant due to exigent circumstances
	Legal advice on whether it is appropriate and the authority and procedure for seeking of wiretaps
	Decisions on whether to seek an arrest or directly indict through the county grand jury
	Decisions on whether or not to use the State Grand Jury to assist in investigation

Figure 9. Examples of when legal advice may be desired during an investigation<sup>76</sup>

Agency personnel noted an advantage for seeking advice from the prosecuting attorney, rather than in house counsel, is the prosecutor decides if the case should proceed.<sup>77</sup>

**FINDING #17.** Previously solicitors were responsible for the general sessions court docket, but this practice was ruled unconstitutional by the S.C. Supreme Court. Now circuit court judges have this responsibility.

S.C. Code of Laws Section 1-7-330 states:

The solicitors shall attend the courts of general sessions for their respective circuits. ***Preparation of the dockets for general sessions courts shall be exclusively vested in the circuit solicitor and the solicitor shall determine the order in which cases on the docket are called for trial.*** Provided, however, that no later than seven days prior to the beginning of each term of general sessions court, the solicitor in each circuit shall prepare and publish a docket setting forth the cases to be called for trial during the term. (emphasis added)

In 2012, the S.C. Supreme Court held this statute unconstitutional and determined “setting the trial docket . . . is the prerogative of the court.”<sup>78</sup>

## RECOMMENDATIONS

The Subcommittee has 49 recommendations directed to multiple entities.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, and/or eliminate agency programs, areas for potential improvement, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency's self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee's website.

### *Criminal Justice Processes*

Recommendations #1 - #3 seek collaboration among state agencies to continue to advance transparency about the criminal justice processes. These recommendations are summarized in Table 4.

*Table 4. Summary of recommendations requesting collaboration among state agencies to continue to advance transparency about the criminal justice system*

CRIMINAL JUSTICE SYSTEM PROCESS CHARTS	1. <b>Law Enforcement Training Council</b> -Approve process charts related to the criminal justice system for internal use by stakeholders (e.g., agency personnel, legislators, etc.). <sup>Collaboration; See Findings #1 - #3</sup>
CRIME VICTIM PROCESS CHARTS	2. Maintain accuracy of crime victim process charts. <sup>Collaboration; See Findings #1 - #3</sup>
PROSECUTION AND APPEALS PROCESS CHARTS	3. Maintain accuracy of prosecution and appeal process charts. <sup>Collaboration; See Findings #1 - #3</sup>

*Table Note: Unless otherwise noted, all recommendations are to the Attorney General's Office.*

As referenced in Finding #1, over the years, the House Legislative Oversight Committee, with the assistance of the personnel with various state agencies, has developed process flow charts illustrating the complexity of the criminal justice system.<sup>79</sup> Likewise, during the study of the Attorney General's Office, additional process flow charts were created. Publication of these flows charts is a way the Committee seeks to meet its mission to inform the public about state agencies.<sup>80</sup> Also, the Committee recognizes increased understanding about the criminal justice system may help inform stakeholder (e.g., agency personnel, legislators, etc.) decisions. The Committee has approved recommendations in prior studies requesting collaboration among various law enforcement agencies to maintain (i.e., update as appropriate) the accuracy of these process flow charts.<sup>81</sup>

These process charts should, going forward, be updated annually, reference, to the extent possible, applicable statutes, judicial rules, and statistics, and be available in a single interactive and/or printable online resource.

### *Criminal Justice System Process Charts*

**RECOMMENDATION #1. LAW ENFORCEMENT TRAINING COUNCIL-** Approve process charts related to the criminal justice system for internal use by stakeholders (e.g., agency personnel, legislators, etc.).

This recommendation tasks the Law Enforcement Training Council, which consists of the leaders of various local and state law enforcement agencies, including the Attorney General as noted in Figure 10, to

confirm and approve in an annual meeting the accuracy of these general, criminal justice system charts.<sup>82</sup> To the extent possible, the charts should be combined into a single interactive and/or printable online resource, which includes pertinent authority (e.g., statutes, court rules, etc.) and statistics (e.g., number of death penalty direct appeals, etc.).



Figure 10. Law Enforcement Training Council membership<sup>83</sup>

### *Crime Victim Process Charts*

**RECOMMENDATION #2. Maintain accuracy of crime victim process charts.**

In 2017, the General Assembly implemented a recommendation from the House Legislative Oversight Committee and placed crime victim compensation responsibilities under the Attorney General's Office.<sup>84</sup>

During the study of the Attorney General's Office, agency personnel noted there are annual events (e.g., Victims' Rights Week, Law Enforcement Victim Advocate Conference, and South

Carolina Solicitors Conference) that bring together various personnel from across the state that interact with victims.<sup>85</sup> During these annual events, Recommendation #2 requests agency personnel seek input from the Victim Services Coordinating Council, victim advocates, and other applicable entities to maintain the accuracy of the crime victim process charts developed during the study. The version of the charts available for stakeholders, as opposed to victims, should reference, to the extent possible, applicable statutes, judicial rules, and statistics. Examples statistics may include victim to victim advocate ratios so the crime victim services division and victim coordinating council has reliable data on the supply (i.e., number of victim advocates) available to meet the demand (i.e., number of victims) in various entities and locations (e.g., detention centers, police departments, sheriff's offices, solicitors' offices, and state agencies) and may make recommendations on resources needed throughout the state to ensure victim rights are upheld. Another example statistic may be (a) percentage of victim notices provided via U.S. mail that are returned and undeliverable; (b) annual travel time for victim advocates by type of hearing and case; and (c) number of notices provided in total and by type (e.g., motion, hearing, etc.).<sup>86</sup> The charts should be available as an interactive and/or printable online resource.

### *Prosecution and Appeal Process Charts*

### **RECOMMENDATION #3. Maintain accuracy of prosecution and appeal process charts.**

This recommendation requests the Attorney General's Office collaborate with Commission on Prosecution Coordination, Commission on Indigent Defense, and Court Administration to review and update process charts created during this study as well as create additional charts as needed, to illustrate the prosecution and appeal processes of the criminal justice system. See Figure 11 for a list of examples of process charts created during the study of the Attorney General's Office; see also, Appendix A for the full charts.

Examples of Process Flow Charts:				
General	Post-Adjudication	Civil Litigation	Prosecution	Victim
<ul style="list-style-type: none"> <li>Attorney (at all agencies) hire and compensation approval process</li> </ul>	<ul style="list-style-type: none"> <li>Appeal of non-death penalty conviction to S.C. Court of Appeals and S.C. Supreme Court</li> <li>Murder Convictions - Appeal and PCR Process</li> <li>Post-Conviction Relief (PCR) Action</li> <li>Sexually Violent Predator Proceedings</li> </ul>	<ul style="list-style-type: none"> <li>Unfair Trade Practices Enforcement Action</li> <li>Nonprofit Corporation Investigation</li> <li>Securities Enforcement Case - Life Cycle</li> <li>Money Services</li> </ul>	<ul style="list-style-type: none"> <li>Transfer of Cases - Solicitors and Attorney General</li> <li>Officer Involved Shooting or Crime - Investigation and Prosecutor Review</li> <li>Internet Crimes Against Children - Background, Terminology, and Case Flow</li> <li>Medicaid Fraud - Recipient and Provider</li> <li>Insurance Fraud - Indictment Process</li> <li>State Grand Jury</li> </ul>	<ul style="list-style-type: none"> <li>Individuals on whom victims rely</li> <li>Crime Victim Service Provider (individuals that serve crime victims)</li> <li>Crime Victim Assistance Grants (for entities that serve crime victims)</li> <li>Crime Victim Compensation (for victims)</li> <li>Crime Victim Ombudsman Processes</li> </ul>

Figure 11. Examples of process flow charts

## Victim Services

Recommendations #4 - #11 seeks to advance effectiveness, efficiency, and transparency in the provision of victim services. These recommendations are summarized in Table 5.

Table 5. Summary of recommendations to advance effectiveness, efficiency, and transparency in the provision of victim services

CREATE RESOURCE MATERIALS TO AID IN UNDERSTANDING THE CRIMINAL JUSTICE SYSTEM	4. Create interactive crime victim statistics dashboard. <sup>Effectiveness; See Findings# 1 and #3</sup>
	5. Create a publication to help victims understand the complex criminal justice system. <sup>Collaboration; See Findings #1 and #3</sup>
GAIN EFFICIENCIES IN THE PROVISION OF VICTIM SERVICES	6. <b>Department of Probation, Parole and Pardon Services</b> -Collaborate about victim information issues to support a centralized victim information repository. <sup>Efficiency; See Finding #4</sup>
	7. Streamline process for victims to obtain services (i.e., co-enrollment). <sup>Efficiency</sup>
	8. Create a victim service provider directory and track performance of the service providers. <sup>Effectiveness</sup>
	9. Annually publish information on crime victim grants issued and utilized. <sup>Transparency</sup>
	10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year. <sup>Efficiency</sup>
	11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities. <sup>Efficiency; See Finding #14</sup>

Table Note: Unless otherwise noted, all recommendations are to the Attorney General's Office.

*Create resource materials to aid in understanding the criminal justice system*

### RECOMMENDATION #4. Create interactive crime victim statistics dashboard.

This recommendation requests the Attorney General's Office collaborate with the State Law Enforcement Division (SLED), application developers in the Revenue and Fiscal Affairs Office, and any other applicable agencies or entities to evaluate potential costs, benefits, and logistics of agreements to create an interactive crime victim dashboard for other agencies, researchers, and the public to access. Within a year of publication of the Committee's study, personnel with the Attorney General's Office are asked to report to the Committee on the steps taken, information gathered, results of analysis performed, and any decisions made. This interactive dashboard may serve as a compliment to the over 150-page annual, comprehensive report on crime in South Carolina SLED has published for many years.<sup>87</sup>

### RECOMMENDATION #5. Create a publication to help victims understand the complex criminal justice system.

This recommendation requests the Attorney General's Office create a publication (i.e., online reference materials) to help victim advocates explain South Carolina's criminal justice system to crime victims. In creating this publication, the Attorney General's Office is asked to collaborate



with the Victim Services Coordinating Council, victim advocates, and other applicable entities. A similar recommendation (i.e., creation of an “Understanding Paroles” and “Understanding Pardons” document) was approved in the House Legislative Oversight Committee’s 2022 study of the Department of Probation, Parole and Pardon Services.<sup>88</sup> Notably, while the Attorney General’s Victim Advocacy Division personnel have materials explaining the post-adjudication process, they do not currently have any written materials to provide victims that explain the prosecution process.<sup>89</sup>

*Gain efficiencies in the provision of victim services*

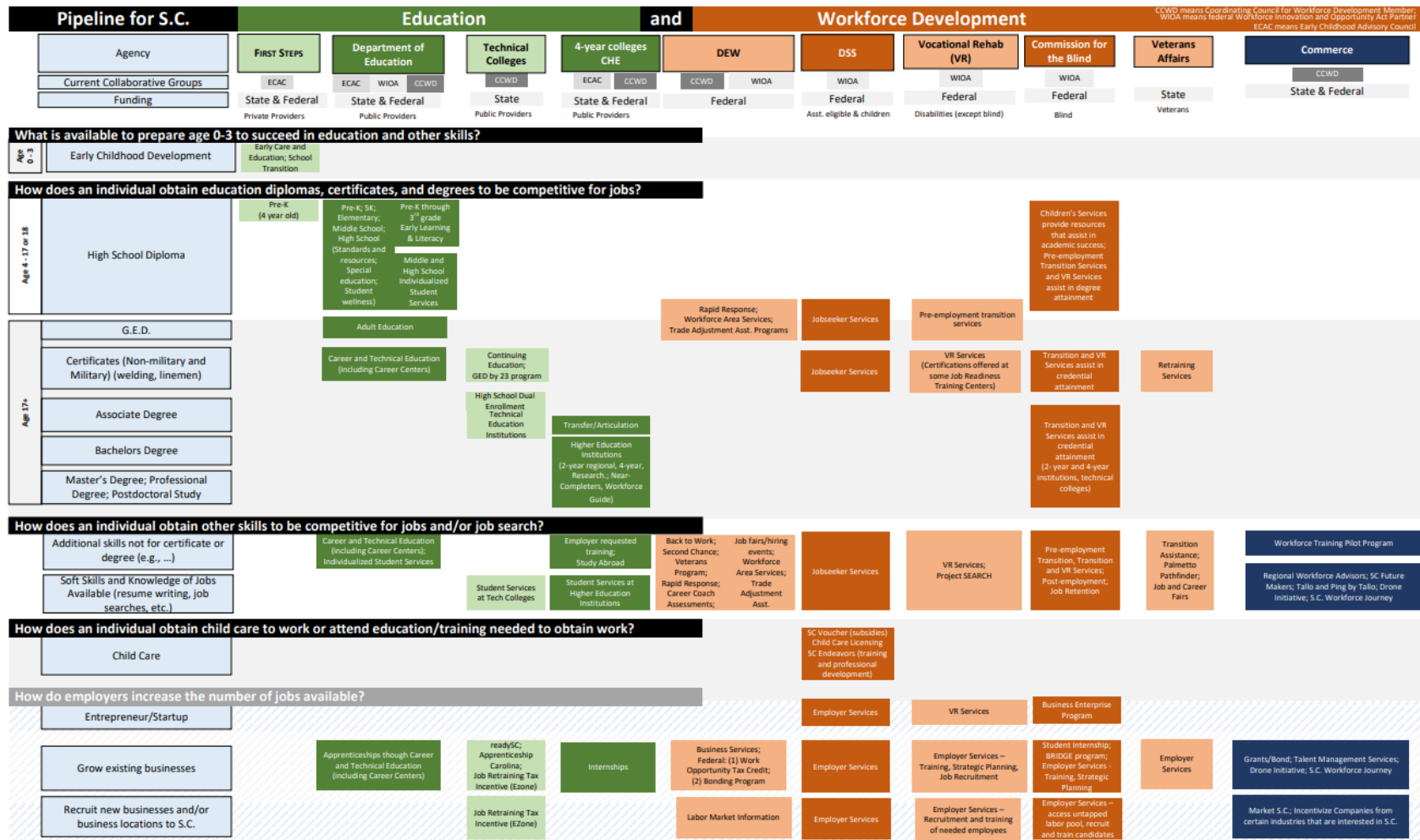
**RECOMMENDATION #6. DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES- Collaborate about victim information issues to support a centralized victim information repository.**

As noted in Finding #4, opportunities exist to streamline and confirm appropriate contact of victims is occurring. Figure 3 includes examples of recommendations the House Legislative Oversight Committee has already approved in the 2022 study of the Department of Probation, Parole and Pardon Services (PPP) encouraging evaluation of a centralized victim information repository.

The purpose of this recommendation is to request inclusion of the Restitution Task Force in the collaboration efforts led by PPP personnel to evaluate a victim information repository (i.e., centralized directory of information related to victims) and offender restitution. While the Attorney General’s Office has no official role with the Restitution Task Force, some agency personnel do participate on it in an individual capacity.<sup>90</sup>

**RECOMMENDATION #7. Streamline process for victims to obtain services (i.e., co-enrollment).**

This recommendation requests agency personnel collaborate with South Carolina’s Education and Workforce Pipeline, which is illustrated in Figure 12, and others to streamline the process for victims to obtain desired services. As part of this collaboration the feasibility of co-enrollment should be considered. Co-enrollment for purpose of this discussion is a secure data sharing system offering crime victims the opportunity to voluntarily input their information to learn about state services and enroll in programs without the need to re-enter common information (e.g., name, etc.).



Compiled as part of the House Legislative Oversight Process. Confirmed accurate by agencies listed herein as of February 2022.

Figure 12. South Carolina's Education and Workforce Pipeline



**RECOMMENDATION #8. Create a victim service provider directory and track performance of the service providers.**

As shown in Figure 13, there are a myriad of state agencies and applicable services to whom victims may be referred.<sup>91</sup> Currently, the Attorney General's Office Crime Victim Services Division does not have a comprehensive directory of services and entities.<sup>92</sup>

This recommendation requests agency personnel collaborate with personnel with other stakeholders (e.g., state agencies, nonprofits, etc.), including but not limited to, the Commission on

Prosecution Coordination, Commission for Minority Affairs, and application developers in the Revenue and Fiscal Affairs Office to evaluate the feasibility of a centralized directory of information related to victim service providers and how to measure the impact those providers services have on victims. A part of this collaboration, the feasibility of secure data sharing should be discussed. Within a year, agency personnel should report to the Committee on the steps taken, information gathered, results of analysis performed (e.g., potential costs, benefits, and logistics of agreements, etc.) and any decisions made.



**ALL 16 CIRCUIT SOLICITORS** – Victim Services Divisions  
**COMMISSION FOR THE BLIND** – Resources for people with disabilities  
**COMMISSIONER OF BANKING** – Complaints about banks in fraud cases  
**CONSUMER AFFAIRS** – Identity theft and fraud investigation and assistance  
**CONTINUUM OF CARE** – Victims whose children have serious emotional / behavioral problems  
**ALCOHOL AND OTHER DRUG ABUSE SERVICES** – Assistance to locate information and treatment for addiction  
**DISABILITIES AND SPECIAL NEEDS** – Disability referrals  
**HEALTH AND HUMAN SERVICES** – Medicaid issues  
**INSURANCE** – Fraud  
**CHILDREN'S ADVOCACY** – Concerns regarding children involved in child welfare programs within state agencies  
**HEALTH AND ENVIRONMENTAL CONTROL** – Complaints about hospitals and their employees  
**JUVENILE JUSTICE** – Victim Services Division  
**PROBATION, PAROLE AND PARDON SERVICES** – Victim Services Division  
**SOCIAL SERVICES** – Child welfare concerns, vulnerable adults, programs to maintain financial stability  
**AGING** – Long-Term Care Ombudsman  
**HUMAN AFFAIRS COMMISSION** – Employment discrimination complaints  
**JUDICIAL DEPARTMENT** – Complaints against attorneys and judges  
**LABOR LICENSING AND REGULATION** – Complaints about licensed professionals acting improperly; attempts to "revoke a license"  
**OFFICE OF THE INSPECTOR GENERAL** – Allegations of fraud, waste, mismanagement, misconduct, abuse  
**OFFICE OF OMBUDSMAN** – Complaints related to local and state agencies  
**CORRECTIONS** – Victim Services Division; Services for victims who have questions about an incarcerated offender  
**EMPLOYMENT AND WORKFORCE** – Complaints that unemployment checks are improperly mailed  
**MENTAL HEALTH** – Community Crisis Response and Intervention; information and treatment for mental health issues  
**HIGHWAY PATROL** – Victim Services Division  
**OFFICE OF ECONOMIC OPPORTUNITY** – Services to individuals with low income.  
**LAW ENFORCEMENT DIVISION** – Victim Service Providers (VSPs)  
**ETHICS COMMISSION** – Complaints about ethics violations by public officials  
**HOUSING FINANCE AND DEVELOPMENT AUTHORITY** – Assistance with mortgage and rent  
**VOCATIONAL REHABILITATION** – Victims who have been injured and need work training

Figure 13. Examples of state agencies and applicable services to whom victims may be referred<sup>93</sup>

**RECOMMENDATION #9. Annually publish information on crime victim grants issued and utilized.**

During the study, agency personnel expressed they were not opposed to annually publishing information on crime victim grants issued and utilized.<sup>94</sup> Information published should include, but is not limited to, the items listed in Figure 14.

Publish annually information on crime victim grants issued and utilized including, but not limited to, the following:	
<b>1</b> Grant number	Metrics that must be met to receive reimbursement <b>6</b>
<b>2</b> Funding source (e.g., VOCA, VAWA, SVAP)	Date of award <b>7</b>
<b>3</b> Recipient	Award amount <b>8</b>
<b>4</b> Scope of work	Amount of award remaining <b>9</b>
<b>5</b> Count(ies) in which work will be performed/victims served	Amount of prior awards recipient has allowed to lapse back to the federal government <b>10</b>
Provide the information online in an Adobe (.pdf) and downloadable Excel document.	

Figure 14. Crime victim grants information for publication

**RECOMMENDATION #10. Determine a method to ensure less than \$1M in crime victim grants lapse to the federal government each year.**

During the study, agency personnel noted from 2018 – 2020 an average of \$4.14 million in allotted federal grant funding for crime victims annually lapsed to the federal government and cannot be reallocated due to the grant ending.<sup>95</sup> Figure 15 shows the specific amount of annual lapsed allocated grant funding from 2018 – 2020.



Figure 15. Amount of annual lapsed allocated crime victim grant funding from 2018 - 2020<sup>96</sup>

Of interest, listed below is an explanation obtained from agency personnel about the reimbursable federal grant for crime victims.

All federal Department of Justice (“DOJ”), Victims of Crime Act (“VOCA”) and Violence Against Women Act (“VAWA”) awards are reimbursable grants. Funds are drawn (generally quarterly) for actual expenses incurred only. These reimbursements are for actual expenses incurred by the Office of the Attorney General Crime Victim Services Division (“SC-CVS”) through internal operations (salary/fringe/other for grant administration) and sub-grant reimbursements.

These DOJ awards are active for 3-4 years (dependent on ability to receive extensions). During this active period, we allocate this funding to sub-grantees throughout the state by competitive solicitation on a yearly (federal fiscal year [Oct 1-Sept 30]) basis. These sub-awards are also reimbursable and sub-grantees request reimbursement for actual expenses on a monthly or quarterly basis from the AG-CVS. Any sub-grant funding from awards that are not reimbursed by the end of the one-year award period are deemed “lapsed” and return into the AG-CVS funding pot for the next annual sub-award solicitation cycle.

On the last year of the federal award active period, any funds that have not been “drawn down” by the SC-CVS (for either AG internal operating expenses or sub-grant expenses) will be “lapsed” to DOJ. These lapsed funds will be returned to the Federal Government General Fund. Funds are generally lapsed to the Federal Government due to being unspent by the sub-grantee in the last year of award and cannot be reallocated due to the grant ending. All allowed grant extensions are pursued by the AG-CVS when available. Funds are also lapsed in some cases due to left over planning and administration “P&A” allocations (internal overhead). DOJ allows P&A costs of 5% of VOCA awards and 10% of VAWA.<sup>97</sup>

**RECOMMENDATION #11. Establish a regular set-aside of victim grant funding for the purpose of collaborative requests by multiple entities.**

This recommendation requests agency personnel establish a regular set-aside of victim grant funding for the purpose of collaborative information and service sharing by multiple entities to further leverage the limited resources available to serve victims. According to agency personnel, it is possible to designate a certain amount of funds for joint grant proposals from multiple direct service agencies.<sup>98</sup> The availability of this type of funding may incentivize collaboration and innovation among entities serving victims to increase the efficiency in which they share information among one other and how they provide services.

## Data

The Subcommittee makes two recommendations relating to data, and a summary is in Table 6.

Table 6. Summary of data recommendations

DATA	12. Attorney General's Office, Commission on Prosecution Coordination, Commission on Indigent Defense, Department of Probation, Parole and Pardon Services, Department of Juvenile Justice, Department of Social Services, Department of Corrections, Department of Public Safety, State Law Enforcement Division, Department of Natural Resources, Department of Insurance, Department of Revenue, and Department of Employment and Workforce - Reach agreement on set data standards for criminal justice entities. <sup>Collaboration; See Findings #2 and #5</sup>
	13. Link Attorney General's Office and circuit solicitor case management systems <sup>Collaboration; See Findings #2 and #5</sup>

Table Note: Unless otherwise noted, all recommendations are to the Attorney General's Office

**RECOMMENDATION #12.** ATTORNEY GENERAL'S OFFICE, COMMISSION ON PROSECUTION COORDINATION, COMMISSION ON INDIGENT DEFENSE, DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, DEPARTMENT OF JUVENILE JUSTICE, DEPARTMENT OF SOCIAL SERVICES, DEPARTMENT OF CORRECTIONS, DEPARTMENT OF PUBLIC SAFETY, STATE LAW ENFORCEMENT DIVISION, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF INSURANCE, DEPARTMENT OF REVENUE, AND DEPARTMENT OF EMPLOYMENT AND WORKFORCE- Reach agreement on set data standards for criminal justice entities.

During the study, Court Administration personnel expressed a desire to “engage South Carolina's state agencies on a set of data standards, such as those defined by the National Center for State Courts, that are comparable across state agencies and state courts.”<sup>99</sup> This may assist in the wholesale connection of data for efficient analysis and information sharing across the criminal justice system, as opposed to only within certain aspects of the system.

As the Attorney General serves as South Carolina's chief prosecutor, this recommendation requests his office lead this collaboration effort among the various executive agencies.<sup>100</sup>

**RECOMMENDATION #13.** Link Attorney General's Office and circuit solicitor case management systems.

As discussed in Finding #2, the various state and local agencies comprising South Carolina's criminal justice system have individual case management systems with varying levels of interaction with one another. For example, the sixteen solicitors' offices do not all utilize the same type of case management system. Notably, the Prosecution Coordination Commission has “developed a long-range technology plan for the collection and reporting of information and data from” solicitors' offices statewide.<sup>101</sup> However, as discussed in Finding #15, the Attorney General is not a member of the Prosecution Coordination Commission.

During the study, agency personnel noted the Attorney General’s Office is “seeking to develop a better case management system” that can connect with the different case management systems utilized by solicitors to electronically obtain information when necessary (e.g., appeals and conflict case transfers).<sup>102</sup> This recommendation reflects support for the agency personnel’s ongoing efforts to collaborate with solicitors’ offices to ensure the new case management system can improve efficiency in the transfer of the information.

## Law Enforcement

The Subcommittee makes two recommendations relating to law enforcement issues, and a summary is in Table 7.

Table 7. Summary of law enforcement issues recommendations

REVIEWS	14. Discuss feasibility of a uniform statewide process for officer involved shooting reviews. <sup>Accountability;</sup>
TRAINING	15. Determine feasibility of a central learning portal. <sup>Effectiveness; See Finding #3</sup>

**RECOMMENDATION #14.** Discuss feasibility of a uniform statewide process for officer involved shooting reviews.

As discussed in Finding #11, presently there is no uniform process for certain reviews of officer involved misconduct, excessive force, discharge of firearms, or in-custody deaths. According to Attorney General personnel,

Currently, solicitors have the discretion to review officer involved shootings themselves, request transfer of review of the case to the Attorney General’s Office, or request transfer of review of the case to another solicitor. Some solicitors have adopted a policy that all officer involved shootings that occur in their jurisdiction will be reviewed by the Attorney General’s Office.<sup>103</sup>

During the study, agency personnel noted two potential benefits of a uniform, statewide process. First, “[t]his would allow for record keeping as to what the trends are showing in these cases that could facilitate training,” and second this would create “the ability to create awareness among law enforcement and the community of what happens in these cases and how they are handled.”<sup>104</sup>

Also, “[i]t is the position of the Attorney General’s Office that at a minimum, all officer involved shootings that result in injury or death should be reviewed by the Attorney General’s Office.”<sup>105</sup> According to agency personnel, benefits of this setup may include, review of all cases “using the same process by attorneys who have specialized training in the subject matter and who have reviewed hundreds of these cases,” as well as, “public perception of any bias in review would

be minimized since these attorneys would not be reviewing the actions of law enforcement officers with whom they work closely on a regular basis.”<sup>106</sup>

Accordingly, this recommendation requests agency personnel discuss with personnel from the Law Enforcement Training Council and Commission on Prosecution Coordination the pros and cons of creating a statewide uniform system for review of officer involved shootings. Within a year, Attorney General Office personnel are asked to report to the Committee on the information gathered, discussion, and any decisions made.

#### RECOMMENDATION #15. Determine feasibility of a central learning portal.

Personnel with the Attorney General’s Office offer trainings on diverse topics (e.g., human trafficking, postconviction relief, victim services, prosecution, criminal appeals, capital litigation, securities, etc.).<sup>107</sup>

This recommendation requests agency personnel collaborate with other stakeholder (e.g., Law Enforcement Training Council and Criminal Justice Academy, Department of Administration, etc.) personnel about the feasibility of having a central portal in which state employees may access applicable criminal justice related training videos. A part of this collaboration discussion topics may include, but are not limited to, creating a list of different trainings available from the various agencies and, for each, intended audience, frequency in which updates are necessary. Within a year, Attorney General Office personnel should report to the Committee on the information gathered, discussion, and any decisions made.

### *State Employees*

The Subcommittee makes one recommendation to improve the state employee performance management system, and a summary is in Table 8.

Table 8. Summary of recommendation to improve the state employee performance management system

STATE EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM	16. <b>Department of Administration - Improve meaning and usability of Employee Performance Management System.</b> <sup>Effectiveness; See Finding #8</sup>
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#### RECOMMENDATION #16. DEPARTMENT OF ADMINISTRATION - Improve meaning and usability of Employee Performance Management System.

The Employee Performance Management System (EPMS) is a “management tool used to formally document an employee’s performance.”<sup>108</sup> Generally, the system has three levels of performance: exceptional, successful, and unsuccessful. During the study, inquiry was made to the Department of Administration (DOA) about this process, and DOA personnel noted a



“successful by default” rating is generated “after an administrative period of 30 days has lapsed without a EMPS rating being entered for an employee.”<sup>109</sup> Figure 16 shows improvement and

decline by some agencies in providing annual employee reviews (i.e., “successful by default” percentage reflects employees not receiving reviews). DOA personnel noted the “successful by default” rating avoids penalizing [e.g., reduction in force plans include

“Successful by default” percentage for past 5 years					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	July 25 2022
Attorney General’s Office	1.7%	3.2%	0.0%	1.6%	1.2%
Improving:					
Adjutant General’s Office	25.2%	28.4%	20.2%	14.2%	6.1%
Department of Disabilities and Special Needs	38.3%	14.7%	11.5%	12.3%	10.4%
Declining:					
Commission of Minority Affairs	9.1%	16.7%	50.0%	80.0%	80.0%
Public Service Commission	7.1%	11.1%	53.9%	66.7%	61.5%

Figure 16. Improvement and decline by some agencies in providing annual employee reviews (i.e., “successful by default” percentage reflects employees not receiving reviews)

performance review ratings in the calculations] the employee for a situation beyond their control.”<sup>110</sup> However, potentially, this may create an inaccurate perception that the employee’s performance was successful.

During the study, Attorney General Office personnel had recommendations for EPMS improvement. One of these related to technology updates to streamline the workflow process involved in the review (e.g., automatic uploads of the rating and updated review dates).<sup>111</sup>

Notably, DOA personnel indicated “[t]he EPMS process is currently under review to make the process more meaningful and user friendly.”<sup>112</sup> This recommendation requests DOA personnel provide the Committee with the agency’s timeline for this continual improvement initiative.

## Specialized Prosecutions

The Subcommittee makes three recommendations to encourage collaboration with other state agencies for specialized prosecutions, and a summary is in Table 9.

Table 9. Summary of collaborations with other state agencies for specialized prosecutions

DEPARTMENT OF SOCIAL SERVICES	17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution. <sup>Efficiency</sup>
DEPARTMENT OF HEALTH AND HUMAN SERVICES	18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution. <sup>Efficiency</sup>

**RECOMMENDATION #17. Analyze effectiveness of the process for Supplemental Nutrition Program fraud prosecution.**

This recommendation requests personnel with the Attorney General's Office meet with personnel from the Department of Social Services to discuss the potential benefits of the Department of Social Services referring Supplemental Nutrition Assistance Program (SNAP) fraud cases to the Attorney General's Office. There was a previous collaboration during the tenure of a prior Department of Social Services director.<sup>113</sup> During the study, some potential benefits (e.g., expertise, focus, coordination with federal partners, creation of a task force, and generation of cases against retailers) to having a SNAP unit with the Attorney General's Office were identified.<sup>114</sup> Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion and decisions made.

**RECOMMENDATION #18. Analyze effectiveness of the process for Medicaid recipient fraud prosecution.**

This recommendation requests personnel with the Attorney General's Office meet with personnel from the Department of Health and Human Services to analyze the effectiveness of the current process for Medicaid recipient fraud prosecution. During the study, it was noted that some difficulties (e.g., differing priorities and understandings) may be resolved through increased communication among personnel at both agencies.<sup>115</sup> The purpose of the discussion is to determine if any changes may be warranted to improve the overall effectiveness of the investigation and prosecution. Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion and decisions made.

**RECOMMENDATION #19. Determine appropriate parties for regulation versus prosecution of money services businesses.**

This recommendation requests personnel with the Attorney General's Office collaborate with personnel from the State Board of Financial Institutions and State Treasurer's Office to determine the entity in which certain aspects of the state's Anti-Money Laundering Act is best suited (i.e., administration, as opposed to prosecution). During the study, Attorney General's Office personnel opined "[r]egulation under this act is more appropriately conducted by the state agency that currently regulates a similar industry . . . ."<sup>116</sup> Within a year, personnel with the Attorney General's Office should provide the Oversight Committee a letter explaining the discussion, decisions, and any consensus recommendations to the General Assembly.<sup>117</sup>



## Laws

### General Recommendations

The Subcommittee makes several general recommendations for revisions to state law, and a summary is in Table 10. These are all to the General Assembly.

Table 10. Summary of general recommendations for revisions to state statutes

GENERAL	20. Consider eliminating bonds for positions or identify entity responsible for enforcement.
	21. Consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products.
	22. Consider increasing the limitation on tokens of recognition for state employees.
	23. Consider establishing a victim address confidentiality program.
	24. Consider updating statutes related to the Sexually Violent Predator Act.
	25. Consider establishing a federal Department of Health and Human Services Office of the Inspector General approved False Claims Act.
	26. Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.
	27. Consider updating statutes to add a fentanyl trafficking provision.
	28. Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.
	<b>STATE GRAND JURY</b>
	29. Consider updating statutes related to venue for State Grand Jury cases.
	30. Consider updating statutes to enable more potential State Grand Jury review of cases with possible health effects on the community.

Table Note: All of these recommendations are to the General Assembly.



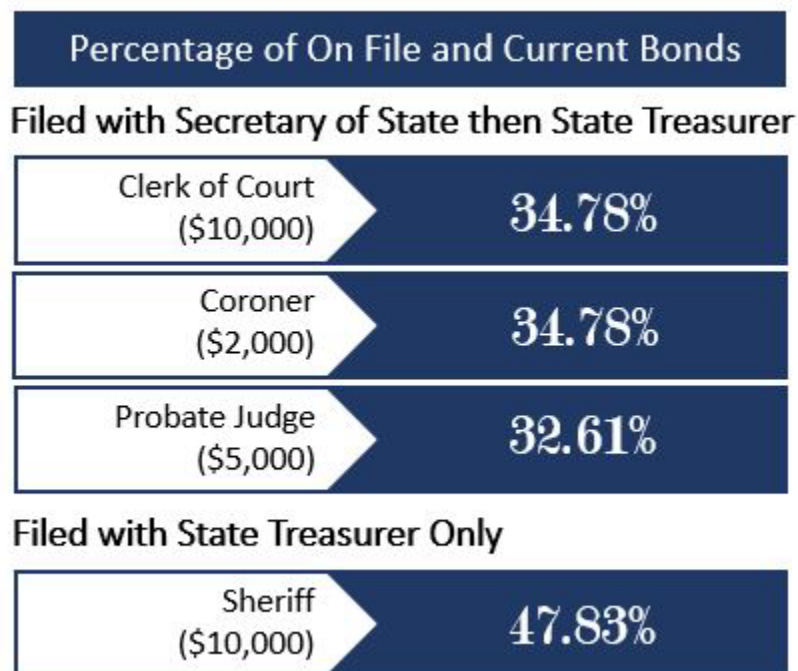


Figure 18. Aggregate data from the Secretary of State's Office pertaining to bond filings for county officials<sup>120</sup>

Notably, records from the Secretary of State's Office indicate only one in every three clerks of court, coroners, and probate judges have the required bond current and on file. Additionally, less than 50% of sheriff's have their required bond current and on file.<sup>121</sup>

Identifying a specific entity responsible for enforcement may increase compliance. However, the requirement of posting a bond by an elected official is an old concept that may no longer be necessary as explained by Attorney General's Office personnel.

The term "bond" is very broad and encompasses a number of different types of bond. Generally, the bond is required of officers to provide a source of recovery for certain acts of the person being bonded. It may also be an old concept, whereby if a person of low moral or ethical background was elected or appointed to office, the inability to be bonded would preclude the individual from taking that seat and having the ability to act nefariously. In this context, we believe the bond is referred to as a "fidelity bond," or covering the government or others for the official's potential embezzlement, larceny, or gross negligence in the position of trust with the government. This may have been necessary when sovereign immunity protected government officials except for extreme circumstances. With a Tort Claims Act which is a relatively modern introduction, the Act allows limited circumstances and period to sue the government for a lesser threshold. Therefore, the underlying need for the bond may no longer exist.<sup>122</sup>

The House Legislative Oversight Committee also recommended modernization of laws relating to the bond of an agency head in its 2017 study of the Department of Agriculture.<sup>123</sup>

**RECOMMENDATION #21. GENERAL ASSEMBLY-** Consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products.

The General Assembly may wish to consider applying current taxes on cigarettes to vaping, e-cigarettes, and similar products. Figure 19 shows the other states that tax vaping, e-cigarettes, and similar products.<sup>124</sup>

During the study, Attorney General Office personnel noted the existing taxes on cigarettes do not extend to these products.<sup>125</sup> Additionally, these products are not part of the tobacco settlement agreement with cigarette manufacturers, which provides annual payments in perpetuity to help reimburse South Carolina and the other participating states for healthcare costs and harm caused by tobacco use.<sup>126</sup>



Figure 19. States that tax vaping, e-cigarettes, and similar products<sup>127</sup>

Table Note: Blue indicates the states that tax vaping, e-cigarettes, and similar products

Inquiry was made to personnel with the Department of Health and Environmental Control about the health effects and costs of these products. Listed below is an excerpt from that correspondence about the cost:

As highlighted earlier, though many short-term impacts have been identified, e-cigarettes have not been around long enough to know the full risks of long-term use. There is a well-documented latency period for tobacco-related disease, and it will likely be at least two decades until definitive findings from long term studies on e-cigarette use are available. As such, very little information exists on the associated healthcare costs of vaping. However, in a May 2022 research article published in the peer reviewed journal *Tobacco Control*, a first study of its kind, examined the effects of e-cigarette use on healthcare utilization and expenditures among US adults. This study found that in 2018, **\$1.3 billion (\$1,796 per user) annual healthcare expenditures were attributable to current exclusive c-cigarette use, \$13.8 billion (\$2,050 per user) were attributable to current dual/poly e-cigarette users** (i.e. used both e-cigarettes and combustible tobacco), and \$15.1 billion (\$2,024 per user) were attributable to all current e-cigarette use. Again, further research in this area is needed. (emphasis added)<sup>128</sup>

**RECOMMENDATION #22. GENERAL ASSEMBLY- Consider increasing the limitation on tokens of recognition for state employees.**

During this study, and in other studies, agency leadership identified employee retention and recruitment as an issue. Competitive wages are essential to building and maintaining a tenured staff. The Department of Administration's website includes examples of compensation options (e.g., additional skills/knowledge increases, etc.) available to state agencies.<sup>129</sup> Agency leadership should use the levers within their control to address and reduce turnover.

One of those levers is employee recognition efforts, which the Attorney General Office utilizes. To maximize the impact on agency retention efforts, the General Assembly may wish to consider amending S.C. Code Section 8-1-180 to increase the limitation on tokens of recognition and other rewards for state employees (e.g., increase \$50 to \$150).<sup>130</sup> The current "\$50 limit on the amount that can be spent on each employee per award" has not been increased in almost three decades.<sup>131</sup> As noted in the 2022 studies of the Attorney General's Office and Department of Health and Human Services, a reasonable recognition program may help with employee retention efforts. However, as Attorney General's Office personnel noted the "actual amount limited by the state is not just modest, but trivial."<sup>132</sup>

**RECOMMENDATION #23. GENERAL ASSEMBLY- Consider establishing a victim address confidentiality program.**

The General Assembly may wish to consider creating a victim address confidentiality program, which "[p]rotects the location of victims of domestic and sexual violence, stalking, and human trafficking forced to flee abusive and dangerous situations."<sup>133</sup> During the study, agency personnel noted South Carolina is one of only 12 states without a program that allows victims to receive mail at a confidential address and not disclose their actual address in public records.<sup>134</sup> Figure 20 shows the states that have enacted an address confidentiality program.<sup>135</sup> During the study, inquiry was made about the potential fiscal impact of creation of a victim address confidentiality program, and agency personnel noted that North Carolina administers their program with one full time employee and associated administrative costs (e.g., postage, etc.).<sup>136</sup>



## States that have victim confidentiality laws

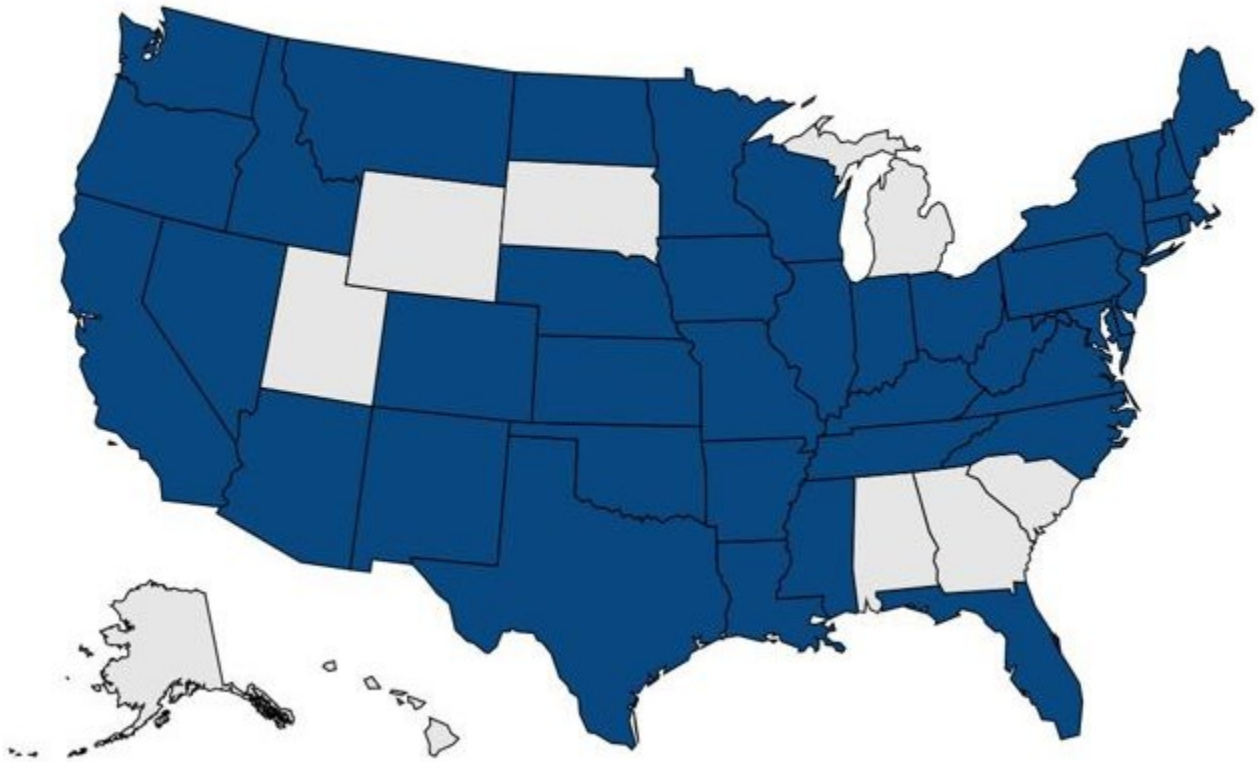


Figure 20. States that have victim confidentiality laws<sup>137</sup>

Table Note: Blue indicates the state has enacted victim confidentiality laws

### RECOMMENDATION #24. GENERAL ASSEMBLY- Consider updating statutes related to the Sexually Violent Predator Act.

The Sexually Violent Predator Act, which provides a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator, was enacted in 1998. On average, a person is under involuntary civil commitment prior to release for 6.7 years.<sup>138</sup> In the more than two decades since enactment, there have only been minor changes to these provisions. During the study, Attorney General's Office personnel noted issues have arisen with implementation (e.g., limited availability of specified mental health providers; lack of priority for court docketing of these civil cases; etc.).

Legislation, which the agency supported, was filed to address these issues in the 124<sup>th</sup> General Assembly. Specifically, agency personnel expressed support for S.659 and H.4086. While neither bill was enacted, S.659 was approved by the Senate. Table 11 includes agency personnel's suggested revisions to address their issues of concern with the Sexually Violent Predator Act.<sup>139</sup> The General Assembly may wish to consider their proposal.

Flow charts outlining the Sexually Violent Predator process are included in Appendix A.

Table 11. Attorney General Office personnel's proposed revisions to South Carolina's Sexually Violent Predator Act<sup>140</sup>

Section 44-48-30 (new item)	“( ) ‘Resident’ means a person who has been committed as a sexually violent predator for the purposes of long-term control, care, and treatment.”
Section 44-48-30(9)	“(9) ‘Likely to engage in acts of sexual violence’ means <u>that a person is predisposed to engage in acts of sexual violence and more probably than not will engage in the</u> <del>person’s propensity to commit</del> acts of sexual violence <del>is of to</del> such a degree as to pose a menace to the health and safety of others.”
Section 44-48-40(B)	“(B) If a person has been convicted of a sexually violent offense and the Board of Probation, Parole and Pardon Services or the Board of Juvenile Parole intends to grant the person a parole or the South Carolina Department of Corrections or the Board of Juvenile Parole intends to grant the person a conditional release <u>or supervised re-entry</u> , <u>then</u> the parole, <del>or</del> the conditional release, <u>or the supervised re-entry</u> must be granted to be effective one hundred eighty days after the date of the order of parole, <del>or</del> conditional release, <u>or supervised re-entry</u> . The Board of Probation, Parole and Pardon Services, the Board of Juvenile Parole, or the South Carolina Department of Corrections immediately must send notice of the parole, <del>or</del> conditional release, <u>or supervised re-entry</u> of the person to the multidisciplinary team, the victim, and the Attorney General. If the person is determined to be a sexually violent predator pursuant to this chapter, <u>then</u> the person is subject to the provisions of this chapter even though the person has been released on parole, <del>or</del> conditional release, <u>or supervised re-entry</u> .”
Section 44-48-50	<p>“Section 44-48-50. <u>(A)</u> The Director of the Department of Corrections must appoint a multidisciplinary team to review the records of each person referred to the team pursuant to Section 44-48-40. These records may include, but are not limited to, the person’s criminal offense record, any relevant medical and psychological records, treatment records, victim’s impact statement, and any disciplinary or other records formulated during confinement or supervision. The team, within thirty days of receiving notice as provided for in Section 44-48-40, must assess whether or not <u>there is probable cause to believe</u> the person satisfies the definition of a sexually violent predator. If it is determined <u>that probable cause does exist</u> <del>that the person satisfies the definition of a sexually violent predator</del>, <u>then</u> the multidisciplinary team must forward a report of the assessment to the prosecutor’s review committee and notify the victim. The assessment must be accompanied by all records relevant to the assessment. Membership of the team must include:</p> <ol style="list-style-type: none"> <li>(1) a representative from the Department of Corrections;</li> <li>(2) a representative from the Department of Probation, Parole and Pardon Services;</li> <li>(3) a representative from the Department of Mental Health who is a trained, qualified mental health clinician with <u>education, training, or experience in assessing, examining, or treating sex</u> <del>expertise in treating sexually violent</del> offenders;</li> <li>(4) a retired judge appointed by the Chief Justice who is eligible for continued judicial service pursuant to Section 2-19-100; and</li> <li>(5) an attorney with substantial experience in the practice of criminal defense law to be appointed by the Chief Justice to serve a term of one year.</li> </ol>

	<p><u>(B)</u> The Director of the Department of Corrections or his designee appointed pursuant to <del>item (1)</del> <u>subsection (A)(1)</u> shall be the chairman of the team.”</p>
Section 44-48-80(D)	<p>“(D) If the probable cause determination is made, <u>then</u> the court must direct that, upon completion of the criminal sentence, the person must be transferred to a local or regional detention facility pending <u>the</u> conclusion of the proceedings under this chapter. The court must further direct that the person be transported to an appropriate facility of the South Carolina Department of Mental Health for an evaluation as to whether the person is a sexually violent predator <u>and must order the person to comply with all testing and assessments deemed necessary by a court-appointed evaluator. The evaluation must be conducted by a qualified expert appointed by the court at the probable cause hearing.</u> The <del>expert</del> <u>court-appointed evaluator</u> must complete the evaluation within <del>sixty</del> <u>ninety</u> days after the <u>Department of Mental Health provides written certification to the Attorney General’s Office and the person’s legal counsel that it has received all medical, psychological, criminal offense, and disciplinary records and reports concerning the person but not greater than one hundred eighty days after the probable cause order is filed completion of the probable cause hearing.</u> The court may grant one extension upon request of the <u>court-appointed evaluator expert</u> and a showing of <u>good cause.</u> <del>Any further extensions only may be granted for extraordinary circumstances. After the evaluation by the court-appointed evaluator, if the person or the Attorney General seeks an independent evaluation by a qualified independent evaluator, pursuant to Section 44-48-90(C), then that evaluation must be completed within ninety days after receipt of the report by the court-appointed evaluator. The court may grant an extension upon request of the independent evaluator and a showing of extraordinary circumstances. Any evaluator who will be submitted as an expert at either a hearing or trial must submit a written report available to both parties.”</del></p>
Section 44-48-90(B) and (C)	<p>“(B) Within thirty days after the determination of probable cause by the court pursuant to Section 44-48-80, the person or the Attorney General may request, in writing, that the trial be before a jury. If no request is made, the trial must be before a judge in the county where the offense was committed within ninety days of the date the <u>qualified independent evaluator requested by the person or Attorney General pursuant to Section 44-48-90(C) court-appointed expert issues a report the evaluation</u> as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter, <u>and the case shall be treated as a priority case. If neither party seeks an independent evaluation a request is made, then the court trial must be schedule a trial before a judge, or a jury if a jury trial is requested,</u> in the county where the offense was committed within ninety days of the date the court appointed <u>evaluator expert</u> issues the evaluation <u>report</u> as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and only if the respondent will not be substantially prejudiced. <u>All cases pursuant to this chapter shall be given priority status for the purposes of scheduling any hearings and trials.</u> The Attorney General must notify the victim, in a timely manner, of the time, date, and location of the trial. At all stages of the proceedings under this chapter, a person subject to this chapter is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel <u>designated by the Office of Indigent Defense to handle sexual predator cases</u> to assist the person.</p>



	<p>(C) Upon receipt of the evaluation issued by the court appointed <u>evaluator expert</u> as to whether the person is a sexually violent predator pursuant to Section 44-48-80(D), the person or the Attorney General may retain a qualified <u>independent evaluator expert</u> to perform a subsequent examination. If the court-appointed evaluator determines that the person is not a sexually violent predator, then the Attorney General, with notice to the person, may seek an independent evaluation pursuant to this section. If the court-appointed evaluator determines that the person is a sexually violent predator, then the person, with notice to the Attorney General, may seek an opinion by a qualified independent evaluator pursuant to this section. <del>All examiners are permitted to have reasonable access to the person for the purpose of the examination, as well as access to all relevant medical, psychological, criminal offense, and disciplinary records and reports.</del> In the case of an indigent person who <u>requests</u> <del>would like</del> an <u>independent evaluator expert of his own choosing</u>, the indigent person must file and serve upon the Attorney General a motion requesting payment and costs <del>court must determine whether the services are necessary.</del> The Attorney General shall have ten days from the date of service to file a response to the motion. If the court determines that the <del>services are necessary and the expert's requested</del> compensation for the <u>qualified independent evaluator services</u> is reasonable, <u>then</u> the court must assist the person in obtaining the <u>qualified independent evaluator expert</u> to perform an <u>evaluation examination</u> or participate in the trial on the person's behalf <u>and must approve all reasonable expenses associated with the evaluation.</u> <del>All evaluators are permitted to have reasonable access to the person for the purpose of the examination, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports.</del> The court shall <del>order must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person to comply with any testing and assessments deemed necessary by the evaluator for a thorough evaluation, and compensation received in the case or for the same services from any other source."</del></p>
Section 44-48-100(B)	<p>"(B) If the person charged with a sexually violent offense has been found incompetent to stand trial and is about to be released and the person's commitment is sought pursuant to subsection (A), <u>then</u> the court first shall <u>conduct a non-jury hearing</u>, where it <u>will</u> hear evidence and determine whether the person committed the act or acts with which he is charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal <u>hearings trials, except other than</u> the right not to be tried while incompetent <u>and the right to a jury trial</u>, apply. After hearing evidence on this issue, the court must make specific findings on whether the person committed the act or acts with which he is charged; the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; the extent to which the evidence could be reconstructed without the assistance of the person; and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds beyond a reasonable doubt that the person committed the act or acts with which he is charged, <u>then</u> the court must enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter."</p>
Section 44-48-110	<p>"Section 44-48-110. <u>(A)(1)</u> A <u>person resident</u> committed pursuant to this chapter must have an <u>evaluation examination</u> of his mental condition performed <u>by a Department of</u></p>

Mental Health-designated evaluator within one ~~once every~~ year from the filing date of the initial commitment order. Thereafter, a Department of Mental Health-designated evaluator will evaluate the resident's mental condition within one year after a pending review is resolved by a filed court order indicating:

(a) a finding of no probable cause;

(b) a waiver by the resident; or

(c) an order of continued commitment after a periodic review trial.

(2) The designated evaluator's report is admissible as evidence at any hearing and must be provided to the clerk of the court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, and the solicitor who prosecuted the resident.

(B) The ~~resident person~~ may retain or, if the ~~resident person~~ is indigent and so requests, the court may appoint a qualified ~~evaluator expert~~ to ~~evaluate~~ examine the ~~resident person~~, and the ~~resident's evaluator expert~~ must have reasonable access to all medical, psychological, criminal offense, ~~and~~ disciplinary, and treatment records and reports concerning the ~~resident person~~.

(C) The annual report must be provided to the court which committed the person pursuant to this chapter, the Attorney General, the solicitor who prosecuted the person, and the multidisciplinary team. The ~~After the designated evaluator's report is filed, the court must conduct a~~ an annual hearing to review the ~~resident's status of the committed person~~, unless the resident waives the hearing in writing. ~~The committed person is not prohibited from petitioning the court for release at this hearing.~~

(D) The ~~Director of the~~ Department of Mental Health must provide the ~~resident committed person~~ with ~~an annual~~ written notice of the ~~resident's person's~~ right to petition the court for release without the Department of Mental Health's authorization and over the director's objection; the notice must contain a waiver of rights form, within one year of the last periodic review order or waiver of rights. The ~~department director~~ must forward the designated evaluator's report with the notice and waiver form to the clerk of court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, and the solicitor who prosecuted the resident with the annual report.

(E) The ~~resident committed person~~ has a right to have an attorney represent him at the periodic review hearing, but the ~~resident committed person~~ is not entitled to be present at the hearing. The resident may only be present at the hearing upon issuance of a transport order received by the Department of Mental Health within not less than fifteen days of the hearing date. The Department of Mental Health-designated evaluator will only be required to be present at the hearing if subpoenaed by the resident's attorney in accordance with the South Carolina Rules of Civil Procedure.

(F) If the court determines that probable cause exists to believe that the ~~resident's person's~~ mental abnormality or personality disorder has so changed that the ~~resident person~~ is safe to be at large and, if released, is not likely to commit acts of sexual violence, the court must schedule a trial on the issue. At the trial, the ~~resident committed person~~ is ~~entitled to be present and~~ is entitled to the benefit of all constitutional protections that were afforded the ~~resident person~~ at the initial commitment proceeding. The Attorney General must notify the victim of all proceedings. The Attorney General must represent the State and has the right to have the ~~resident committed person~~ evaluated by a qualified ~~evaluator experts~~ chosen by the State. The trial must be before a jury if requested by either the ~~resident person~~, the Attorney General, or the solicitor. The ~~resident committed person~~ also has the right to have a qualified ~~evaluator experts~~ evaluate the ~~resident person~~ on the ~~resident's person's~~ behalf, and the court must appoint an ~~evaluator expert~~ if the ~~resident person~~ is indigent and requests the appointment. The burden of proof at the trial is upon the State to prove beyond a reasonable doubt that the ~~resident's committed person's~~ mental abnormality or personality disorder remains such that the

	<p>resident person is not safe to be at large and, if released, is likely to engage in acts of sexual violence.”</p>
Chapter 48, Title 44	<p>“Section 44-48-115. (A) A resident committed to the South Carolina Sexually Violent Predator Treatment Unit shall have the right to challenge the commitment and subsequent periodic reviews based on the ineffective assistance of counsel during the resident’s commitment trial or periodic review proceedings.</p> <p>(B) Petitions shall be filed in the original jurisdiction of the South Carolina Supreme Court under the South Carolina Appellate Court Rules within thirty days of the date that any appeals from the commitment or periodic review proceedings are final. Upon receipt of the petition, the Clerk of Court of the Supreme Court shall issue an order designating a circuit court or appellate court judge as a referee to make appropriate findings of fact and conclusions of law and shall report the findings and conclusions to the Supreme Court. The designated judge shall have the statewide authority to issue orders as necessary.</p> <p>(C) Except as provided in this chapter, the South Carolina Rules of Civil Procedure and the South Carolina Rules of Evidence apply to cases filed pursuant to this section, in evidentiary hearings before the designated hearing judge.</p> <p>(D) The named respondent shall be the Department of Mental Health. A copy of the petition shall be served on the Department of Mental Health and the South Carolina Attorney General’s Office.</p> <p>(E) Upon the filing of a petition alleging that the resident is indigent and desires appointed counsel, the designated judge shall appoint an attorney to represent the resident. Counsel shall be appointed from the contract attorney list of post-conviction counsel maintained by the South Carolina Commission on Indigent Defense, or such other list of attorneys as the Executive Director of the South Carolina Commission on Indigent Defense shall designate to the court. If no attorney is available from this list, then the designated circuit court judge shall appoint an attorney from the Appointment of Lawyers for Indigents. The designated judge shall not appoint an attorney who previously represented the resident in any prior criminal proceedings underlying the commitment or state post-conviction relief proceedings or appeals therefrom, in the original sexually violent predator civil commitment proceeding or appeal therefrom, or in any previous or present periodic reviews or appeals therefrom.</p> <p>(F) The designated judge shall authorize by court order to the particular county clerks of court the disclosure of any pleadings, evidence, transcript, or other document filed in any circuit court or appellate court clerk’s office of this State in any case in which the resident was a defendant, respondent, or party to a criminal action or an action under the Sexually Violent Predator Act that has been ordered sealed. These materials shall be unsealed for the limited purpose of providing items to appointed counsel for the resident, to the resident himself if he elects to proceed pro se, and the Department of Mental Health and its attorneys.</p> <p>(G) Regardless of whether the resident indicates that he has served the Department of Mental Health, the Clerk of Court of the South Carolina Supreme Court shall forward the filed petition and all accompanying papers to the Department of Mental Health’s Office of General Counsel as the agent for service of process for the Department of Mental Health, and a copy to the Attorney General’s office. The Department of Mental Health, through the Attorney General’s Office acting as its representative, shall file its responsive pleading within thirty days of receipt of the order appointing counsel, or within thirty days of the receipt of the petition if counsel is retained, or receipt of the petition if the resident is proceeding pro se without a request for counsel at the time of the filing.</p> <p>(H) In the event that a habeas petition alleging ineffective assistance of counsel claims relating to the resident’s commitment or periodic review is filed before the conclusion of</p>

	<p>the resident’s appeal therefrom, the Clerk of the Supreme Court shall dismiss the petition without prejudice and without requiring a response from the Department of Mental Health.</p> <p>(I) Within thirty days of assignment, the designated judge shall issue a scheduling order, including a discovery schedule and shall set a hearing within not more than one hundred eighty days from the filing of the petition. A final report to the Supreme Court shall be submitted within thirty days from the conclusion of the hearing, including findings of fact and conclusions of law pursuant to the standard set forth in <u>In the Matter of the Treatment and Care of Chapman</u>, 419 S.C. 172, 796 S.E.2d 843 (2017). This does not preclude the designated judge from recommending to the Supreme Court that the petition be denied on the basis of the pleadings without a hearing when appropriate upon motion by the Department of Mental Health.</p> <p>(J) Upon receipt of the findings and conclusions of the designated judge to the Supreme Court by the designated judge, the Clerk of the Supreme Court may set forth an appropriate briefing schedule. The clerk may consider expediting the matter to determine whether the writ of habeas corpus should be granted and the appropriate relief therefrom. The court may also issue, as appropriate, orders relating to whether intervening and on-going statutory status review proceedings or appeals therefrom are affected in any manner by the habeas corpus actions in its original jurisdiction.”</p>
Section 44-48-120(B)	<p>“(B) The court, upon receipt of the petition for release <u>filed pursuant to Section 44-48-120(A)</u>, must order a hearing within thirty days unless the Attorney General, <u>with notice to the resident</u>, requests an examination by a qualified <u>evaluator expert</u> as to whether the <u>resident’s petitioner’s</u> mental abnormality or personality disorder has so changed that the <u>resident petitioner</u> is safe to be at large and, if released, is not likely to commit acts of sexual violence, or the <u>resident petitioner</u> or the Attorney General requests a trial before a jury. The Attorney General must represent the State and has the right to have the <u>resident petitioner</u> examined by <u>a qualified evaluator experts</u> chosen by the State. If the <u>petition is filed with the authorization of the Department of Mental Health provided by this section</u>, then the <u>Department of Mental Health-designated evaluator shall appear as a witness at the hearing or trial</u>. If the Attorney General’s evaluator determines that the resident still meets the criteria for confinement as a sexually violent predator, then the resident may seek another evaluation at his own expense. All evaluators are permitted to have reasonable access to the person for the purpose of the examination, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports, and the court shall order the person to comply with any testing and assessments deemed necessary by an evaluator. <u>Attorney General retains a qualified expert who concludes that the petitioner’s mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and, if released, is likely to commit acts of sexual violence, the petitioner may retain a qualified expert of his own choosing to perform a subsequent examination. In the case of an indigent petitioner who would like an expert of his own choosing, the court must determine whether the services are necessary. If the court determines that the services are necessary and the expert’s requested compensation for the services is reasonable, the court must assist the petitioner in obtaining the expert to perform an examination or participate in the hearing or trial on the petitioner’s behalf. The court must approve payment for the services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the petitioner, and compensation received in the case or for the same services from any other source.</u> The burden of proof is upon the Attorney General to show beyond a reasonable doubt that the <u>resident’s petitioner’s</u> mental abnormality</p>

	or personality disorder remains such that the <u>resident petitioner</u> is not safe to be at large and, that if released, is likely to commit acts of sexual violence. <u>All cases pursuant to this chapter shall be given priority status for the purposes of scheduling any hearings and trials.</u> ”
Section 44-48-150	“Section 44-48-150. Psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records, or victim impact statements which have been submitted to the court or admitted into evidence under this chapter must be part of the record, but must be sealed and opened only on order of the court. <u>Nothing in this section prohibits the release of records to the Attorney General and counsel of record for the person.</u> ”
Section 24-21-32(C)	“(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence-based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director. <u>However, if, under the Sexually Violent Predator Act, the multidisciplinary team finds probable cause to believe that an inmate is a sexually violent predator pursuant to Section 44-48-50, then the inmate is not eligible for the supervised re-entry program until resolution of the proceedings pursuant to the Sexually Violent Predator Act.</u> ”

**RECOMMENDATION #25. GENERAL ASSEMBLY – Consider establishing a federal Health and Human Services Office of the Inspector General approved False Claims Act.**

The General Assembly may wish to consider establishing an HHS-OIG (i.e., federal Health and Human Services Office of the Inspector General) approved False Claims Act (FCA). During the study, agency personnel note that ratifying an HHS-OIG approved FCA would generate more cases and increase

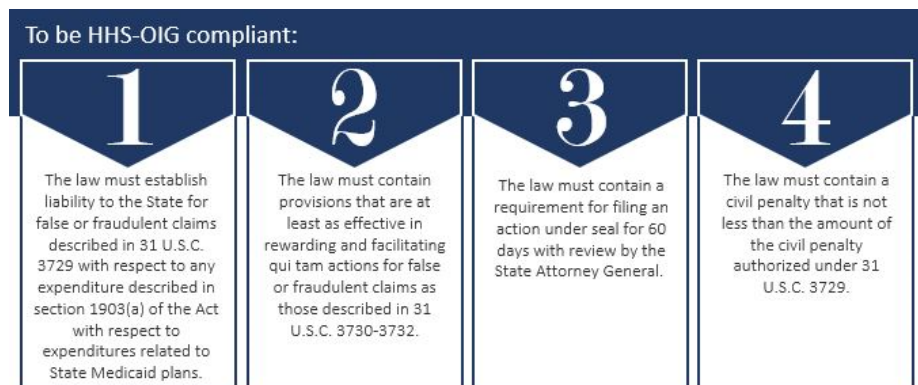


Figure 21: HHS-OIG compliant factors<sup>141</sup>

the opportunities to participate in national cases that are only open to states with FCA. This is a concept recommendation offered by Attorney General’s Office personnel for a “ ‘Medicaid Only’ False Claims Act that qualifies for the Section 1909 incentive, similar to that in Colorado, Georgia, Oklahoma, Texas, and Washington.”<sup>142</sup> Also, agency personnel noted to be HHS-OIG

compliant the factors listed in Figure 21 must be present.<sup>143</sup> Other states with HHS-OIG approved laws include Florida, North Carolina, Tennessee, and Virginia.<sup>144</sup>

**RECOMMENDATION #26. GENERAL ASSEMBLY – Consider authorizing Internet Crimes Against Children investigators to subpoena subscriber information from internet and electronic service providers.**

The General Assembly may wish to consider providing Internet Crimes Against Children (ICAC) investigators at the Attorney General’s Office the power to subpoena subscriber information from internet and electronic service providers. During the study ICAC personnel opined:

The current process of requiring orders and search warrants slows law enforcement down dramatically. With over 3,000 cyber tips alone in the 2018-2019 fiscal year, each case requires law enforcement obtain an order or a search warrant from a circuit court judge.<sup>145</sup>

Figure 22 illustrates the current process ICAC personnel follow to obtain subscriber information (e.g., subscriber name, address, length of service, account number, etc.).<sup>146</sup>



Figure 22. Current process Internet Crimes Against Children personnel follow to obtain subscriber information (e.g., subscriber name, address, length of service, account number, etc.) as described by agency personnel<sup>147</sup>



**RECOMMENDATION #27. GENERAL ASSEMBLY – Consider updating statute to add a fentanyl trafficking provision.**

Currently, South Carolina does not have a fentanyl trafficking provision in statute.<sup>148</sup>

During the study, agency personnel note the “availability of imported and cheap fentanyl is fueling the opiate epidemic.”<sup>149</sup> Accordingly, the General Assembly may wish to consider adding a specific subsection of the statute defining a fentanyl related substance, the penalty for each subsequent offense, and the weight for different charges. Table 12 includes agency personnel’s suggested revisions.

Table 12. Attorney General Office personnel’s proposed revisions to South Carolina Code Sections 44-53-190 and Section 44-53-370<sup>150</sup>

<p><b>Section 44-53-190(B) (new item)</b></p>	<p><u>( ). Fentanyl-related substance. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:</u></p> <p><u>(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;</u></p> <p><u>(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;</u></p> <p><u>(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;</u></p> <p><u>(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or</u></p> <p><u>(E) Replacement of the N-propionyl group by another acyl group.</u></p> <p><u>This definition includes, but is not limited to, the following substances:</u></p> <p><u>Methylacetyl fentanyl, Alpha-methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta-hydroxyfentanyl, Beta-hydroxy-3-methylfentanyl, 3-Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetyl fentanyl, Butyrylfentanyl, Beta-Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl Fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fenantyl,</u></p>
<p><b>Section 44-53-370(e)(3)</b></p>	<p><u>“(3) four grams or more of any morphine, <del>opium</del> opiate, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44-53-190 or 44-53-210, or four grams or more of any fentanyl or fentanyl-related substance as described in Section 44-53-190 or 44-53-210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as “trafficking in illegal drugs” and, upon conviction, must be punished as follows if the quantity involved is:</u></p> <p><u>(a)for a first offense, a term of imprisonment of not more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;</u></p>

	<p>(b) for a second or subsequent offense, a term of imprisonment of not more than thirty years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;</p> <p>(c) for an offense that results in a fatal overdose, the term of imprisonment must be increased by an additional sentence of up to twenty years to run consecutively.”</p>
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**RECOMMENDATION #28. GENERAL ASSEMBLY-** Consider reviewing S.C. Code Section 16-3-1050 and S.C. Code Section 43-35-85, which penalize the same behavior relating to abuse, neglect, or exploitation of vulnerable adults, but have different collateral consequences (e.g., one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent) to determine if amendments are desired to make the collateral consequences the same.

As background, both code sections were originally enacted in the 1990s about seven years apart.<sup>151</sup> S.C. Code Section 44-35-85 is the later enacted provision as amendments were last made in 2010.<sup>152</sup> Listed below is a comparison of the two statutes as provided by agency personnel.<sup>153</sup>

**Ramifications/Similarities:** The incarceration periods and fines provided in section 43-35-85 are identical to those in section 16-3-1050. Both section 16-3-1050(F) and section 43-35-85(F) are classified as serious offenses to qualify for life without parole under the two or three strikes statute of section 17-25-45(C)(2).

**Ramifications/Differences:** Sections 43-35-85(E) and (F) are both designated violent crimes under section 16-1-60 of the South Carolina Code. However, the corresponding crimes found in sections 16-3-1050(E) and (F) are not designated violent crimes. Section 43-35-85(E) is classified by statute as a serious offense, but the corresponding section 16-3-1050(E) is not specifically listed and so would not be considered a serious offense for calculation of strikes for life without parole under 17-25-45(C). The final difference, mentioned previously, is that section 16-3-1050(A) retains the provision allowing for disciplinary action while that provision was removed from section 43-35-85(A).<sup>154</sup>

**RECOMMENDATION #29. GENERAL ASSEMBLY-** Consider updating statutes related to venue for State Grand Jury cases.

Current law states State Grand Jury (SGJ) charges should be venued (i.e., heard) in the county where appropriate. As noted by Attorney General’s Office personnel in the agency’s Program Evaluation Report submitted to the Committee, “crime often transcends county lines.”<sup>155</sup> The General Assembly may wish to consider amending state statute to allow related charges indicted by the SGJ to be tried together in one county where at least one of the related charges occurred (i.e., allow all related crimes of a multi-county criminal enterprise or spree to be tried together in one county). Table 13 includes agency personnel’s suggested revisions to update S.C. Code Section 14-7-1750.<sup>156</sup> The General Assembly may wish to consider their proposal.



Table 13. Attorney General Office personnel's proposed revisions to S.C. Code Section 14-7-1750<sup>157</sup>

<p><b>SECTION 14-7-1750</b></p>	<p>In order to return a "true bill" of indictment, twelve or more state grand jurors must find that probable cause exists for the indictment and vote in favor of it. Upon indictment by a state grand jury, the indictment must be returned to the presiding judge. If the presiding judge considers the indictment to be within the authority of the state grand jury and otherwise in accordance with the provisions of this article, he shall return the indictment by order to the county where venue is appropriate under South Carolina law for prosecution by the Attorney General or his designee; <u>provided, however, that related offenses indicted by the State Grand Jury which occurred in different counties may be tried together in one of the counties in which at least one of the related offenses occurred, and venue shall not be a basis for acquittal in such a circumstance as long as venue was appropriate for at least one of the related offenses in the county in which the trial occurred.</u> The presiding judge may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon, the clerk of the state grand jury shall seal the indictment, and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant.</p>
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**RECOMMENDATION #30. GENERAL ASSEMBLY-** Consider updating statute to enable more potential State Grand Jury review of cases with possible health effects on the community.

For the State Grand Jury to review cases with possible health effects on the community, current law requires a \$2M threshold as certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control (DHEC).<sup>158</sup> During the study, agency personnel note lowering the threshold, but maintaining a significant amount (e.g., \$500,000), and providing that certification can be done by any "environmental engineer," may enable more cases for possible State Grand Jury review that have possible health effects on the community.<sup>159</sup> In particular, the agency noted it is difficult to find someone in state who meets the definition of "independent environmental engineer."<sup>160</sup> During the study, agency personnel testified that DHEC personnel agree with the recommended law change.<sup>161</sup>

Table 14 includes agency personnel's suggested revisions to update S.C. Code Section 14-7-1630(A)(12).<sup>162</sup> The General Assembly may wish to consider their proposal.

Table 14. Attorney General Office personnel's proposed revisions to S.C. Code Section 14-7-1630(A)(12)<sup>163</sup>

<p><b>SECTION 14-7-1630(A)(12)</b></p>	<p>(12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or</p>
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	conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages including, but not limited to, the cost of remediation, are <del>one</del> <sup>two</sup> -million dollars or more, as certified by an independent environmental engineer <del>who must be contracted by the Department of Health and Environmental Control</del> . If the knowing and wilful crime is a violation of federal law, then a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section.
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### *Modernization – Repeal Recommendations*

The Committee’s review process provided an opportunity for agency personnel to offer suggestions to streamline the agency’s statutory framework. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel, which are summarized in Table 15.

*Table 15. Summary of modernization recommendations to repeal statutes, which were requested by the Attorney General’s Office*

MODERNIZATION- REPEAL	31. Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General’s Office.
	32. Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General’s Office devolved to another state agency.
	33. Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General’s Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.
	34. Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers’ bonds by the Attorney General.
	35. Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General’s “school safety phone line” when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.

*Table Note: All of these recommendations are to the General Assembly.*

**RECOMMENDATION #31. GENERAL ASSEMBLY-** Consider repealing S.C. Code Section 63-19-1430, which pertains to establishment of a Youth Mentor Program by the Attorney General’s Office.

This is an inactive program. Additionally, agency personnel assert solicitors offer similar, local diversion programs for youthful offenders, and “[t]here is no incentive for the solicitor to use a statewide program when there are local programs available.”<sup>164</sup>

**RECOMMENDATION #32. GENERAL ASSEMBLY-** Consider repealing S.C. Code Section 1-7-117 as it inaccurately states a duty of the Attorney General's Office devolved to another state agency.

S.C. Code Section 1-7-117 inaccurately states the Division of the Public Charities of the Office of the Secretary of State are devolved upon the Attorney General's Office. Two years after adoption of this provision, 1998 Act No. 368 returned these duties, functions, and responsibilities to the Secretary of State's Office, where they remain.

**RECOMMENDATION #33. GENERAL ASSEMBLY-** Consider repealing S.C. Code Section 44-11-110, which requires written approval from the Attorney General's Office for any grant of easements, permits or rights of way on, over or under the grounds of the Department of Mental Health.

**RECOMMENDATION #34. GENERAL ASSEMBLY-** Consider repealing S.C. Code Section 59-31-560, which requires approval of certain contracts and publishers' bonds by the Attorney General.

Historically, the Attorney General's Office was the only source of legal work for the state.<sup>165</sup> Recommendation #33 pertains to legal work for the Department of Mental Health. Likewise, Recommendation #34 relates to legal work for the Department of Education. Both the Department of Mental Health and the Department of Education employ attorneys.<sup>166</sup> Notably, the Attorney General approves the hiring of attorneys for executive branch agencies, and S.C. Code Section 1-7-160 provides that "[a]ll of these attorneys at all times are under the supervision and control of the Attorney General. . . ."

**RECOMMENDATION #35. GENERAL ASSEMBLY-** Consider repealing S.C. Code Section 59-63-350, which requires local law enforcement to contact the Attorney General's "school safety phone line" when certain offenses are committed on school grounds or during school sponsored/sanctioned activities.

This is a notification only statute (i.e., does not provide for any action by the Attorney General's Office once notice is received). During the study, agency personnel stated, "It is a requirement of law enforcement who already have enough requirements without sending us notification."<sup>167</sup>

#### *Modernization – Amend Recommendations*

The Committee's review process provided an opportunity for agency personnel to offer suggestions to update the agency's statutory framework. See Appendix B for details (i.e., specific language and agency personnel's reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General's Office personnel, which are summarized in Table 16.

Table 16. Summary of modernization recommendations to amend statutes, which were requested by the Attorney General's Office

MODERNIZATION-AMEND	<p><b>AGENCY OPERATIONS</b></p> <p>36. Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General's website to serve as notice to Department of Revenue and Secretary of State's Office.</p> <p>37. Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a "grandfather provision" exempting victim service providers employed prior to 2008 from taking a basic certification course.</p> <p>38. Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.</p>
	<p><b>STATUTE INCONSISTENCY</b></p> <p>39. Consider amending S.C. Code Section 16-3-910 to delete the final phrase, "unless sentenced for murder as provided in Section 16-3-20." During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.17-12</p> <p>40. Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term "criminal offense" a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.</p>
	<p><b>TECHNICAL UPDATES</b></p> <p>41. Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading "except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)". S.C. Code Section 16-3-655(3) no longer exists.</p> <p>42. Consider amending S.C. Code Section 14-1-211.5 (A) and (B)to correct a reference (i.e., replace references to the "Department of Crime Victim Assistance Grants" with references to the "Department of Crime Victim Compensation").</p> <p>43. Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to "S.C. Code Section 16-3-1110(8)" with references to "S.C. Code Section 16-3-1110(9)").</p>
	<p><b>S.C. Code Section 16-3-1420</b></p> <p>44. Consider amending S.C. Code Section 16-3-1420(1)(b) by adding "mental health clinician licensed in South Carolina" to the list of exemptions of professionals that are not included in the definition of "victim service provider."</p> <p>45. Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).</p>

	<p><b>S.C. Code Section 16-3-1430</b></p> <p>46. Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).</p> <p>47. Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.</p> <p>48. Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General’s Office and renamed the Department of Crime Victim Compensation.</p>
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*Table Note: All of these recommendations are to the General Assembly.*

### *Agency Operations*

Recommendations #36 -38 are to the General Assembly requesting consideration of legislation to modernize statutes affecting agency operations. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

**RECOMMENDATION #36. GENERAL ASSEMBLY-** Consider amending S.C. Code Section 35-1-604(f) to allow posting of certain final securities orders on the Attorney General’s website to serve as notice to Department of Revenue and Secretary of State’s Office.

**RECOMMENDATION #37. GENERAL ASSEMBLY-** Consider amending S.C. Code Section 16-3-1410(C)(2) to remove references to a “grandfather provision” exempting victim service providers employed prior to 2008 from taking a basic certification course.

**RECOMMENDATION #38. GENERAL ASSEMBLY-** Consider amending S.C. Code Section 17-13-140 to allow a circuit court judge to issue a search warrant, consistent with the federal Stored Communications Act, for access to digital or electronic data stored outside the state of South Carolina.

### *Statute Inconsistency*

Recommendations #39 and #40 request the General Assembly consider reviewing inconsistencies identified by agency personnel in statutes. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

**RECOMMENDATION #39. GENERAL ASSEMBLY-** Consider amending S.C. Code Section 16-3-910 to delete the final phrase, “unless sentenced for murder as provided in Section 16-3-20.” During the study, agency personnel opined this phrase may result in unintended reduction of time in implementation of the sentence.

RECOMMENDATION #40. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1510(3), which includes in the definition of the term “criminal offense” a threshold loss for the purposes of accessing certain services. Agency personnel assert the dollar amount conflicts with the State Constitution, which does not attribute any dollar amount to being a victim of a criminal offense.

#### *Technical Updates*

Recommendations #41 - #48 request the General Assembly consider making technical updates identified by agency personnel. See Appendix B for details (i.e., specific language and agency personnel’s reasoning for suggesting these changes). The Subcommittee recommends the General Assembly consider these statutory modernization requests made by Attorney General’s Office personnel.

RECOMMENDATION #41. GENERAL ASSEMBLY- Consider amending S.C. Code Section 17-25-45(C)(1) to delete the portion of the statute reading “except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)”. S.C. Code Section 16-3-655(3) no longer exists.

RECOMMENDATION #42. GENERAL ASSEMBLY- Consider amending S.C. Code Section 14-1-211.5 (A) and (B) to correct a reference (i.e., replace references to the “Department of Crime Victim Assistance Grants” with references to the “Department of Crime Victim Compensation”).

RECOMMENDATION #43. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1200 to correct references to the intervenor (i.e., replace references to “S.C. Code Section 16-3-1110(8)” with references to “S.C. Code Section 16-3-1110(9)”).

#### *S.C. Code Section 16-3-1420*

RECOMMENDATION #44. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1420(1)(b) by adding “mental health clinician licensed in South Carolina” to the list of exemptions of professionals that are not included in the definition of “victim service provider.”

RECOMMENDATION #45. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1420(2) to remove definition of witness, which agency personnel assert is not relevant to this section and included verbatim in another code section (i.e., S.C. Code Section 16-3-1510(4)).

#### *S.C. Code Section 16-3-1430*

RECOMMENDATION #46. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1430(A)(1) to modernize terminology agency personnel assert is outdated (e.g., change “spouse abuse” to “domestic violence”).

RECOMMENDATION #47. GENERAL ASSEMBLY- Consider amending S.C. Code Section 16-3-1430(B)(6) to correct an inaccurate reference to the number of departments.

**RECOMMENDATION #48. GENERAL ASSEMBLY-** Consider amending S.C. Code Section 16-3-1430(B)(14) to update who may appoint members to the Victim Services Coordinating Council to reflect the State Office of Victim Assistance was moved in 2017 to the Attorney General's Office and renamed the Department of Crime Victim Compensation.

### *Regulations*

As part of the House Legislative Oversight Committee's process, inquiry is made about the various laws, including regulations, that impact agency operation.

*Table 17. Summary regulations*

<b>MODERNIZATION - REGULATIONS</b>	49. Provide the House Regulations and Administrative Procedures Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.
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*Table Note: This recommendation is to the House Legislative Oversight Committee.*

**RECOMMENDATION #49. HOUSE LEGISLATIVE OVERSIGHT COMMITTEE-** Provide the House Regulations Committee information learned during the study about regulations, such as Chapter 19 of the S.C. Code of Regulations, which are still associated with entities no longer in existence.

During the study, the Committee was informed that regulations pertaining to the now defunct Budget and Control Board remain in the Code of Regulations.

## STUDY RELATED INTERNAL CHANGES

During the study process, there are two internal changes implemented relating to participation in the study process. Those changes are listed below.

### *Internal Changes Made by Attorney General's Office*

1. Updated process for agency's internal regulations review.<sup>168</sup>
2. Clarified language in the agency's litigation retention agreements.<sup>169</sup>



## SELECTED AGENCY INFORMATION

**Attorney General’s Office. “Program Evaluation Report (PER) – Complete Report (March 9, 2020)”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20PER%20-%20Complete%20report.pdf>

**Attorney General’s Office. “Restructuring and Seven-Year Plan Report, 2015.”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Attorney%20General.pdf>

**Attorney General’s Office. “Agency Accountability Report, 2020-2021.”**

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/aar2021/E200.pdf>

**S.C. House of Representatives, Legislative Oversight Committee. “Survey Results.”**

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public\\_Survey\\_Responses\\_2020.PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public_Survey_Responses_2020.PDF)

## REPORT ACTIONS

FULL COMMITTEE OPTIONS STANDARD PRACTICE 27.2.3	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
<ul style="list-style-type: none"> <li>(1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation;</li> <li>(2) Approve the Subcommittee’s study; or</li> <li>(3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight.</li> </ul>	<ul style="list-style-type: none"> <li>Subcommittee study report available for consideration</li> <li>Subcommittee study presentation and discussion</li> <li>Approval of the Subcommittee’s study</li> </ul>	

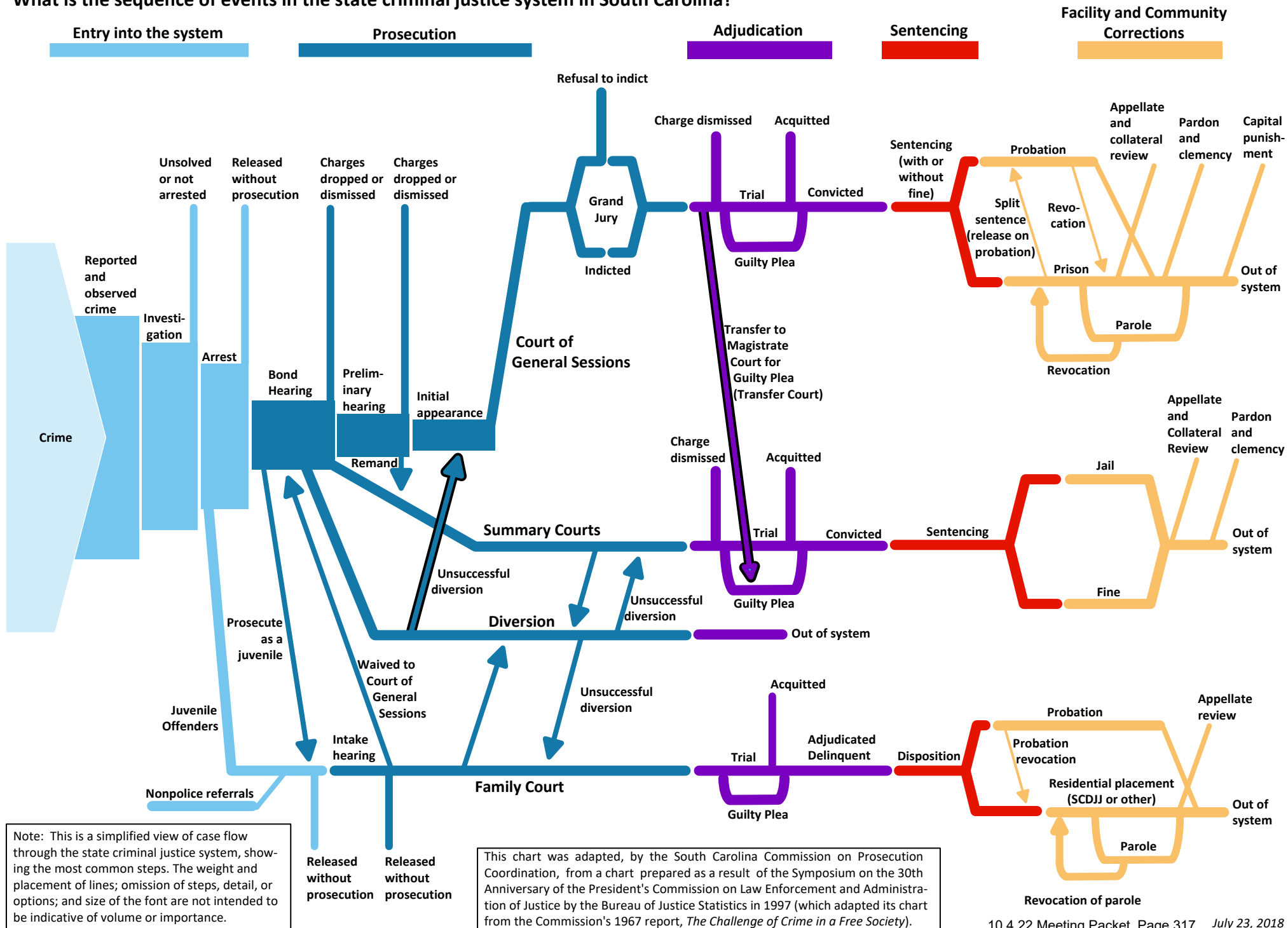
## APPENDIX A – CRIMINAL JUSTICE SYSTEM FLOW CHARTS

Flow charts and other information on the next pages are from the study of the Attorney General’s Office and other law enforcement agencies.<sup>170</sup> The information includes the following:

<p><b>Criminal Justice Process Overview</b></p> <ol style="list-style-type: none"> <li>1. Crime to Release</li> <li>2. Sentencing to Release</li> </ol> <p><b>Entities Involved and Representation</b></p> <ol style="list-style-type: none"> <li>3. Entities Involved</li> <li>4. Who does each entity represent?</li> <li>5. Who represents the state and offender in each step of prosecution and post-adjudication?</li> </ol> <p><b>Prosecution</b></p> <ol style="list-style-type: none"> <li>6. Entry into System</li> <li>7. Authority to Prosecute (Other Agencies)</li> <li>8. Transferring Criminal Case: Solicitors and Attorney General</li> <li>9. Officer Involved Shooting or Crime: Investigation and Prosecutor Review</li> <li>10. Internet Crimes Against Children: Background, Terminology, and Case Flow</li> <li>11. Medicaid Fraud Prosecution <ol style="list-style-type: none"> <li>a. Recipient, Provider, and Patient Abuse</li> </ol> </li> <li>12. Insurance Fraud Prosecution</li> <li>13. State Grand Jury Process: <ol style="list-style-type: none"> <li>a. Investigation through Trial</li> <li>b. Jury Panel Selection</li> <li>c. Pre-Indictment Warrant and Bond Hearing</li> </ol> </li> </ol>	<p><b>Post-Adjudication</b></p> <ol style="list-style-type: none"> <li>14. Criminal Appellate Process Overview</li> <li>15. Murder Convictions <ol style="list-style-type: none"> <li>a. Appeal and Post-Conviction Relief (PCR) Process</li> </ol> </li> <li>16. Non-death penalty conviction <ol style="list-style-type: none"> <li>a. Appeal to S.C. Court of Appeals and S.C. Supreme Court</li> <li>a. PCR Action <ol style="list-style-type: none"> <li>i. Overview, Summary Dismissal Track, Hearing Track</li> <li>ii. Appeal PCR Decision</li> </ol> </li> </ol> </li> <li>17. Sexually Violent Predator Proceedings (Civil)</li> </ol> <p><b>Civil Litigation</b></p> <ol style="list-style-type: none"> <li>18. Unfair Trade Practice and Antitrust: <ol style="list-style-type: none"> <li>a. Sources and Stages of Case</li> <li>b. Private Action v. Enforcement Action</li> </ol> </li> <li>19. Nonprofit Corporation Investigation</li> <li>20. Securities Enforcement Case</li> <li>21. Money Services (e.g., Paypal, square, Coinbase crypto currency, etc.)</li> </ol>	<p><b>Victims</b></p> <ol style="list-style-type: none"> <li>22. Who is a victim?</li> <li>23. Individuals on whom victims rely</li> <li>24. How government entities share victim information</li> <li>25. Government entities that contact the victim of a crime</li> <li>26. Certifications applicable to those who serve crime victims</li> <li>27. Crime victim service provider certification and class accreditation processes</li> <li>28. Crime victim assistance grants (for entities that serve crime victims)</li> <li>29. Crime victim compensation claim process</li> <li>30. Crime victim ombudsman processes (referral, assist, and formal complaints)</li> </ol> <p><b>State Government Hiring Attorneys</b></p> <ol style="list-style-type: none"> <li>31. In-house attorney (full-time employee) approval process</li> <li>32. Contract attorney approval process</li> </ol>
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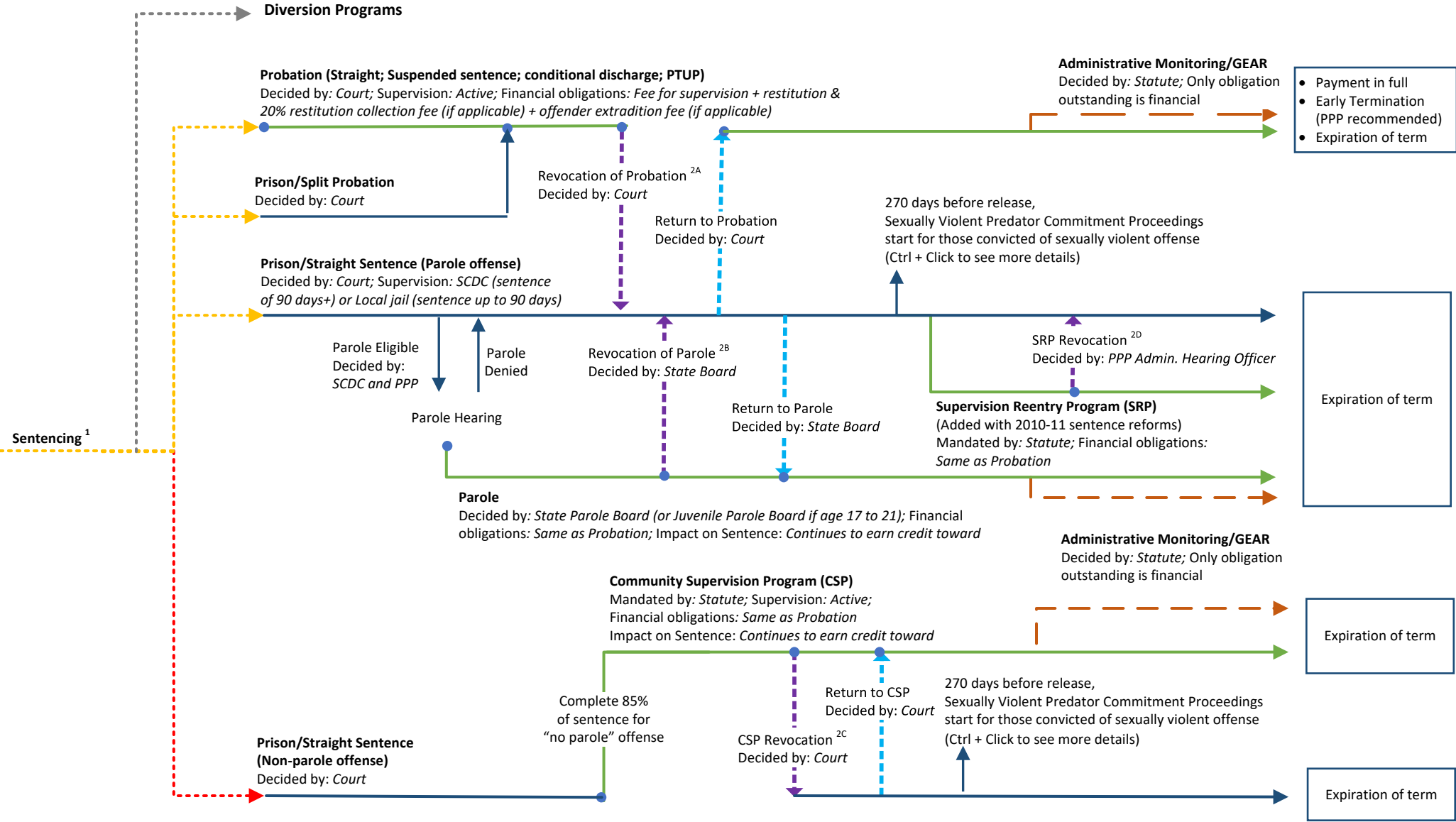
# Crime to Release

What is the sequence of events in the state criminal justice system in South Carolina?



Sentencing to Release (aspect of “Crime to Release” flow chart)

What are potential sentences and paths to release? Which agencies are responsible for supervision?



Notes:

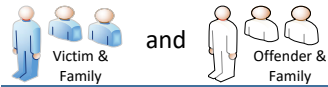
- PPP is Department of Probation, Parole, and Pardon Services
- PPP’s Field Operations Division supervises all offender populations, including individuals: (1) placed on probation by Court; (2) granted parole by Parole Board; or (3) statutorily released to one of PPP’s supervision programs that include: CSP, SRP, and Shock Incarceration Program parole.
- Youthful Offender Act and Shock Incarceration Programs are not shown in the chart
- PTUP means a court orders a probation term end upon payment of fines, court costs, assessments and restitution.

Important forms: 1. Sentencing Sheet; 2. Revocation Orders: A. Probation (Form 9); B. Parole (Form 1160); C. CSP (Form 1152); D. SRP (Form 1455)

**Key:**

- Non-Parole Offenses
- Parole Offenses
- Incarceration
- PPP Active Supervision
- PPP Inactive Supervision
- Revocation (leaving PPP jurisdiction)
- Return to PPP Jurisdiction
- Offender entering or leaving PPP jurisdiction
- Out of System

























# Criminal Justice Process: Entities Involved



Involved in entire process

	Entry Into System/Investigation	Charges/Prosecution	Adjudication and Sentencing	Corrections	Appeal
State Entities	<b>Investigate</b> State Law Enforcement Division Department of Public Safety Entity with custody of Defendant  Attorney General's Office: <ul style="list-style-type: none"> <li>Internet Crimes Against Children Prosecution + AG Investigators and Forensic</li> <li>Medicaid Provider Fraud + AG Investigators</li> <li>Medicaid Recipient Fraud + AG Investigators</li> <li>State Grand Jury Prosecution + SLED, Locals, Federal law enforcement</li> </ul> Agencies AG authorizes to prosecute (SCDC, DEW, DOI, DNR, DPS, DOR)  <b>Victim Services</b> Attorney General's Office: <ul style="list-style-type: none"> <li>Victim Advocacy Division (AG prosecuted cases)</li> <li>Crime Victim Services Division (all cases)</li> </ul> Investigating Entity	<b>Prosecute</b> Attorney General's Office <ul style="list-style-type: none"> <li>General Prosecution;</li> <li>SVU/Law Enforcement Issues</li> </ul> Law Enforcement Agencies AG authorizes to prosecute (SCDC, DEW, DOI, DNR, DPS, DOR)  <b>Defend</b> Circuit Public Defenders (work for SCCID) Rule 608 Attorney (contracted by SCCID) Private Attorney Defendant Represents Himself  <b>Defendant Custody</b> Department of Juvenile Justice Department of Corrections PPP  <b>Victim Services</b> Attorney General's Office Prosecuting Entity Entity with custody of Defendant	<b>Prosecute</b> Attorney General's Office <ul style="list-style-type: none"> <li>General Prosecution;</li> <li>SVU/Law Enforcement Issues</li> </ul> Law Enforcement  <b>Defend</b> Circuit Public Defenders (work for SCCID) Rule 608 Attorney (contracted by SCCID) Private Attorney Defendant Represents Himself  <b>Defendant Custody</b> Department of Juvenile Justice Department of Corrections PPP  <b>Victim Services</b> Attorney General's Office Prosecuting Entity Entity with custody of Defendant	<b>Review/Purse</b> Attorney General's Office <ul style="list-style-type: none"> <li>Sexually Violent Predator Division</li> </ul>  <b>Offender Custody</b> Department of Juvenile Justice Department of Corrections PPP  <b>Victim Services</b> Entity with custody	<b>Appeal</b> Attorney General's Office: <ul style="list-style-type: none"> <li>Sexually Violent Predator Division</li> <li>Sex Offender Registry</li> <li>Post-Conviction Relief</li> <li>Criminal Appeals</li> <li>Capital Litigation</li> </ul> <b>Defend</b> Commission on Indigent Defense: <ul style="list-style-type: none"> <li>Appellate Defense Division</li> <li>Capital Trial Division</li> </ul> <b>Offender Custody</b> Department of Juvenile Justice Department of Corrections PPP  <b>Victim Services</b> Attorney General's Office Entity with custody of Defendant
Local Entities	<b>Investigate</b> County Sheriffs Local Police Departments  <b>Victim Services</b> Attorney General's Office Investigating Entity	<b>Prosecute</b> Circuit Solicitors Prosecutor hired by municipality Law Enforcement  <b>Defendant Custody</b> Local Detention Centers  <b>Victim Services</b> Attorney General's Office Investigating Entity	<b>Prosecute</b> Circuit Solicitors Prosecutor hired by municipality Law Enforcement  <b>Defendant Custody</b> Local Detention Centers  <b>Victim Services</b> Attorney General's Office Investigating Entity		<b>Direct Appeal to State Conviction from Municipal or Magistrate Court</b>  Circuit Solicitors
Judicial Branch	<b>Warrants</b> Summary Courts (Municipal and Magistrate) State Grand Jury	<b>Hearings</b> Summary Courts (Municipal and Magistrate) Circuit Court – General Sessions County Clerks of Court State Grand Jury State Grand Jury Clerk	<b>Trial and Sentencing</b> Summary Courts (Municipal and Magistrate) Circuit Court – General Sessions County Clerks of Court State Grand Jury Clerk		<b>Appeals</b> Circuit Court – Common Pleas County Clerks of Court Court of Appeals Supreme Court Parole Board – Pardon and Clemency Juvenile Parole Board

# Criminal Justice Process: Who does each entity represent?

Entity	Who IS represented by the entity			Who is NOT represented
Victim Advocates	 City	 County	 State	 Victim
Law Enforcement as investigators, not prosecutors (e.g., Police Department, Sheriff's Office, SLED, DPS)	 City	 County	 State	 Victim
Holding Facility (e.g., detention center, jail, prison)	 Court Order	 County	 State	 Victim
Prosecutors (e.g., law enforcement, city prosecutor, Solicitor's Office, Attorney General's Office)	 City	 County	 State	 Victim
Defense Counsel (e.g., public defender; retained counsel; appointed counsel; Commission on Indigent Defense appellate counsel)	 Offender			 Victim
		 City	 County	 State
Court	 Judicial Department			 Victim
				 Offender

*Note: The same case may pass through all of these phases*

*Note: The same case may pass through all of these phases*

		Entry Into System/ Investigation	Charges/ Prosecution	Municipal Court Adjudication /Sentencing	Magistrate or Circuit Court Adjudication /Sentencing	Municipal Court State Conviction - Direct Appeal to Circuit Court	Magistrate Court State Conviction - Direct Appeal to Circuit Court	Circuit Court - Direct Appeal to S.C. Court of Appeals	Circuit or Ct. of Appeals - Direct Appeal to S.C. Supreme	Post- Conviction Relief Action (PCR)	PCR Appeal	
Represent the State		<ul style="list-style-type: none"><li>• Reported/ observed crime</li><li>• Investigation</li><li>• Arrest</li></ul>	<ul style="list-style-type: none"><li>• Bond Hearing</li><li>• Preliminary Hearing</li><li>• Initial Appearance</li><li>• Indictment</li></ul>	<ul style="list-style-type: none"><li>• Plea</li><li>• Trial</li><li>• Sentencing</li></ul>	<ul style="list-style-type: none"><li>• Plea</li><li>• Trial</li><li>• Sentencing</li></ul>							
		Attorney General’s Office					Not Applicable	Attorney General’s Office: • Capital Litigation Division				
		Others to whom AG has delegated prosecution authority (e.g., SCDC, DEW, DOI, DNR, DPS, DOR)					Not Applicable	Attorney General’s Office: • Criminal Appeals Division				
		Law Enforcement (e.g., Police Department, Sheriff’s Office, SLED, DPS)										
		Circuit Solicitors	Not Applicable	Circuit Solicitors		Circuit Solicitors	Attorney General’s Office: • Criminal Appeals Division					
		City Attorney				City Attorney (Municipal Court cases)		Attorney General’s Office: • PCR Division				
Represent Offender		Commission on Indigent Defense <ul style="list-style-type: none"><li>• Circuit Public Defenders (work for SCCID)</li><li>• Rule 608 Attorney (contracted by SCCID)</li></ul>						Commission on Indigent Defense: • Appellate Defense Division				
						Not Applicable	Commission on Indigent Defense: • Capital Trial Division					
		Private Attorney						Private Attorney				
		Defendant Represents Himself						Defendant Represents Himself				

## Entry Into System (aspect of “Crime to Release” flow chart)

What are the different ways in which an individual may enter the criminal justice system in South Carolina?

### “Regular” Attorney General and Solicitor Prosecution

### State Grand Jury Prosecution

Law Enforcement directs investigation

State Grand Jury (SGJ) Jurors oversee investigation conducted by SGJ Legal Team in partnership with SLED and possibly local and federal law enforcement and prosecution

Note: SGJ Legal Team can compel testimony and disclosure of documents, which often requires intensive analysis of voluminous documents, records, evidence, and testimony.

Law Enforcement requests arrest warrant from County Magistrate

SGJ Legal Team and Law Enforcement requests arrest warrant from the Fifth Judicial Circuit Chief Administrative Judge\*

Law Enforcement makes arrest

Law Enforcement makes arrest

Law Enforcement provides information to prosecution (Solicitor, AG’s General Prosecution; AG’s Special Prosecution)

SGJ Legal Team discusses whether to request indictments with SGJ Jurors

Prosecution decides whether to request indictment and drafts indictment

SGJ Legal Team prepares draft indictments

Law Enforcement present draft indictment to County Grand Jury Jurors

SGJ Legal Team present draft indictment to State Grand Jury Jurors

#### *Indictment Format*

- One Indictment includes one charge (i.e., one crime charged against one person)

#### *Indictment Format*

- One Indictment may have multiple counts (i.e. crimes)
- Each count (crime) may have multiple charges (i.e., individuals)

County Grand Jury Jurors vote on whether to indict

SGJ Jurors vote on whether to indict

SGJ Legal Team and Law Enforcement requests arrest warrant from the Fifth Judicial Circuit Chief Administrative Judge\*

Law Enforcement makes arrest

NOTES: (1) No prosecutor can bring charges alone; they can only seek charges, then take it to the state or county grand jury who brings charges. Once charges are brought, prosecutor determines how to dispose of them. (2) In State Grand Jury prosecution, the warrant and arrest could occur pre and/or post indictment.

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Created as part of House Legislative Oversight Committee process. Confirmed accurate by Attorney General’s Office in September 2022



## Authority to Prosecute

### Attorney General

The South Carolina Constitution states the “Attorney General shall be the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record.” (Article V, Section 24)

Matters the AG prosecutes include but are not limited to the following:

- General Prosecution Matters
- White Collar Crimes
- State Grand Jury Matters
- Securities Enforcement
- Securities Regulation
- Capital Litigation
- Human Trafficking
- Medicaid Provider Fraud
- Medicaid Recipient Fraud
- Matters involving Law Enforcement Officers
- Internet Crimes Against Children

### Circuit Solicitors

Citizens registered to vote in each judicial circuit elect a Circuit Solicitor. While Solicitors are full-time state employees and must assist the Attorney General when called upon, the Attorney General’s Office typically gives deference to each elected Solicitor in how they desire to prosecute matters within their individual judicial circuit.<sup>1</sup>

*Map of S.C. judicial circuits from the S.C. Judicial Department; list of circuit solicitors and public defenders (Current as of September 2022).<sup>2</sup>*



### Delegation of Prosecution Authority to Others

Also, the AG can give individuals at other state agencies the authority to prosecute matters on behalf of the state. The next page includes a list of other agencies that currently have authority to prosecute on behalf of the state, along with information on the matters on which they have been granted authority.<sup>3</sup>

Delegation of authority to prosecute has been very limited. Most entities in 2022 with delegated authority have had this authority delegated for many years. The most recent expansion of prosecution delegation was to the Department of Insurance (DOI) as part of an agreement with DOI to administer the Insurance Fraud program. The AG’s Office is unfamiliar with formal written requests for prosecutorial authority that have been made without prior identification/review of an issue and coordination with an agency.<sup>4</sup>

<sup>1</sup> Section 1-7-320 and 1-7-325

<sup>2</sup> S.C. Judicial Department, “Circuit Court Judges,” <https://www.sccourts.org/circuitCourt/circuitMap.cfm> (accessed September 2022).

<sup>3</sup> Letter from Attorney General’s Office to House Legislative Oversight Subcommittee (7.29.22), Question # 15.

<sup>4</sup> Letter from Attorney General’s Office to House Legislative Oversight Subcommittee (7.29.22), Question # 16.

## Other Agencies with Authority to Prosecute

\*Note: Authority to prosecute is given to an individual at the agency, not to the agency to use as it desires.  
Once authority is given, it typically continues, provided the individual holding the office of Attorney General does not change.

Agency and Individual granted authority	Mechanism through which the authority is granted	Types of cases the entity has authority to prosecute	Reason the entity was given authority to prosecute those types of cases	Number of years the agency has had the authority and Frequency with which that authority is renewed
<b>Department of Corrections</b>  Stephen Lunsford Margaret Boykin	Memorandum of Agreement	Prosecution of magistrate level cases specific to issues of prisoners within SCDC	Most incidents are unique to the correction system; chief among these are prosecutorial discretion, since they have other disciplinary means available	The first agreement was made in 2022. It is not time for renewal yet, but the AG's office anticipates it will be renewed.
<b>Department of Employment and Workforce</b>  Steven Jordan	Letter from the AG's office that outlines the authority granted	Trial prosecution of Unemployment Compensation Fraud	Highly specialized area and direct control of specialty investigative resources	Since at least 2011 when AG Wilson came into office, as his authority only goes back that far. The appointing letter does not have a termination date*
<b>Department of Insurance</b>  Joshua Underwood Larry Wedekind Moultrie Roberts	Letter from the AG's office that outlines the authority granted	Trial prosecution and related appeals of Criminal insurance activity	Coordination and transfer of insurance matters and direct control of specialty investigative resources	Since at least 2011 when AG Wilson came into office, as his authority only goes back that far. The appointing letter does not have a termination date*
<b>Department of Natural Resources</b>  Shannon Bobertz Tony D'Elia Craig Jones Van Whitehead	Letter from the AG's office that outlines the authority granted	All trial and appellate matters related to cases arising from DNR arrests	Hunting and fishing primarily are specialty issues and control of specialty law enforcement and investigative resources	Since at least 2011 when AG Wilson came into office, as his authority only goes back that far. The appointing letter does not have a termination date*
<b>Department of Public Safety</b>  Marcus Gore	Letter from the AG's office that outlines the authority granted	Summary Court cases and their appeals for arrest made by DPS officers	Same as law enforcement delegation in summary courts	The oldest appointment letter the AG's office has on file is in 2015, but the office believes original authority was provided further back than that year
<b>Department of Revenue</b>  Alan Myrick	Letter from the AG's office that outlines the authority granted	Prosecution in Magistrate and General Sessions Court of tax related crimes	Highly specialized cases and control of specialty investigative resources	Since at least 2012. The original appointment was to Tom McDermott. Currently, the appointment is to Alan Myrick as the lead, the former supervisor of the AG's prosecution section*

# Transferring Criminal Cases

## When can a Solicitor transfer a case?

A Solicitor is allowed to request the AG approve the transfer of any case. Reasons for which a Solicitor may request the transfer of a case include, but are not limited to, the following:

- Attorneys in the Solicitors Office do not have as much experience with a particular type of case as the AG's office or attorneys in another Solicitor's Office, or the ones that do already have full caseloads;
- All attorneys in the Solicitors office have full caseloads

## When should a Solicitor transfer a case?

Attorneys, including Solicitors, should transfer cases when there is a conflict of interest. A Solicitor is responsible for determining if a conflict exists with a case in their office.

Example conditions in which a conflict exists include:

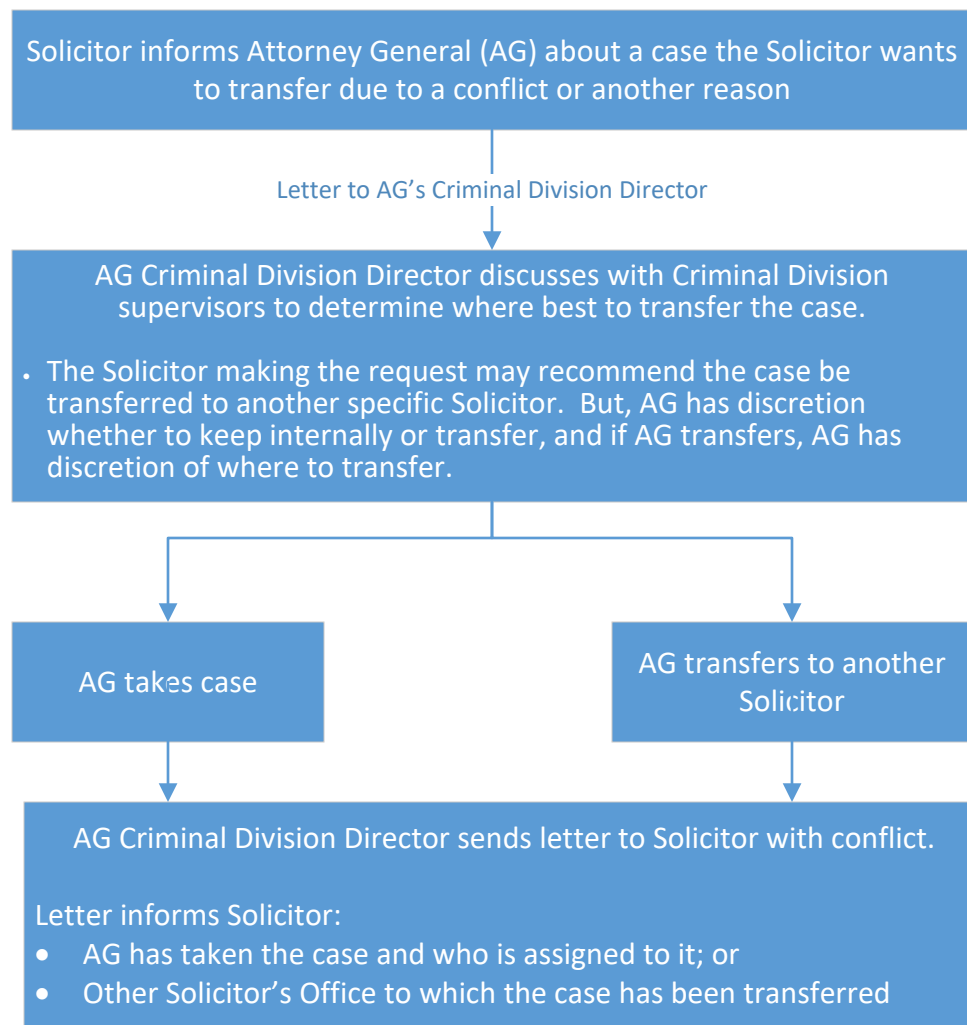
- Party Conflict: Solicitor prosecuting a defendant and representing a victim, then the victim later commits a crime. Solicitor cannot then prosecute the victim, unless they are large enough to Chinese wall.
- Law Enforcement or Asst. Solicitor: Charge against a law enforcement officer that regularly works with the Solicitor's Office or assistant solicitor that works in the office.

## Can the Attorney General take any case?

Yes. The Attorney General has authority to take any case from a Solicitor, even if the Solicitor does not want to transfer the case. However, the current Attorney General states their office has given great deference to local Solicitors.

(S.C. Constitution, Article 5, Section 24)

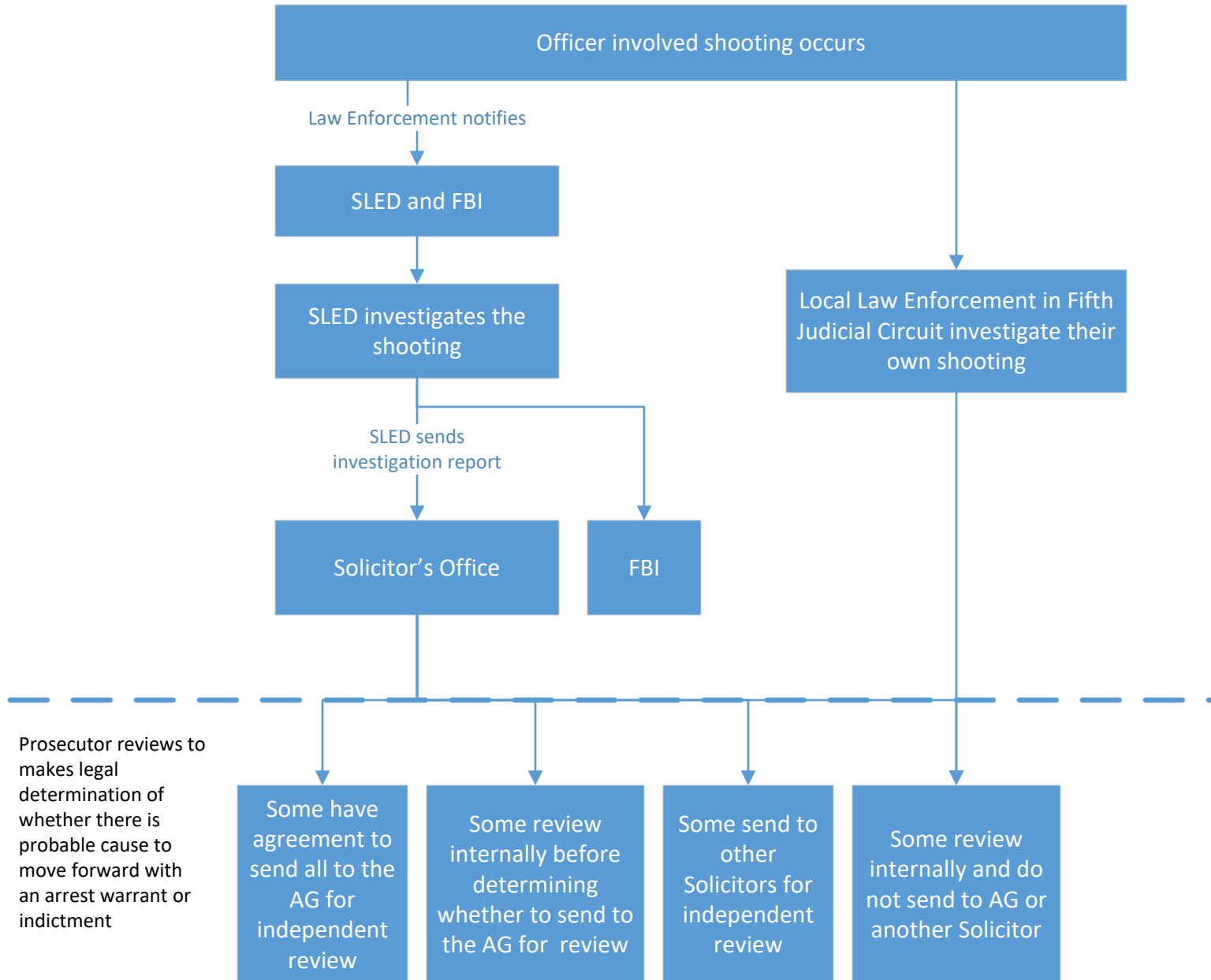
## What is the process to transfer a case?



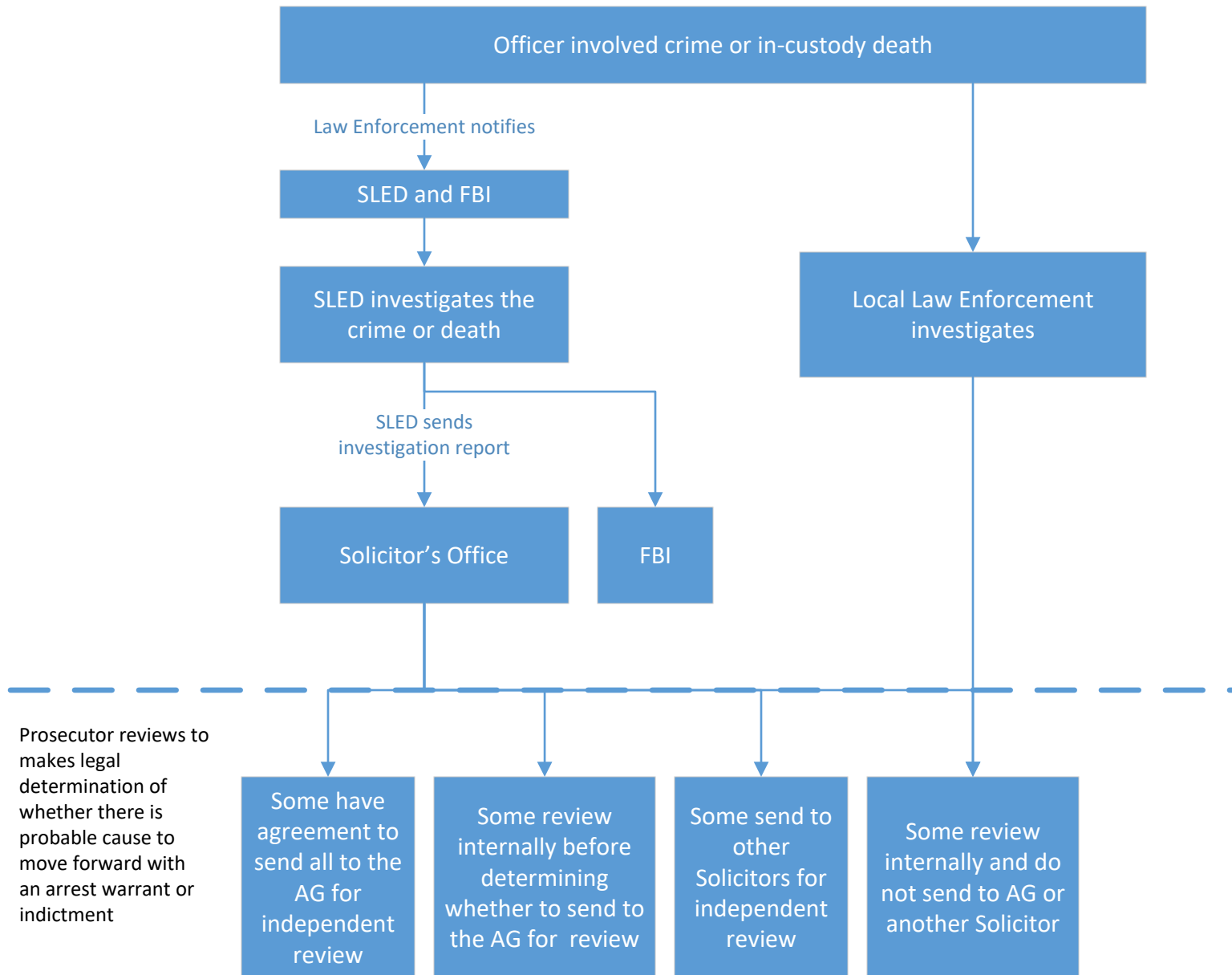
NOTE: Solicitor CANNOT transfer to another Solicitor without Attorney General approval (1-7-350)

- If this occurs, a defense attorney could argue the Solicitor to whom the case was transferred did not have authority to prosecute. It is unclear how a court would rule as the issue has never been argued to a court.

# Officer Involved Shooting: Investigation and Prosecutor Review



# Officer Involved Crime or In-Custody Death: Investigation and Prosecutor Review



# Internet Crimes Against Children

## Terminology

- AG: Attorney General
- CSAM: Child Sexual Assault Material
- ESP (Electronic Service Provider): What you use when on the internet (Examples-Facebook, Pinterest, TikTok, Google)
- D-Order (Federal statute under the Electronic Communications Privacy Act, 18 USC 2703(d)): Works similar to a subpoena
- ICAC (Internet Crimes Against Children Task Force): Every state required to have at least one, some have more (61 nationwide); AG's Office is head of the Task Force in S.C.
- IDS (ICAC Database): Location where NCMEC continually uploads information for state ICACs to access
- IP (Internet Protocol address): Associated with the internet service provider (ISP) [Examples: (1) If you have a wireless router at your house with several devices using the internet, all of them appear to use the same public IP address because they are all using internet on that router; (2) If you are using your cell phone and connect to the Wi-Fi at Starbucks, the IP address will be the Wi-Fi router at Starbucks; (3) If you are using a computer at a school or public library, the IP address will be for that location; (4) If you are using your cell phone and connecting to the internet through data, instead of Wi-Fi, the IP address will be the one assigned by your cell phone provide]
- ISP (Internet Service Provider): Who you use to access the internet (Examples-Spectrum, AT&T, Verizon)
- NCMEC (National Center of Missing and Exploited Children): Serve as clearinghouse for tips received from (1) ISPs and ESPs (required by federal law to report); and (2) Concerned citizens
- SLED: State Law Enforcement Division

## Background

The Internet Crimes Against Children (ICAC) Task Force and internet services history.

1998

- AG starts taskforce
- CyberTipline created by Congress through NCMEC
  - SLED takes lead
- Internet/Electronic Service Providers
- AOL, CompuServe, Yahoo, GeoCities, MSN, Netscape

2010

- Cyber tips
  - SLED (under different leadership) prioritizes other crimes
  - AG takes lead

Major Tech Innovations/Platforms and year they began

- 2003 Myspace
- 2004 Facebook
- 2005 Reddit
- 2005 YouTube
- 2006 Twitter
- 2007 First Generation iPhone
- 2009 Pinterest
- 2010 Instagram
- 2010 First Generation iPad
- 2011 Snapchat
- 2015 Discord
- 2016 TikTok

## Internet Crimes Against Children: Case Flow

Case Type #1: Undercover catch a predator/sting	Case Type #2: Undercover file sharing	Case Type #3: Cyber tips from National Center of Missing and Exploited Children (NCMEC)	Case Type #4: Other
<p><b><u>Initial Investigation</u></b></p> <ul style="list-style-type: none"> <li>AG investigators go on social media to see if someone is willing to talk with child and bring up sex with a child</li> </ul> <div> <ul style="list-style-type: none"> <li>Someone violates law, then travels to try and meet with child</li> </ul> <ul style="list-style-type: none"> <li>Someone violates law (e.g., sent photo of genitals, solicit child for sexual encounter, etc.), but does not travel</li> </ul> </div> <p><b><u>Identify IP address</u></b></p> <ul style="list-style-type: none"> <li>AG sends one or more of the following to chat hosting company to obtain the IP address – see Cyber tip cases for more details on each)               <ul style="list-style-type: none"> <li>Search Warrant</li> <li>D-Order</li> <li>Subpoena through federal partner</li> </ul> </li> </ul>	<p><b><u>Initial Investigation</u></b></p> <ul style="list-style-type: none"> <li>AG investigators go on file sharing networks to see who is providing child pornography to others who want it (ex. – some people put out bowls of candy on halloween to see who wants it, same thing happens on file sharing networks)</li> <li>AG investigator downloads/is sent CSAM</li> </ul> <p><b><u>Identify IP address</u></b></p> <ul style="list-style-type: none"> <li>AG investigator can see IP address at time of download (publicly available)</li> </ul>	<p><b><u>Initial Investigation</u></b></p> <p><b>Receipt of Cyber Tip</b></p> <ul style="list-style-type: none"> <li>Concerned parent sees something online and sends to NCMEC</li> <li>ISP sends NCMEC following information (required in federal law to provide):               <ul style="list-style-type: none"> <li>Minimum - File; IP Address; Date/Time</li> <li>Potential additional – messages around the file when it was sent, etc.</li> </ul> </li> <li>NCMEC adds:               <ul style="list-style-type: none"> <li>Minimum - Geolocation of the IP address of the user reported by the ISP</li> <li>Potential additional – messages around the file when it was sent, etc.</li> </ul> </li> <li>NCMEC uploads: File; IP Address; Date/Time, geolocation of IP address of user + any other information ISP provided or NCMEC found               <ul style="list-style-type: none"> <li>NCMEC continually uploads information to a national ICAC taskforce database (IDS). NCMEC assigns a priority level and indicates the applicable state. NCMEC also sends email if it is a Priority 1 (e.g., immediate danger of sexual assault/kidnapping/suicide)</li> <li>Number of cybertips has continually increased each year as internet services continually grow (e.g., creation of instagram, tik tok, pinterest, etc.)</li> </ul> </li> <li>AG’s office has multiple staff continually monitoring information uploaded by NCMEC that are assigned to S.C.</li> <li>AG investigator reviews the information to determine the county or city within S.C.               <ul style="list-style-type: none"> <li>Option 1 - AG sends cyber tip to applicable law enforcement agency in the area to investigate (Sheriff or Police Department) if the agency is capable of working up the case                   <ul style="list-style-type: none"> <li>AG has agreement in which any law enforcement can ask AG to obtain a D-Order for them (see investigation below)</li> </ul> </li> <li>Option 2 – AG will keep and investigate</li> <li>Option 3 – AG sends to SLED (ones involving non-SLED law enforcement)</li> </ul> </li> <li>Investigators review cyber tip to determine applicable facts from it               <ul style="list-style-type: none"> <li>Individuals name may be in the email address (e.g., johndoe@gmail.com), facebook account, etc.</li> </ul> </li> </ul>	<p><b><u>Initial Investigation</u></b></p> <ul style="list-style-type: none"> <li>Spouses report other spouse is looking at CSAM on their phone, computer</li> <li>Investigation of unrelated crime finds CSAM</li> <li>Investigation is unique because of the different ways in which this type of case may arise</li> </ul>
<p><b>Obtain Additional Information based on IP Address</b></p> <ul style="list-style-type: none"> <li>AG sends one or more of the following to ISP (e.g., Spectrum, AT&amp;T) to obtain additional information about IP address (listed in order of providing most to least information)               <ul style="list-style-type: none"> <li>Search Warrant - Required to obtain “content” (emails, cloud storage, etc.)</li> <li>D-Order (federal statute under Electronic Communications Privacy Act, 18 USC 2703(d)) - Basic subscriber information, transactional info (e.g., number of times logged in, etc.)</li> <li>Subpoena through federal partner - Basic subscriber information (e.g., IP address was assigned to John Doe at 123 Doe Avenue during time period requested).</li> </ul> </li> </ul>			

### **Perform additional investigation needed to determine residence of subject**

- Detailed investigations are needed because the subscriber may not be the person who committed the act since someone else may be living in the house, friend visiting the house, neighbor using the house's internet, etc.
- Legal documents may also be sent to:
  - ESP (facebook, email company)
  - Other entities based on information discovered (e.g., phone company based on phone number associated with facebook account)

### **Transfers Case Back and Forth**

- Option 1 - AG has worked up the case and sends information for the first time to applicable law enforcement in the area to investigate (Sheriff or Police Department)
- Option 2 – AG will keep and investigate
- Option 3 – AG sends to SLED (ones involving non-SLED law enforcement)
- Option 4 – AG will take over cases previously sent to applicable law enforcement based on resources available to pursue

### **Search Applicable Residence**

- Once applicable residence(s) determined
  - Obtain search warrant for individual's residence (possibly business) and search for all electronic devices (devices seized go through forensic analysis)

### **Arrests, Bond Hearings, etc.**

- |  |   |
|--|---|
| <ul style="list-style-type: none"><li>• Likely sufficient evidence to arrest if individual travels</li></ul> | <ul style="list-style-type: none"><li>• If sufficient facts exist after search at individual's house<ul style="list-style-type: none"><li>• Investigators obtain arrest warrant and make arrest</li></ul></li><li>• If sufficient facts do not exist after search at individual's house<ul style="list-style-type: none"><li>• Request forensic analysis<ul style="list-style-type: none"><li>• If sufficient facts exist after forensic analysis, investigators obtain arrest warrant and make arrest</li><li>• If sufficient facts do not exist after forensic analysis, likely decline to make arrest and stop investigation</li></ul></li></ul></li></ul> |
|--|---|

### **Forensic analysis of electronic devices\*\*NOTE: Large backlog of forensic analysis\*\***

- If arrest was made prior to forensic analysis, law enforcement may still request forensic analysis to help prosecute the case
- Who does analysis depends on who is leading investigation. I. With local law enforcement investigations, some (1) local law enforcement are capable of conducting their own analysis; (2) some send analysis to AG; (3) some send to ICAC federal partners] II. AG investigators perform analysis for their investigations. III. SLED investigators perform analysis for their investigations

### **Information learned from forensic analysis**

Searching for two major types of evidence:

- Child Sexual Abuse Matter (CSAM)
  - Of child that is subject of investigation (may find other children as part of the search, which results in opening of additional investigations)
- Knowledge and intent from internet search terms; browser history; types of files used and opened recently; user account names and websites visited is evidence of who was using the computer (e.g., CSAM accessed and someone's bank account accessed close in time is evidence of who was accessing CSAM)

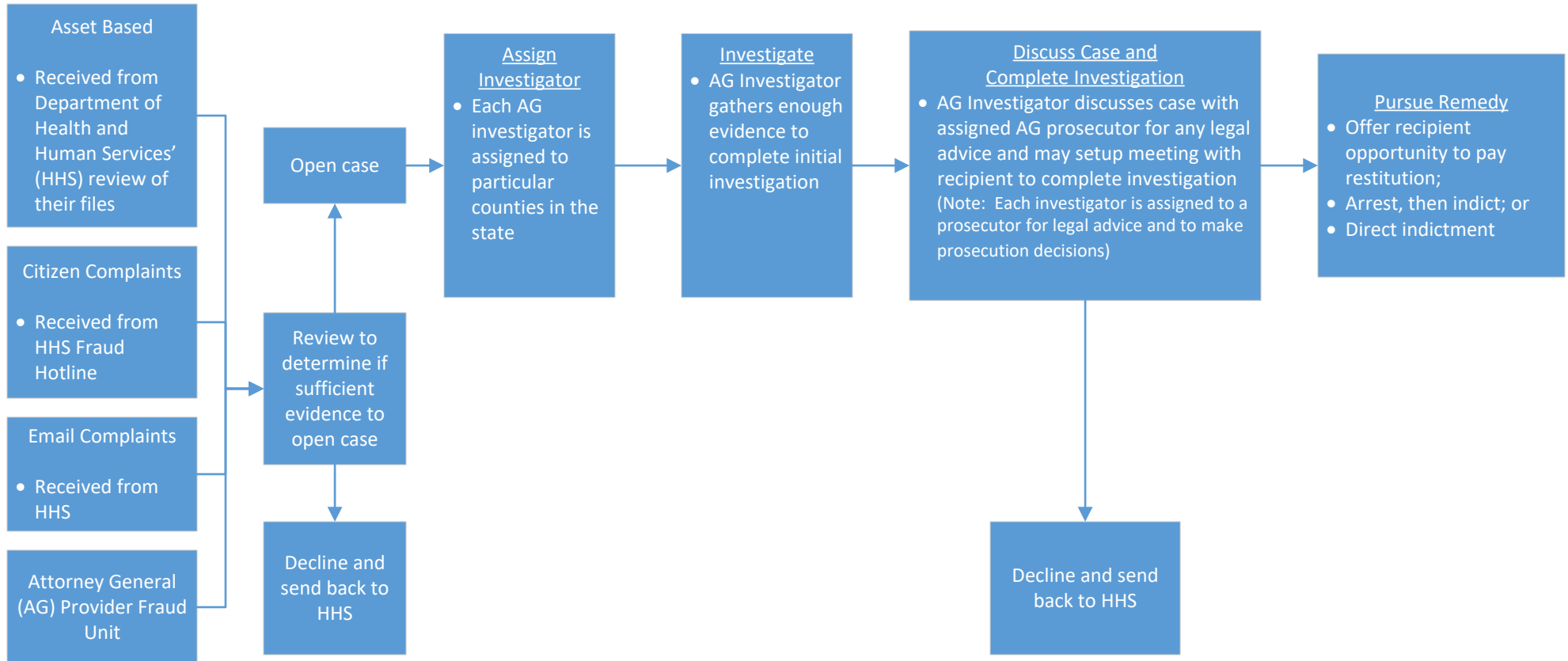
### **Prosecution**

- AG investigation
  - AG prosecutes (see previous slides related to general prosecution for steps)
- Outside agency investigation
  - AG has agreement with Circuit Solicitors that AG will prosecute, however, on occasion, local solicitors will prosecute. Note: Sometimes this occurs because law enforcement has not informed AG of the investigation results or local solicitors are unaware of opportunity to pass prosecution to AG, or have AG assist in their prosecution (e.g., assault case that has CSAM evidence uncovered during investigation)



# Medicaid Recipient Fraud Unit: Investigation to Prosecution

## Referral Sources



# Medicaid Provider Fraud Unit

## Provider Fraud & Fraud in Administration of Medicaid Program

### Provider Fraud

Provider enrolls in S.C. medicaid program administered by S.C. Department of Health and Human Services (SCDHHS) and is permitted to treat S.C. Medicaid Beneficiaries. Claims billed to SCDHHS for payment of services rendered must be in compliance with policy set by SCDHHS.

Example providers include: Doctor; Dentist; Nurse; Chiropractor; Medical Transportation Company; Pharmacist; Pharmacy; DME Company (Durable Medical Equipment); Therapist (Speech, Physical, Occupational); Hospital; Lab

Provider intentionally submits claims for payment that are not in compliance with SCDHHS policy (Must prove it was intentional not accidental).

Example schemes include: (1) *Upcoding*: Providing a service but billing for a more expensive service; (2) *Phantom Billing*: Billing for services not provided; (3) *Double billing*: Billing for the same service twice; (4) *Medically Unnecessary Services*: Billing for unneeded services simply to make money; (5) *Unbundling*: Billing separately for individual services that should be grouped together into a single bill; (6) *Cost Report Fraud*: Knowingly inflating or mischaracterizing the nature of costs incurred by an entity (Nursing Home, Hospital, etc.) to receive a higher reimbursement; (7) *Kickbacks*: A payment or inducement given to get favorable or preferential treatment.

Improper claims detected. Potential detection sources include the following:

- HHS claims team audit rejects claim (ex. Date of service occurred after beneficiary death)
- Billing anomalies detected by SCDHHS program integrity unit that uses statistical tests
- Allegation of fraud reported to SCDHHS or Medicaid Fraud Control Unit at Attorney General's Office (MFCU)
- Qui Tam (lawsuit filed by whistle blower) filed against provider
- May be referred to MFCU from any source

Improper claims with credible allegation of fraud reviewed by MFCU

- Classified in AG system as a "matter"

MFCU conducts intake review

- Is information in allegation verified?
  - If yes, does conduct described meet MFCU jurisdiction and be considered a crime?
    - If no, may refer to another law enforcement agency or regulatory entity if appropriate (e.g., HHS to correct admin issue)
    - If yes, opens formal investigation classified in AG system as a "case"
      - See "Medicaid Provider Fraud Unit: Investigation to Prosecution" document for next steps

### Fraud in Administration of Medicaid Program

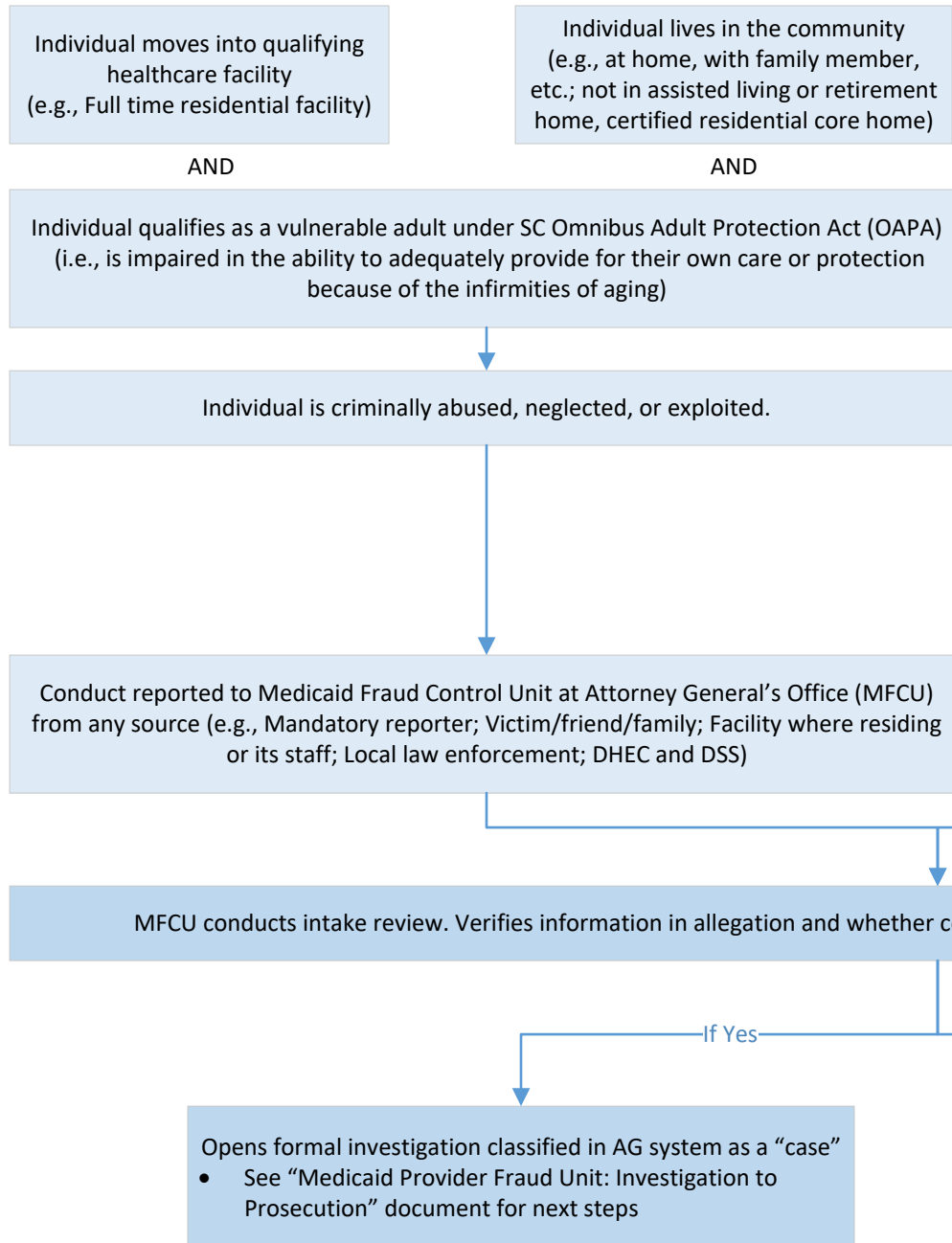
Individual or Company affiliated with SCDHHS  
(e.g. SCDHHS employee managed care organization)

Individual uses position to conduct criminal activity  
(e.g., using beneficiary information for personal advantage - selling beneficiary information; altering cost reports)

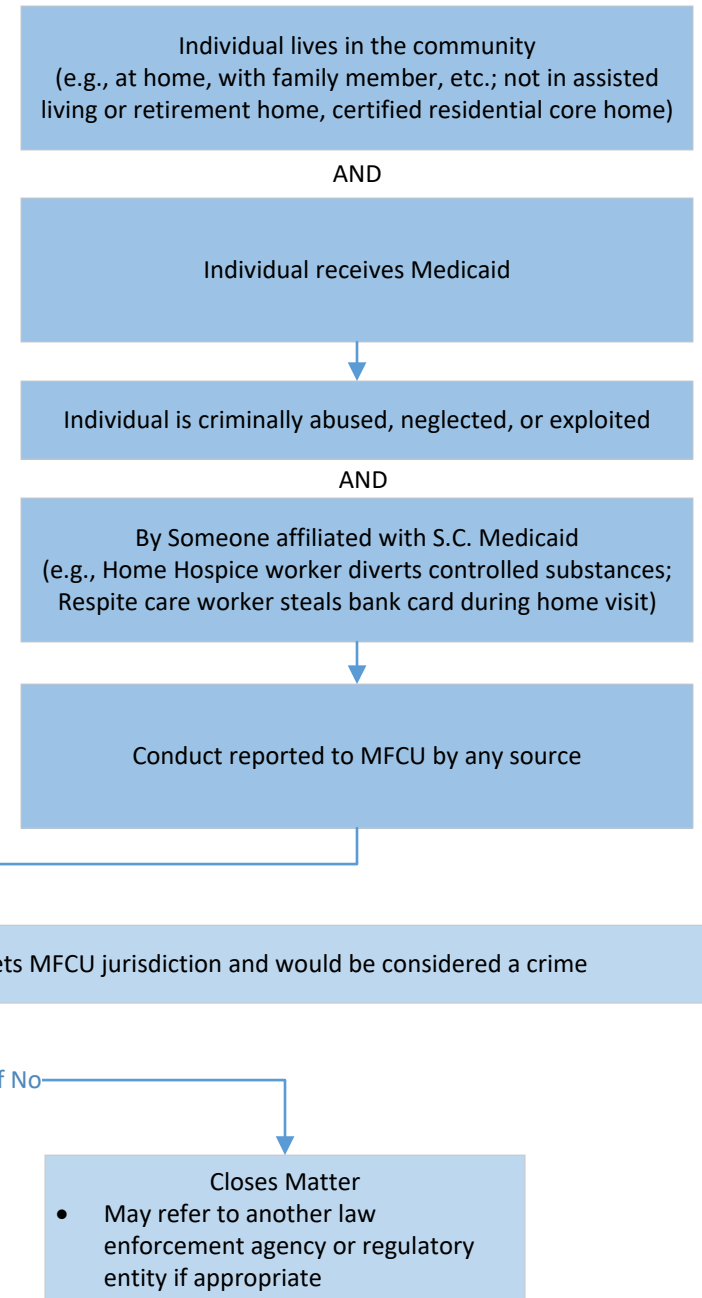
Improper conduct detected

Conduct reported to MFCU

## Normal Jurisdiction



## Expanded Jurisdiction (Effective Dec. 2021)



# **Medicaid Provider Fraud Unit: Criminal Investigation to Prosecution**

(Provider Fraud, Fraud in Administration, Patient Abuse)

## **Path A**

## **Path B**

Investigator for Medicaid Fraud Control Unit at Attorney General's Office (MFCU) directs investigation

- Abuse – Document injury and determine its origins; speak to witnesses, care givers; request and review medical records.
- Neglect – Demonstrate victim did not receive care, goods, or services necessary to maintain health or safety; determine what was not provided and any resulting damages; speak to witnesses, staff, caregivers; request and review business and medical records.
- Exploitation – Determine if exploitation occurred and if so by whom. Review bank statements, follow victims funds. Speak to witnesses, family/friends

Team (Investigator, Attorney, Auditor, Nurses) recommend whether to seek charges with Special Prosecution Director making the final decision

MFCU requests arrest warrant from County Magistrate

MFCU investigator makes arrest

MFCU attorney provides draft indictment to AG to review; AG reviews and signs off

MFCU investigator present draft indictment to County Grand Jury Jurors

County Grand Jury Jurors vote on whether to indict

*Indictment Format: One Indictment includes one charge (i.e., one crime charged against one person)*

MFCU investigator serves indictment and makes arrest

*Note: Don't need separate arrest warrant if there is an indictment*

### Notes regarding next steps:

- MFCU attorney typically requests as a condition of bond that the accused have no contact with the victim or that access to the victim's funds be prohibited
- MFCU attorney proposes plea offer with Director's approval if no plea offer offered/accepted, jury trial
- During litigation, Department of Health and Human Services (SCDHHS) will likely implement a payment suspension where payment for claims submitted is held by SCDHHS until criminal proceedings conclude and if can be determined if the money is clean
- After litigation,
  - If found guilty, MFCU requests restitution (as appropriate). Depending on severity of offense, MFCU may request jail time. MFCU Misdemeanor 3 years, \$1,000 fine per offense and submits a conviction report to HHS-OIG, who will determine if the provider should be excluded from federal healthcare programs (Medicaid, Medicare, and Tricare). Exclusions last for five years.
  - If not found guilty, any payment suspension will be lifted unless there are pending charges in another jurisdiction.

Note: Highest offense is misdemeanor, regardless of amount fraudulently billed or harm resulting to beneficiaries.

# Insurance Fraud Prosecution

Attorney General's Office (AG)  
Department of Insurance (DOI)  
State Law Enforcement Division (SLED)

## Arrest Warrant, then Indictment

DOI, in conjunction with SLED, directs investigation

SLED requests arrest warrant from County Magistrate

SLED makes arrest

DOI prosecutor provides draft indictment to AG to review;  
AG reviews and signs off

SLED present draft indictment  
to County Grand Jury Jurors

County Grand Jury Jurors  
vote on whether to indict

*Indictment Format: One Indictment  
includes one charge (i.e., one crime  
charged against one person)*

### Sources of Cases:

- National Insurance Crime Bureau (NICB)
- Local complaints to law enforcement
  - S.C. has a mandatory reporting act that states  
“...any person, insurer or authorized agency having  
reason to believe that another has made a false  
statement or misrepresentation... notify the  
Insurance Fraud Division of the Office of the  
Attorney General...”
- The Insurance Fraud Division, in conjunction with the  
Professional Insurance Agents of S.C. and the S.C.  
Insurance News Service, established the Insurance  
Fraud Hotline, available 24 hours a day. Department  
of Insurance is lead for the hotline

## Direct Presentment/Indictment (skip arrest warrant)

DOI, in conjunction with SLED, directs investigation

DOI prosecutor provides draft indictment to AG to review;  
AG reviews and signs off

SLED present draft indictment  
to County Grand Jury Jurors

County Grand Jury Jurors  
vote on whether to indict

*Indictment Format: One Indictment  
includes one charge (i.e., one crime  
charged against one person)*

SLED serves indictment and  
makes arrest

*Note: Don't need separate arrest  
warrant if you have an indictment*

# State Grand Jury Process: Introduction

## Occurs Continuously

### State Grand Jury (SGJ) Legal Team and Law Enforcement Develop Investigation

#### Develop investigation

- Attempt to tie the following information together to identify/locate the bigger criminal organization:
  - Local Arrests or Indictments;
  - Uncharged conduct;
  - Historical and confidential informant information;
  - Citizen complaints/information;
  - Internal information;
  - Press;
  - Local/federal/agency help requests;
  - Prior SGJ cases

#### Determine if it could be a good case

- Complex multi-county narcotics trafficking organization case:
  - (1) Determine cause by figuring out how individual cases (symptoms) are related;
  - (2) Take out organization as whole, especially the leadership;
  - (3) Appropriate forfeiture
- Gang activity case:
  - Same strategy as narcotics (and often overlaps with narcotics)
- Public Corruption case:
  - (1) Significant or complex;
  - (2) Effect beyond just the case itself
- Complex White Collar case:
  - (1) Securities;
  - (2) Money Laundering;
  - (3) Computer Crime;
  - (4) Narcotics
- Human Trafficking case:
  - Relationship to narcotics, gangs, and white collar

## Start of each SGJ Period (Periods last July – June)

### SGJ Judge Selection

- S.C. Supreme Court, through administrative order, has assigned the Fifth Judicial Circuit General Sessions Administrative Judge for this role.
- S.C. statute states there will be a judge and the S.C. Supreme Court can make determination through orders and policies

### SGJ Juror Selection

- 18 Jurors and 4 alternates selected
- See “State Grand Jury – Jury Selection Process” document for additional details

*NOTE: Who determines what?*

- *State Grand Jury Jurors:*
  - Whether case/charges should be brought
- *Trial Jury Jurors:*
  - Whether an individual is guilty of a crime

# State Grand Jury Process: Investigation through Trial

## **STEP #1: INITIATE Official “Investigation” - SGJ Legal Team and Law Enforcement Officers (LEO)**

- (1) SGJ Legal team bring the Chief of State Law Enforcement Division and the Attorney General a proposed investigation
- (2) Chief of SLED and AG sign off on investigation initiation
- (3) SGJ Legal team consult with circuit solicitors in applicable circuits
- (4) SGJ Legal team provides notification to the SGJ judge that states an SGJ investigation is being initiated and the jurisdictional basis for the investigation

## **STEP #2: CONDUCT Investigation - SGJ Legal Team and LEO under oversight of SGJ Jurors**

### **Monthly State Grand Jury Meetings (3 days of meetings each month, which is called the SGJ Monthly Term of Court)**

#### Coordinated by SGJ Legal Team and SGJ Clerk of Court

- SGJ Legal team tells SGJ Clerk number of days they need the jurors (in total) (typically 1-3 consecutive days per month)
- SGJ Clerk informs the jurors of meeting dates BUT SGJ Clerk does not attend the meetings

#### Attended by SGJ Panel and SGJ Legal Team

- SGJ Jurors serves as representatives of people to oversee investigation conducted by SGJ attorneys and LEO
- Investigation plan decided by SGJ Jurors, with advice from SGJ Legal Team and Law Enforcement, during the meetings
  - *Investigative techniques include:* (1) Witness statements; (2) Search warrants; (3) Subpoena evidence [bank and financial records; business records; travel records; emails and digital evidence; utility records]; (4) Subpoena witness testimony [cooperators; as well as reluctant and difficult or noncooperative witnesses - Witness testimony to SGJ is under oath and it is illegal to lie to SGJ]; (5) State Authorized Wiretaps (must meet high standards and be approved by 5<sup>th</sup> circuit General Sessions administrative judge)
  - **Pre-indictment arrest warrants and bond hearing involve SGJ clerk, SGJ judge, SGJ legal team, and Law enforcement** - See “Pre-indictment warrants and hearing” document
  - Legal materials prepared by SGJ Legal Team may include: (1) Preparation of Subpoenas; (2) Questioning of Witnesses; (3) Legal Instruction

**SGJ Secrecy Oath given to staff (not witnesses) by SGJ Clerk**  
Throughout the year, as the SGJ Legal Team and SGJ Judge designate who is working with them, SGJ Clerk has them swear to the SGJ secrecy oath.  
Witnesses who testify before the grand jury are sworn in by the grand jury foreperson.  
As of June 2022 there have been no prosecutions for violation of confidentiality.

#### Motions or Objections decided by SGJ Judge

- SGJ Judge decides any motions or objections that arise during the investigation (e.g., motions to quash subpoenas, other objections similar to those during discovery in civil cases)

## **STEP #3: VOTE to Indict – SGJ Jurors**

### **Indictment Drafting and Vote**

- SGJ Legal Team discusses options for different indictments and/or issue State Grand Jury Report with SGJ Panel
- SGJ Legal Team prepares and presents to SGJ Panel (typically numerous indictments presented at the same time).
- SGJ Jurors may discuss indictments more with SGJ Legal Team

**Note:** See “State v. County Grand Jury” document for difference in typical prosecution at county level versus state grand jury

- After all discussion, SGJ Legal Team leaves the room and SGJ Jurors vote to true bill (indict) or no bill (not indict). After vote, SGJ Juror foreperson provides SGJ clerk a signed envelope with jurors’ vote (Indictments have been “returned”)
  - SGJ Legal Team is unaware of how SGJ Jurors voted until the end of the SGJ Term of Court that month (i.e. end of three days)
  - Note: Statute authorizes SGJ to investigate issues that are less than crimes, but that they see as problems in the community or operation of government. Therefore, if SGJ jurors determines there is not sufficient information for an indictment, they can issue a State Grand Jury Report with findings.
- SGJ Clerk schedules a time for SGJ Judge to “take the returns” (i.e., judge announces the SGJ Jurors’ decision)

### **Indictment and Venue Announcement**

At the end of a three day SGJ monthly term of court, when SGJ Clerk schedules SGJ Judge to “take the returns,” SGJ Judge does the following:

- Opens envelopes with SGJ Jurors’ vote and announces which indictments are true bill (i.e., indicted) and no bill (i.e., not indicted).
- Assigns appropriate venue (i.e., county) for prosecuting indictments that are true billed. Note: Conspiracy can be venued in any county conspiracy touched

# **State Grand Jury Process: Investigation through Trial (cont.)**

NOTE: AG's Office opens a "case" at this stage, prior to the indictment the AG's Office had an "investigation" open.

## **STEP #4: WARRANT and BOND HEARING for Indictment – SGJ Legal Team and LEO; SGJ Clerk; SGJ Judge**

### ***Processing the Indictments***

- SGJ Clerk creates single folder for the indictment

### ***Indictment Warrants and Bond Hearing***

- SGJ Legal Team and LEO provide SGJ Clerk information for drafting indictment warrant (i.e., Defendant's information and charges for which defendant is being arrested)
- SGJ Clerk creates a warrant document
- Clerk provides provide the Fifth Judicial Circuit Chief Administrative Judge the warrant to review and sign
- SGJ Clerk provides signed indictment warrant to LEO to serve
- LEO serves warrant and makes arrest
  - If offender is already in custody, warrant is served on offender and offender remains in custody; If not, offender is brought into custody
- Indictment warrant bond hearing process is the same as a pre-indictment warrant bond hearings, see "Pre-indictment warrants and hearing" document
  - If it is a high profile case, the clerk coordinates with media (note, media typically only know about indictment warrants, because pre-indictment warrants are sealed)
- SGJ Clerk creates individual folders for each defendant

## **STEP #5: TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors**

### ***Assignment of Trial Judge***

- SGJ Clerk contacts Court Administration to request a trial judge be assigned to the case in the jurisdiction and county venue
- Court Administration emails SGJ Clerk an order assigning a judge. The assignment is based on the SGJ investigation number, because there may be numerous indictments all connected with the same investigation. The same trial judge will hear all matters related to the investigation.

### ***Discovery***

- Trial Judge issues protective order to allow Defendant's attorney (privately obtained or assigned) access to SGJ Legal Team evidence and transcripts from SGJ Investigation
  - Protective order states Defendant's attorney is only permitted to use/disclose the information as needed for defense at trial
  - All SGJ Monthly Meetings are recorded so Defendant's attorney has access to the information if an indictment and trial occur
- SGJ Legal Team provides all evidence collected during investigation to Defendant's attorney

### ***Civil Forfeiture***

- Where appropriate, SGJ utilizes the Attorney General's Civil Litigation division to assist in forfeiture proceedings (i.e. taking ill-gotten gains of criminal organizations)

### ***Motions and Hearing dates***

- SGJ Clerk receives any motions filed by either party and provides to assigned Trial Judge
- Trial Judge decides whether to have a hearing. If Trial Judge wants a hearing, Judge will tell the SGJ Clerk the date and time of the hearing
- SGJ Clerk informs parties and their attorneys of date/time and if attorneys are unavailable, SGJ Clerk goes back to Trial Judge for another date. This continues until available date for everyone is reached.



# **State Grand Jury Process: Investigation through Trial (cont.)**

## **STEP #5 (cont.): TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors**

### ***Plea***

- SGJ ranks defendants in tiers based on prior record, involvement in crime, etc. and sends plea offers to Defendants attorneys. Most cases end as pleas
  - Cooperation of Defendant as a result of a plea may expand information available about the criminal organization and lead to expanded SGJ investigation and new indictments as well as superseding indictments (i.e., new defendants added to a count on an existing indictment)
  - Defendant can choose to have the plea address any civil forfeiture as well
- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule plea.
- Trial Judge enters sentence based on plea agreement

### **Trial occurs (if no plea agreement reached)**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule trial
- Trial Jurors selected from county in which trial is venued, using same process as prosecution of non-state jury indictments (Note: This jury is different than the SGJ Jurors)
- Trial Judge presides and trial proceeds using same process as prosecution of non-state jury indictments
- Trial Jurors determine Defendant’s guilt or innocence

### **Sentencing**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule any post trial sentencing hearings
- Trial Judge enters sentence

### ***After Sentencing***

- SGJ Clerk emails scanned copies of documents to the following:
  - Detention centers: Sentencing Sheets
  - SGJ Legal Team (Prosecutors): Sentencing Sheets and Plea Agreements
  - Defendant’s Attorney: Sentencing Sheets and Plea Agreements
- For Defendant’s sentenced to probation, SGJ Clerk emails scanned copies of documents to the following:  
Department of Probation, Parole, and Pardon Services: Sentencing Sheets and Indictments
- SGJ Clerk manually reenters information from each individual sentencing sheet into an online form and uploads it to Court Administration through a County Stats Portal (SGJ is the 47<sup>th</sup> county)

# State Grand Jury – Jury Panel Selection Process

The process below occurs annually with jury selection day in June of each year. Each juror serves a one year term, which may be extended in six month increments for up to one additional year. The process from step one to step four typically takes six months to complete.

## Step 1

### *Jury List from Counties*

- SGJ Clerk requests random selection of jurors based on population from the clerks of court in all 46 counties
- County clerks randomly select jurors from their county using Court Administration's jury management system, then send the list to the SGJ clerk
- Jury wheel, a software within Court Administration's jury management system, compiles the county lists and randomly pulls 700 jurors for the SGJ clerk to qualify

## Step 2

### *Jury Qualification*

- SGJ Clerk mails jury qualification forms to the 700 randomly selected jurors
- SGJ Clerk receives completed copies mailed from jurors
- SGJ Clerk indicates whether each juror is qualified or excused based on information the juror provides on the forms
  - Excused if they meet the qualifications for excusal (e.g., over 65, cannot read or write English language, medical reason). Qualification for excusal from state grand jury is no different than those for excusal from regular trial jury.
  - SGJ Clerk selects applicable drop down for each juror in the court administration system (e.g., qualified, excused because over 65, etc.)
- SGJ Clerk mails letter to jurors excused to inform them they are excused
- Jury Wheel software randomly selects 60 jurors from the jurors the SGJ clerk indicated were qualified

## Step 3

### *Summons of Appearance*

- SGJ Clerk creates summons for the 60 randomly selected jurors to appear
- SGJ Clerk mails summons to the sheriff's office in the counties in which the 60 jurors reside
- Sheriff's Office personnel personally serves the jurors in their county

## Step 4

### *Jury Selection Day (June)*

- SGJ Clerk schedules Jury Selection Day
- During Jury Selection Day
- SGJ Judge qualifies the juror panel by asking them the same questions from the qualification form to ensure the answers are still the same
    - SGJ Clerk selects applicable drop down for each juror in the court administration system (e.g., qualified, excused because over 65, etc.)
  - Once there is a panel of only qualified jurors, the Jury Wheel software randomly selects 18 regular and 4 alternate jurors
  - SGJ Judge has the regular and alternate jurors swear by the state grand jury secrecy oath
  - SGJ Jurors are given instructions about monthly meetings, etc.

# Pre-indictment Arrest Warrant and Bond Hearing

## Arrest

### **1) Warrant request/creation** (see sample warrant in presentation)

- SGJ Legal Team and Law Enforcement Officers (LEO) request a warrant number
- SGJ Clerk provides a warrant number
- SGJ Legal Team and LEO create a warrant document
  - Includes Defendant's information, charges for which defendant is being arrested, etc.
- SGJ Legal Team and LEO provide the Fifth Judicial Circuit Chief Administrative Judge directly, or through the SGJ Clerk's office, the warrant to review and sign
  - NOTE: Review and approval of the arrest warrant typically goes through the county magistrate; but, in this case, it goes through SGJ because the individual being arrested is the subject of an ongoing SGJ investigation
- Anything that is part of an ongoing investigation is considered sealed and not public record

### **2) LEO serve warrant and make arrest**

If crime occurred while offender is in prison (e.g., coordinating drug sales), warrant is served on the individual in the prison

## Bond Hearing

### **Step #1: Scheduling Hearing**

- SGJ Clerk requests the Fifth Judicial Circuit Chief Administrative Judge set a date for the hearing
- Fifth Judicial Circuit Chief Administrative Judge does the following:
  - (1) sets the date for the hearing (strives to schedule within 48 hours of arrest)
  - (2) coordinates with court administration to obtain a court reporter for the hearing
- SGJ Clerk informs parties about the date/time of hearing, including:
  - SGJ Legal team (Note: Prosecution (i.e., SGJ Legal team) responsible for contacting victims since victims are entitled to appear at the hearing)
  - Defense attorney, if Defendant has one at the time (Public Defender, Rule 608, or privately retained)
  - If high profile case, coordinate with media (note, media typically only know about indictment warrants, because pre-indictment warrants
- SGJ Clerk coordinates with jails (SCDC or any detention facility across the state) for transport of offender or setting up resources for virtual hearing (most hearings occurring virtually still)

## Bond Hearing (cont.)

### Step #2: Hearing

- SGJ Legal Team requests bond amount (i.e., amount defendant must pay to get out of jail until trial)
- Fifth Judicial Circuit Chief Administrative Judge sets bond based on Defendant's (1) risk of flight and (2) danger to community. Options for bond include the following:
  - 10% option - Judge has discretion to allow 10% cash option or no 10% option. If the judge allows the option, the defendant can pay 10% of the bond value in cash and be released (i.e., Bond is \$100,000, Defendant pays \$10,000 in cash)
    - This is separate from any charges a bonding company may charge a defendant
  - PR Bond - Judge has discretion to make it a personal recognizance (PR) bond, which releases the Defendant on their word that they will show back up for trial.
  - Concurrent bond – If Defendant has a county charge that they are already out on bond for, and the SGJ is going to adopt that charge, the Judge may choose not to increase the amount of the bond on which the Defendant is already out. However, the surety bond company is still required to sign the documents for the new, concurrent bond.
  - if defendant does not show up for court, the state can go after them for the full bond amount.
- During the hearing, Fifth Judicial Circuit Chief Administrative Judge typically asks Defendant if they plan to hire an attorney or if they need to be screened for indigent representation
- Defense attorney can make motion to request bond be revisited and lowered (same process as above to schedule this hearing)

### Step #3: Post Hearing Paperwork

- SGJ Clerk prepares the same bond paperwork, regardless of whether bond is set or denied. Paperwork includes: (1) Order setting Bond; and (2) Bail form (i.e. Standard General Sessions Court yellow form double sided)
- Fifth Judicial Circuit Chief Administrative Judge signs both documents (if defendant chooses to post bond, others must sign as well, see below)
- If hearing is in person, SGJ Clerk provides hard copy to defendant.
- If hearing is virtual, SGJ clerk sends it to the jail for jail personnel to provide to the defendant.

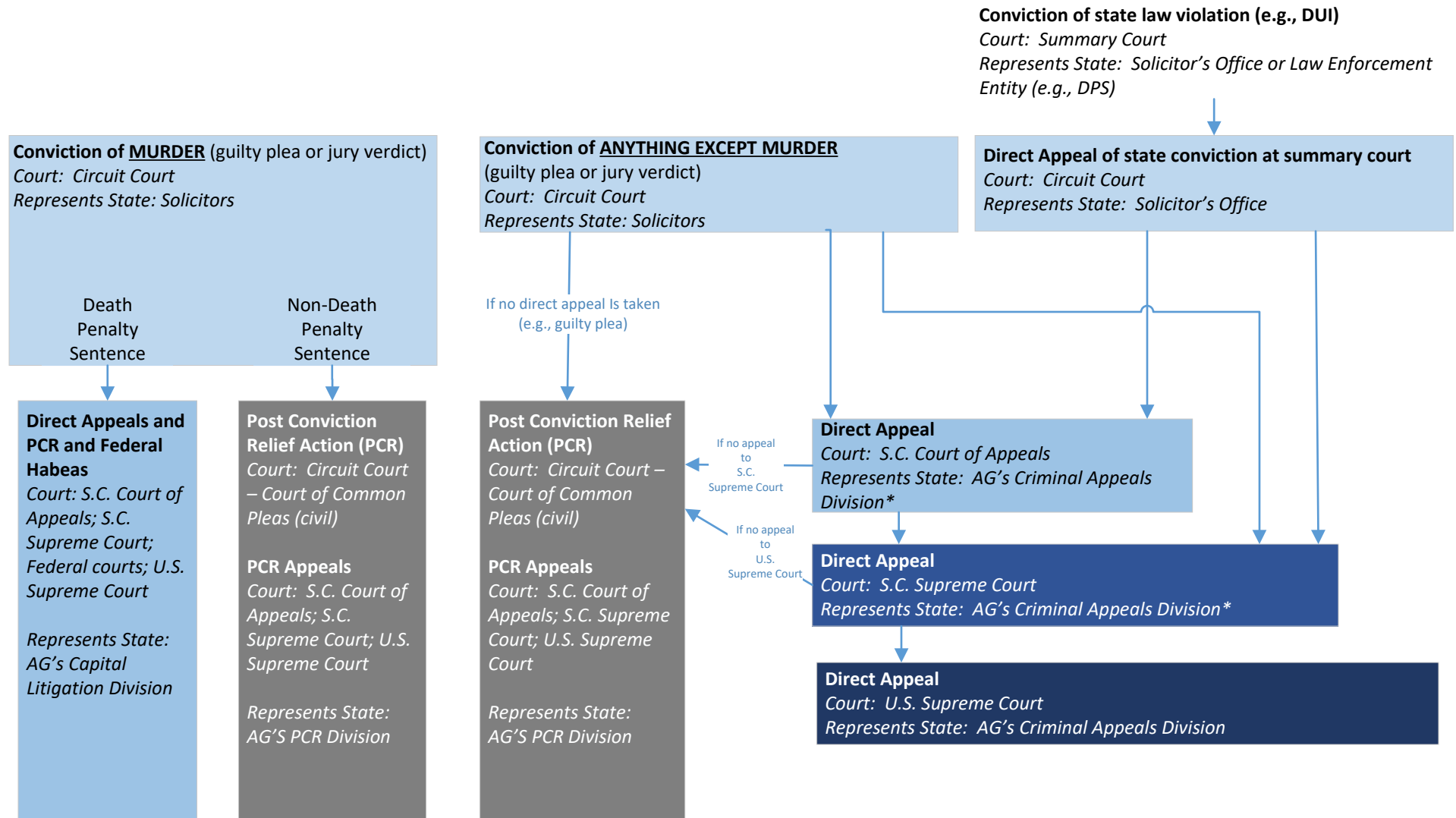
### **Step #4: Defendant determines whether to post bond**

- No time limit on when defendant must decide to post bond
- If defendant does not post bond, Defendant remains in jail
- If defendant chooses to post bond:
  - SGJ Clerk obtains Defendant's information (i.e., name, address, telephone number, SS#, name of attorney, if they have one)
    - While the warrant will include some of this information, the defendant's address may change from the time the warrant is issued and the time of arrest and bond hearing. Also, the judge may instruct Defendant to reside at a family member's home until trial.
  - Bond is "posted" at the SGJ Clerk's Office
    - Defendant signs (1) Order setting Bond; and (2) Bail form (i.e. Standard General Sessions Court yellow form double sided)
    - Surety Company (i.e., bail bondsman) signs both documents and posts power (i.e., piece of paper from insurance company that says the amount the surety is posting – no money is ever provided, just a piece of paper that affirms if the defendant does not appear for court, the company has the money available to pay the full bond due). Note: Surety Companies (i.e., bail bondsmen) are regulated through the Department of Insurance.

### **Step #5: SGJ Clerk Screens Defendant for Indigent Defense Representation (defense attorney)**

- As soon after the bond hearing as possible, SGJ Clerk's office screens Defendant to determine if they qualify for indigent representation.
  - To screen, SGJ Clerk has Defendant sign Court Administration's Affidavit of Indigency. SGJ Clerk does not require any additional documentation or proof of indigency (Note: Some counties perform additional research, require pay stubs, etc.)
- SGJ Clerk emails Commission on Indigent Defense (SCCID) to request an attorney for Defendant. If it is a larger case, SGJ Clerk tells SCCID attorneys have already been assigned to other defendants.
  - Pre-indictment situation – No other information is included in SGJ's email.
  - Post-indictment situation – SGJ Clerk includes a copy of the indictment in the email

# Criminal Appellate Process - Overview



\*On rare occasions the Attorney General will allow Circuit Solicitors to handle an appeal at this level (e.g., State v. John Doe). Municipal and county attorneys often handle appeals related to violations of their ordinances (e.g., Town of ABC v. John Doe)

# Murder Conviction: Appeal and Post Conviction Relief Process

(Note: Includes murder only. Does not include voluntary or involuntary manslaughter, etc.)

## Murder Conviction at Circuit Court (guilty plea or jury verdict)

### Death Penalty Sentence

**Stay of Execution** requested by offender  
To: S.C. Supreme Court  
Basis: Desire to file **Direct Appeal with U.S. Supreme Court**

Denied

**Stay of Execution** requested by offender  
To: U.S. Supreme Court  
Basis: Desire to file **Direct Appeal with U.S. Supreme Court**

NOTE: Denial of this does not prevent offender from filing a request for a stay for another reason (i.e., PCR), if offender has not made one)

Granted

Direct Appeal to U.S. Supreme Court

**Stay of Execution** requested by offender  
To: S.C. Supreme Court  
Basis: Desire to file **Post Conviction Relief (PCR)**  
(Agency has not known of one being denied since 1970s)

Granted

(The reason for why Offender obtained "stay of execution" does not matter. As long as offender has it they can file direct appeal or PCR)

Post Conviction Relief Action filed in Circuit Court – Court of Common Pleas (civil) (17-27-160); single judge assigned and automatic discovery

Appeal PCR decision to S.C. Supreme Court (e.g., State appeal Grant of PCR, OR Offender appeal denial of PCR)

If no PCR is granted, Clerk of S.C. Supreme Court issues notice of execution (sets date for it)

**Stay of Execution** requested by offender  
To: Federal District Court  
Basis: Desire to file **Appeal to PCR decision**

Federal Habeas proceedings (federal equivalent of PCR) – Federal District Court

Appeal to 4<sup>th</sup> Circuit Court

Appeal Federal Habeas decision to U.S. Supreme Court

If no federal habeas granted, Clerk of S.C. Supreme Court issues notice of execution (sets date for it)

Appeal State PCR decision to U.S. Supreme Court

Last minute litigation (e.g., injunction to prevent director from carrying out execution, etc.)

**Stay of Execution** is mandatory in statute ONLY for (1) Direct Appeal to S.C. Supreme Court; and (2) Mandatory Statutory Review (which occurs at same time as Direct Appeal if Direct Appeal is filed)

Offender's (1) Direct Appeal to S.C. Supreme Court with (2) Mandatory Statutory Review (16-3-25)  
OR  
Only (1) Mandatory Statutory Review by S.C. Supreme Court (16-3-25), if offender waived their direct appeal

Mandatory Statutory Review includes:

- Review sentence itself
- Proportionality in reviewing other similar cases

AG's Direct Appeal to U.S. Supreme Court regarding S.C. Supreme Court decision

Request for successive PCR actions OR original jurisdiction writs in S.C. Supreme Court

### Non-Death Penalty Sentence

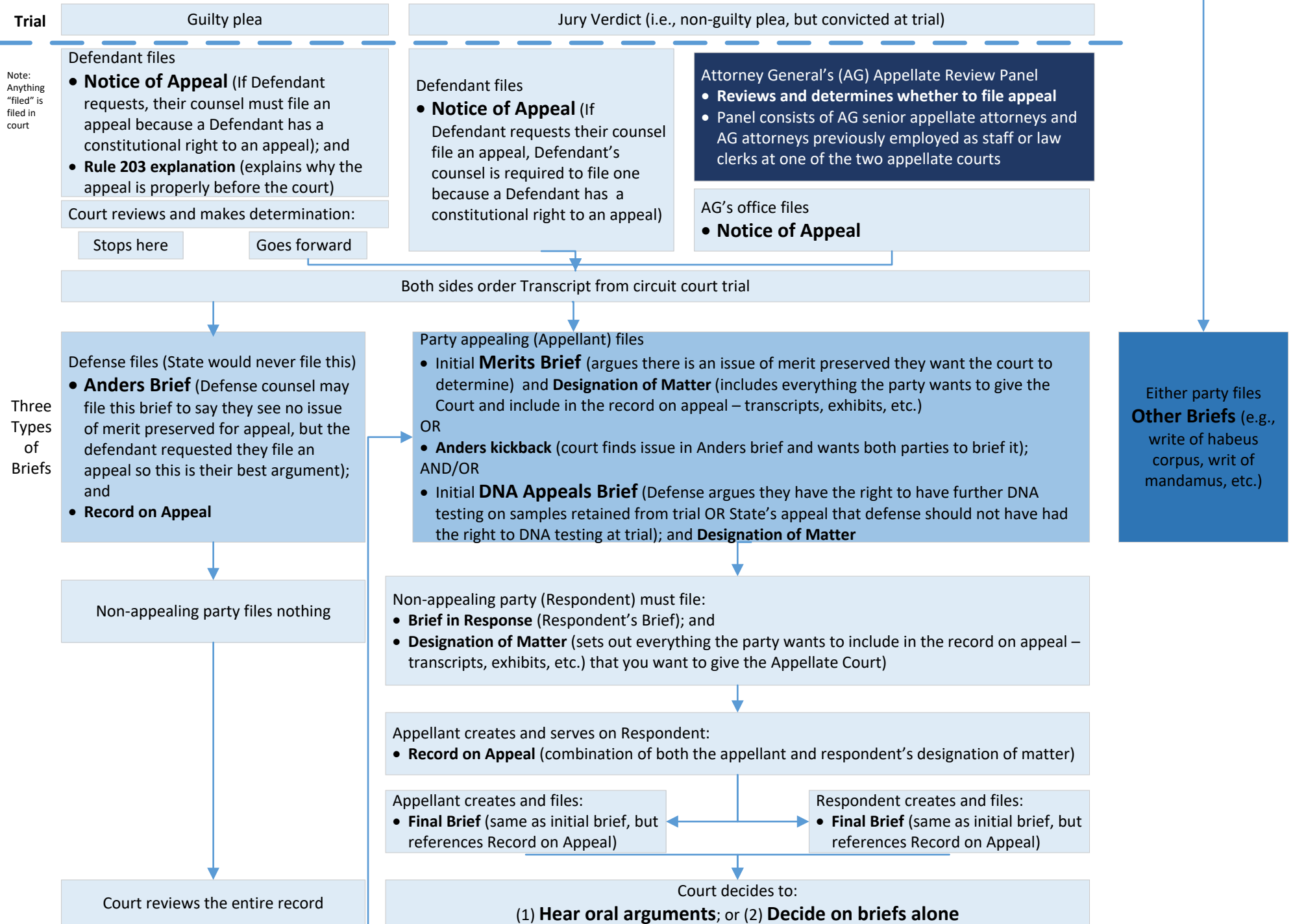
Direct Appeal to Court of Appeals  
(See, "Direct Appeal of Non-Death Penalty Conviction" document)

Direct Appeal to S.C. Supreme Court  
(See, "Direct Appeal of Non-Death Penalty Conviction" document)

Flowchart created during House Legislative Oversight Process and approved accurate by Attorney General Staff in May 2022

# Direct Appeal of Non-Death Penalty Conviction to S.C. Court of Appeals and...

..S.C. Supreme Court





## Anders Brief (cont.)

Court reviews the entire record and makes decision

### Appeal Stops

- Court found nothing of merit for their review preserved on appeal (Anders Order)

### Appeal continues and Anders Brief turns into Merits Brief

- Court requests both parties file brief on certain issue (the next steps follow the same process as if one of the parties had filed a merits brief)

Court chooses to:

Hear oral arguments

Decide on briefs alone

Each side presents Oral Arguments

Court issues Opinion

Defense counsel with defendant:

- **Reviews and determines whether to move to next steps**

AG's Appellate Review Panel does the following:

- **Reviews and determines whether to move to next steps**
- Appellate Review Panel consists of senior appellate attorneys and attorneys with experience at one of the two appellate courts (e.g., AG staff that were previously employed as staff or law clerks at one of the two appellate courts)

Either party may file a **Petition for Rehearing**

Court decides whether to request the non-filing party file a **Return to the Petition for Rehearing**

If requested by Court, other side creates and files a Return to the Petition for Rehearing

Court issues ruling and **Grants** Petition for Rehearing

Court issues ruling and **Denies** Petition for Rehearing

Court has various options available (e.g., request new oral arguments; request additional information; simply re-issue a new opinion, making any changes the Court believes were necessary to address any issues in the "Petition for Rehearing", etc.)

Either side may file **Petition for Writ of Certiorari** to S.C. Supreme Court (winning side may file this if they do not like how the Court of Appeals interpreted a law, even though they won on this particular case)

Other side files Return

Supreme Court has complete discretion to do the following

- Leave Court of Appeals Decision; or
- **Grant certiorari** (hear the argument) on one or more issues

## Other Briefs (cont.)

- Convictions applicable: (1) State Court General Sessions; (2) Magistrate Court; (3) Municipal Court
  - Magistrate and Municipal Court present unique challenges based on lack of records, etc.
- PCR Applicant does not have to be incarcerated or show negative impact from conviction to pursue PCR
  - Majority are filed by individuals convicted in state court that are currently incarcerated

- PCR Act (17-27-20) outlines basis on which PCR can be argued. Most frequent include:
  - Ineffective assistance of defense counsel
  - Prosecutorial misconduct
  - Newly discovered evidence
  - Illegal sentence
  - Unlawful detainment past expiration of term and offender entitled to immediate release (if just arguing projected date of release is wrong, it must be argued to SCDC)

Defendant files PCR application in the county of conviction

- If State grand jury conviction, application filed in County where venue was established (where guilty plea or trial occurred)

Clerk of Court forwards PCR Application to Attorney General and Applicable Solicitor's Office  
(Clerk will often file the application even if there is an order prohibiting defendant from filing another PCR)

Some Clerks forward

- on regular basis; and
- application and all underlying general sessions records (sentencing sheet, indictment, arrest warrant, motions and orders)

Some Clerks forward

- on regular basis; and
- application only

Some Clerks forward

- Sporadically throughout the year; and
- application only

AG opens "Case"

AG receives PCR Application from Clerk of Court

## AG Screens Application

Determine whether there are any procedural bars they can use to argue PCR should not go forward:  
(1) untimely (filed outside one year statute of limitation under S.C. Code Section 17-27-45); OR  
(2) impermissibly successive application (new evidence or belated appellate review of first PCR would be permissible)

## AG Requests Clerk's records

- If received underlying general sessions records, then requests → applicable Exhibits
- If only received PCR application, then requests → Sentencing sheet + Indictment + Arrest Warrant + Exhibits

AG Determines Applicable Internal Track for Case

Summary Dismissal Track

Hearing Track

# Non-Death Penalty PCR Action

## Summary Dismissal Track

Defendant not entitled to appointment of counsel

(Sometimes Clerk will appoint anyway)

AG files Return and Motion to Dismiss; and submits a proposed Conditional Order to Dismiss to the Chief Administrative Judge  
As attachments to the "Return" (i.e., response to the PCR Application), AG includes: (a) entire lower court record and transcripts; (b) Any prior PCR actions; and (c) Any prior Federal Habeas actions (federal equivalent of State PCR action)  
AG serves via U.S. mail: (1) Clerk of Court, Judge, and (2) PCR Applicant

Court enters Conditional Order of Dismissal (most common)

Or

Court requests the matter be set for a hearing (rare)  
(Start at top of "Hearing Track" document for next steps)

AG serves Conditional Order of Dismissal on Applicant

(AG obtains affidavit that Applicant was personally served)

NO Response from Applicant

Response from Applicant

(Applicant has 20 days from date of service to respond)

AG reviews Applicant Response to Conditional Order of Dismissal to determine:  
Has Applicant provided sufficient reason(s) to overcome the procedural bar?

No

AG submits proposed Final Order of Dismissal to the Court analyzing Applicant's response and explaining why it is insufficient to overcome procedural bar

Yes,

AG asks for:

Motion to Dismiss Hearing

Or

Full Hearing  
(Start at top of "Hearing Track" document for next steps)

Court decides:

No Hearing

Or

Hearing on Dismissal

AG submits proposed Final Order of Dismissal to the Court

Court signs final Order dismissing PCR Application

AG asks Chief Administrative Judge appoint counsel for applicant

Motion to Dismiss Hearing

Court grants Motion and signs final Order dismissing PCR Application

Court denies Motion (Start at top of "Hearing Track" document for next steps)

Motion to Reconsider

And/Or

Applicant can file

Appeal to S.C. Supreme Court (243(C) SC. App.Ct. Rules)

Did Applicant respond to conditional Order of Dismissal (top of page)?

No

Court summarily dismisses Applicant's appeal

Yes

Court requests reason why lower court's dismissal was improper if Applicant did not include it in the Appeal filed

Court summarily dismisses appeal

Or

Court allows appellate process to continue if Court believes there is sufficient evidence of improper dismissal at lower court (Start at top of "Appeal Decision from PCR Hearing" document for next steps)

Cases Closed (AG PCR Division closes the PCR case at this stage and opens a new PCR Appeal file, if there is appeal)

## AG Requests Appointment of Attorney for Defendant

AG sends form letter to Clerk of Court requesting they appoint attorney for the defendant (sometimes Clerk will appoint w/o AG request)

## AG Requests Applicable Documents, Contact Witnesses, Calendar due date

- Requests from Court Administration (court reporters) - Transcripts from applicable pre-trial, trial, guilty plea, or post-trial hearings. Court reporters have 60 days to provide, but can request extension.

\*Issue exists with court reporters not having to keep transcripts more than 5 years.

- Contact applicable witnesses depending on claim made in PCR application (e.g., defense counsel, prosecutor, SCDC, etc.)
- Calendar "return" due date (if arises from guilty plea, 60 days to respond, if arising from trial, 90 days to respond S.C. Civ. Pro. 12(a))

## AG files "return" with the Clerk of Court (Response to PCR Application)

Requests (1) Hearing

OR

Requests (1) Hearing, and (2) if needed, more definitive statement

Applicant's Attorney Files Amended PCR Application

AG files Amended Return

(\*As long as AG receives Amended Application within time before the hearing)

## Pre-Hearing Activities

- AG must (1) coordinate with the Chief Administrative Judge to create the docket; (2) subpoena all witnesses to attend; (3) coordinate with SCDC for transport of Defendant to hearing (or scheduling virtual hearing\*)
- \*SCDC's lack of quality technology turned some judges off from holding virtual hearings. Inmates in other states/federal prisons with better technology reap benefits of efficiencies gained from virtual hearings.

## Full Evidentiary Hearing

(Includes AG; Defendant, Defense Counsel, Witnesses, Court Personnel)

Relief Granted

(1) New Trial; (2) Resentencing (uncommon); or (3) Dismissal of charges (rare - if violation of the interstate agreement detainer act)

Relief Denied

## Court Enters Final Order

(Court signs order it drafted, or in most cases, proposed order from AG)

- Court notifies parties of result and enters formal written order outlining facts, specific findings of fact, and conclusions of law (17-27-80)
- NOTE: Majority of the time the court requests AG staff draft the Order; on some occasions, court will request AG and defense counsel both draft orders for the court to decide between (or to use pieces of each)

## Either Party May File Motion to Reconsider, Alter, or Amend Court's Order

(Only have 10 days after Order entered to file. Generally the non-prevailing party files. Prevailing party may file if they have an issue with the wording of the Court's Order)

Defense counsel, with defendant, reviews and determines whether to Appeal

AG's Appellate Review Panel reviews and determines whether to Appeal. Panel consists of senior appellate attorneys and attorneys with experience at one of the two appellate courts (e.g., staff previously employed at appellate courts)

**Start at top of "Appeal Decision from PCR Hearing" document for next steps**

# Appeal Decision from PCR Hearing

Defense files (State would never file this)

- **Johnson Petition** (Defense counsel may file this petition to say they see no issue of merit preserved for appeal, but the defendant requested they file an appeal so this is their best argument); and
- **Appendix** (entire lower court record)

Non-appealing party files nothing

S.C. Supreme Court reviews filings, has complete discretion to decide

**Appeal Stops** - Court found nothing of merit for their review preserved on appeal (Johnson Order)

**Appeal continues and Johnson Petition turns into Merits Petition** – Court requests parties file petition and return to petition on certain issue (the next steps follow the same process as if one of the parties had filed a merits petition)

Transfer to Court of Appeals

S.C. Court of Appeals reviews filings and has complete discretion to decide

**Appeal Stops**

**Appeal continues and Johnson Petition turns into Merits Petition**

Party appealing (Appellant) files (State or Defense may file) (S.C. Ct. App. Rule 243)

- **Merits Petition** (argues there is an issue of merit preserved they want the court to determine) **or Johnson Petition Kickback** (Court finds issue in Johnson Petition and lower court record, then requests both parties file petition on that issue); and
- **Appendix** (entire lower court record)

Other side files Return

S.C. Supreme Court reviews filings and has complete discretion to decide

Deny Certiorari (Leave Circuit Court Decision)

Grant certiorari (Hear the issue)

Transfer to Court of Appeals

S.C. Court of Appeals reviews filings and has complete discretion to decide

Grant certiorari (Hear the issue)

Deny Certiorari (Leave Circuit Court Decision)

Both parties brief the issues

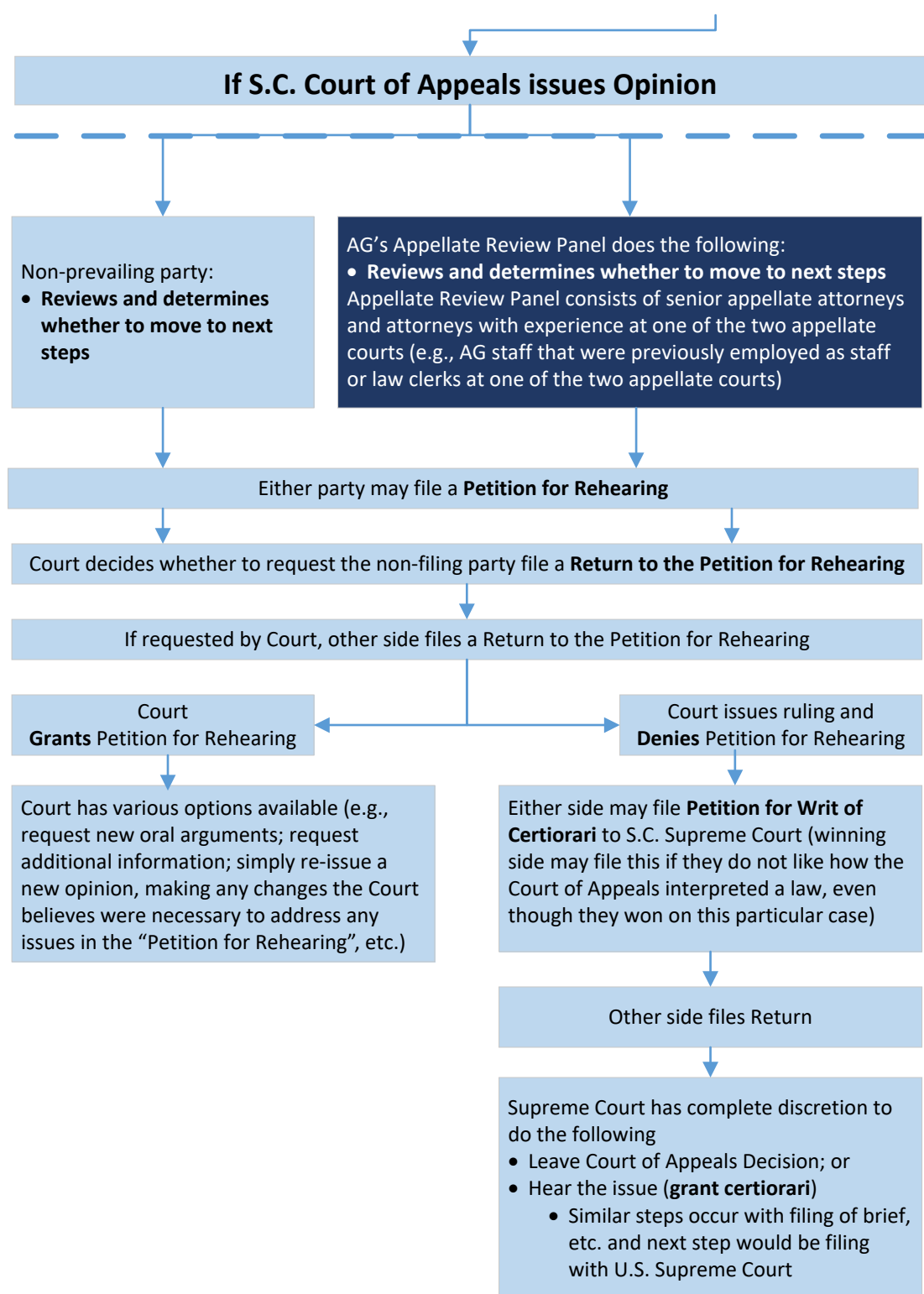
Both parties brief the issues

Court decides to:  
(1) **Hear oral arguments**; or (2)  
**Decide on briefs alone**

Court decides to:  
(1) **Hear oral arguments**; or (2)  
**Decide on briefs alone**

S.C. Supreme Court issues Opinion

S.C. Court of Appeals issues Opinion





# Sexually Violent Predator (SVP) Proceeding Details

## Sexually Violent Offense

- Examples include: Criminal sexual conduct in 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree; Criminal sexual conduct with minors in 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree; Producing, directing, or promoting sexual performance by a child; Assault with intent to commit criminal sexual conduct; Incest
- Note: The offense may not necessarily be one considered "violent" for sentencing purposes

## Notice Before Release (could occur sooner than 270 days before release)

Potential agencies involved: SCDC, PPP, Victim, AG's Office

Notice must include:

- person's name, identifying factors, anticipated future residence, and offense history; and
- documentation of institutional adjustment and any treatment received.

## Review by Multidisciplinary Team (MDT) (must complete in 30 days)

Team, staffed by SCDC, includes representative from:

- SCDC (chair), PPP, DMH (trained, qualified mental health clinician with expertise in treating sexually violent offenders), retired judge appointed by Chief Justice, attorney with substantial experience in the practice of criminal defense law appointed by Chief Justice
- Changes AG desires:** DMH representative have education, training or experience in assessing, examining, and/or treating sex offenders.

Review may include, but is not limited to, the offender's

- criminal offense record, medical and psychological records, treatment records, victim's impact statement, and any disciplinary or other records from confinement or supervision.

Source of information reviewed: Police officers, Solicitors Office, SCDC

If MDT determines person satisfies definition of sexually violent predator

- MDT must forward a report of the assessment to the prosecutor's review committee (PRC) and notify the victim.
- Changes AG desires:** If MDT finds probable cause exists to believe person is a SVP, ensure an individual may not be released to the supervised re-entry program until resolution of the SVP proceedings to ensure the MDT has adequate time to make a probable cause determination. If the person was eligible for supervised re-entry before the review by the MDT, and the MDT finds no probable cause, the person would then immediately be eligible for supervised re-entry.

## Review by Prosecutor's Review Committee (PRC) (must complete in 30 days)

### AG responsible and meets

- AG appoints PRC to review the report and records
- PRC must include, but is not limited to the following:
- 1 AG staff (chair), 1 elected circuit solicitor, 1 victim's representative.

Review must include:

- records and reports from MDT, and information from circuit solicitor who prosecuted the person.

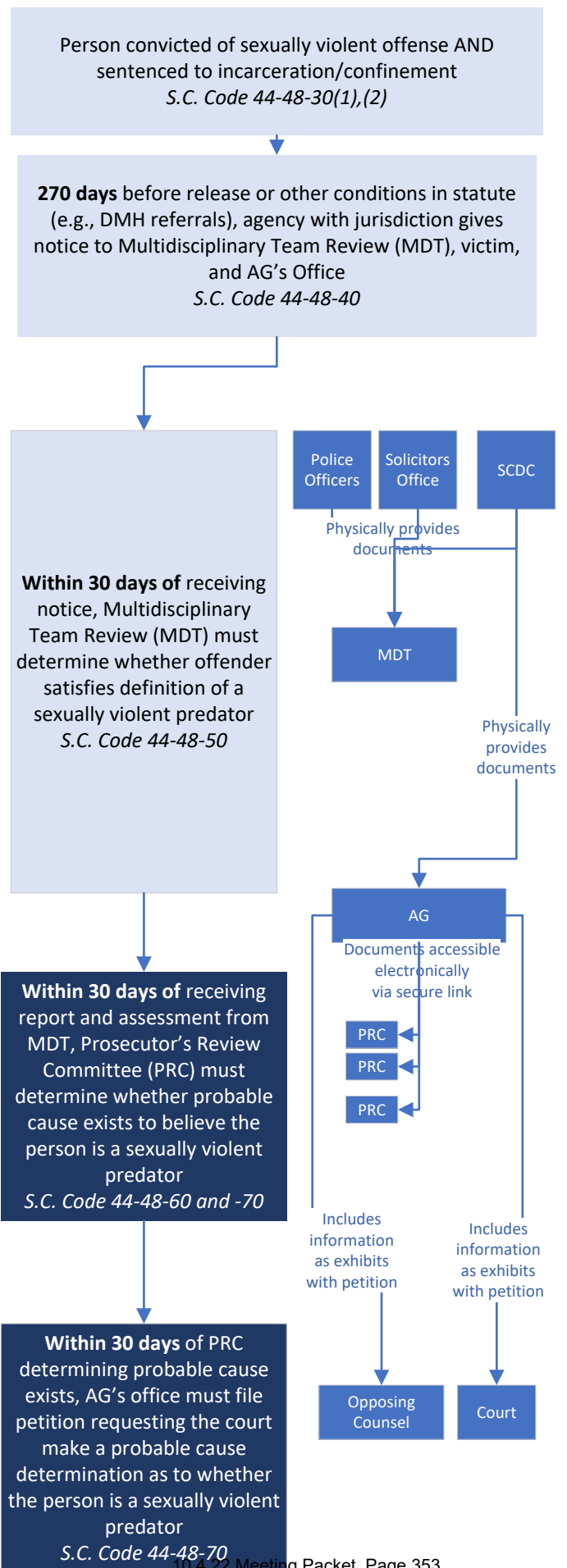
If PRC determines probable cause exists to believe person is a SVP

- AG must notify the victim PRC found probable cause exists
- AG must file petition for probable cause determination with the court

## Petition requesting Court make probable cause determination

### AG responsible and meets

- Filed in jurisdiction where person committed the offense
- Must allege person is a SVP and state sufficient facts that would support a probable cause allegation







## Sexually Violent Predator (SVP) Proceeding Details

### Probable Cause Hearing

Court must: (1) verify the detainee's identity; (2) receive evidence and hear arguments from the person and the Attorney General; and (3) determine whether probable cause exists to believe person is an SVP

State may: rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

Person has following rights: (1) to be represented by counsel; (2) to present evidence on the person's behalf; (3) to cross-examine witnesses who testify against the person; and (4) to view and copy all petitions and reports in the court file.

### Order for Evaluation

If court determines probable cause exists, court must do the following:

- Select qualified expert to conduct evaluation of whether person is an SVP.
- Direct person be transported to a DMH facility for the evaluation
- Direct person be transferred to local or regional detention facility (if person finishes criminal sentence before completion of SVP determination)

### Request that Trial to determine if person is SVP be Jury Trial

- person or AG may request, in writing, the trial be before a jury.
- If no request is made, the trial must be before a judge

### Court Appointed Evaluation

- Court appointed expert must complete evaluation within 60 days
- Court may grant 1 extension if expert requests and shows good cause
- Any further extensions only allowed for extraordinary circumstances.
- **Changes AG desires:** Extend time to 90 days and allows 60 day extension

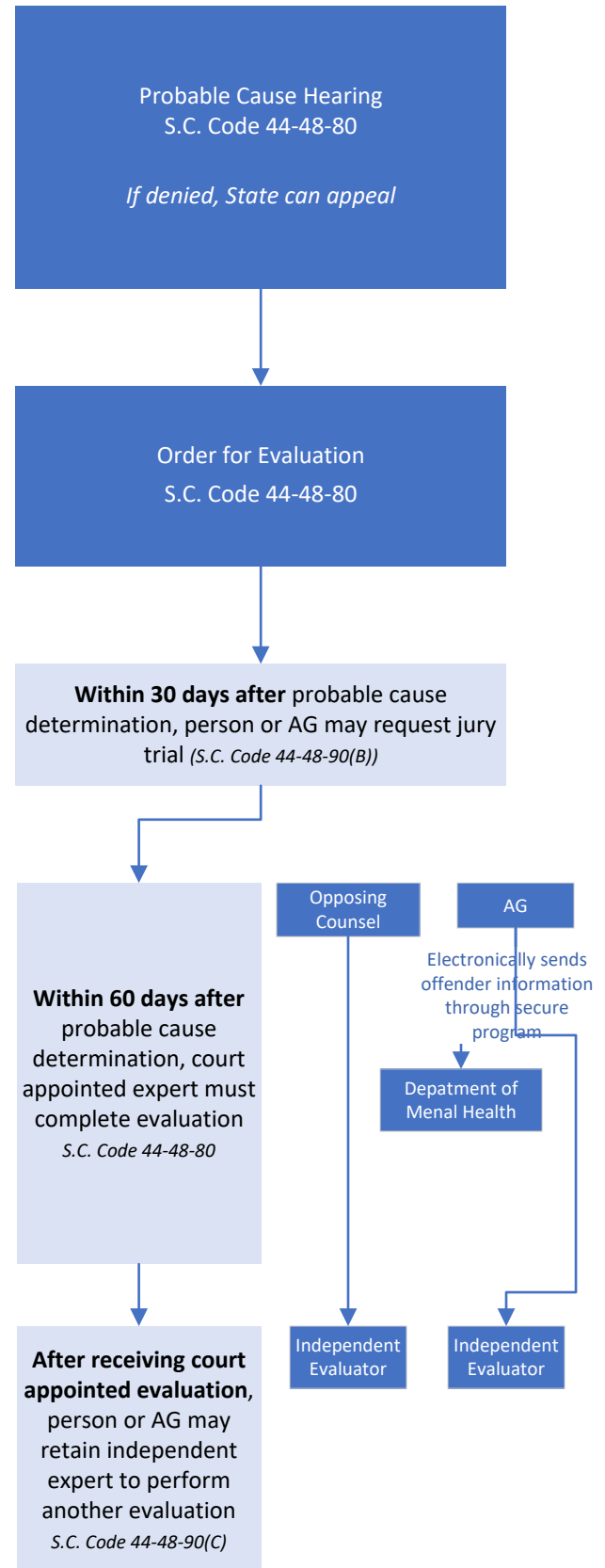
CONCERN: DMH's work product continues to rely on the Static 99-R and Static 2002-R (actuarial risk assessment tools) as the sole measure of risk assessment, with subjective reliance on statements in interview. There are other tests DMH has available, but does not utilize, that are less subjective.

Voluntary Commitment: Sometimes person will voluntarily commit to the Sexually Violent Predator Treatment Program based on DMH evaluation and waive trial.

### Independent Evaluation

- All examiners have reasonable access to the person and all relevant medical, psychological, criminal offense, and disciplinary records/reports.
- If indigent person desires expert of their own choosing, court must determine whether the services are necessary and expert's requested compensation is reasonable. If court determines so, court must assist person in obtaining the expert

Voluntary Commitment: Sometimes person will voluntarily commit to Sexually Violent Predator Treatment Program based on independent evaluation and waive trial.







## Sexually Violent Predator (SVP) Proceeding Details

### ***Trial (Court and Opposing Counsel schedules impact date)***

- AG must notify the victim of time, date, and location of trial.
- Indigent persons have right to appointed counsel
- Trial may be continued upon request of either party and showing of good cause, or by the court on its own motion if respondent will not be substantially prejudiced.
- Trial must occur in county where offense was committed
- Jury must decide by unanimous verdict (if jury trial was requested)
- Upon a mistrial, the court must
  - direct that the person be held at a local or regional detention facility until another trial is conducted.
  - A subsequent trial following a mistrial must be held within ninety days of the previous trial, unless the subsequent trial is continued.

Within 90 days of court appointed expert issuing evaluation (or next available term of court or opposing counsel schedule), trial must occur to determine whether, beyond a reasonable doubt, the person is an SVP

*S.C. Code 44-48-90(B) and -100*

### **374 Offenders Committed**

(22.5% of MDT Referrals;  
23.9% of PRC Referrals;  
3.5% of Offenders Reviewed)

### ***Commitment***

If the court or jury...

- Determines person is an SVP, the person must be
  - committed to the custody of DMH for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and has been released pursuant to this chapter. The control, care, and treatment must be provided at a facility operated by DMH. Person must be segregated at all times from other patients under the supervision of DMH. DMH may enter into an interagency agreement with SCDC for the control, care, and treatment of these persons.
- If determination is appealed
  - person must be committed to the custody of the Department of Mental Health pending his appeal.
- Is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person's release.

SUCCESS - Private treatment program (DMH contracts out the treatment) continues to work smoothly and is much more respected by courts.

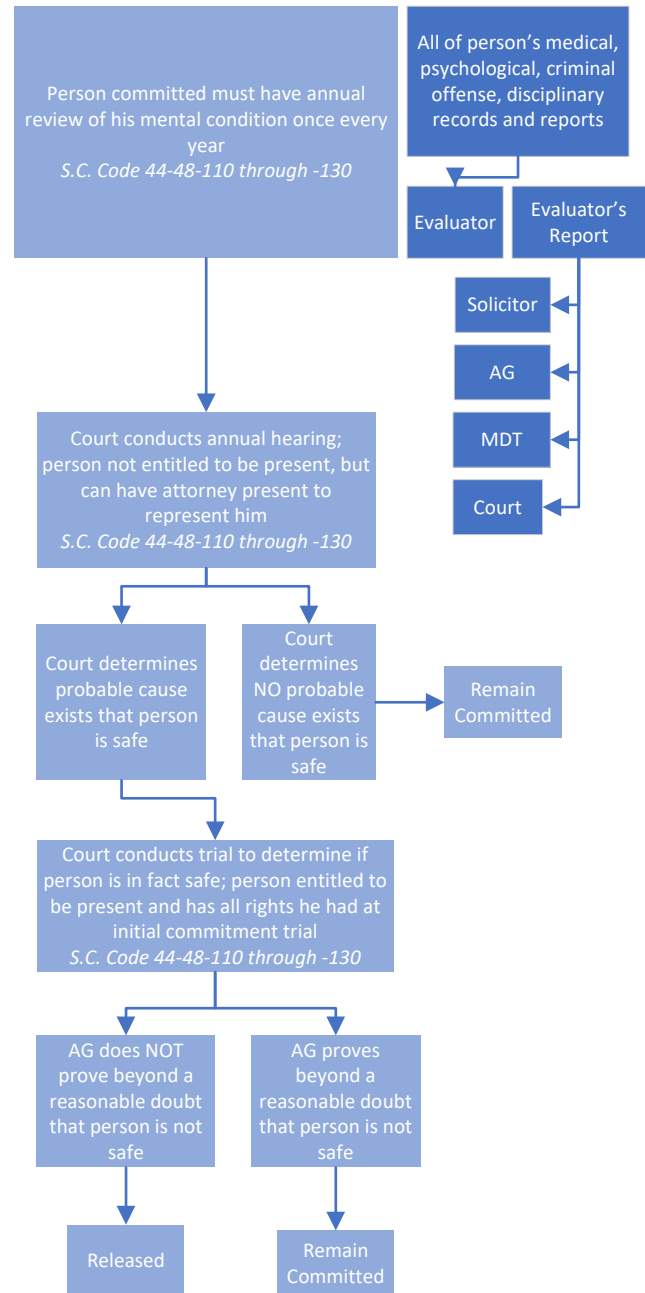
Committed



# Sexually Violent Predator (SVP) Proceeding Details

## Annual Review and Hearing

- Must occur (calendar year)
- **Changes AG desires:** Annual review period doesn't start until a previous one resolves to ensure if there is a delay in one, it doesn't mean two are due in the next 6 months
- Delays in annual review caused by: Opposing counsel and court schedule
  - Remote hearings are making it easier to schedule
- Person may waive their right to an annual review
- DMH reviews and determines...
  - If safe to be at large and authorizes petition, DMH tells person they can petition. Person petitions court for release
    - AG requests hearing on person's petition. If AG doesn't oppose, person gets released at the hearing. If AG opposes, AG will get an independent evaluation to use at hearing/trial.
  - If not safe to be at large, AG requests probable cause hearing to keep the individual committed (individual can waive the hearing). Judge reviews information from DMH and says
    - No probable cause to release the person (person can appeal) – if no appeal, person stays committed
    - Probable cause to release person (AG cannot appeal PC determination) – Release trial (right to jury trial) occurs and AG can get an independent evaluation



## Petition for Release (anytime individual desires)

- Person can petition for release at anytime, without DMH authorization
- AG can make summary dismissal motion (44-48-130)
- AG requests hearing on person's petition. If AG doesn't oppose, person gets released at the hearing. If AG opposes, AG will have DMH perform an evaluation to use at hearing/trial.

Person may petition for release at anytime  
S.C. Code 44-48-110 through -130

## Appeals

- Can appeal from trials (AG or person),
- Annual reviews (person from denial of probable cause),
- Annual review trials (AG or person),
- Release petitions (AG or person), and
- Habeas denial (person) or granting (AG) of relief

Appeal

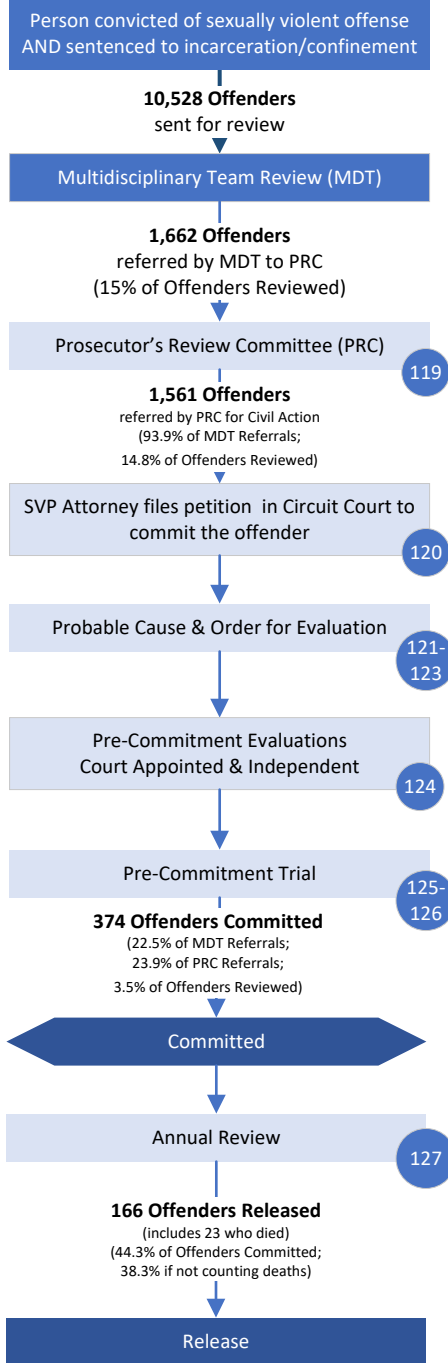
Habeas Petition claiming  
ineffective assistance of  
counsel



# Sexually Violent Predator (SVP) Section

## Proceedings

(Statistics are from SVP creation in 1998 to March 31, 2022)



Appeal

128

Habeas Petition  
claiming ineffective  
assistance of counsel

129

**An Appeal or Habeas Petition\* can  
be filed at any (or all) of the  
following stages in the proceedings:**

- Pre-Commitment Trial
- Annual Review/Release

\*Habeas Petition only allowed after direct appeal

## Services

# Indicates where service falls within the proceedings

**Service #119:** Timely review and summarize MDT's records for PRC to ensure scheduling of PRC meeting within statutorily mandated timeframes. *Single unit:* PRC referrals  
*Notes:* Completed by 1 FTE with 90% time allocated to SVP unit/10% to Criminal Appeals, and 1 FTE with 95% allocated to SVP/5% to Criminal and PCR appeals.

**Service #120:** File of SVP petition within 30 days of PRC referral.

*Single unit:* Filing SVP petition (33 to 38 filed/year in FY17 - FY20.)

*Notes:* FY19: Hourly workload did not change, but for 58.3% of the year, the SVP unit completed this deliverable with one FTE staff attorney and one FTE legal assistant.

**Service #121:** Upon determination by the court that probable cause exists, schedule and conduct probable cause hearing within statutorily mandated timeframes.

*Single unit:* Determination of probable cause

**Service #122:** Conduct probable cause hearing, and upon court ordered mental evaluation, provide all case documents to the Department of Mental Health.

*Single unit:* Probable Cause Hearing

**Service #123:** Within 30 days after the determination of probable cause, submit a request for jury trial in the county where offense was committed. *Single unit:* Jury Trial Request

**Service #124:** Upon receipt of DMH evaluator's report: forward to opposing counsel and advise if seeking independent evaluation. If appropriate; request continuance or advise opposing counsel to file motion for summary judgment. *Single unit:* DMH Evaluation

CONCERN: Timeliness of DMH (routinely obtaining extensions to complete evaluation) S.659 would address this concern by providing DMH more initial time.

**Service #125:** If court ordered evaluation determines that offender meets the criteria to be found a sexually violent predator, as defined by § 44-48-30(1), then schedule a commitment trial. *Single unit:* Commitment Trial Scheduling

**Service #126:** Conduct commitment trial and attempt to obtain jury verdict within 90 days of receiving DMH evaluation. *Single unit:* Commitment Trial

CONCERN: Admissibility of PPG evidence. Opposing counsel arguing Chapman IAC opinion encompasses incompetent individuals. Admissibility of non-convicted charges/offenses.

**Service #127:** Timely completion of annual review proceedings as required.

*Single unit:* Annual review case

*Notes:* Remote hearings dramatically increased efficiency and reduced backlog. Presently, it still remains an option if offender consents. Any existing backlog due to opposing counsel requesting continuances

**Service #128:** Represent the State in SVP appeals. *Single unit:* Appellate case

*Notes:* This deliverable is served by 1 FTE with 90% time allocated to SVP/10% to Criminal Appeals, and 1 FTE with 95% allocated to SVP/5% allocated to Criminal and PCR appeals.

CONCERN: Admissibility of PPG evidence. Opposing counsel arguing Chapman IAC opinion encompasses incompetent individuals. Admissibility of non-convicted charges/offenses.

**Service #129:** Represent the State in habeas corpus hearings in which committed offenders assert ineffective assistance of counsel. *Single unit:* Habeas proceedings

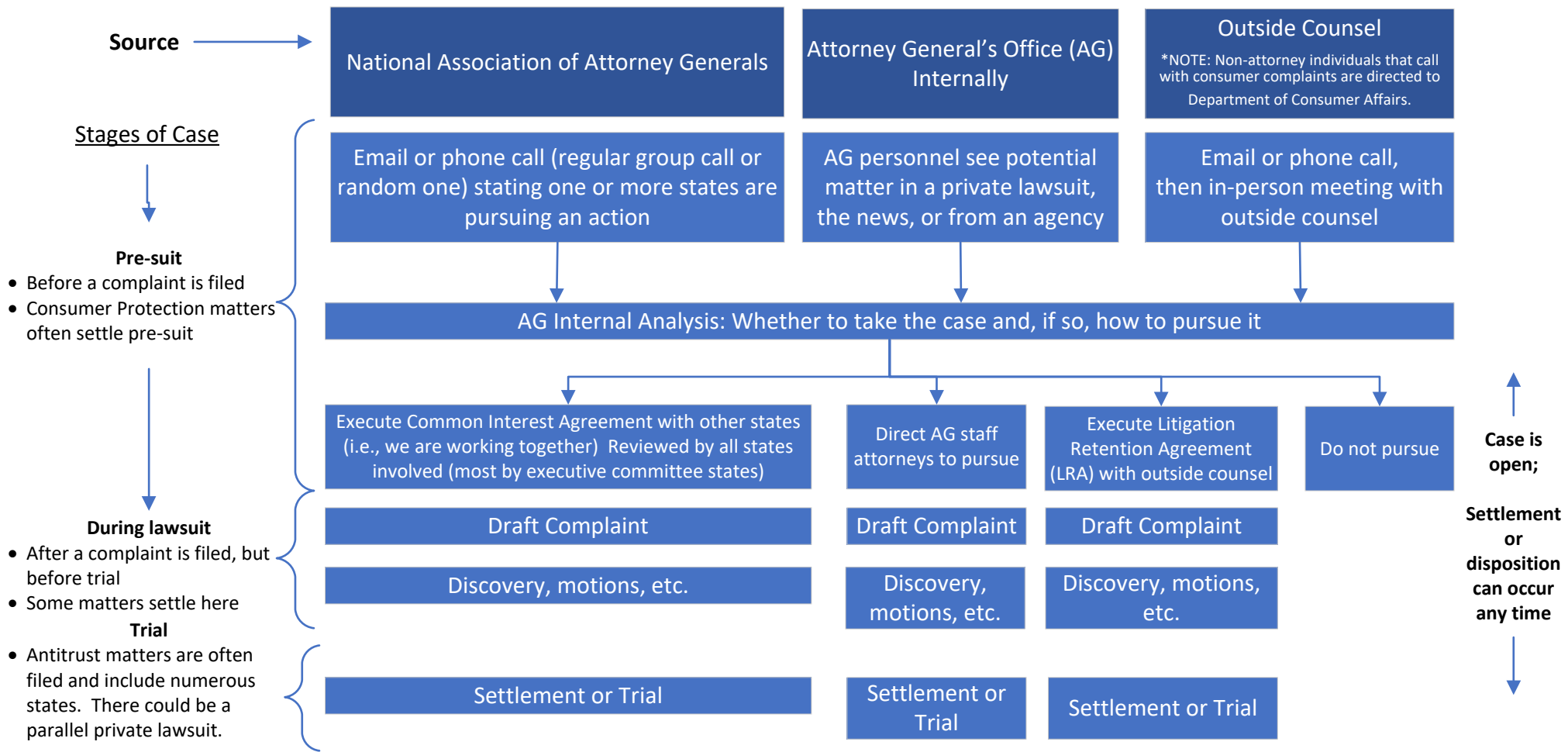
*Notes:* The Supreme Court held in *Chapman* that sexually violent predators have a constitutional right to effective assistance of counsel, and that the appropriate forum to assert this right is through habeas relief. Bill S.659 (in House Judiciary) would codify the Supreme Court's holding. The number of filed petitions since the Chapman decision in Feb. 2017, is 27. Continued increases in future years is anticipated.

CONCERN: Potential influx of ineffective assistance of counsel habeas petitions

# Unfair Trade Practice and Antitrust Cases

Protect S.C. consumers from businesses' using false and misleading statements, participating in anticompetitive practices, and other antitrust violations

## Sources and Stages of Case



## Internal Analysis Conducted by Attorney General's Office: Whether to take the Case?

### Factors considered

- Resources needed to investigate and litigate the case fully.
- Whether particular expertise in certain areas of law (e.g., bankruptcy, environmental) is needed.
- Potential outside counsel's familiarity with a large, complicated matter (such as opioids).
- Whether State's interests are best served by reallocating the risk of no recovery to outside counsel (and spreading that risk among multiple law firms). *Every case is a "wager" because there are resources involved and no guarantee of the result desired*
- Information learned from presentations from potential defendants.

### Options Include:

- Do not take the case
- Take the case, serve as supervising attorney, and...
  - have in-house attorneys do all the work, or
  - hire outside attorneys to do all the work

# Unfair Trade Practice and Antitrust Cases

## Private Action

v.

## Enforcement Action

### Brought by:

- Private Citizen
- State or Local Entity
  - Agency can be represented by AG

- Attorney General's Office

### Requires:

- Citizen suffer an actual loss, injury, or damage, and
- Causal connection between the injury-in-fact and the complained of unfair or deceptive acts or practices.

Class actions are not permitted.

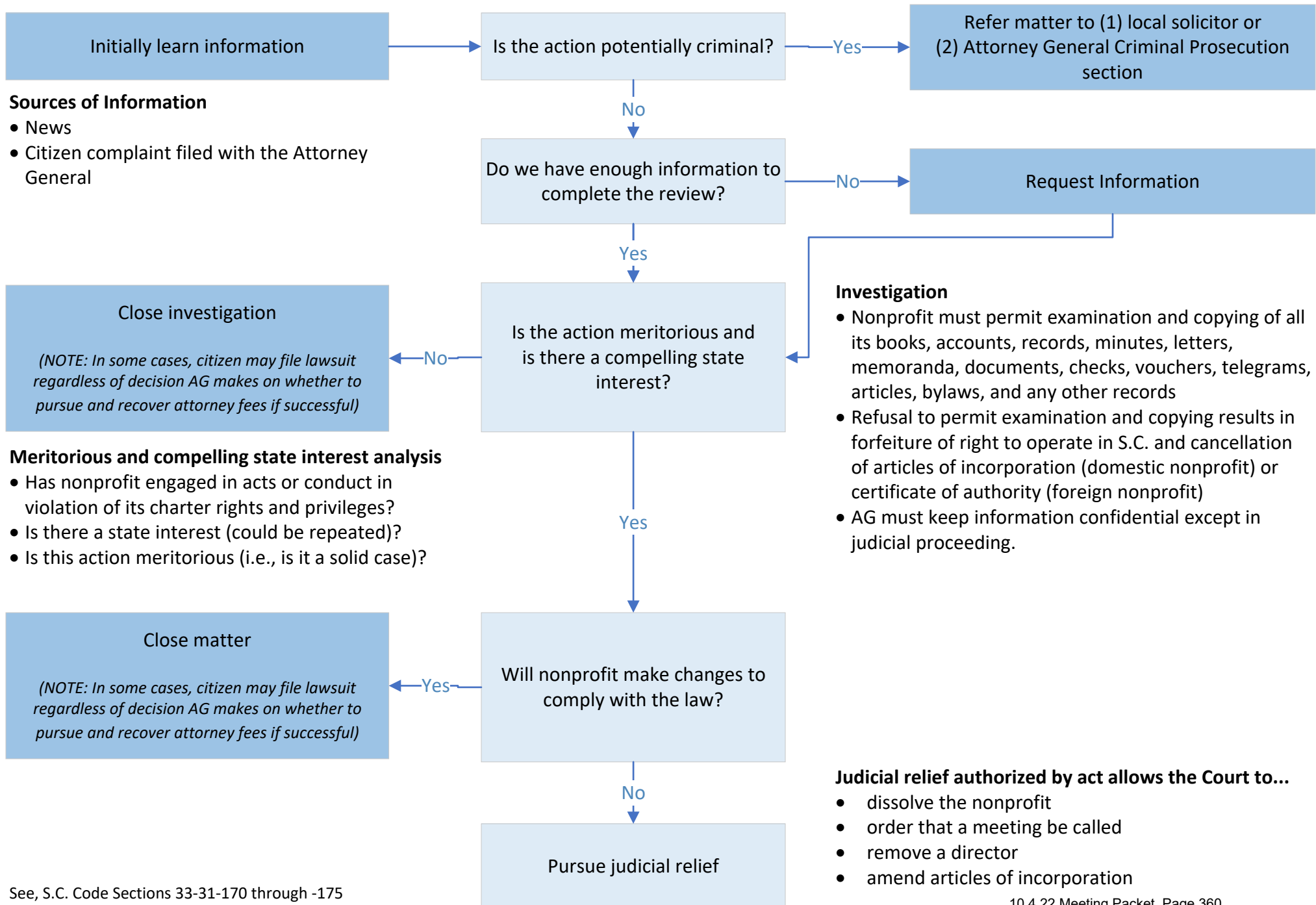
- Public interest be involved, and
- Showing of a “tendency to deceive”
  - Requisite capacity to deceive can be found without evidence that anyone was actually deceived

### Example:

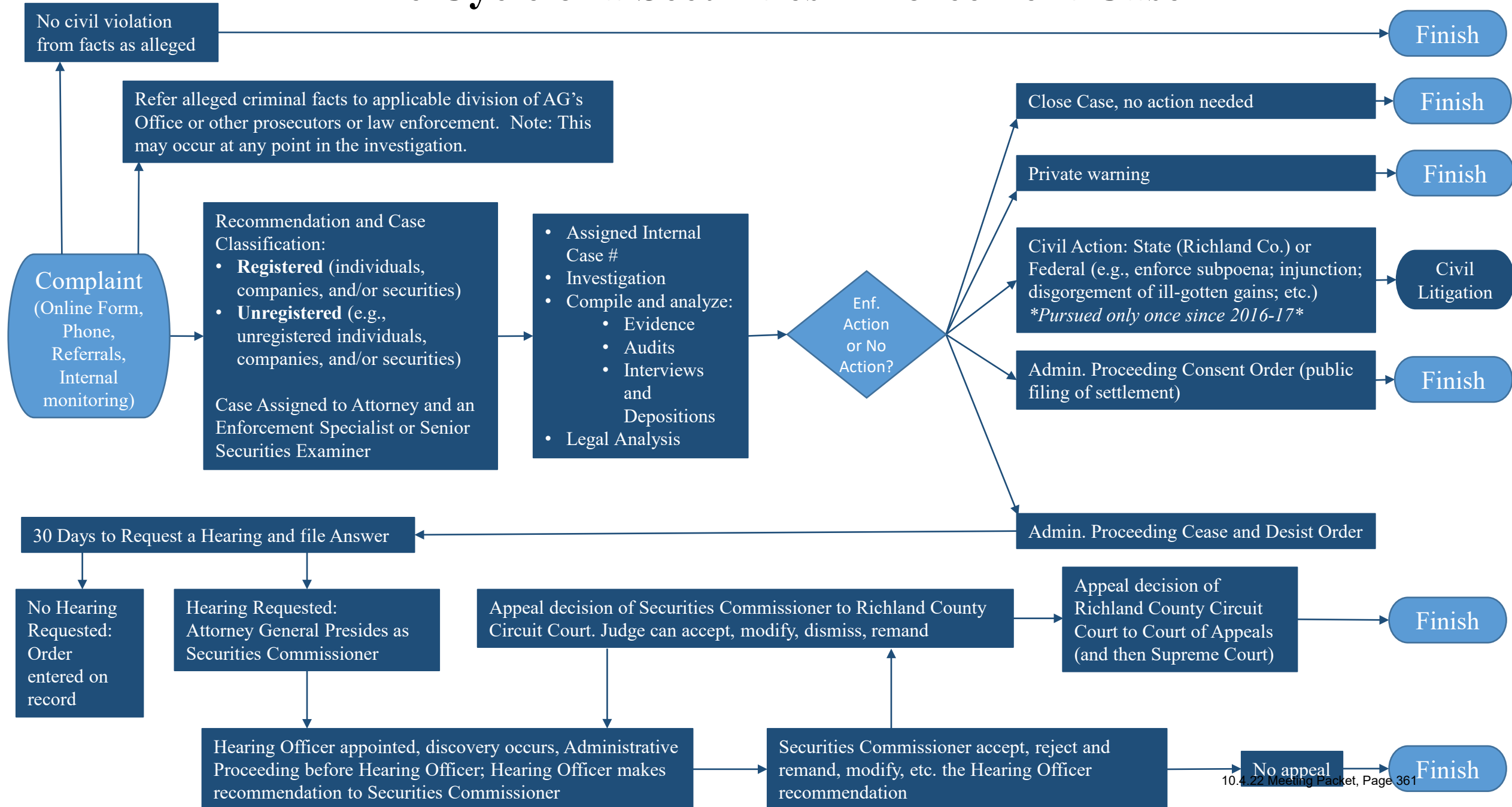
It is in the public interest to prevent the use of false and misleading statements in the conduct of business ... [and] actual deception need not be shown; a finding of a tendency to deceive and mislead will suffice.”

# S.C. Nonprofit Corporation Act Investigations

Attorney General's Office analysis of whether to move forward with investigation



# Life Cycle of a Securities Enforcement Case







# Securities Enforcement

## The Life Cycle of a Securities Enforcement Case:

### 1. Opening a Case

- Division receives
  - referral from Securities Registration, SEC, another state, or FINRA; or
  - tip or complaint from the general public or media.
- Division determines that a case is warranted and creates a case file.
- A “case” includes investigations where no formal action occurs.
- Division generally categorizes a case as one of the following:
  - i. “private placement” case (a case involving an unregistered securities offering to limited pool of investors);
  - ii. “unregistered” case (a case involving unregistered individuals and/or securities); or
  - iii. case involving a registered respondent – an IA or IAR, BD or BD Agent.
- A primary Attorney and an Enforcement Specialist or Senior Securities Examiner are assigned to the case.





# Securities Enforcement

## The Life Cycle of a Case:

### 2. Conducting Investigation / Audit

- The Division gathers documents, conducts interviews, processes data, etc.

### 3. Next Steps

- The Division determines whether to close a case or whether the case warrants further action – either public or private action.
- If warranted, the Division issues a public Order, which is published on OAG's website.
- Public Orders include Orders to Cease and Desist, Administrative Orders, and Consent Orders.
- Orders can impose licensing sanctions, penalties, fees and costs associated with the Division's action, etc.



# Securities Enforcement

## The Life Cycle of a Case:

### 4. Hearing Process

- A Respondent can resolve a case by entering into a Consent Order—a settlement—which waives the right to a hearing.
- If a Cease and Desist or Administrative Order is issued, a Respondent has 30 days to answer the Order and request a hearing.
- If a hearing is not requested, the Order is final by operation of law.
- If a hearing is requested, the Attorney General as Securities Commissioner will hear the action or will assign a hearing officer to oversee the litigation and make a recommendation to the Securities Commissioner.
- The Securities Commissioner will make a final determination and issue a final order. The final Order can impose licensing sanctions, penalties, fees and costs associated with the Division's action, etc.
- The final Order can be appealed.

## **Money Services Division**

### **Purpose of Services Outlined in Law**

- Protect the interests of South Carolina consumers who use a money service business, including money transmitters and currency exchangers (“MSB”) by ensuring the overall financial condition of the MSB is sound and the MSB is properly monitoring transactions in an effort to deter the occurrence of money laundering, terrorist funding, and/or other financial crimes.
- The Anti-Money Laundering Act, S.C. Code Ann. §35-11-100 et seq. (the “Act”) also includes certain provisions related to criminal money laundering-related activities that, along with revisions to Section 14-7-1630 (A) of the Code, expand the jurisdiction of the state grand jury to include a crime related to a violation of the Act.

The Attorney General is the Commissioner over certain money services businesses, as provided in the Act.

## Types of Licenses

Money Transmission Licenses, see S.C. Code Sections 35-11-200 thru -225; Regulation 13-2201 and -2202

Currency Exchange Licenses, see S.C. Code Sections 35-11-300 thru -315; Regulation 13-2301

### Money Transmission License (good for 1 year)

The OAG began accepting applications in FYE 6/30/18. Application and licensing fees collected are transferred to the General Fund. Money transmission began over 150 years ago as a way of sending money across the country via telegraph network.

Western Union offices still exist, but people use on-line money transmitter apps to pay bills, purchase items, and send funds domestically or abroad. Examples of money transmitters include **MoneyGram**, **PayPal (which also owns Venmo)** and **Square**, as well as digital currency (**crypto currency**) companies such as **Coinbase** and **Bittrex**.

Initial application in S.C. (Service #53) - Review the application for persons wishing to register in S.C. and issue registration approval.

Year	Businesses Served	Registration Approvals	Cost to Agency per unit
2017-18	46	0	0
2018-19	68	99	\$657.57
2019-20	26	26	\$1,235.83

Accept license from another state (Service #54) - Review the application for persons licensed in at least one other state which has enacted the Uniform Money Services Act and wishing to engage in money transmission in S.C. Issue approval, if appropriate.

Year	Businesses Served	Approvals	Cost to Agency per unit
2017-18	11	0	0
2018-19	9	19	\$722.25
2019-20	0	0	0

Renewal (Service #55) - Review the renewal application and issue approval.

Year	Businesses Served	Renewals	Cost to Agency per unit
2017-18	0	0	0
2018-19	0	0	0
2019-20	105	105	\$95.11

### Currency Exchange License (good for 2 years)

Purpose is to provide the ability for a person to apply for a currency exchange license if they do not also conduct money transmission. Fees collected are transferred to the General Fund. Since the OAG began accepting applications in FYE 6/30/18, two businesses have applied for this license. One was approved; one was withdrawn. No renewals were processed in FYE 6/30/19.

The licensed currency exchanger is **Dartmouth Capital LLC**.

Initial application in S.C. (Service #56) - Review the application for persons wishing to register in S.C. and issue registration approval.

Renewal (Service #57) - Review the renewal application and issue approval.

### Exams

Annual and Joint Exams (Service #58 and #59) – Section 35-11-500 and -505

Commissioner has authority to conduct an annual exam of a licensee or its authorized delegates, or at any time an unsafe or unsound practice or violation of the law is suspected. Also, regulators may conduct joint exams and coordinate other actions for efficiency.

The AG annually reviews the licensee's compliance with financial statement reporting requirements, minimum net worth standards, and surety bond requirements. The AG also works with MSB on behalf of their S.C. customers to resolve customer complaints. The AG plans to examine the sole S.C. based MSB in the 4<sup>th</sup> quarter of 2022. Given resource restrictions, the office is not currently performing examinations of MSBs headquartered in other states.

## Changes required to report

See, S.C. Code Sections 35-11-510 and -515

Material change in licensee application (Service #60) - Review material changes in information provided in a licensee's application.

Change in control (Service #61) - Review notices of proposed changes in control filed by a licensee; issue comments, as necessary; and approve if comments are satisfied. It is important for safety and soundness reasons for the Commissioner to properly assess the background of the persons who wish to acquire control.

## Disciplinary actions permitted against licensees

See, S.C. Code Sections 35-11-700 thru -720, -735, -800 and -805

Suspension or Revocation of a License (Service #62) - Suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate.

Suspension or Revocation of Authorized Delegate (Service #63) - Issue an order suspending or revoking the designation of an authorized delegate.

Cease and Desist Orders (Service #64) - Issue an order requiring a licensee or authorized delegate to cease and desist from violating the law. The Commissioner has limited authority to issue orders to cease and desist without prior notice and hearing procedures.

Civil Penalties (Service #66) - Assess civil penalties against a person who violates the money services laws.

Appointing a Receiver (Service #69) - Apply to the Richland County Circuit Court for the appointment of a receiver when the licensee is unable to pay its obligations generally as they become due.

**Enforcement Hearings** (Service #70) - Provide notice and opportunity to be heard and hold such hearings when the Commissioner suspends or revokes a license; issues an order to cease and desist; suspends or revokes the designation of an authorized delegate; or assesses a civil penalty. Generally, the Commissioner is required to provide notice and have a hearing before taking or making final certain disciplinary or enforcement actions against a licensee or its authorized delegates.

Consent Orders (Service #65) - Negotiate and enter into a consent order to resolve an ongoing matter. This allows the Commissioner a flexible means of achieving enforcement goals while minimizing the administrative and fiscal burden of lengthy administrative proceedings and hearings.

## Disciplinary actions permitted against NON licensed individuals

See, S.C. Code Section 35-11-730

Order to show cause prior to cease-and-desist order (Service #67) - Issue an order to show cause as to why an order to cease and desist should not be issued. The cause shown in a reply may provide circumstances that preclude issuing such an order.

Restraining Orders (Service #68) - Petition the Richland County Circuit Court for a temporary restraining order.

## Guidance

See, S.C. Code Section 35-11-815; Regulation 13-2801

Interpretive Orders (Service #71) - Issue interpretive orders to assist licensees in interpreting and complying with the South Carolina Anti-Money Laundering Act.

Year	Businesses Served	Approvals	Cost to Agency per unit
2017-18	0	0	0
2018-19	Unknown	4	\$5,154.14
2019-20	Unknown	2	\$0



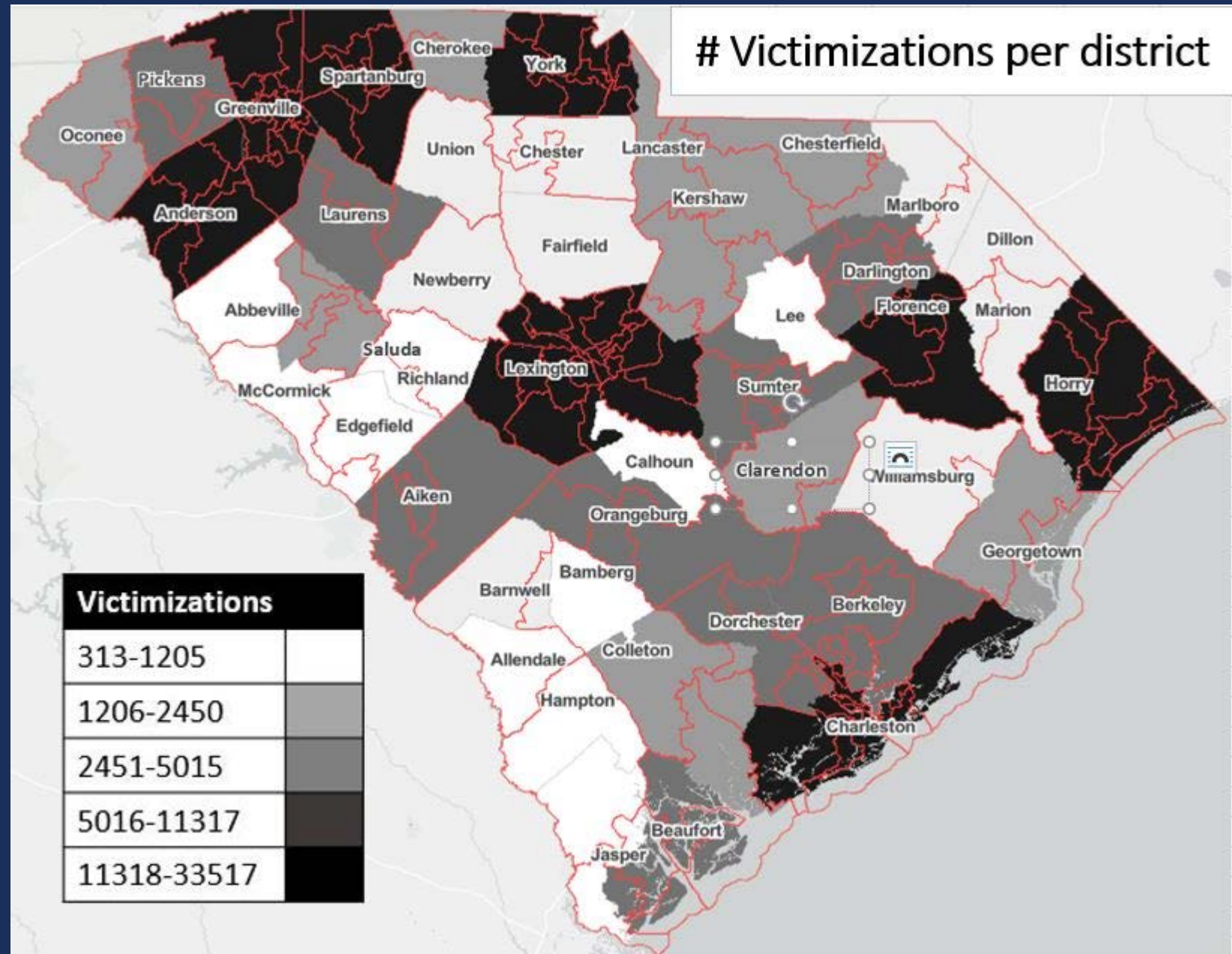
# Who is a victim?

An individual who

- suffers **direct** or **threatened**
- ***physical, psychological or financial harm***
- as a result of the commission or attempted commission of a crime.

Victim also includes:

- victim's spouse, parent or child or
- the lawful representative of a victim who is
  - Deceased
  - a minor
  - Incompetent
  - physically or psychologically incapacitated



# Individuals on whom victims rely

Included in Attorney General's Office presentation during House Legislative Oversight Subcommittee meetings in 2022

## Law Enforcement:

All Sheriffs' Departments  
All City and Town Police Departments  
State Law Enforcement Division  
SC Highway Patrol  
Public college and university law enforcement agencies

## Solicitor:

All Solicitors and their staff  
All City Prosecutors and their staff

## Courts:

All Circuit, Magistrate and Municipal Judges, their clerks and staff

## Detention Center / Jail:

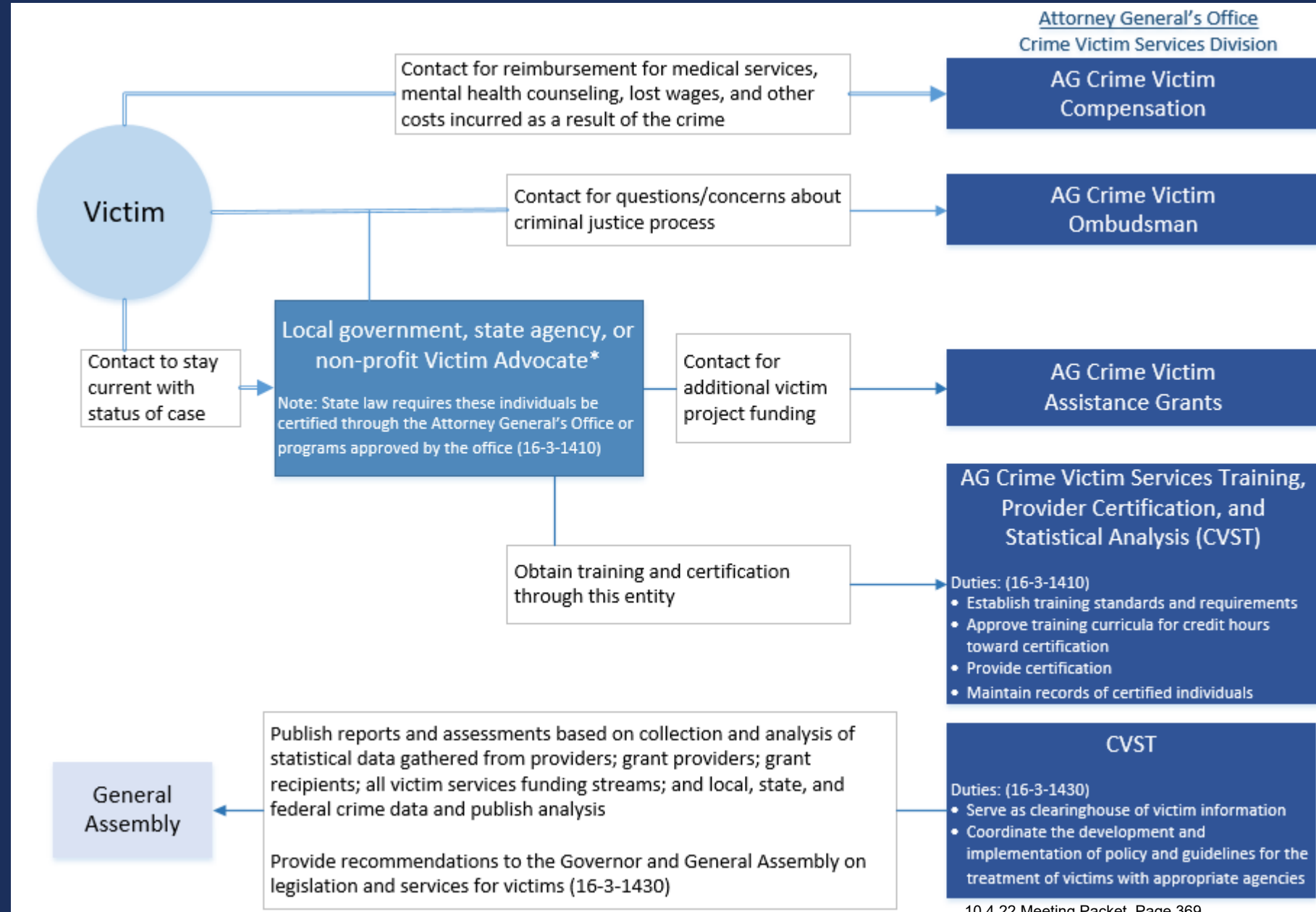
All Detention Center/Jail staff charged with notifying crime victims about offenders' releases/transfers/escapes

## State Agency:

Any state agency mandated by law to provide victim services, i.e., Attorney General's Office, SCDC, SCDPPPS, DJJ, and Juvenile Parole Board.

## Other:

All non-profit agencies that provide victim services; therapists, attorneys, etc.



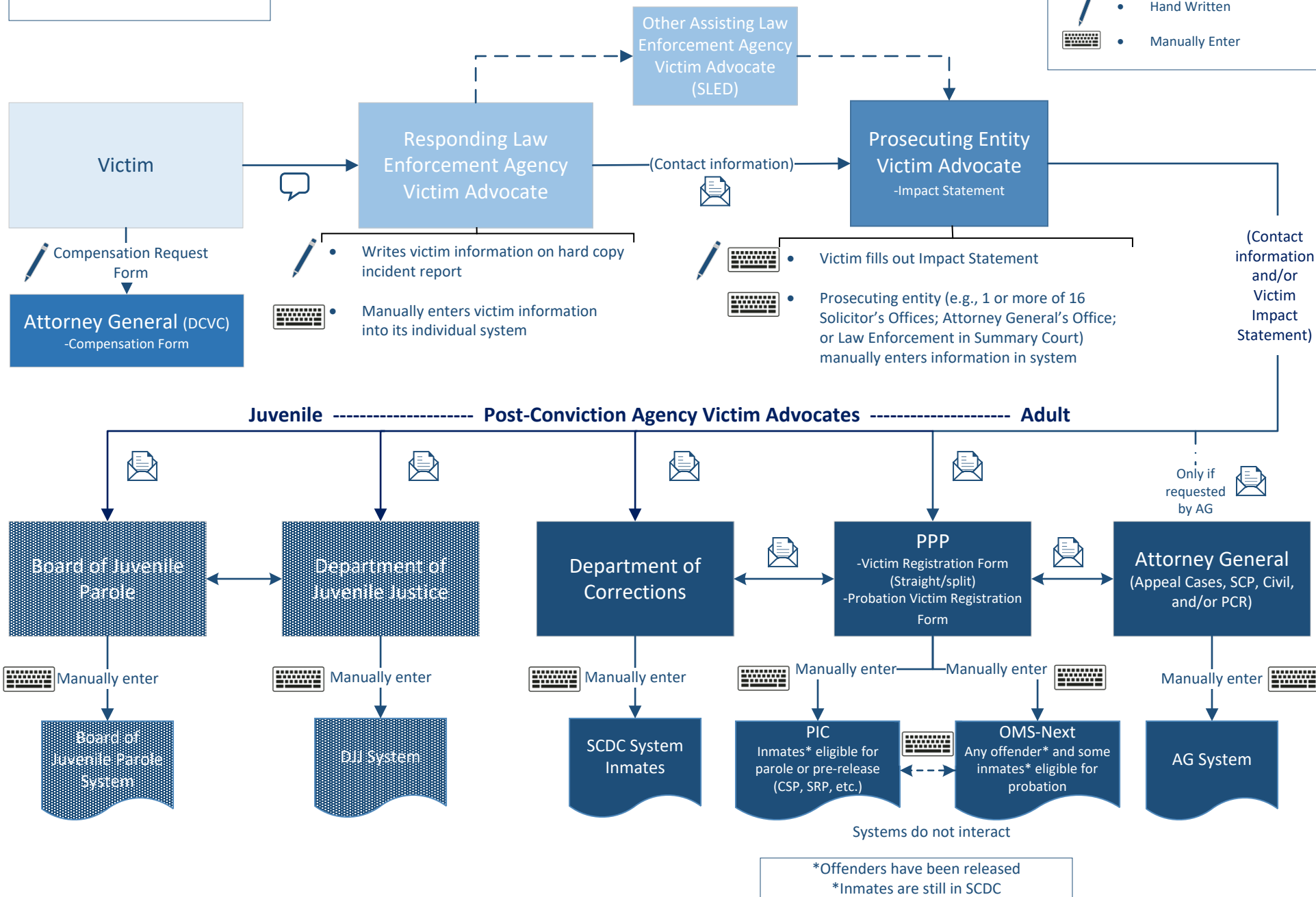
### Victim Information Shared

- Name
- Mailing Address
- Telephone Number
- Email Address

## Process by which Government Entities Share Victim Information

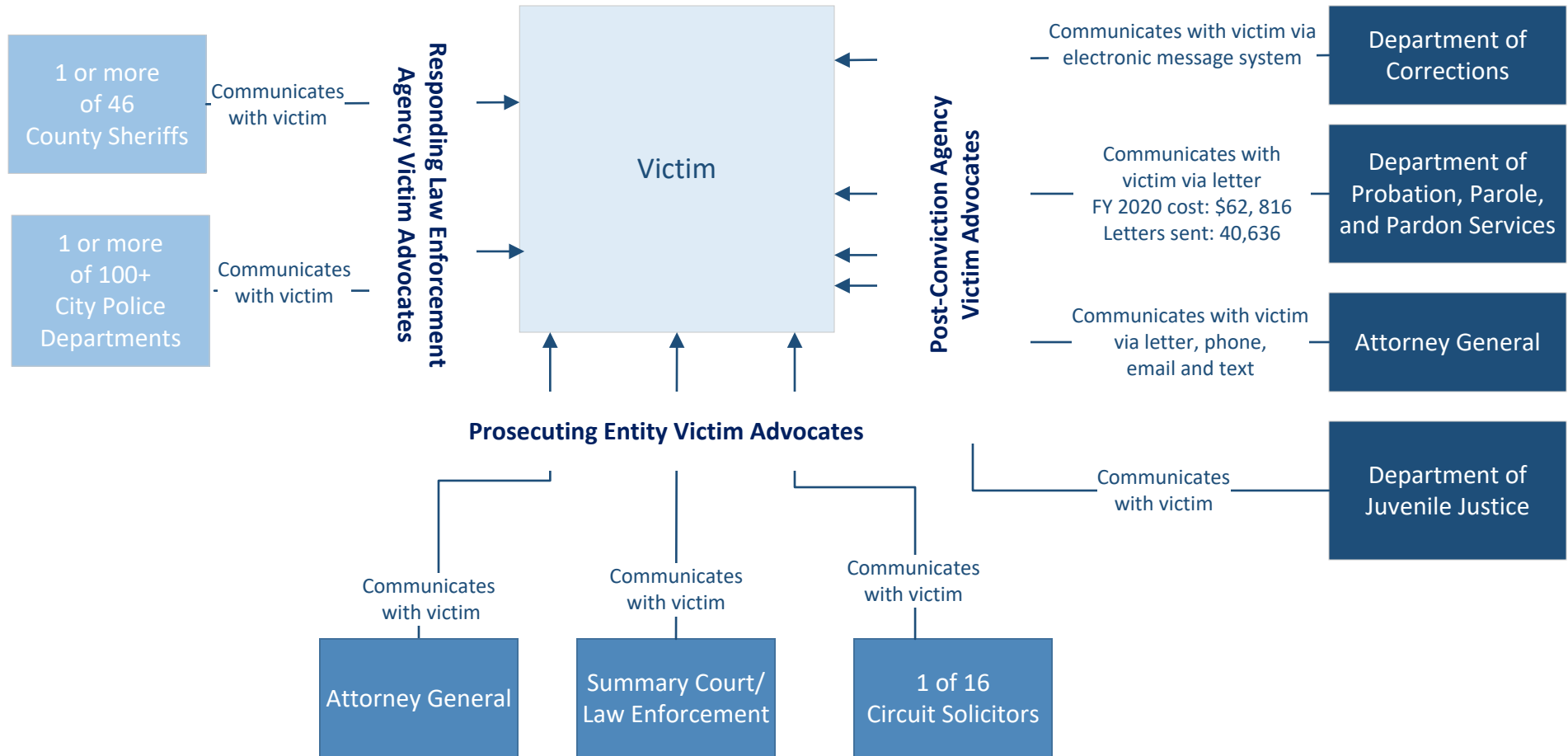
(To ensure victims receive notifications required in state constitution)

- Ways information is transferred**
- Verbally
  - Email scanned document or mail hard copy
  - Hand Written
  - Manually Enter





## Government Entities that Contact the Victim of a Crime

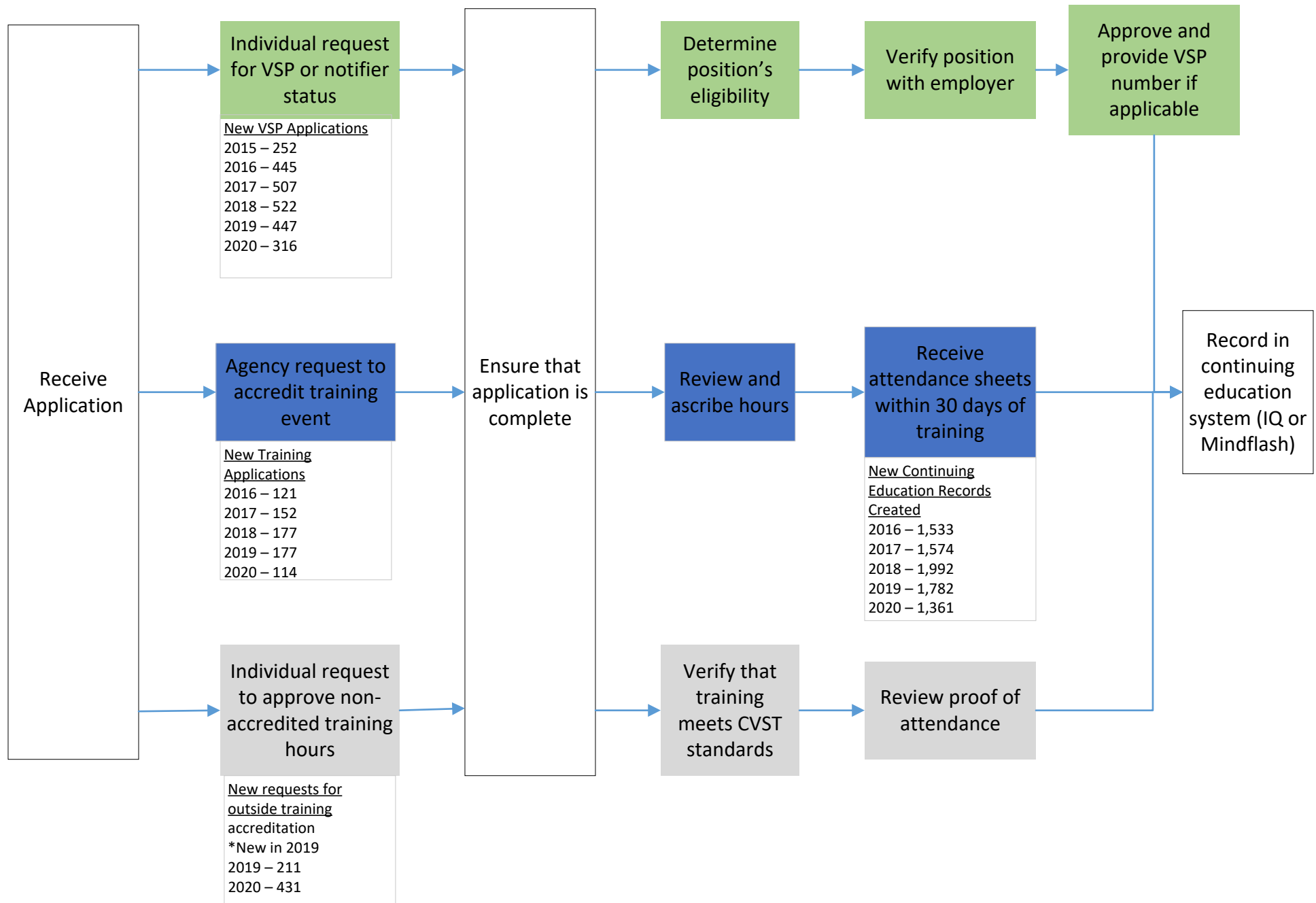


## Certifications Applicable to Those Who Serve Crime Victims

Category	Where employed	Description	Job duties include	Training Requirements
<b>Government Notifier / Support Staff (VSPN)</b>	<b>Summary Court or Detention Center</b>	Any S.C. Summary Court (i.e., Municipal Court or Magistrate's Court) or Detention Center (i.e., City or County Jail)	Positions that provide notifications to crime victims as mandated by law	<b>Continuing:</b> 2-hour approved training every other calendar year
<b>Victim Service Provider (VSP)</b>	<b>Local Government or State Agency</b> (other than summary court or detention center)	Any Local government (Police Departments, Sheriff's Offices ) Any State agency ( Solicitors, SC Department of Corrections, SC Probation, Parole and Pardon Services, SC Department of Juvenile Justice)	Any position that provides victim assistance as mandated by S.C. law	<b>Initial:</b> 15 hrs. of core training in first year employed <b>Continuing:</b> 12 hrs. of approved education every calendar year (VSPs can carry forward up to 12 hours of continuing education each calendar year)
<b>Victim Service Provider (VSP)</b>	<b>Non-Profit</b> (State recognized Non-Governmental Organization (NGO) whose mission is in victim services)	<ul style="list-style-type: none"> <li>•Mission is victim assistance or advocacy</li> <li>•Incorporated in, holds a certificate of authority in, or is registered as a charitable organization in, S.C.</li> <li>•Privately funded or receives funds from federal, state, or local governments to provide services to victims</li> </ul>	<b>VSP:</b> Provide victim assistance <b>VSP-HT:</b> Provide direct services to victims of human trafficking and recognized member of regional human trafficking taskforce or otherwise approved	<b>VSP Initial:</b> 15 hrs. of core training in first year employed <b>VSP-HT Initial:</b> 15 hrs. of specialized core training in human trafficking in first year employed <b>Continuing:</b> 12 hrs. of approved continuing education required each calendar year (VSPs can carry forward up to 12 hours of continuing education each calendar year)

Note: A Victim Service Provider is an individual, not an entity or organization.

## Crime Victim Service Provider Certification and Accreditation Process



# Crime Victim Assistance Grants

(Available to those who serve victims, not directly to victims)

Administered through the  
Attorney General's Office's  
Division of Crime Victim Services

## Federal Victims of Crime Act (VOCA)

- *Source:* Federal Fines, Fees, and Assessments
- *Stability:* Fluctuates greatly
- *Law:* 1984, Public Law 98-473
- Avg. number of projects per year FY 2018-2022: 110

### Program Priority Areas

- Sexual Assault
- Spousal Abuse
- Child Abuse and Neglect
- Underserved Victims of Violent Crime (e.g., homicide survivors, elder abuse)

## Federal Violence Against Women Act (VAWA)

- *Source:* Federal Appropriation
- *Stability:* Stable and consistent
- *Law:* 1994, Title IV of the Violent Crime Control and Law Enforcement Act, Public Law 103-322
- Avg. number of projects per year FY 2018-2022: 28

### Program Priority Areas

Projects that primarily focus on female victims of

- Domestic Violence
- Sexual Assault
- Dating Violence
- Stalking over the age of 11

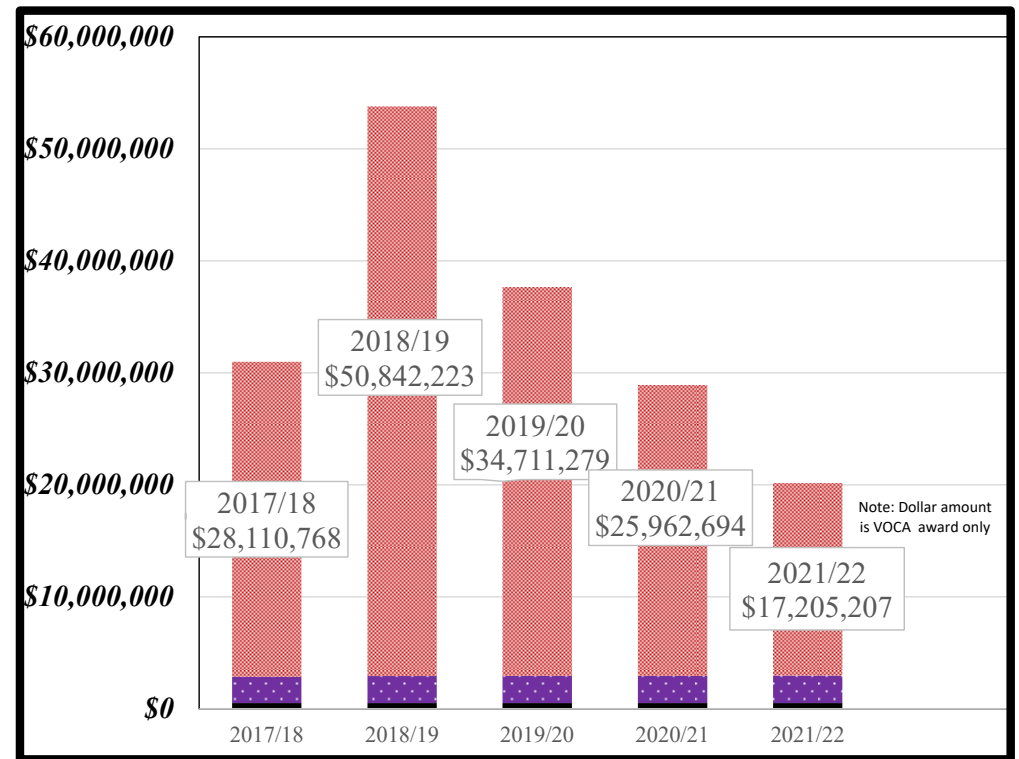
*Note: There are 20 priority purpose areas Pursuant to 34 U.S.C. 10441(b)*

## State Victim Assistance Program (SVAP)

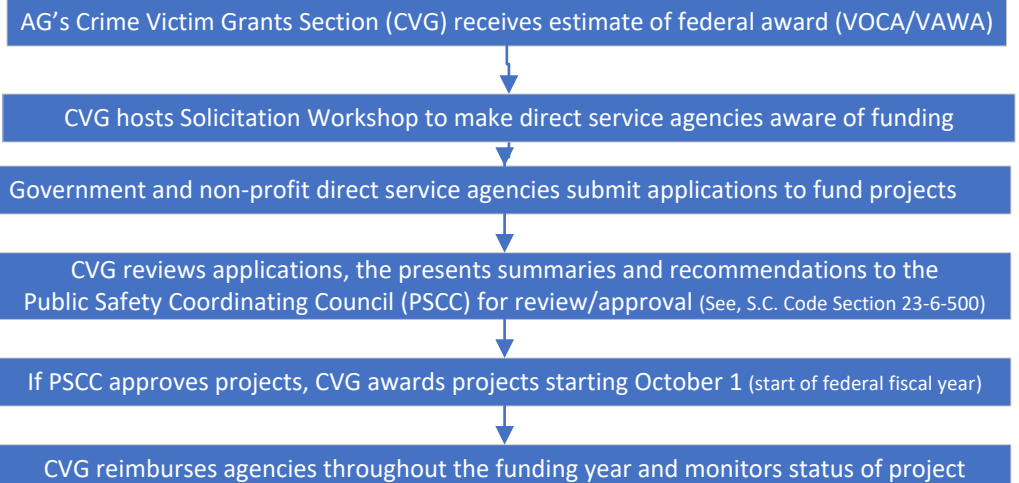
- *Source:* Other funds from SCDC inmate work release pay; and solicitation of grant funding from governmental entities and non-profits
- *Stability:* Stable and consistent
- *Law:* 1986, Omnibus Criminal Justice Improvements Act; 2017, S.C. Crime Victim Services Act
- Avg. number of projects per year FY 2018-2022: 7

### Program Priority Areas

- Sexual Assault
- Spousal Abuse
- Child Abuse and Neglect
- Underserved Victims of Violent Crime
- Training



## Steps in Grant Process



# Process for Crime Victim to Claim Compensation

(Receipt of application to first payment)

## **Step 1 Intake Process**

- Review/Screen Application
- Create Claim
- Obtain Documents

## **Step 2 Eligibility Process**

- Eligibility Review
- Follow-up
- Contact Victims/Claimants
- Make Eligibility Recommendation

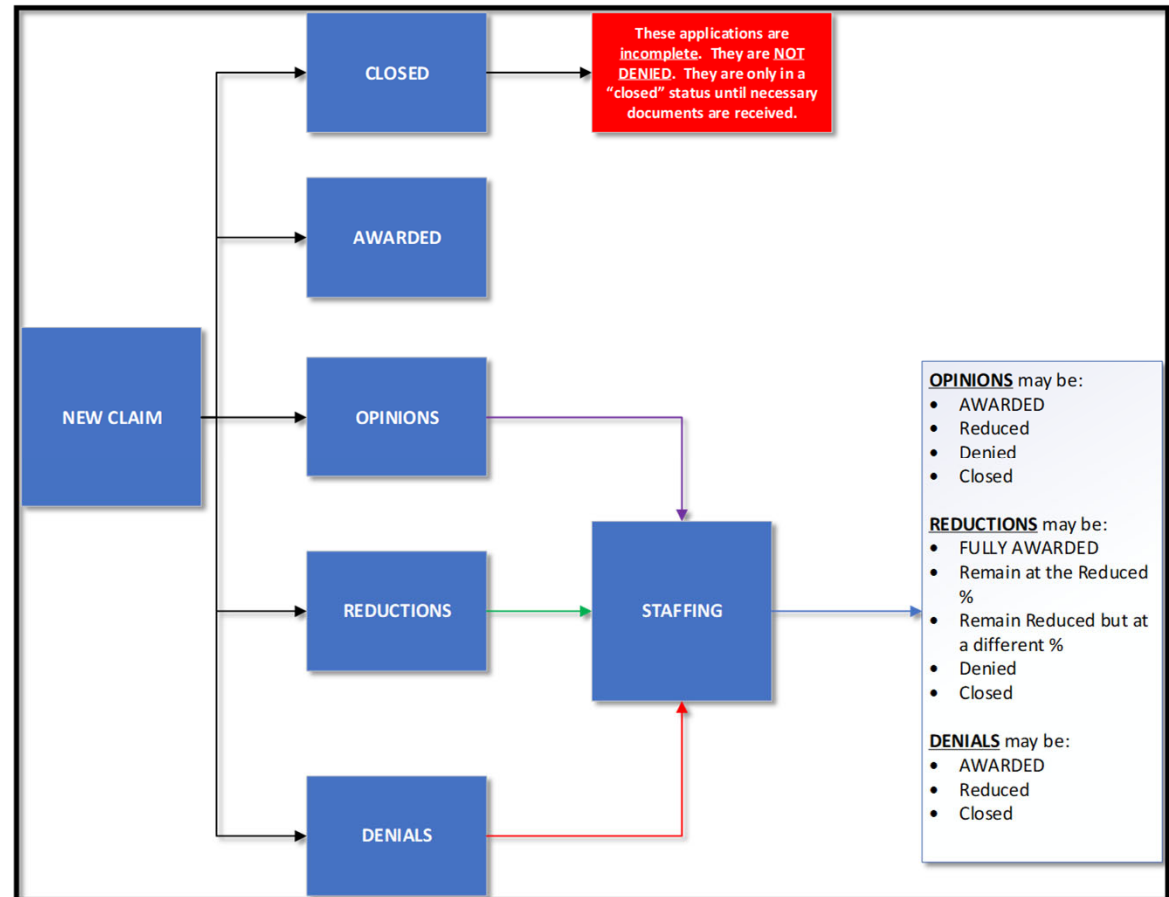
## **Step 3 Restitution/Subrogation Process (Compensation Recovery)**

If Applicable:

- Contact Attorneys
- Follow-up
- Contact Victims/Claimants

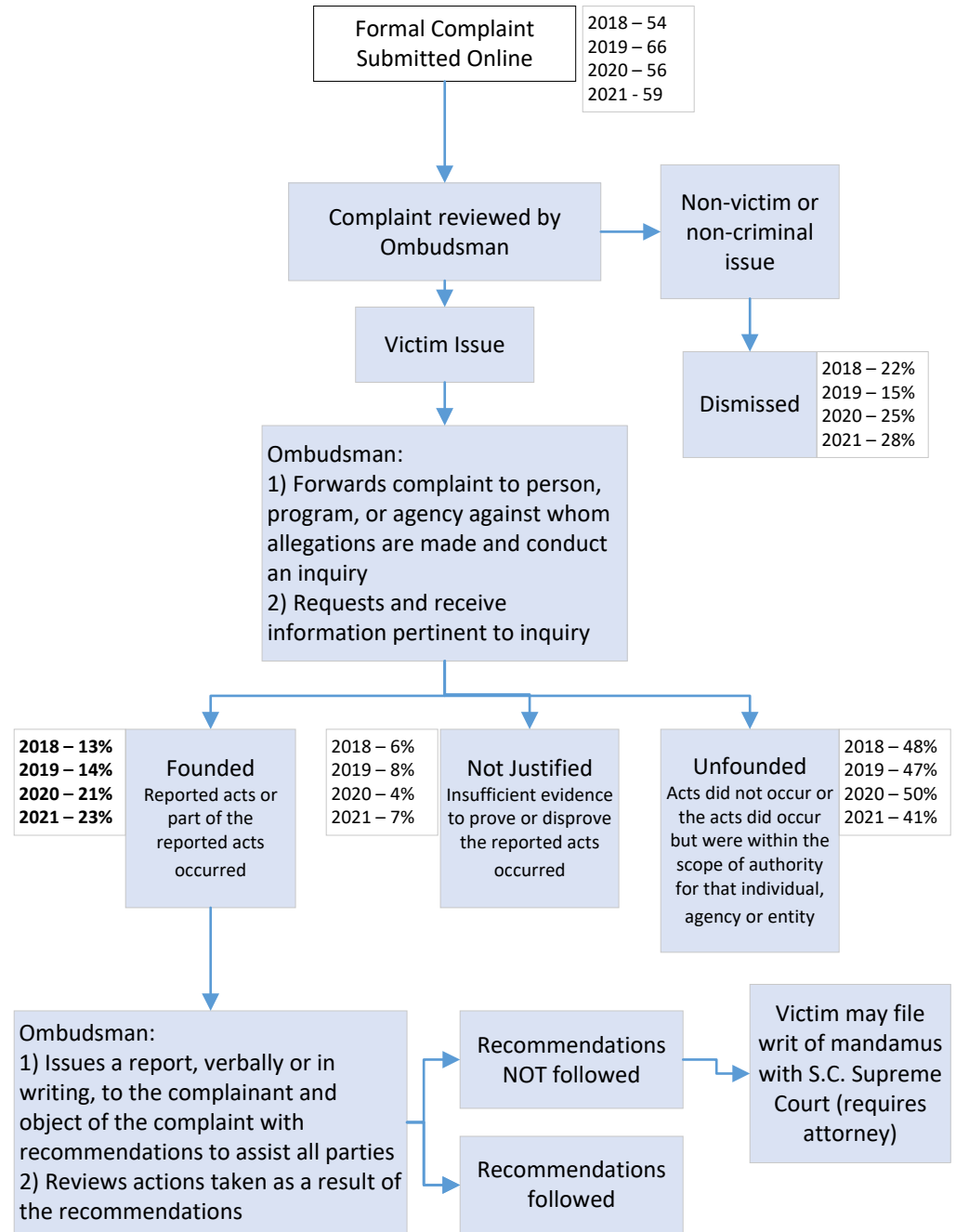
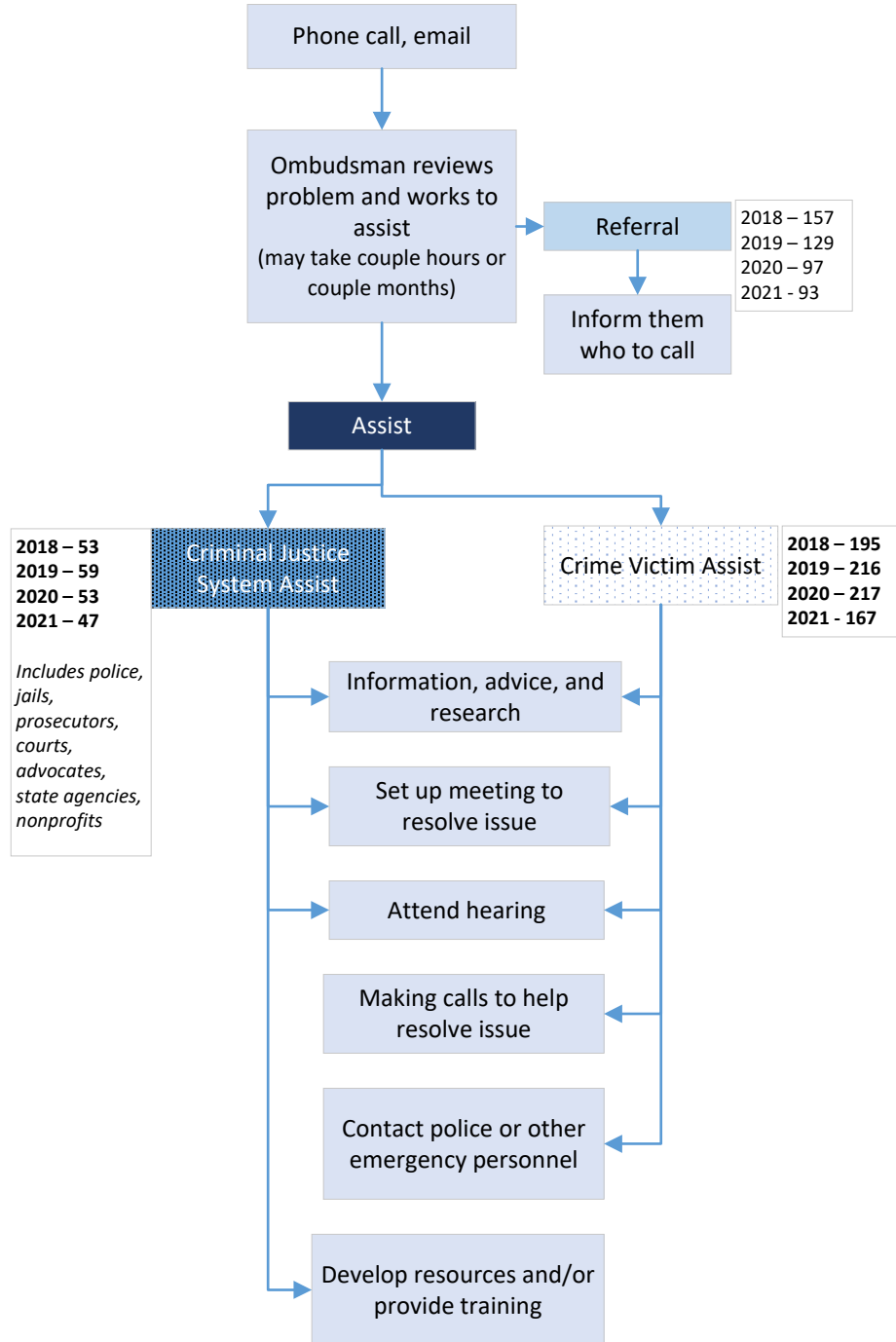
## **Step 4 Payment Process**

- Obtain Health Insurance Information
- Obtain Proper Medical and Lost Wages Document(s)
- Contact Providers/Victims/Claimants
- Process Payments for Eligible Claims



# Crime Victim Ombudsman Processes

## Referral, Assist, and Formal Complaints



## State Government Department/Agency Hiring Attorney\* as Employee

\*Applies to following agency attorney positions: (1) temporary; (2) classified; and (3) some unclassified if a statute other than 1-7-160 applies (e.g., 42-7-30)

Does not apply to attorneys hired by the General Assembly and Judicial Department; nor to unclassified agency attorney positions (e.g., most Indigent Defense counsel are unclassified attorneys)

### Statute

#### Section 1-7-160. Hiring of attorneys.

A department or agency of state government may not hire a classified or temporary attorney as an employee except upon the written approval of the Attorney General and at compensation approved by him. All of these attorneys at all times are under the supervision and control of the Attorney General except as otherwise provided by law unless prior approval by the State Budget and Control Board is obtained. This section does not apply to an attorney hired by the General Assembly or the Judicial department.

HISTORY: 2008 Act No. 353, Section 2, Pt 10A, eff July 1, 2009.

Code Commissioner's Note: At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

NOTE: If the attorney is an unclassified employee on an agency's executive team, the agency does not need approval from the Attorney General.

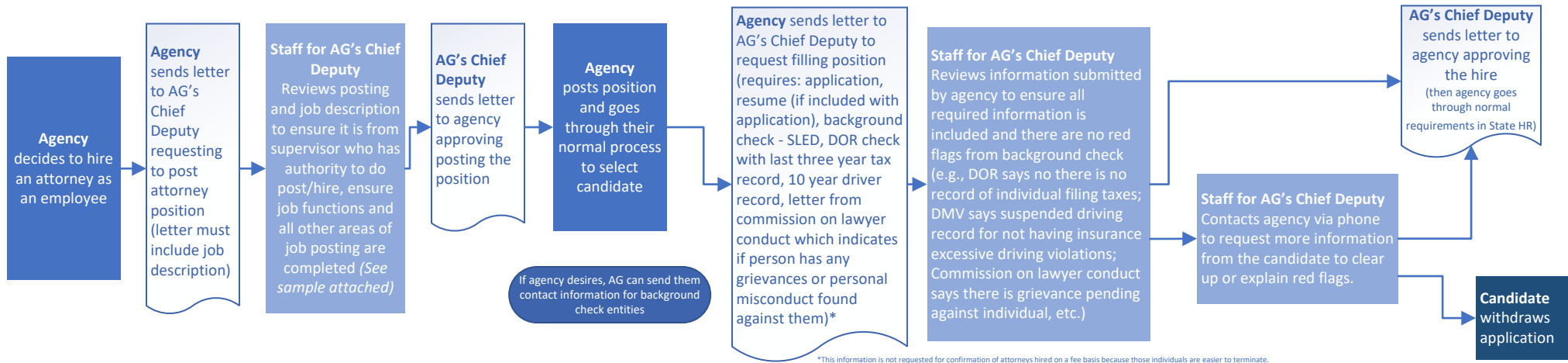
#### Data maintained by the Office of the Attorney General

Prior to May 2018: Agency requests and AG approval letters are available in archives, but there is no aggregated data in an Excel chart or other database.

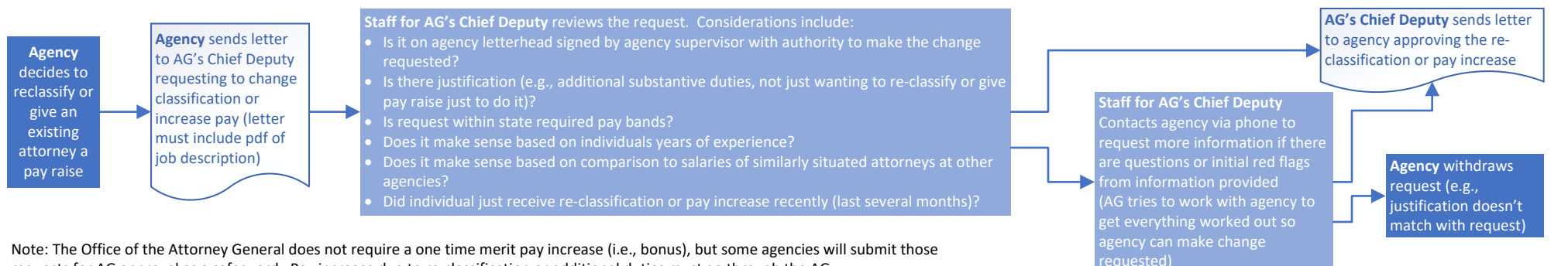
May 2018 to present: Agency requests and AG approval letters are available. Additionally, the following type of aggregated information is available in an Excel chart:

- Date Approved
- Attorney Name
- Agency/Type of Request (e.g., new hire, temp, salary increase, etc.)
- Class/Salary (e.g., Atty. II / \$45,000)
- Year graduated from law school

### New Classified or Temporary Attorney Hire *(Process outlined below has been utilized for over 10 years)*



### Attorney Classification Change or Pay Raise *(Process outlined below has been utilized for over 10 years)*



Note: The Office of the Attorney General does not require a one time merit pay increase (i.e., bonus), but some agencies will submit those requests for AG approval as a safeguard. Pay increase due to re-classification or additional duties must go through the AG.

## State Government Department/Agency\* Contracting with Outside Attorney on Fee Basis

\*Applies to attorneys hired for a department or agency of state government except the following: (1) attorneys hired by the General Assembly and Judicial Department;

(2) attorneys hired for special cases in Municipal Court and Magistrate Court when the fee to be paid does not exceed \$250; and (3) exceptions approved by the State Budget and Control Board

### Statute

#### Section 1-7-170. Engaging attorney on fee basis.

(A) A department or agency of state government may not engage on a fee basis an attorney at law except upon the written approval of the Attorney General and upon a fee as must be approved by him. This section does not apply to the employment of attorneys in special cases in inferior courts when the fee to be paid does not exceed two hundred fifty dollars or exceptions approved by the State Budget and Control Board. This section does not apply to an attorney hired by the General Assembly or the judicial department.

(B) A public institution of higher learning shall engage and compensate outside counsel in accordance with policies and procedures adopted by the State Fiscal Accountability Authority for matters of bonded indebtedness, public finance, borrowing, and related financial matters.

HISTORY: 2008 Act No. 353, Section 2, Pt 10B, eff July 1, 2009; 2011 Act No. 74, Pt VI, Section 9, eff August 1, 2011.

Code Commissioner's Note: At the direction of the Code Commissioner, reference in (A) to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly. Reference in (B) to the former Budget and Control Board was changed to the State Fiscal Accountability Authority pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment: The 2011 amendment inserted subsection identifier (A) in the first paragraph and added subsection (B) relating to outside counsel.

Notes: Attorney General Office personnel are not aware of the Budget and Control Board exceptions. Inferior courts refer to Magistrate and Municipal Courts.

### Data Maintained by Office of the Attorney General

#### Civil Division

- FY 2016 and prior: Hard copy of Form 1 submissions and decisions in archives
- FY 2017 - FY 2022: Hard copy of Form 1 submissions and decisions in the office
- FY 2021 to present: Information below from Form 1 submissions and decisions in an Excel chart (see history for prior method of saving information). Asterisks indicates only information not entered directly from the agency's Form 1
  - Name of agency
  - Law firm name
  - Case Matter
  - Dates for which outside attorney service is requested
  - County in which matter is located
  - Service code\* – Type of legal services (e.g., general litigation, real estate, etc.). Decided by AG's Office based on case matter and services description
  - Date approved
  - Requested maximum fees for dates of service
  - Rate Type (hourly or flat rate)
  - Status: Open (AG won't know if closed)
  - Name of attorneys approved

Note: The AG does not have a list of approved attorneys on file like the Insurance Reserve Fund

History: (1) AG previously approved paralegals (\$70 for experience of 7 years or more), legal assistants and others rate, in addition to attorney rate and estimated max fees. Now, AG only approves attorney rate.

(2) AG previously utilized a database to track information on outside counsel approval requests until FY 2021. AG stopped using the database because it was outdated and unable to query.

Future Ideas: AG has considered having training seminar to teach agencies how to complete the forms.

## Retaining services of attorney on fee basis (Process outlined below has been utilized for at least 20 years) Note: AG uses same process if they need outside counsel (e.g., AG needs an employment attorney)

### Agency determines...

- Need outside counsel (new hire)
- Matter is lasting past prior approval date (June 30 of each year is longest period) (Renewal)
- Change is needed in prior approval (amendment)

Agency completes and submits Form 1 to request approval (See sample attached)

### AG's Deputy Director of Legal Services Division (DDLSD)

- Reviews: Information submitted by agency to ensure all required information is included and there are no red flags (e.g., accurate name of attorney; attorney years of experience; justification for amount requested if, for example, rate requested exceeds standard rate)  
*Does not review:* Whether they think agency actually needs outside counsel (defer to agency); whether ethical violations exist unless outside information known that may raise flags (e.g., work for state government and be listed as private attorney). No background check is required.
- Rates: An agency can request, by providing justification, a rate higher than the standard. If a rate higher than standard is requested, Deputy AG of Legal Services and Chief Deputy for Attorney General discuss and decide. Considerations may include: (1) unique area of law and/or number of attorneys practicing in that area of the law (e.g., intellectual property; immigration; NCAA); (2) quick turnaround time; (3) amount attorney has reduced their normal rate to do the work for the state (e.g., reduced from \$500 to \$200)

Agency sends applicable information to Comptroller General including Form 1

AG's Deputy Director of Legal Services initials bottom of Form 1 to approve, saves information in Excel chart and hard copy file, then sends copy back to agency

AG's DDLSD calls agency with questions if clarification is needed

AG's DDLSD writes not approved on Form 1

### Requests

- Approximately 1,200 approval requests submitted per year
- Matters relate to topics including but not limited to: immigration, intellectual property, employment, condemnation, and civil cases that are not covered by the Insurance Reserve Fund (AG will send matter to IRF if they think they would cover it to double check)
- Type of rate fees are typically hourly, some are flat fee, and a few are contingency based.

### What is approved?

- Only attorney fees [AG does not approve costs (copying, expert witness, etc.)]
- AG uses the same rates as the Insurance Reserve Fund (IRF). IRF increased their rates in 2021 for the first time in at least 10 years. AG is increasing their rates, effective July 2022 to match IRF's new rates. Below are rates in 2021 and effective July 2022
  - 0-3 years (\$80/hour)\*
  - 3-5 years (\$90/hour, but \$120/hour starting July 2022)
  - 6-10 years (\$110/hour, but \$150 starting July 2022)
  - 10+ years (up to \$150/hour, but \$180 starting July 2022)

\*Note: IRF only approves attorneys with 3+ years experience, unless an attorney with fewer years of experience is specifically requested by an agency, but AG approves rate for attorneys with 0-3 years experience. Also, agency can pay for an attorney to use a paralegal if the agency desires. The paralegal rates do not require AG approval.



APPENDIX B – STATUTE MODERNIZATION (I.E., SPECIFIC LANGUAGE AND AGENCY PERSONNEL’S REASONING FOR SUGGESTING THESE CHANGES)

Report Recommendation #31 - (Agency Law Change Recommendation #1)

LAW CHANGE #1 (Executive)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 63-19-1430. Youth Mentor Act.	<p><u>Current Law:</u> This was a small program established several administrations ago, and became formalized as part of an omnibus bill establishing the Children's Code (Title 63).</p> <p><u>Recommendation:</u> Delete this code section.</p>	Since its inception, it has become duplicative of existing programs. Other programs are grant based and have appropriate staff for such activities. It is better suited to local entities. There is no funding or separate FTEs, and it is ineffective at present and not suited for existing AG staff. At present the program is dormant.	N/A
Current Law Wording:			
SECTION 63-19-1430. Youth Mentor Act.			
<p>(A) This section may be cited as the "Youth Mentor Act".</p> <p>(B) The Attorney General's Office shall establish a Youth Mentor Program to serve juvenile offenders under the jurisdiction of the family court. The program shall consist of a church mentor program and a community mentor program. Participation in the program may be required as a pretrial diversion option by a solicitor or as an optional, alternative disposition by a family court judge. The circuit solicitor may charge a juvenile offender who participates in the Youth Mentor Program a fee to offset the actual cost of administering the program; however, no juvenile offender is barred from the program because of indigence. This program must be available for juveniles who commit nonviolent offenses. For purposes of this subsection, nonviolent offenses mean all offenses not listed in Section 16-1-60.</p> <p>(C) When a child is charged with a nonviolent offense which places him under the jurisdiction of the family court and the solicitor is of the opinion that justice would be better served if the child completed a church mentor program, the solicitor may divert the child to such a program. Upon completion of the program, the proceedings in family court must be dismissed.</p> <p>Participation in the church mentor program is voluntary, and the child or his parents or guardians may refuse to participate based upon their religious beliefs or for any other reason.</p> <p>The Attorney General must establish guidelines for the program, the mentors, and the churches, mosques, masjids, synagogues, and other religious organizations that participate in the church mentor program.</p> <p>(D) When a child is adjudicated delinquent for a nonviolent offense in family court, the family court judge may order the child to participate in the community mentor program. When a child is ordered to participate in the community mentor program, he must be assigned to a community organization which shall assign a mentor to the child. The mentor shall monitor the academic and personal development of the child for a minimum period of six months and a maximum period not exceeding one year as ordered by the court. Failure to complete the program shall result in the child being brought before the family court for appropriate sanctions or revocation of suspended commitment.</p> <p>The Attorney General must establish guidelines for the program, the mentors, and the community organizations that participate in the community mentor program.</p> <p>HISTORY: 2008 Act No. 361, Section 2.</p>			

Report Recommendation #32 - (Agency Law Change Recommendation #6)

LAW CHANGE # 6 (CPAT)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 1-7-117 - Duties of Division of Public Charities devolved upon Attorney General.	<p><u>Current Law:</u> Devolved duties, functions, and responsibilities of the Public Charities Division to the Attorney General's Office in 1996.</p> <p><u>Recommendation:</u> Repeal entire statute</p>	1998 Act No. 368 devolved the duties, functions, and responsibilities of the Public Charities Section of the Attorney General's Office upon the Secretary of State's Office on July 1, 1998. The Public Charities Division has remained with the Secretary of State's Office since that time, and Section 1-7-117 is no longer accurate.	<p>Other entities potentially impacted: Secretary of State</p> <p><b>NOTE: This issue was previously addressed in the Secretary of State's Legislative Oversight review. There is pending legislation for this correction</b></p>
Current Law Wording		Proposed Revisions to Law Wording	
<p><b>SECTION 1-7-117.</b> Duties of Division of Public Charities devolved upon Attorney General.</p> <p>(A) The duties, functions, and responsibilities of the Division of Public Charities of the office of the Secretary of State are devolved upon the Attorney General's office on July 1, 1996. All personnel, appropriations, and full-time equivalent positions of the Division of Public Charities also are transferred to the Attorney General's office on July 1, 1996.</p> <p>(B) The Attorney General shall administer the "South Carolina Solicitation of Charitable Funds Act" as contained in Chapter 56 of Title 33 of the 1976 Code.</p> <p>HISTORY: 1996 Act No. 458, Part II, Section 28A, B.</p>		<p><del><b>SECTION 1-7-117.</b> Duties of Division of Public Charities devolved upon Attorney General.</del></p> <p><del>(A) The duties, functions, and responsibilities of the Division of Public Charities of the office of the Secretary of State are devolved upon the Attorney General's office on July 1, 1996. All personnel, appropriations, and full-time equivalent positions of the Division of Public Charities also are transferred to the Attorney General's office on July 1, 1996.</del></p> <p><del>(B) The Attorney General shall administer the "South Carolina Solicitation of Charitable Funds Act" as contained in Chapter 56 of Title 33 of the 1976 Code.</del></p> <p><del>HISTORY: 1996 Act No. 458, Part II, Section 28A, B.</del></p>	

Report Recommendation #33 - (Agency Law Change Recommendation #7)

LAW CHANGE #7 (CPAT)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 44-11-110. Easements and rights of way on grounds of facilities.	<p><u>Current Law:</u> Requires written approval from the Attorney General for any grant of easements, permits or rights of way on, over or under the grounds of Department of Mental Health facilities.</p> <p><u>Recommendation:</u> Repeal entire statute</p>	The Department of Mental Health has its own attorneys who are in a position to review and evaluate easements, permits, or rights of way	Other entities potentially impacted: <b>Department of Mental Health</b>
Current Law Wording		Proposed Revisions to Law Wording	
<p>Section 44-11-110. Easements and rights of way on grounds of facilities.</p> <p>Universal Citation: SC Code § 44-11-110 (2012)</p> <p>The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.</p> <p>HISTORY: 1962 Code Section 32-941; 1952 Code Sections 32-981, 32-982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. '22 Section 5107; Civ. C. '12 Section 3372; Civ. C. '02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.</p>		<p><del>Section 44-11-110. Easements and rights of way on grounds of facilities.</del></p> <p><del>Universal Citation: SC Code § 44-11-110 (2012)</del></p> <p><del>The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.</del></p> <p><del>HISTORY: 1962 Code Section 32-941; 1952 Code Sections 32-981, 32-982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. '22 Section 5107; Civ. C. '12 Section 3372; Civ. C. '02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.</del></p>	

Report Recommendation #34 - (Agency Law Change Recommendation #9)

LAW CHANGE # 9 (Opinions)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 59-31-560	<p><u>Current Law:</u> "The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer."</p> <p><u>Recommendation:</u> Remove requirement for Attorney General approval.</p>	This statute was written over a century ago when the AG office was the only source of legal work for the state. It is an anachronistic formality in the modern era where the Dep't of Ed. employs attorneys.	<p><u>Presented and approved by agency's governing body:</u></p> <p><u>Other entities potentially impacted:</u> Department of Education</p> <p><u>If the law is a regulation, where agency is in the process of finalizing it and providing it to the General Assembly:</u> N/A</p>
Current Law Wording		Proposed Revisions to Law Wording	
"The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer."		"The State Board of Education or its designee shall place in the custody of the State Treasurer any bond that is entered by the State and the publisher pursuant to S.C. Code Ann. §59-31-550(5)."	



Report Recommendation #35 - (Agency Law Change Recommendation #27)

LAW CHANGE #27 (Sp Pros)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 59-63-350	<p><b>Current Law:</b> Local law enforcement must call Attorney General's Office to tell about certain crimes occurring at school or at a school-sanctioned event</p> <p><b>Recommendation:</b> Remove the statute</p>	This statute does not provide any action for the AG office. It is a requirement of law enforcement who already have enough requirements without sending us a notification. Other agencies get these reports and keep up with them.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.		Delete	

Report Recommendation #36 - (Agency Law Change Recommendation #2)

LAW CHANGE # 2 (Legal Services)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
Section 35-1-604(f). Administrative Enforcement.	<p><u>Current Law:</u> In part, Subsection (f) requires that the Securities Commissioner forward final orders issued under §35-1-604 of the SC Uniform Securities Act of 2005 to the SC Department of Revenue and the SC Secretary of State.</p> <p><u>Recommendation:</u> Modify to delete the final sentence in this section requiring forwarding of final orders to the Department of Revenue and Secretary of State.</p>	The Department of Revenue and Secretary of State have indicated that they believe publication of final orders on our website sufficiently puts them on notice of an action. They do not object to this change.	Other entities potentially impacted: SC Department of Revenue, SC Secretary of State
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 35-1-604. Administrative Enforcement.</p> <p>(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.</p>		<p>SECTION 35-1-604. Administrative Enforcement.</p> <p>(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. <del>A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.</del></p>	

Report Recommendation #37 - (Agency Law Change Recommendations #15 and 36)

LAW CHANGE #15 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 16-3-1050 S.C. Code Ann. § 43-35-85	<p><b>Current Law:</b> Both of these statutes appear to criminalize the same acts. However, there are very different ramifications for violations based on which statute is used for charging.</p> <p><b>Recommendation:</b> Review the two statutes, as well as the ramifications under sections 16-1-60, 17-25-45, 17-22-50, and 63-7-2350 to determine whether one statute needs to be amended or removed and to make the collateral consequences the same.</p>	A review of sections 16-3-1050 and 43-35-85 showed they penalized the same behaviors. However, they have different collateral consequences with one statute resulting in a designation of a violent most serious offense while the other is a serious non-violent among other differences.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p><b>S.C. Code Ann. § 16-3-1050</b></p> <p>(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.</p> <p>(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.</p> <p>(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.</p>		<p><b>S.C. Code Ann. § 16-3-1050</b></p> <p>Repealed (We ask that the Act repealing the statute contain a standard savings clause: The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.)</p> <p><del>(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.</del></p>	



(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

#### Section 43-35-85

##### Penalties

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a

~~(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.~~

~~(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.~~

~~(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.~~

~~(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.~~

~~(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.~~

~~(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.~~

~~(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.~~

~~As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.~~

#### Section 43-35-85

To amend the caption of the section to read:

Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

**LAW CHANGE #36 (CVS)**

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1410(C)(2)	<p><u>Current Law:</u> Victim Service Providers (VSP) employed on the effective date of this article are exempt from basic certification requirements, but must meet annual continuing education requirements.</p> <p><u>Recommendation:</u> Remove the first sentence of 16-3-1410(C)(2)</p>	<p>This was language from 2008 when VSP certification was first codified. VSPs employed prior to 2009 were "grandfathered" meaning they did not have to take the basic certification course. However, the law is not clear that this was for those employed as VSPs prior to 2009, and over a decade later the "grandfathering" process is no longer relevant.</p>	N/A
Current Law Wording		Proposed Revisions to Law Wording	
(2) Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification. Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.		(2) <del>Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification.</del> Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.	



Report Recommendation #38 - (Agency Law Change Recommendation #16)

LAW CHANGE #16 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 17-13-140	<p><u>Current Law:</u> Allows for law enforcement to obtain search warrants and allows for judges to issue search warrants for property within their jurisdiction, which would limit a magistrate to a county and a circuit court judge to statewide jurisdiction.</p> <p><u>Recommendation:</u> The statute needs to be expanded to address today's digital age and allow a circuit court judge to issue a search warrant which would allow for access to digital or electronic data stored outside the state of South Carolina and be consistent with section 18 USC 2703 of the Stored Communications Act.</p>	Currently, it is questionable whether law enforcement has a means to obtain digital and electronic data stored outside the state of South Carolina by an entity such as Google or Facebook. It is possible law enforcement could obtain that information pursuant to the Federal Stored Communications Act, but it would be preferable to allow access under state law and section 17-13-140.	N/A
Current Law Wording:		Proposed Revisions to Law Wording:	
Any magistrate or recorder or city judge having the powers of magistrates, or any judge of any court of record of the State having jurisdiction over the area where the property sought is located, may issue a search warrant to search for and seize (1) stolen or embezzled property; (2) property, the possession of which is unlawful; (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered; (4) property constituting evidence of crime or tending to show that a particular person committed a criminal offense; (5) any narcotic drugs, barbiturates, amphetamines or other drugs restricted to sale, possession, or use on prescription only, which are manufactured, possessed, controlled, sold, prescribed, administered, dispensed or compounded in violation of any of the laws of this State or of the United States.		<p>Add a section to the current law allowing for circuit court judges to have jurisdiction to issue a warrant for digital or electronic evidence to the same extent and in the same manner as allowed under federal law pursuant to section 18 USC 2703. One possible reading which would be added as the second paragraph of the statute could be:</p> <p>In addition, any judge of any court of record of the State may issue a search warrant to search for and seize electronic or digital data or information from any provider of electronic communication services or remote computing services as defined in the Stored Communications Act at 18 U.S.C. §2701 et seq., even if such data or information is not located in South Carolina to the same extent allowed under federal law pursuant to section 18 U.S.C. § 2703. This authority extends to any data or information stored in the United States and its Territories, and any data or information stored by any business located in the United States and its Territories.</p>	

Report Recommendation #39 - (Agency Law Change Recommendation #12)

LAW CHANGE #12 (Cap Lit & Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. § 16-3-910 Kidnapping	<p><u>Current Law:</u> Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.</p> <p><u>Recommendation:</u> Remove the final phrase: "unless sentenced for murder as provided in Section 16-3-20."</p>	The same result may be reached by designating concurrent service. Deleting the language leaves discretion with the sentencing judge to impose sentence as the crime demands.	Other entities potentially impacted: Crime Victims, Victim Services and Advocates
Current Law Wording		Proposed Revisions to Law Wording	
Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.		Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years <del>unless sentenced for murder as provided in Section 16-3-20.</del>	

Report Recommendation #40 - (Agency Law Change Recommendation #41)

LAW CHANGE #41 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
<u>§16-3-1510 (3)</u>	<p><u>Current Law:</u> The definition of “criminal offense” involving victim’s stolen or destroyed property includes a minimum dollar amount for losses. Criminal offense also excludes fraudulent checks or other offenses contained in Title 56 that do not involve personal injury or death.</p> <p><u>Recommendation:</u> Remove references to dollar amount, and the last sentences of both paragraphs in this section.</p>	When the state amended the South Carolina Constitution to ratify legal rights for crime victims in 1998 (Act No. 343, “Victims’ Bill of Rights”), it superseded sections of <u>SC Code Ann. 16-3-1510(3)</u> , which had been enacted in 1997 (Act No. 141). Legislative amendments must be made to correct the statute to align with the Constitution, which is silent on any monetary amount to be lost, or type of crime to endure, to be legally identified as a crime victim in South Carolina.	<p><u>Other entities potentially impacted:</u></p> <p>Most agencies ignore this outdated statute. However, law enforcement and Solicitors’ Offices will likely support this clarification.</p>
Current Law Wording		Proposed Revisions to Law Wording	
<p>(3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.</p> <p>For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.</p>		<p>3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or <u>against</u> the property of an individual when <del>the value of the property is</del> <u>is</u> stolen, <u>damaged</u> or destroyed. <del>, or the cost of the damage to the property is in excess of one thousand dollars.</del> This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. <del>However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.</del></p> <p>For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law. <u>except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.</u></p>	

Report Recommendation #41 - (Agency Law Change Recommendation #14)

LAW CHANGE #14 (Appeals)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code § 17-25-45(C)(1)	<p><u>Current Law:</u> Includes as a most serious offense criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)</p> <p><u>Recommendation:</u> Remove the portion of the statute reading "except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)"</p>	Section 16-3-655(3) no longer exists after amendments to section 16-3-655 and the State Constitution was amended to remove the age of consent at 14, so the provision is no longer applicable and should be removed in its entirety.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>"Most serious offense" means: . . . 16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)</p>		<p>"Most serious offense" means: . . . 16-3-655 Criminal sexual conduct with minors</p>	

Report Recommendation #42 - (Agency Law Change Recommendation #34)

LAW CHANGE #34 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 14-1-211.5 Training and technical assistance.	<p><u>Current Law:</u> Assigns training and technical assistance for priority one and priority two funds to the Department of Crime Victim Assistance Grants</p> <p><u>Recommendation:</u> Attribute training and technical assistance for priority one and priority two funds to the Department of Crime Victim Compensation</p>	Section 14.1.211.5 (A) & (B) incorrectly attributes duties to the Department of Crime Victim Assistance Grants when those duties should be conferred upon the Department of Crime Victim Compensation. References to the Department of Crime Victim Assistance Grants should be replaced with the Department of Crime Victim Compensation.	N/A
Current Law Wording:		Proposed Revisions to Law Wording:	
<p>SECTION 14-1-211.5. Training and technical assistance.</p> <p>The Department of Crime Victim Assistance Grants shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid.</p> <p>HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.A, eff July 1, 2017.</p>		<p>SECTION 14-1-211.5. Training and technical assistance.</p> <p>The <del>Department of Crime Victim Assistance Grants</del> <u>Department of Crime Victim Compensation</u> shall offer training and technical assistance to each municipality and county annually on the acceptable use of both priority one and priority two funds and funds available for competitive bid.</p> <p>HISTORY: 2017 Act No. 96 (S.289), Pt. IV, Section 13.A, eff July 1, 2017.</p>	



Report Recommendation #43 - (Agency Law Change Recommendation #35)

LAW CHANGE #35 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1200	<p><u>Current Law:</u> References "victim" definition</p> <p><u>Recommendation:</u> Update to reference "intervenor" definition</p>	Section 16-3-1200 the statute refers to the intervenor and references Section (8) of Section 16-3-1110 which is the definitions section. The statute should refer to Section (9), which provides the definition for an "intervenor."	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>SECTION 16-3-1200. Conduct of victim or intervenor contributing to infliction of injury; reduction of award; rejection of claim.</p> <p>In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) of Section 16-3-1110.</p> <p>HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.</p>		<p>SECTION 16-3-1200. Conduct of victim or intervenor contributing to infliction of injury; reduction of award; rejection of claim.</p> <p>In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection <del>(8)</del> (9) of Section 16-3-1110.</p> <p>HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.</p>	

Report Recommendations #44 and #45 - (Agency Law Change Recommendation #37)

LAW CHANGE #37 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1420(1)(b)  SECTION 16-3-1420(2)	<p><b>Current Law:</b></p> <p>1. The current law includes a listing of professionals that are not included in the definition of "Victim service provider" (VSP), we recommended adding "mental health clinician licensed in South Carolina" to this list of exemptions.</p> <p>2. The current law provides definitions for Victim Service Provider and Witness. The definition for Victim Service Provider is relevant to this section and the definition for Witness is not relevant to this section. The definition is actually verbatim in another code section where it is relevant (16-3-1510(4)).</p> <p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Add "mental health clinician licensed in South Carolina" to the existing list of exceptions in 16-3-1420(1)(b)</li> <li>2. Remove 16-3-1420(2) regarding the definition of witness</li> </ol>	<p>1. There is precedent for adding exceptions to the definition of VSP through an amendment in 2010 which states that judges are not considered VSPs under this section (16-3-1420 (1)(B). Implementation over the past 10+ years leads us to recommend that licensed mental health clinicians should be added to this listing. Licensed mental health clinicians receive specialized training in their field of practice which does not always align with VSP training intended for advocates. We do not want the law to unintentionally put unnecessary requirements on unintended professions. This change would only be in reference to the definition of victim services provider in terms of certification.</p> <p>2. 16-3-1420(2) is out of place and likely was mistakenly placed in this section. The same language is referenced in 16-3-1510(4). There is no reference for "witness" in this 16-3-1420, so there is no need to define "witness" for the purposes of the article. It is recommended to remove this section from 16-3-1420.</p>	<p>Other entities potentially impacted: Agencies falling under (16-3-1420 (1)(B) that employ mental health clinicians licensed in South Carolina</p>
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 16-3-1420. Definitions.		SECTION 16-3-1420. Definitions.	
For purposes of this article:		For purposes of this article:	
(1) "Victim service provider" means a person:		(1) "Victim service provider" means a person:	
(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or		(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or	
(b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a		(b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable	

certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.

HISTORY: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Formerly Section 16-3-1400, renumbered by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

#### Editor's Note

Prior Laws: Former Section 16-3-1420 was titled Director, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009.

organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a mental health clinician licensed in South Carolina, a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

~~(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.~~

HISTORY: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Formerly Section 16-3-1400, renumbered by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

#### Editor's Note

Prior Laws: Former Section 16-3-1420 was titled Director, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009.



LAW CHANGE #38 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
16-3-1430(A)(1)	<p><u>Current Law:</u> The Department of Crime Victim Services Training, Provider Certification and Statistical Analysis (CVST), in collaboration with the Department of Crime Victim Compensation (DCVC) is authorized contingent upon availability of funds from DCVC to provide various services.</p> <p><u>Recommendation:</u> Amend language for accuracy.</p>	<p>Some of the language is worded in a redundant and outdated manner.</p> <p>Recommended to remove redundant language and change "spouse abuse" to "domestic violence" to reflect current technical language.</p>	N/A
Current Law Wording		Proposed Revisions to Law Wording	
<p>(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation, is authorized to provide the following victim assistance services, contingent upon the availability of funds in the Victim Compensation Fund:</p> <p>(1) provide information, training, and technical assistance to state and local agencies and groups involved in victim and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters;</p> <p>(2) provide recommendations to the Governor and General Assembly on needed legislation and services for victims;</p> <p>(3) serve as a clearinghouse of victim information;</p> <p>(4) develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles;</p> <p>(5) provide staff support for a Victim Services Coordinating Council representative of all agencies and groups involved in victim and domestic violence services to improve coordination efforts, suggest policy and procedural improvements to those agencies and groups as needed, and recommend needed statutory changes to the General Assembly; and</p> <p>(6) coordinate the development and implementation of policy and guidelines for the treatment of victims with appropriate agencies.</p>		<p>(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation, is authorized to provide the following victim assistance services, contingent upon the availability of funds in the Victim Compensation Fund:</p> <p>(1) provide information, training, and technical assistance to state and local agencies and groups involved in victim <del>and domestic violence</del> assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and <del>spouse abuse</del> <u>domestic violence</u> shelters;</p> <p>(2) provide recommendations to the Governor and General Assembly on needed legislation and services for victims;</p> <p>(3) serve as a clearinghouse of victim information;</p> <p>(4) develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles;</p> <p>(5) provide staff support for a Victim Services Coordinating Council representative of all agencies and groups involved in victim <del>and domestic violence</del> services to improve coordination efforts, suggest policy and procedural improvements to those agencies and groups as needed, and recommend needed statutory changes to the General Assembly; and</p> <p>(6) coordinate the development and implementation of policy and guidelines for the treatment of victims with appropriate agencies.</p>	

Report Recommendation #47 - (Agency Law Change Recommendation #39)

LAW CHANGE #39 (CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1430 (B)(6)	<p><u>Current Law:</u> Lists three departments of the Crime Victim Services Division separately from the Ombudsman</p> <p><u>Recommendation:</u> Update the law to reflect the four departments of the Crime Victim Services Division</p>	(6) lists three departments and the Ombudsman, when actually Act 96 of 2017 established four departments, one of which was the Department of the Crime Victim Ombudsman (Section 1-7-1110 (A)(1). It is recommended that (6) be amended to read: the deputy directors of the four departments under the Office of the Attorney General, South Carolina Crime Victim Services Division.	N/A
Current Law Wording		Proposed Revisions to Law Wording	
(6) the deputy directors of the three departments and the ombudsman under the Office of the Attorney General, South Carolina Crime Victim Services Division;		(6) the deputy directors of the <del>three departments and the ombudsman</del> <u>departments</u> under the Office of the Attorney General, South Carolina Crime Victim Services Division;	

Report Recommendation #48 - (Agency Law Change Recommendation #40)

LAW CHANGE #40(CVS)			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
SECTION 16-3-1430 (B)(14)	<p><u>Current Law:</u> References the State Office of Victim Assistance</p> <p><u>Recommendation:</u> Move responsibility to the chair of the Victim Services Coordinating Council, who is also the Director of the Crime Victim Services Division</p>	Section 16-3-1430 (14) has the State Office of Victim Assistance listed as appointing three members to the Victim Services Coordinating Council. SOVA was the agency previously under the SCDOA until it was moved into the SCAG, Crime Victim Services Division, in July 2017 and renamed the Department of Crime Victim Compensation. It is recommended that the Chair of the Victim Services Coordinating Council, or the Attorney General, make these appointments.	<p><u>Other entities potentially impacted:</u> Victim Services Coordinating Council</p>
Current Law Wording		Proposed Revisions to Law Wording	
(14) three representatives appointed by the State Office of Victim Assistance for a term of two years and until their successors are appointed and qualified for each of the following categories:		(14) three representatives appointed by the <del>State Office of Victim Assistance</del> <u>chair of the Victim Services Coordinating Council</u> for a term of two years and until their successors are appointed and qualified for each of the following categories:	
(a) one representative of university or campus services;		(a) one representative of university or campus services;	
(b) one representative of a statewide child advocacy organization; and		(b) one representative of a statewide child advocacy organization; and	
(c) one crime victim; and		(c) one crime victim; and	

## ENDNOTES

<sup>1</sup> Figure 1 is compiled from information in the Department of Commerce study materials available online under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and then under “Attorney General, Office of” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/AttorneyGeneral.php> (accessed September 21, 2022). Hereinafter, “Study Materials – Attorney General’s Office.”

<sup>2</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Crime to Sentencing (Flow Chart),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Committee Studies of Agencies and Issues,” under “Flow Charts,” and under “Criminal Justice,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/CJ%201%20-%20Crime%20to%20Sentencing%20Flow%20Chart%20\(7.23.18\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/CJ%201%20-%20Crime%20to%20Sentencing%20Flow%20Chart%20(7.23.18).pdf) (accessed August 17, 2022). Hereinafter “Crime to Sentencing (Flow Chart).”

S.C. House of Representatives, House Legislative Oversight Committee, “Sentencing to Supervision to Release (Flow Chart),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Committee Studies of Agencies and Issues,” under “Flow Charts,” and under “Criminal Justice,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20\(9.27.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20(9.27.21).pdf) (accessed August 17, 2022). Hereinafter “Sentencing to Supervision to Release (Flow Chart).”

<sup>3</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 13, 2022). See responses to questions #12 and #15. Hereinafter “Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022).”

<sup>4</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Department of Probation, Parole and Pardon Services to Subcommittee (September 27, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Probation, Parole and Pardon, Department of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20\(9.27.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/PPP%20Letter%20to%20Subcommittee%20with%20attachments%20(9.27.21).pdf) (accessed September 21, 2022). See responses to question #76 and Attachment Question 76-JRI Data sharing Grant Narrative.

<sup>5</sup> Correspondence from Attorney General’s Office to Subcommittee (August 8, 2022). See response to question #17.

<sup>6</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Department of Probation, Parole and Pardon Services 2022 Study (Full Report),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Reports, Recommendations, and Implementation” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProbationParoleandPardon/4.27.22%20-%20PPP%20Full%20Committee%20Report.pdf> (accessed September 13, 2022). See finding #11. Hereinafter, “Department of Probation, Parole and Pardon Services 2022 Study (Full Report).”

<sup>7</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #67.

<sup>8</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #67.

<sup>9</sup> South Carolina Revenue and Fiscal Affairs Office, "RFA Public Dashboard," [https://public.tableau.com/views/RFAPublicDashboard/Household?%3Adisplay\\_count=no&%3AshowVizHome=no#1](https://public.tableau.com/views/RFAPublicDashboard/Household?%3Adisplay_count=no&%3AshowVizHome=no#1) (accessed September 13, 2022).

<sup>10</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #67.

<sup>11</sup> National Conference of State Legislatures, "Enhancing Victims' Rights After Conviction (LegisBrief, June 2019, Vol. 27, No. 20) by Victor Palace, [https://www.ncsl.org/Portals/1/Documents/legisbriefs/2019/JuneLBs/Victims-Rights\\_20.pdf](https://www.ncsl.org/Portals/1/Documents/legisbriefs/2019/JuneLBs/Victims-Rights_20.pdf) (accessed September 13, 2022).

<sup>12</sup> South Carolina State Election Commission, "South Carolina Election Report, 1995-1996 (May, 1997)," [https://scvotes.gov/wp-content/uploads/2022/08/Election\\_Report\\_1995-1996.pdf](https://scvotes.gov/wp-content/uploads/2022/08/Election_Report_1995-1996.pdf) (accessed September 13, 2022). See page 70.

<sup>13</sup> S.C. Const. art. 1, §24.

<sup>14</sup> Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

<sup>15</sup> Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

<sup>16</sup> S.C. Const. art. 1, §24.

<sup>17</sup> Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #8-#10.

<sup>18</sup> Note: For example, it costs the Commission on Indigent Defense almost \$2 million annually in employee time manually entering information, that may be available directly from Court Administration, into the statewide public defender case management system (i.e., Defender Data). This occurs at two points in the criminal process: (1) when the file is opened (i.e., when defendant and charge identifiers are entered into Defender Data) and (2) when the case is closed (i.e., when information from the sentencing sheet is entered into Defender Data). If a defendant receives additional charges during the case, the information regarding those new charges is also manually entered into Defender Data. Two, information from a handwritten, sometimes difficult to read, form is transcribed manually by several agencies (e.g., solicitors' offices, public defenders, SCDC, Department of Probation, Pardon, and Parole, and Department of Motor Vehicles) into different databases.

As another example, the Department of Probation, Parole and Pardon Services spends \$2.2 million annually for manual data reentry.

<sup>19</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #8.

<sup>20</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #8.

<sup>21</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #8.

<sup>22</sup> 2002 Act No. 339.

<sup>23</sup> 2002 Act No. 339, Section 21.

<sup>24</sup> S.C. Code Section 39-5-145(5)(a).



<sup>25</sup>Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #125.

<sup>26</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #125.

<sup>27</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #125.

<sup>28</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>29</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>30</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>31</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>32</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>33</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #3.

<sup>34</sup> Note: Discussion about issues with employee retention and recruitment and occurred with agency personnel with the Department of Corrections; Department of Disabilities and Special Needs; Human Affairs Commission; Department of Health and Human Services; Department of Mental Health; Department of Motor Vehicles; Department of Public Safety; Department of Social Services; and State Housing Finance and Development Authority.

<sup>35</sup> 2022 Act No. 239.

See also, S.C. House of Representatives, House Ways and Means Committee, "FY22-23 Budget Briefing," [https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2022-23/FY%202022-23%20Budget%20Briefing%20\(WM%20Version\).pdf](https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansBudgetDocuments/FY2022-23/FY%202022-23%20Budget%20Briefing%20(WM%20Version).pdf) (accessed September 13, 2022).

<sup>36</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes (June 14, 2022)", under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Meetings and Agency Presentations," <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20-%20June%202014,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12410>. See video beginning at 04:37:49. Hereinafter, "Meeting Minutes and Video (June 14, 2022)."

<sup>37</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #29.

<sup>38</sup> Meeting Minutes and Video (June 14, 2022). See video beginning at 01:10:58.

<sup>39</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes (June 22, 2022)", under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Meetings and Agency Presentations," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20-](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20-%20June%202014,%202022%20-%20Meeting%20Minutes.pdf)

%20June%2022,%202022%20-%20Meeting%20Minutes.pdf (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11331>. See video beginning at 02:28:08. Hereinafter, "Meeting Minutes and Video (June 22, 2022)."

<sup>40</sup> Note: The Attorney General's Office is in the Rembert Dennis Building on the capitol complex, and the Furman E. McEachern Jr. Parking Facility is the underground parking garage for the capitol complex.

<sup>41</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Correspondence from Department of Administration to Subcommittee (July 29, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Dept.%20of%20Administration%20Letter%20to%20Subcommittee%20\(7.29.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Dept.%20of%20Administration%20Letter%20to%20Subcommittee%20(7.29.22).pdf) (accessed September 13, 2022). See responses to question # 1 under the "Facilities Management Heading."

See also, Meeting Minutes and Video (June 22, 2022). See video beginning at 02:39:59.

<sup>42</sup> Meeting Minutes and Video (June 22, 2022). See video beginning at 02:39:59.

<sup>43</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #5.

<sup>44</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Agency Overview (March 8, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Meetings and Agency Presentations," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Presentation%20-%20Overview%20\(3.8.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20Presentation%20-%20Overview%20(3.8.22).pdf) (accessed September 13, 2022). See slides 92 – 105. Hereinafter "Agency Presentation - Overview (March 8, 2022)."

<sup>45</sup> S.C. Code Ann. Section 8-11-160(C).

<sup>46</sup> "Agency Presentation - Overview (March 8, 2022). See slides 92 -105.

<sup>47</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #21.

<sup>48</sup> Meeting Minutes and Video (June 14, 2022). See video beginning at 02:02:29.

Note: Attorney General Office personnel met with Department of Corrections personnel on December 8, 2021, to discuss this issue.

<sup>49</sup> Meeting Minutes and Video (June 14, 2022). See video beginning at 02:02:29.

Note: Attorney General Office personnel met with Department of Corrections personnel on December 8, 2021, to discuss this issue.

<sup>50</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #21.

<sup>51</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #21.

<sup>52</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Special Prosecution” (June 14, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Special%20Prosecution.pdf> (accessed September 18, 2022). Hereinafter, “Agency Presentation – Special Prosecution (June 14, 2022).”

<sup>53</sup> Agency Presentation – Special Prosecution (June 14, 2022). See slide #34.

<sup>54</sup> Meeting Minutes and Video (June 14, 2022). See video beginning at 05:28:09.

<sup>55</sup> Agency Presentation – Special Prosecution (June 14, 2022).

<sup>56</sup> Agency Presentation – Special Prosecution (June 14, 2022). See slide #34.

<sup>57</sup> S.C. House of Representatives, House Legislative Oversight Committee, “South Carolina Sheriffs’ Association Correspondence to Subcommittee (September 13, 2018),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Prosecution Coordination, Commission on,” and under “Correspondence,”  
[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20Sheriff's%20Association%20to%20Oversight%20Subcommittee%20\(Sept.%2017,%202018\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20Sheriff's%20Association%20to%20Oversight%20Subcommittee%20(Sept.%2017,%202018).pdf) (accessed September 14, 2022). See response to question 3. Hereinafter, “South Carolina Sheriffs’ Association Correspondence to Subcommittee (September 13, 2018).”

Note: In 2018, according to this correspondence less than a dozen attorneys worked directly for the elected sheriff in South Carolina.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Attorney General’s Office Program Evaluation Report (March 9, 2020),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Reports, Recommendations, and Implementation”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/AG%20PER%20-%20Complete%20report.pdf> (accessed September 13, 2022). See Agency Law Recommendation #24. Hereinafter “Attorney General’s Office Program Evaluation Report (March 9, 2020).”

<sup>58</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #25.

<sup>59</sup> Meeting Minutes and Video (June 14, 2022). See video beginning at 05:32:18.

<sup>60</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #29.

<sup>61</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Internet Crimes Against Children (June 14, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Internet%20Crimes%20Against%20Children.pdf> (accessed September 13, 2022). See slide 12. Hereinafter “Agency Presentation – Internet Crimes Against Children (June 14, 2022).”

<sup>62</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #30.

See also, Meeting Minutes and Video (June 14, 2022). See video at beginning at 04:11:20.

<sup>63</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See responses to question #31 and #35.

<sup>64</sup> Agency Presentation – Internet Crimes Against Children (June 14, 2022). See slide 12.

<sup>65</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #45.

<sup>66</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #45.

<sup>67</sup> Note: The primary sponsor of H.3788, filed in the 124<sup>th</sup> General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, [www.scstatehouse.gov](http://www.scstatehouse.gov), by bill number and session number.

<sup>68</sup> Note: The primary sponsor of H.3788, filed in the 124<sup>th</sup> General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, [www.scstatehouse.gov](http://www.scstatehouse.gov), by bill number and session number.

<sup>69</sup> Note: The primary sponsor of H.3788, filed in the 124<sup>th</sup> General Assembly was Speaker G.M. Smith. The legislation, including history of legislative actions, may be accessed on the General Assembly's website, [www.scstatehouse.gov](http://www.scstatehouse.gov), by bill number and session number.

<sup>70</sup> Meeting Minutes and Video (June 22, 2022). See video beginning at 03:02:06.

<sup>71</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Correspondence from South Carolina Commission on Prosecution Coordination to Subcommittee (July 28, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Correspondence," [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/SCCPC%20Letter%20to%20Subcommittee%20\(7.28.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/SCCPC%20Letter%20to%20Subcommittee%20(7.28.22).pdf) (accessed September 13, 2022). See responses to question #1.

<sup>72</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #25.

<sup>73</sup> Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, August 23, 2022.

<sup>74</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

<sup>75</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

See also, S.C. House of Representatives, South Carolina Sheriffs' Association Correspondence to Subcommittee (September 13, 2018). See response to question 3.

<sup>76</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

<sup>77</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #120.

<sup>78</sup> State v. Langford, 400 S.C. 421, 435, 735 S.E.2d 471, 478 (2012).

<sup>79</sup> Crime to Sentencing (Flow Chart).

See also, Sentencing to Supervision to Release (Flow Chart).

<sup>80</sup> Note: The House Legislative Oversight Committee's mission is to "[d]etermine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. Inform the public about state agencies."

<sup>81</sup> Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendations #5, #34, #36, and #38.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Department of Corrections 2020 Study (Full Report)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Reports, Recommendations, and Implementation" and under "Correspondence,"  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Corrections/SCDC%20Full%20Committee%20Report%20-%20Full%20Version.pdf> (accessed September 13, 2022). See recommendation #43.

<sup>82</sup> S.C. Code Section 22-23-30.

Note: All entities collaborate to create process charts that explain their areas, then present and have them approved at Law Enforcement Training Council annual meeting, so that when they are disseminated thereafter for use during the year, everyone in the criminal justice system is utilizing the same information. This understanding may enable future efficiencies as entities see how others are involved in the system. Also, entities and individuals may include state agencies and/or elected officials and staff.

<sup>83</sup> S.C. Code Section 23-23-30.

<sup>84</sup> 2017 Act No. 96.

See also, S.C. House of Representatives, House Legislative Oversight Committee, "Legislative Oversight Committee 122<sup>nd</sup> General Assembly Transparency Report to Citizens," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "How the Committee Serves You" and under "Transparency reports to citizens,"  
[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/LOC%20-%20122nd%20General%20Assembly%20Transparency%20Report%20to%20Citizens%20\(PDF\).PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/LOC%20-%20122nd%20General%20Assembly%20Transparency%20Report%20to%20Citizens%20(PDF).PDF) (accessed September 13, 2022). See slide #4.

<sup>85</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #84.

<sup>86</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #53.

<sup>87</sup> South Carolina State Law Enforcement Division, "Crime Statistics," <https://www.sled.sc.gov/crimestatistics> (accessed September 14, 2022).

<sup>88</sup> Department of Probation, Parole and Pardon Services 2022 Study (Full Report). See recommendation #6.

<sup>89</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #50.

<sup>90</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #63.

<sup>91</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #70.

<sup>92</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #69.

<sup>93</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #70.

<sup>94</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #92.

<sup>95</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to questions #88 and #89.

<sup>96</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #89.

<sup>97</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #88.

<sup>98</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #93.

<sup>99</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Correspondence from Court Administration to Subcommittee (August 5, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Correspondence,"

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Ct.%20Administration%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Ct.%20Administration%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 15, 2022). See response to question #5. Hereinafter "Correspondence from Court Administration to Subcommittee (August 5, 2022)."

<sup>100</sup> S.C. Const. art. 1, §24.

<sup>101</sup> South Carolina Commission on Prosecution Coordination, "FY 22 Budget Requests – House Ways & Means Law Enforcement and Criminal Justice Subcommittee Budget Hearing January 6, 2021," [https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansMeetingHandouts/Law%20Enforcement/SC%20Commission%20on%20Prosecution%20Coordination%20\(SCCPC\)%20FY%2021-22.pdf](https://www.scstatehouse.gov/CommitteeInfo/Ways&MeansMeetingHandouts/Law%20Enforcement/SC%20Commission%20on%20Prosecution%20Coordination%20(SCCPC)%20FY%2021-22.pdf) (accessed September 15, 2022). See page 18.

<sup>102</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #17.

<sup>103</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #26.

<sup>104</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #24.

<sup>105</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #25.

<sup>106</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #28.

<sup>107</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #10 and accompanying attachment, "Trainings Offered."

<sup>108</sup> University of South Carolina, "A Step-by-Step Guide to the Employee Performance Management System (EPMS)," [https://www.sc.edu/study/colleges\\_schools/artsandsciences/internal/documents/faculty\\_staff/epms\\_stepbystepguide.pdf](https://www.sc.edu/study/colleges_schools/artsandsciences/internal/documents/faculty_staff/epms_stepbystepguide.pdf) (accessed September 15, 2022).

<sup>109</sup> Correspondence from Court Administration to Subcommittee (August 5, 2022). See response to question #2 under “State Human Resources Division” heading.

<sup>110</sup> Correspondence from Court Administration to Subcommittee (August 5, 2022). See feedback to Recommendation #18.

<sup>111</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #7.

<sup>112</sup> Correspondence from Court Administration to Subcommittee (August 5, 2022). See feedback to Recommendation #18.

<sup>113</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Correspondence from Department of Social Services to Subcommittee (August 5, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DSS%20Letter%20to%20Subcommittee%20\(8.5.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DSS%20Letter%20to%20Subcommittee%20(8.5.22).pdf) (accessed September 16, 2022).

<sup>114</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #20.

<sup>115</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #37.

<sup>116</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #5.

See also, S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 1, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/June%201,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 18, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12406> (accessed September 18, 2022). See video beginning at 01:45:40. Hereinafter, “Meeting Minutes and Video (June 1, 2022).”

<sup>117</sup> Note: During the study, Attorney General’s Office personnel testified as to concerns legislation regulating the industry was outdated when enacted. See Meeting Minutes and Video (June 1, 2022). See video beginning at 01:45:40.

<sup>118</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of,” and under “Correspondence,” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Secretary%20of%20State%20letter%20to%20Subcommittee%20\(7.28.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Secretary%20of%20State%20letter%20to%20Subcommittee%20(7.28.22).pdf) (accessed September 18, 2022). Hereinafter, “Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).”

<sup>119</sup> Note: This process flow chart was prepared by House Legislative Oversight Committee as part of the 2020 study of the Secretary of State’s Office.

<sup>120</sup> Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).

<sup>121</sup> Secretary of State’s Office Correspondence to Subcommittee (July 28, 2022).

<sup>122</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #115.

Note: The legislative history for S.C. Code Section 8-3-60 dates to 1901. During the study, Attorney General's Office personnel noted the present-day nonsensical nature of the \$10,000 bond requirement for the Attorney General "when he oversees a \$100,000,000 budget with grants included."

<sup>123</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Department of Agriculture 2017 Study (Full Report)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Full and Subcommittee Reports" (accessed September 18, 2022). See recommendation #1.

Note: The bond requirement for the Commissioner of Agriculture has not been updated in more than 60 years. During the study process, the Commissioner of Agriculture testified this provision in law is no longer necessary as other statutes address liability and property insurance for the agency (e.g., S.C. Code of Laws, section 1-11-140 relating to the Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority and S.C. Code of Laws, section 46-40-10 et seq. relating to the South Carolina Grain Dealers Guaranty Fund).

<sup>124</sup> Tax Foundation, "Vapor Taxes by State, 2022," by Adam Hoffer, July 5, 2022, <https://taxfoundation.org/vapor-taxes-2022/> (accessed September 18, 2022).

<sup>125</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes (May 25, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Meetings and Agency Presentations"  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/May%2025,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 18, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12405> (accessed September 18, 2022). See video at 03:51:40 – 03:53:34.

<sup>126</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Agency Presentation – Tobacco Division" (May 25, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the," and under "Meetings and Agency Presentations"  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Tobacco.pdf> (accessed September 18, 2022). See slide #5.

<sup>127</sup> Tax Foundation, "Vapor Taxes by State, 2022," by Adam Hoffer, July 5, 2022, <https://taxfoundation.org/vapor-taxes-2022/> (accessed September 18, 2022).

<sup>128</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Department of Health and Environmental Control's Correspondence to Subcommittee (July 29, 2022)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of," and under "Correspondence,"  
[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DHEC Letter to Subcommittee \(7.29.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/DHEC Letter to Subcommittee (7.29.22).pdf) (accessed September 18, 2022).

<sup>129</sup> Department of Administration, "Types of Pay," [https://www.admin.sc.gov/sites/default/files/state\\_hr/Types%20of%20Pay.pdf](https://www.admin.sc.gov/sites/default/files/state_hr/Types%20of%20Pay.pdf) (accessed September 16, 2022).



<sup>130</sup> Note: Agency personnel note an option that may offer the ability to monitor this type of spending may include allowing agencies to develop a separate fund to create an agency in-house employee development/enhancement program which allows meals or other types of recognition.

<sup>131</sup> Department of Administration, "Employee Reward and Recognition," [https://admin.sc.gov/dshr/employee\\_reward\\_and\\_recognition](https://admin.sc.gov/dshr/employee_reward_and_recognition) (accessed September 16, 2022).

<sup>132</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #5.

<sup>133</sup> S.C. House of Representatives, House Legislative Oversight Committee, "Agency Presentation – Crime Victim Services" (April 26, 2022)", under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Attorney General, Office of the ," and under "Meetings and Agency Presentations" [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Crime%20Victim%20Services%20\(4.22.22\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Crime%20Victim%20Services%20(4.22.22).pdf) (accessed September 18, 2022). See slide #36. Hereinafter, "Agency Presentation – Crime Victim Services" (April 26, 2022)."

<sup>134</sup> Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

<sup>135</sup> Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

<sup>136</sup> Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

<sup>137</sup> Agency Presentation – Crime Victim Services" (April 26, 2022). See slide #36.

See also, Barry Bernstein, Deputy Attorney General email message to House Legislative Oversight Committee Legal Counsel Charles Appleby, September 8, 2022.

<sup>138</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #49.

<sup>139</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #17.

<sup>140</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #17.

<sup>141</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

<sup>142</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

<sup>143</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

<sup>144</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #121.

<sup>145</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

<sup>146</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

<sup>147</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #28.

<sup>148</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

<sup>149</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

<sup>150</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #30.

<sup>151</sup> Note: 1999 Act No. 56 created S.C. Code Section 16-3-1050 and amended provisions in S.C. Code Section 43-35-85. 1993 Act No. 110 created S.C. Code Section 43-35-85.

<sup>152</sup> 2010 Act No. 223.

<sup>153</sup> Note: For ease of comparison the full text of the referenced statutes are listed below.

**SECTION 16-3-1050.** Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person

cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1999 Act No. 56, Section 5.

#### **SECTION 43-35-85.. Penalties.**

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 1999 Act No. 56, Section 1, eff June 1, 1999; 2010 Act No. 223, Section 7, eff June 7, 2010.

**SECTION 17-25-45.** Life sentence for person convicted for certain crimes.

(A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has either:

(1) one or more prior convictions for:

(a) a most serious offense; or

(b) a federal or out-of-state conviction for an offense that would be classified as a most serious offense under this section; or

(2) two or more prior convictions for:

(a) a serious offense; or

(b) a federal or out-of-state conviction for an offense that would be classified as a serious offense under this section.

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

(1) a serious offense;

(2) a most serious offense;

(3) a federal or out-of-state offense that would be classified as a serious offense or most serious offense under this section; or

(4) any combination of the offenses listed in items (1), (2), and (3) above.

(C) As used in this section:

(1) "Most serious offense" means:

16-1-40 Accessory, for any offense enumerated in this item 16-1-80 Attempt, for any offense enumerated in this item 16-3-10 Murder 16-3-29 Attempted Murder 16-3-50 Voluntary manslaughter 16-3-85(A)(1) Homicide by child abuse 16-3-85(A)(2) Aiding and abetting homicide by child abuse 16-3-210 Lynching, First degree 16-3-210(B) Assault and battery by mob, First degree 16-3-620 Assault and battery with intent to kill 16-3-652 Criminal sexual conduct, First degree 16-3-653 Criminal sexual conduct, Second degree 16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3) 16-3-656 Assault with intent to commit criminal sexual conduct, First and Second degree 16-3-910 Kidnapping 16-3-920 Conspiracy to commit kidnapping 16-3-1075 Carjacking 16-3-2020 Trafficking in persons 16-11-110(A) Arson, First degree 16-11-311 Burglary, First degree 16-11-330(A) Armed robbery 16-11-330(B) Attempted armed robbery 16-11-540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results 24-13-450 Taking of a hostage by an inmate 25-7-30 Giving information respecting national or state defense to foreign contacts during war 25-7-40 Gathering information for an enemy 43-35-85(F) Abuse or neglect of a vulnerable adult resulting in death 55-1-30(3) Unlawful removing or damaging of airport facility or

equipment when death results 56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation 58-17-4090 Obstruction of railroad, death results.

(2) "Serious offense" means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16-3-220 Lynching, Second degree 16-3-210(C) Assault and battery by mob, Second degree 16-3-600(B) Assault and battery of a high and aggravated nature 16-3-810 Engaging child for sexual performance 16-9-220 Acceptance of bribes by officers 16-9-290 Accepting bribes for purpose of procuring public office 16-11-110(B) Arson, Second degree 16-11-312(B) Burglary, Second degree 16-11-380(B) Theft of a person using an automated teller machine 16-13-210(1) Embezzlement of public funds 16-13-230(B)(3) Breach of trust with fraudulent intent 16-13-240(1) Obtaining signature or property by false pretenses 16-25-20(B) Domestic violence, First degree 16-25-65 Domestic violence of a high and aggravated nature 38-55-540(3) Insurance fraud 44-53-370(e) Trafficking in controlled substances 44-53-375(C) Trafficking in ice, crack, or crack cocaine 44-53-445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school 56-5-2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16-1-40 Accessory before the fact for any of the offenses listed in subitems (a) and (b) 16-1-80 Attempt to commit any of the offenses listed in subitems (a) and (b) 43-35-85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

(3) "Conviction" means any conviction, guilty plea, or plea of nolo contendere.

(D) Except as provided in this subsection or subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16-3-50), kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment.

(E) For the purpose of this section only, a person sentenced pursuant to this section may be paroled if:

(1) the Department of Corrections requests the Department of Probation, Parole and Pardon Services to consider the person for parole; and

(2) the Department of Probation, Parole and Pardon Services determines that due to the person's health or age he is no longer a threat to society; and

(a) the person has served at least thirty years of the sentence imposed pursuant to this section and has reached at least sixty-five years of age; or

(b) the person has served at least twenty years of the sentence imposed pursuant to this section and has reached at least seventy years of age; or

(c) the person is afflicted with a terminal illness where life expectancy is one year or less; or

(d) the person can produce evidence comprising the most extraordinary circumstances.

(F) For the purpose of determining a prior or previous conviction under this section and Section 17-25-50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication. There is no requirement that the sentence for the prior or previous conviction must have been served or completed before a sentence of life without parole can be imposed under this section.

(G) The decision to invoke sentencing under this section is in the discretion of the solicitor.

(H) Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given by the solicitor to the defendant and defendant's counsel not less than ten days before trial.

HISTORY: 1982 Act No. 358, Sections 1, 2; 1986 Act No. 462, Section 37; 1995 Act No. 83, Section 18; 1997 Act No. 113, Section 4; 1997 Act No. 136, Section 4; 1998 Act No. 402, Section 3; 2002 Act No. 176, Sections 1, 2, eff March 5, 2002; 2006 Act No. 342, Section 9, eff July 1, 2006; 2007 Act No. 72, Section 3, eff June 13, 2007; 2010 Act No. 273, Section 20, eff June 2, 2010; 2010 Act No. 289, Section 7, eff June 11, 2010; 2015 Act No. 7 (S.196), Section 6.C, eff April 2, 2015; 2015 Act No. 58 (S.3), Pt II, Section 7, eff June 4, 2015.

#### Code Commissioner's Note

Section 16-11-540, referenced in subsection (C)(1), was repealed by 2000 Act No. 237. Section 16-3-220, referenced in subsection (C)(2)(b), and Section 16-3-620, referenced in subsection (C)(1), were repealed by 2010 Act No. 273.

#### Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

#### Effect of Amendment

2015 Act No. 7, Section 6.C, in (C)(1), substituted "16-3-2020" for 16-3-930".

2015 Act No. 58, Section 7, in (C)(2)(b), added 16-25-20(B), domestic violence, first degree, and 16-25-65, domestic violence of a high and aggravated nature.

<sup>154</sup> Correspondence from Attorney General's Office to Subcommittee (August 5, 2022). See response to question #119.

<sup>155</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

<sup>156</sup> Attorney General's Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

<sup>157</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #32.

<sup>158</sup> S.C. Code Section 14-7-1630(A)(12).

<sup>159</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes (June 8, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations,”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/June%208,%202022%20-%20Meeting%20Minutes.pdf> (accessed September 21, 2022). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=12407>. See video beginning at 05:50:32. Hereinafter, “Meeting Minutes and Video (June 8, 2022).”

<sup>160</sup> Meeting Minutes and Video (June 8, 2022). See video beginning at 05:50:32.

<sup>161</sup> Meeting Minutes and Video (June 8, 2022). See video beginning at 05:52:04.

<sup>162</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #33.

<sup>163</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #33.

<sup>164</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #124.

<sup>165</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #9.

<sup>166</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendations #7 and #9.

<sup>167</sup> Attorney General’s Office Program Evaluation Report (March 9, 2020). See Agency Law Recommendation #27.

<sup>168</sup> Correspondence from Attorney General’s Office to Subcommittee (August 5, 2022). See response to question #130.

<sup>169</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Attorney General, Office of the,” and under “Meetings and Agency Presentations”  
<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/AttorneyGeneral/Consumer%20Protection%20and%20Antitrust.pdf> (accessed September 21, 2022). See slide #12. Hereinafter, “Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022).”

### **Additional Evolution Occurring**

*In the event the Attorney General terminates this Agreement without cause, Special Counsel shall be reimbursed only from the litigation's gross recovery for all properly documented expenses and costs, as defined in Article V of this Agreement rendered prior to termination, and Special Counsel shall be awarded appropriate attorneys' fees as determined by the Attorney General.*

- In the event the AG fires outside counsel without cause, those lawyers are still legally entitled to attorney's fees and costs on a *quantum meruit* basis.
- The AG would then determine a fair fee based on the work performed and pay that to former outside counsel.
  - No fees would be paid at all unless there is a monetary recovery.
- While the AG would never pay more under this paragraph than the contract rates, our Office will amend this language to clarify that.

*Endnote Figure 1. Excerpt (Slide 12) from Agency Presentation – Consumer Protection and Antitrust Section (June 1, 2022)*

<sup>170</sup> Study Materials – Attorney General's Office.

Note: Some of the materials were produced solely by personnel with the Attorney General's Office and others were created during the House Legislative Oversight Committee's reviews of other law enforcement agencies (e.g., Department of Probation, Parole and Pardon Services; Commission on Prosecution Coordination, etc.)



## COMMITTEE CONTACT INFORMATION

## Legislative Oversight Committee



South Carolina House of Representatives

## Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website:	<a href="https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php">https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php</a>
Phone Number:	803-212-6810
Email Address:	<a href="mailto:HCommLegOv@schouse.gov">HCommLegOv@schouse.gov</a>
Location:	Blatt Building, Room 228