

# Legislative Oversight Committee

## Study of the Department of Agriculture *November 3, 2017*




FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	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 available</p>	<p>Approved Study</p> <p>Study Available for Consideration Study Presentation and Discussion Amended Subcommittee Study</p>	<p>October 16, 2017, with opportunity for Members to provide comments open until November 3, 2017</p> <p>August 4, 2017 August 16, 2017 October 16, 2017</p>

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# AGENCY SNAPSHOT

## Department of Agriculture

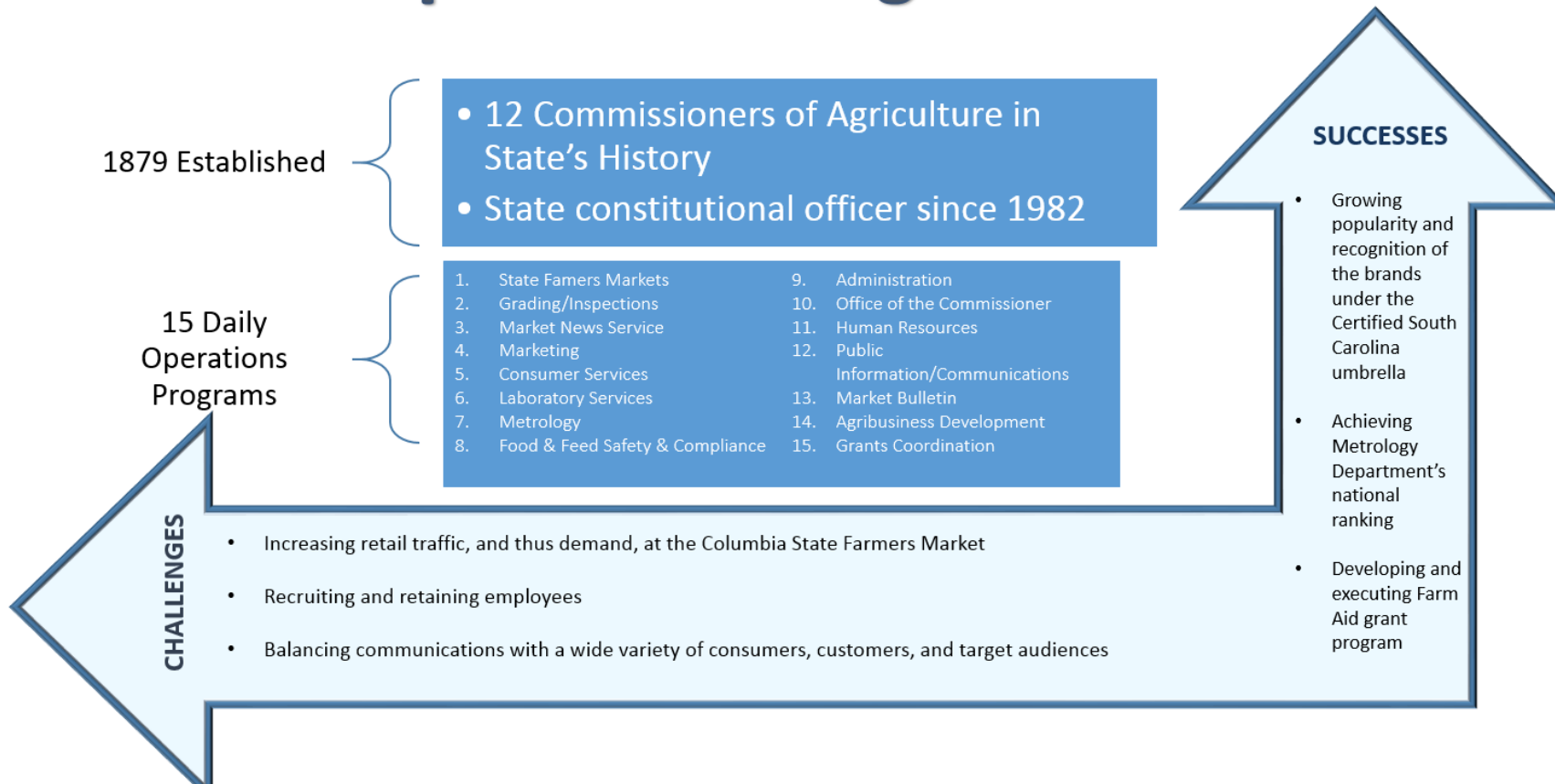


Figure 1. Snapshot of agency's history, daily operations programs, successes, and challenges.<sup>1</sup>

# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

SC Code of Laws § 2-2-20(B) states that “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**” In making these determinations, the **Committee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## *Study Process*

The House Legislative Oversight Committee’s (Committee) process includes actions by the Committee; Economic Development, Transportation, and Natural Resources Subcommittee (Subcommittee);<sup>3</sup> the Department of Agriculture (agency); and the public. A summary of key dates and actions of the study process are listed in Figure 2.

### House Legislative Oversight Committee’s Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides the agency with notice about the oversight process
- August 4, 2017 - Receives notice study is available for consideration
- August 16, 2017 - Holds **Meeting #10** to discuss study
- October 16, 2017- Holds **Meeting # 11**; amends and approves study; and provides an opportunity for individual Committee Members to provide written comments for inclusion with the study
- November 3, 2017 – Publishes study of the agency

### Economic Development, Transportation, and Natural Resources Subcommittee’s Actions

- April 28, 2016 - Holds **Meeting #1**, an entry meeting, to discuss procedures and to receive an overview of the agency’s operations
- July 6, 2016 - Holds **Meeting #2** to offer an opportunity for public testimony and to receive information on the agency's history, mission, and key partners
- October 31, 2016 - Holds **Meeting #3** to discuss the impact of Hurricane Matthew to the agency and agriculture in the state; commodity boards; and the Agriculture Commission
- January 26, 2017 - Holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly
- February 16, 2017 - Holds **Meeting #5** to discuss the agency's program structure and strategic plan

- May 2, 2017 - Holds **Meeting #6** to discuss the agency's successes; challenges; emerging issues; strategic plan objectives; implementation of Legislative Audit Council's recommendations relating to the State Farmers Market; and its "50 by 20" ten-year goal for agriculture in South Carolina
- June 15, 2017 - Holds **Meeting #7** to discuss the agency's recommendations
- June 22, 2017 - Holds **Meeting #8**, a work session, to further discuss recommendations
- July 10, 2017 - Holds **Meeting #9**, a work session, to further discuss recommendations

### Department of Agriculture's Actions

- March 21, 2015 - Submits its **Restructuring and Seven-Year Plan Report**
- January 11, 2016 - Submits its **Annual Restructuring Report**
- August 24, 2016 - Submits its **Program Evaluation Report, which serves as the base document for the study**
- September 15, 2016 - Submits its **Fiscal Year 2015-16 Accountability Report, which serves as its 2017 Annual Restructuring Report**
- December 30, 2016 - Submits updates to its Program Evaluation Report
- October 27, 2017 - Submits its **Annual Request for Information**

### Public's Actions

- May 1-31, 2016 - Provides input about the agency in the form of an **online public survey**
- July 6, 2016 - Opportunity to provide testimony about the agency
- Ongoing - Opportunity for public to submit written comments on the House Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

*Figure 2. Summary of key dates and actions of the study process.*

## Recommendations

The Committee has **nine recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture;(2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

*Table 1. Summary of recommendations arising from the study process.*

<b>RECOMMENDATIONS</b>	
<b>Modernize Law Relating to the Commissioner of Agriculture</b>	
1.	Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
<b>Modernize and Revise Laws Relating to the Agriculture Commission of South Carolina</b>	
2.	Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
3.	Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.
<b>Improve Consumer Services</b>	
4.	Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
5.	Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.
6.	Enforce a tiered monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.
<b>Reduce Restrictions for Businesses</b>	
7.	Remove statutory reference to the agency's involvement with the "cottage law," which is regulated by the Department of Health and Environmental Control (i.e., remove an exemption registration burden from small home-based food producers that distribute non-potentially hazardous baked-goods and candy to the end consumer).
8.	Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number).
9.	Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; remove licensure requirements for small producers; and authorize the licensure of quail eggs).

### *Internal Changes Implemented by Agency Related to Study Process*

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>4</sup>

### *Additional Information of Interest*

The Committee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest include: (1) April 28, 2016, Attorney General Opinion that commodity boards are not subject to the State Procurement Code; (2) agency's draft language for modernizing salvage food (e.g., dented cans) regulations; and (3) agency's draft language for authorization of various fees (e.g., registration fee [\$5] per dispenser for businesses dispensing petroleum products; application fee [\$25] and tiered annual fee for a registration verification certificate; and administrative egg license fee [not to exceed \$10 annually]).<sup>5</sup> These documents are available online.



## AGENCY OVERVIEW

### History

The **General Assembly establishes the South Carolina Department of Agriculture in 1879** and tasks it with a broad scope of responsibilities: fertilizer regulation; soil improvement and analysis; distribution of seeds; sheep husbandry; geology; labor; and more.<sup>6</sup> The General Assembly initially appropriates a one-time sum of approximately \$168,759 (inflation adjusted); the agency is supported by the funds collected from fines, forfeitures, and fees for land registration.<sup>7</sup> In 1880, the agency concludes its first year of operations with a balance of approximately \$565,567 (inflation adjusted).<sup>8</sup>

The first Commissioner of Agriculture is A.P. Butler.<sup>9</sup> More than a century later, in **1982, the Commissioner of Agriculture becomes an elected statewide constitutional officer** directly accountable to the public.<sup>10</sup> There are 12 Commissioners of Agriculture in the state's history, which are listed below in Table 2.<sup>11</sup> The current Commissioner of Agriculture is Hugh E. Weathers (Commissioner).

*Table 2. Commissioners of Agriculture, 1880 to present.*

COMMISSIONER	TERM OF OFFICE
A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
*D. Leslie Tindal	1982-2002
*Charles R. Sharpe	2002-2005
*Hugh E. Weathers	2005-present

*Table Note: Commissioners with an \*beside their names either have served or serve as a constitutional officer.*

In the early part of the twentieth century, **at least a dozen state agencies are created with responsibilities originally housed at the Department of Agriculture.**<sup>12</sup> The agency's name evolves to reflect its responsibilities.<sup>13</sup> In 1904, the Department of Agriculture is renamed the "State Department of Agriculture, Commerce and Immigration."<sup>14</sup> The Commissioner of Agriculture, Commerce and Immigration is appointed by the Governor, with the consent of the Senate.<sup>15</sup> In 1909, the State Department of Agriculture, Commerce and Immigration is renamed the "Department of Agriculture, Commerce and Industries," and the Commissioner of Agriculture, Commerce and Industries gains the authority to collect labor statistics.<sup>16</sup> In 1936, the General Assembly establishes the Department of Labor and vests it with collection of labor statistics.<sup>17</sup> Accordingly, the State Department of Agriculture, Commerce and Industries is renamed the "Department of Agriculture and Commerce."<sup>18</sup> In 1941, the Department of Agriculture and Commerce is renamed the "Department of Agriculture."<sup>19</sup>

In 1960, the **General Assembly authorizes the Department of Agriculture to execute all laws regarding agriculture** unless the laws designate execution by another entity.<sup>20</sup>

In 1968, the **General Assembly creates the Agriculture Commission** and, among other things, authorizes it to create and oversee commodity boards and administer marketing orders.<sup>21</sup>

In 1974, the state acquires the **Columbia Farmers Market** and places it under the supervision of the Department of Agriculture.<sup>22</sup> The agency assumes operations of the Greenville Farmers Market in 1980, and the Pee Dee State Farmers Market opens in 1989.<sup>23</sup>

The **“Certified SC”** campaign launches in 2007, which now has over 1,800 members.

In 2009, the agency launches its **“50 by 20 – A Ten Year Goal for South Carolina Agriculture” initiative**.<sup>24</sup> The agency’s goal is for agriculture to be a \$50 billion industry by the year 2020; the agency is seeking to achieve this goal through increases in market access, partnerships, recruitment, and diversification.<sup>25</sup>

In 2010, the **“Fresh on the Menu”** restaurant program is established, with over 300 restaurants now participating.<sup>26</sup>

In 2011, the agency partners with the Department of Commerce for an agribusiness project manager, and in January 2014, the **agritourism program** is created.<sup>27</sup> In 2013, agribusiness has a total economic impact of \$41.7 billion, representing 10.5% of the state’s workforce (i.e., 212,530 jobs).<sup>28</sup> **South Carolina produces \$3 billion each year from its top agricultural products:** chickens, turkeys, greenhouse nurseries, cotton, corn, cattle, soybeans, peanuts, eggs, and wheat.<sup>29</sup>

## *Major Divisions or Programs*

An agency’s major divisions or programs are the way the agency is operationally segmented. The **Department of Agriculture has 15 daily operations programs**.<sup>30</sup>

*Table 3. Agency’s daily operations programs.*

PROGRAM	PURPOSE OF PROGRAM
State Farmers Markets	<ul style="list-style-type: none"> <li>Owns and manages three regional (Columbia, Florence, and Greenville) state farmers markets, which provide consumers with a variety of locally grown produce and specialty products.</li> </ul>
Grading/Inspections	<ul style="list-style-type: none"> <li>Provides fruit, vegetable, poultry, egg, and commodity grading and inspection services, including Good Agricultural Practices training, under a cooperative agreement with the United States Department of Agriculture (USDA).</li> </ul>
Market News Services	<ul style="list-style-type: none"> <li>Analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers, pursuant to an agency contract with the USDA.</li> </ul>
Marketing	<ul style="list-style-type: none"> <li>Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality South Carolina agricultural products at local, national, and international levels.</li> </ul>

Consumer Services	<ul style="list-style-type: none"> <li>Ensures the net content statements on packages and weighing or measuring devices are correct and that agricultural products are measured accurately for commerce to protect consumers.</li> </ul>
Laboratory Services	<ul style="list-style-type: none"> <li>Assures that goods meet acceptable standards of quality.</li> <li>Issues registrations, licenses, and permits to certain businesses (e.g., food laboratory, feed laboratory, seed laboratory, chemical residue laboratory, and petroleum products laboratory) to protect consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale.</li> </ul>
Metrology	<ul style="list-style-type: none"> <li>Provides National Institute of Standards and Technology traceable calibrations for mass and volume standards.</li> <li>Calibrates equipment for state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.</li> </ul>
Food & Feed Safety and Compliance	<ul style="list-style-type: none"> <li>Conducts routine surveillance inspections to ensure foods and feeds are manufactured under safe, sanitary conditions.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management, and other administrative services.</li> </ul>
Office of the Commissioner	<ul style="list-style-type: none"> <li>Provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>Manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development.</li> <li>Ensures agency personnel practices are compliant with state and federal regulations.</li> </ul>
Public Information / Communications	<ul style="list-style-type: none"> <li>Communicates the agency's mission and the importance of South Carolina agriculture and agribusiness through traditional and social media, websites, and the Market Bulletin.</li> <li>Informs industry members and the general public of pertinent agricultural issues.</li> <li>Responds to various media inquiries.</li> </ul>
Market Bulletin	<ul style="list-style-type: none"> <li>Issues publication (print and electronic) twice a month as a marketplace for agricultural goods and services.</li> <li>Provides consumer interest articles.</li> </ul>

<p>Agribusiness Development</p>	<ul style="list-style-type: none"> <li>• Works to continually promote agribusiness in South Carolina through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in the state via the production of South Carolina grown products or value-added services/processing.</li> <li>• Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.</li> </ul>
<p>Grants Coordination</p>	<ul style="list-style-type: none"> <li>• Cooperates with the federal government to implement the Specialty Crop Block Grant, Farm to School Grant, and Manufactured Food and Regulatory Program Standards.</li> <li>• Pursues and secures other grants to benefit the agriculture industry and agency.</li> </ul>

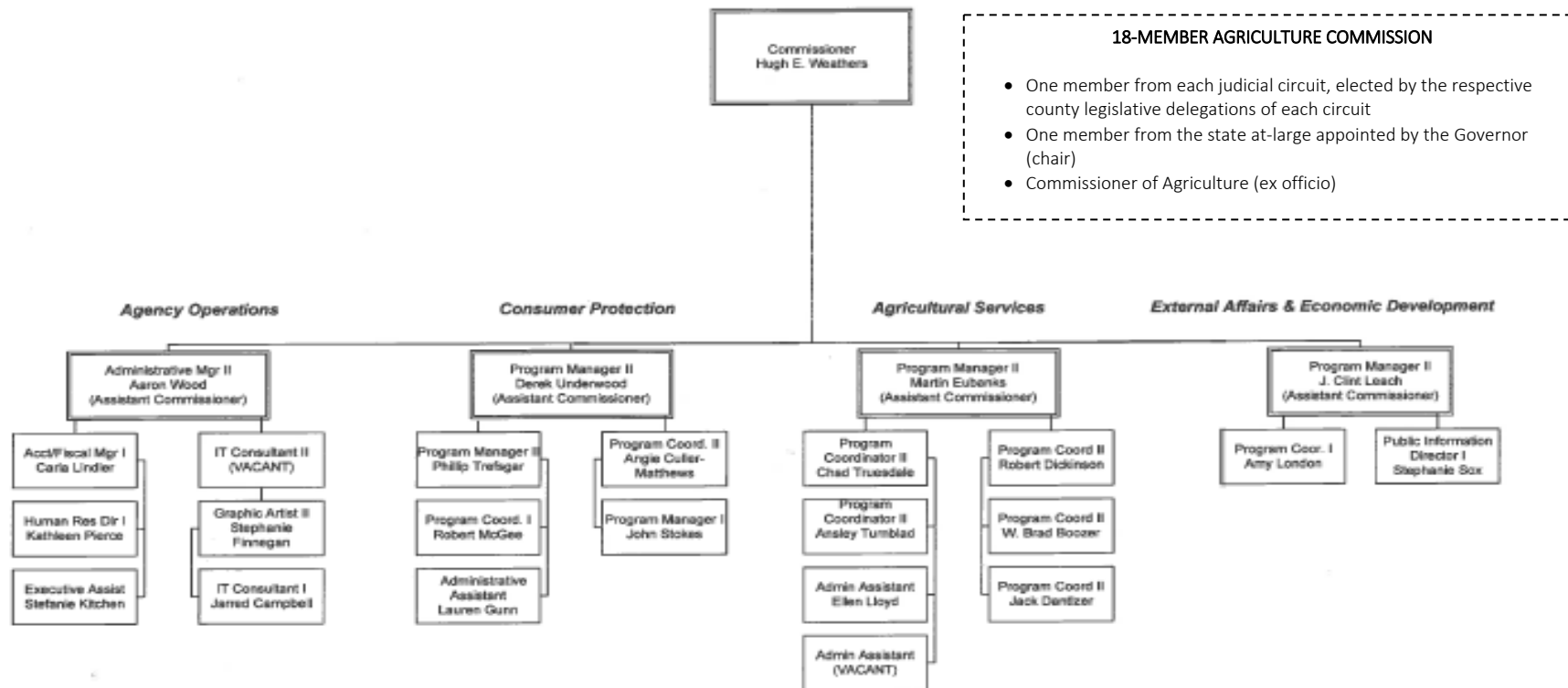
An organizational chart, inclusive of the Agriculture Commission of South Carolina, is provided in Figure 3 on the next page.

# Organizational Chart

Agency FTE Total: 120.8  
 2 TG  
 7 TL

## S.C. Department of Agriculture

August 1, 2016



- 18-MEMBER AGRICULTURE COMMISSION**
- One member from each judicial circuit, elected by the respective county legislative delegations of each circuit
  - One member from the state at-large appointed by the Governor (chair)
  - Commissioner of Agriculture (ex officio)

Figure 3. Organizational chart, current as of August 1, 2016.

## Products/Services

The **Department of Agriculture is tasked with executing laws in South Carolina pertaining to agriculture.** The combined Accountability Report and Annual Restructuring Report for fiscal year 2015-16 requests information on the services and products an agency provides.<sup>31</sup> Table 4 lists some of the products and services the agency provides relating to agriculture.

*Table 4. Some of the products and services the agency provides.<sup>32</sup>*

<p><b>Ensures that foods and feeds are manufactured under safe and sanitary conditions</b> via routine:</p> <ul style="list-style-type: none"> <li>• Sampling and analysis; and</li> <li>• Chemical and microscopic analyses of feed products.</li> </ul>
<p><b>Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale and ensures goods meet acceptable standards of quality</b> via:</p> <ul style="list-style-type: none"> <li>• Fruit and vegetable residue testing;</li> <li>• Gasoline and diesel fuel products inspections and analysis; and</li> <li>• Germination and purity testing.</li> </ul>
<p><b>Protects consumers by ensuring the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce</b> via:</p> <ul style="list-style-type: none"> <li>• Weighing and measuring devices inspections;</li> <li>• Public weigh masters;</li> <li>• Bonded dealers and handlers licenses; and</li> <li>• Licensing and bonding of warehouses.</li> </ul>
<p><b>Communicates state agriculture, agribusiness, pertinent agricultural issues and marketplace information for agricultural goods and services</b> via:</p> <ul style="list-style-type: none"> <li>• Traditional media relations;</li> <li>• Social media;</li> <li>• Market bulletin publication; and</li> <li>• Regional state farmers markets; and</li> <li>• Agribusiness recruitment.</li> </ul>

## Other Agencies Serving Similar Customers/Products/Services

During the study of an agency, the **Committee asks what other agencies serve customers, products, or services similar to the agency under study.**<sup>33</sup> While the majority of products and services the Department of Agriculture provides are unique, the agency networks with other agencies in the economic development, transportation, natural resources, and regulatory arena to exchange operational ideas and information.<sup>34</sup>

## Strategic Resources and Allocation

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.<sup>35</sup>

The following tables include an overview of the agency's strategic plan and resources allocated to its goals and objectives.<sup>36</sup> Table 5 lists employees and funding allocated to each goal in fiscal year 2016-17. Tables 6 through 9.1 include additional details, including resource allocation and associated performance measures, for each of these goals.

*Table 5. Resources allocated toward the agency's goals in fiscal year 2016-17.*

Strategic Plan Element	Description	Number of physical FTES and (FTE equivalents) planned <sup>37</sup>	Total budgeted (% of funds available) <sup>38</sup>
Goal 1	Improve agency operational readiness and workforce development	23 (15)	\$1,220,810 (5.46%)
Goal 2	Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59 (55)	\$4,198,306 (18.78%)
Goal 3	Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56 (49.15)	\$11,702,662 (52.35%)
Goal 4	Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17 (8.5)	\$147,643 (0.66%)
Balance remaining	Amount unspent		\$5,085,840 (22.75%)

In regards to carryforward, the agency states the amounts are necessary to support associated programs year-round.<sup>39</sup> Many of the agency's funding sources do not receive a steady stream of revenue throughout the year, rather, the revenue may be received only over a two-to-three month period (e.g., seed licenses, feed registrations, and commodity board assessments). If the agency does not carry forward appropriate revenue, the agency may be unable to meet operating expenses for portions of the year. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (i.e., soybean, peanuts, watermelon, cotton, and tobacco) negatively, the boards may not receive crop assessments sufficient to meet the next year's operating expenses. The agency acts as a fiduciary agent for commodity board assessments, but the agency does not control the amount of remittances or expenditures. Also, built into the carryforward for 2014, 2015, and 2016 are amounts for non-recurring funds received through provisos which will not be available after this fiscal year.<sup>40</sup>

*Table 6. Goal 1: Improve agency operational readiness and workforce development: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>41</sup>	Total budgeted (% of funds available) <sup>42</sup>
<b>Goal 1</b>	<b>Improve agency operational readiness and workforce development</b>	<b>23 (15)</b>	<b>\$1,220,810 (5.46%)</b>
<b><i>Strategy 1.1</i></b>	<b><i>Prioritize and deploy Information Technology (IT) products and services</i></b>	<b><i>5 (3.25)</i></b>	
Objective 1.1.1	Inventory and establish a replacement schedule for all agency IT equipment	1 (1)	
Objective 1.1.2	Achieve that 100% of appropriate staff complete an annual information security awareness training	1 (0.5)	
Objective 1.1.3	Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2 (1.25)	
Objective 1.1.4	Work with Division of Information Security to develop and implement INFOSEC (i.e., information security) policies	1 (0.5)	
<b><i>Strategy 1.2</i></b>	<b><i>Recruit and retain highly qualified and motivated employees</i></b>	<b><i>7 (4)</i></b>	
Objective 1.2.1	Perform all actions related to personnel (e.g.: E-Verify, South Carolina Enterprise Information System, NeoGov [job portals], Employee Performance Management System, insurance, retirement, and documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3 (2.75)	
Objective 1.2.2	Complete required Equal Employment Opportunity Commission reporting and focus on potential areas of improvement	1 (0.25)	
Objective 1.2.3	Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1 (0.25)	
Objective 1.2.4	Offer an annual health screening for all employees and purchase Personal Protective Equipment for all field personnel	1 (0.25)	
Objective 1.2.5	Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1 (0.5)	
<b><i>Strategy 1.3</i></b>	<b><i>Improve financial reporting and business procedures</i></b>	<b><i>6 (4.5)</i></b>	
Objective 1.3.1	Provide monthly financial reports to division directors and program staff	1 (0.5)	
Objective 1.3.2	Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	1 (0.75)	



Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>41</sup>	Total budgeted (% of funds available) <sup>42</sup>
Objective 1.3.3	Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1 (1)	
Objective 1.3.4	Set up purchase orders, post payments received, and process invoices within two weeks of receipt	3 (2.25)	
<b>Strategy 1.4</b>	<b><i>Set, execute and monitor a strategic plan towards accomplishing the agency mission</i></b>	<b>5 (3.25)</b>	
Objective 1.4.1	Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1 (0.5)	
Objective 1.4.2	Complete Farm Aid application processing, review and disbursements by 1 October 2016	2 (1.25)	
Objective 1.4.3	Respond to constituent contacts within 3 business days of receipt	1 (0.5)	
Objective 1.4.4	Brief Commissioner daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner at meetings, seminars, and events	1(1)	

**Table 6.1. Performance measures associated with goal 1.**

<u>Performance Measures associated with Goal 1<sup>43</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of planning staging documents completed within two months of the calendar year for existing employees and within one month of hiring new employees	100%	94%	100%	July 1-June 30	HR records	Number of completed planning staging documents/ total number of employees required to have an employee performance evaluation	1.2.3
Percent of supervisors receiving supervisory skills training/personal development plan	100%	100%	100%	July 1-June 30	HR records	Number of employees receiving supervisory training/total number of employees eligible for supervisory training	1.2.3, 1.2.5
Percent of computer-using staff that complete annual information security awareness training	new	n/a	100%	July 1-June 30	IT records	Number of completions/total number of required staff	1.1.1

*Table 7. Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>44</sup>	Total budgeted (% of funds available) <sup>45</sup>
<b>Goal 2</b>	<b>Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities</b>	<b>59 (55)</b>	<b>\$4,198,306 (18.78%)</b>
<i><b>Strategy 2.1</b></i>	<i><b>Provide food/feed safety oversight of South Carolina food manufactures, processors, and food distribution facilities through routine, risk-based, compliance inspections</b></i>	<i><b>4 (3.5)</b></i>	
Objective 2.1.1	Lead implementation plans for federal regulatory mandates such as Food Safety Modernization Act (FSMA), Manufactured Food Regulatory Program Standards, Animal Feed Regulatory Program Standards, and Country of Origin Labeling	1 (0.5)	
Objective 2.1.2	Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1 (1)	
Objective 2.1.3	Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1 (1)	
Objective 2.1.4	Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the United States Food and Drug Administrations' (FDA) FSMA Produce Safety Rule	1 (1)	
<i><b>Strategy 2.2</b></i>	<i><b>Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</b></i>	<i><b>8 (7)</b></i>	
Objective 2.2.1	Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program	1 (0.75)	
Objective 2.2.2	Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1 (0.25)	
Objective 2.2.3	Build a new metrology laboratory to meet the National Institute of Standards and Technology requirements for Echelon I metrology laboratory environments	2 (2)	
Objective 2.2.4	Perform calibrations within one month of a work order	4 (4)	
<i><b>Strategy 2.3</b></i>	<i><b>Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</b></i>	<i><b>21 (20)</b></i>	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>44</sup>	Total budgeted (% of funds available) <sup>45</sup>
Objective 2.3.1	Procure and deploy new large mass vehicles to provide service to large scale firms	1 (0.5)	
Objective 2.3.2	Perform routine inspections, consistent with policy, of 100% of firms annually under agency regulatory oversight	18 (18)	
Objective 2.3.3	Provide follow-up communication on 100% of consumer complaints	2 (1.5)	
<b>Strategy 2.4</b>	<b><i>Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i></b>	<b>26 (24.5)</b>	
Objective 2.4.1	Collaborate and ensure open communication with other agencies (e.g., Clemson, Department of Transportation, Department of Health and Environmental Control, Department of Revenue, Animal and Plant Health Inspection Service, Food Emergency Response Network [FERN], FDA, and United States Department of Agriculture) to perform routine and emergency testing	1 (0.5)	
Objective 2.4.2	Develop and install a new Laboratory Information Management System to enhance reporting and interface with FERN and FDA compliant databases	2 (1.5)	
Objective 2.4.3	Develop standard operating procedures and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1 (1)	
Objective 2.4.4	Have 100% staff attendance at all technical trainings and safety meetings	21 (20.5)	
Objective 2.4.5	Analyze official and submitted samples and communicate results within five business days	1 (1)	

Table 7.1. Performance measures associated with goal 2.

<b>Performance Measures associated with Goal 2<sup>46</sup>:</b>	<b>2015-16 Target Value</b>	<b>2015-16 Actual Value</b>	<b>2016-17 Target Value</b>	<b>Time Applicable</b>	<b>Data Source and Availability</b>	<b>Calculation Method</b>	<b>Associated Objective(s)</b>
Number of seed inspections performed for Clemson University	new	n/a	350	July 1-June 30	Seed Lab records	Total number of seed inspections performed for Clemson	2.4.1, 2.4.3
Percent of consumer protection requests and complaints with same-day follow-up communication	100%	100%	100%	July 1-June 30	Inspection records	Number of consumer requests with same-day follow-up/total number of requests	2.3.3
Number of firms provided metrology laboratory services	new	381	400	July 1-June 30	Metrology Laboratory Report	Total number of firms provided laboratory services	2.2.1, 2.2.2, 2.2.3, 2.2.4
Percent of time action is taken on inferior petroleum samples	new	n/a	100%	July 1-June 30	Petroleum Lab records	Number of corrective actions taken/total number of fuel deemed inferior or contaminated	2.3.2, 2.3.3
Percent of time action is taken on mislabeled food products	new	n/a	100%	July 1-June 30	Food Safety Records	Number of corrective actions taken/Total number of food label submissions	2.1.1, 2.1.2, 2.1.3,
Percent of producers educated about produce safety rule under Food Safety Modernization Act (FSMA)	new	n/a	80%	July 1-June 30	Records and log from newly created agency FSMA department and Clemson University	Number of producers reached/total inventory of targeted producers	2.1.1, 2.1.4

*Table 8. Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products: agency's fiscal year 2016-17 strategic plan and resources allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>47</sup>	Total budgeted (% of funds available) <sup>48</sup>
<b>Goal 3</b>	<b>Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</b>	<b>56 (49.15)</b>	<b>\$11,702,662 (52.35%)</b>
<b><i>Strategy 3.1</i></b>	<b><i>Expand Certified South Carolina branding and marketing efforts</i></b>	<b><i>7 (5.5)</i></b>	
Objective 3.1.1	Increase program membership by 5%	2 (2.5)	
Objective 3.1.2	Actively use social media to engage the public with at least two posts per day	1 (0.75)	
Objective 3.1.3	Grow agritourism operator participation in South Carolina programming by 5% and consumer traffic at those venues by 10%	3 (1.5)	
Objective 3.1.4	Conduct participant evaluation at all events to determine effectiveness and utilization	1 (0.75)	
<b><i>Strategy 3.2</i></b>	<b><i>Maximize Return on Investment of producer-led commodity boards through research, promotion and education</i></b>	<b><i>4 (2)</i></b>	
Objective 3.2.1	Use merchandising and commodity-specific promotions to increase sales of South Carolina products by 5% in retail food outlets and food service venues	1 (0.5)	
Objective 3.2.2	Fund research of new technologies, science and best management practices for production, packaging and processing	1 (0.5)	
Objective 3.2.3	Place more resources into export market analysis, access, and development	1 (0.5)	
Objective 3.2.4	Use cross-promotion of, and between, commodities to increase demand by 5%	1 (0.5)	
<b><i>Strategy 3.3</i></b>	<b><i>Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i></b>	<b><i>20 (17.9)</i></b>	
Objective 3.3.1	Identify and prioritize critical upgrades at all three State Farmers Market to ensure producers and consumers have safe and clean facilities	15 (14.5)	
Objective 3.3.2	Provide four training meetings for producers and community based markets to expand Supplemental Nutrition Assistant Program/Women, Infants Children usage of this program	1 (0.75)	
Objective 3.3.3	In conjunction with Clemson University Extension, update producer Good Agricultural Practice training and outreach efforts to increase certification by 5%	2 (1.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>47</sup>	Total budgeted (% of funds available) <sup>48</sup>
Objective 3.3.4	Provide technical assistance and funding to nine new schools and pre-schools	1 (0.5)	
Objective 3.3.5	Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1 (0.4)	
<b><i>Strategy 3.4</i></b>	<b><i>Provide daily market news reports and United States Department of Agriculture (USDA) quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i></b>	<b><i>25 (23.75)</i></b>	
Objective 3.4.1	Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4 (3.25)	
Objective 3.4.2	Produce and publish information daily and weekly through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2 (1.5)	
Objective 3.4.3	Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17 (17)	
Objective 3.4.4	Increase the diversity of USDA commodity certifications that agency inspectors can issue upon request	2 (2)	

Table 8.1. Performance measures associated with goal 3.

Performance Measures associated with Goal 3 <sup>49</sup> :	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of Certified South Carolina members	1950	1870	1900	July 1- June 30	Member database; Updated monthly	Total of all Certified South Carolina members, including Certified South Carolina seafood	3.1.1
Number of attendees at Certified South Carolina events	235,400	181,132	190,000	July 1- June 30	Car counts, Ticket sales	Totaling number of attendees at agency events via car counts (2.2 PP per car as standard) and ticket sales for paid events	3.1.4
Certified South Carolina brand recognition	66%	n/a	66%	time in between periodic surveys	Statewide consumer survey	Total positive responses on consumer survey of target group sample	3.1.1
Percent of inspection staff able to provide full service to customers without restrictions	new	43%	100%	July 1- June 30	Inspection staff certifications	Number of full certified inspection staff/total number of inspection staff	3.4.4

*Table 9. Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) 50	Total budgeted (% of funds available) <sup>51</sup>
<b>Goal 4</b>	<b>Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders</b>	<b>17 (8.5)</b>	<b>\$147,643 (0.66%)</b>
<b><i>Strategy 4.1</i></b>	<b><i>Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i></b>	<b><i>5 (2.65)</i></b>	
Objective 4.1.1	Meet with ten current companies annually to encourage them to use more South Carolina agricultural products in their business processes	1 (0.65)	
Objective 4.1.2	Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1 (0.25)	
Objective 4.1.3	Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1 (0.5)	
Objective 4.1.4	Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1 (1)	
Objective 4.1.5	Perform an annual inventory analysis on agribusiness companies who are primed for expansion in South Carolina or the Southeastern United States	1 (0.25)	
<b><i>Strategy 4.2</i></b>	<b><i>Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i></b>	<b><i>3 (1)</i></b>	
Objective 4.2.1	Assess all industry policies before each legislative session by gathering input from a cross section of at least ten different producers	1 (0.4)	
Objective 4.2.2	Be an industry voice in communicating factual information to elected officials at the appropriate time	1 (0.2)	
Objective 4.2.3	Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1 (0.4)	
<b><i>Strategy 4.3</i></b>	<b><i>Provide credible and timely information to South Carolinians to increase awareness of agriculture</i></b>	<b><i>3 (1.1)</i></b>	
Objective 4.3.1	Update agency plan for crisis management and/or regulatory enforcement events	1 (0.1)	
Objective 4.3.2	Respond to 100 percent of website information requests within two business days	1 (0.25)	



Strategic Plan Element	Description	# of FTEs (physical / equivalents) 50	Total budgeted (% of funds available) <sup>51</sup>
Objective 4.3.3	Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1 (0.75)	
<b>Strategy 4.4</b>	<b><i>Continue to foster external and internal communications as educational resources and enhanced customer service tools</i></b>	<b>6 (3.75)</b>	
Objective 4.4.1	Maintain a Market Bulletin subscription of 15,000	3 (2.5)	
Objective 4.4.2	Public Information staff should conduct visits with different program staff at least monthly	1 (0.25)	
Objective 4.4.3	Establish an accurate position on key issues and create consistent messaging across the agency	1 (0.5)	
Objective 4.4.4	Leverage paid media to get a higher return on investment	1 (0.5)	

*Table 9.1. Performance measures associated with goal 4.*

<u>Performance Measures associated with Goal 4<sup>52</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of website Public Information Requests answered within 2 days	99%	100%	100%	July 1- June 30	Estimate based on PI request records	Number of phone, email, and social media requests answered within 2 days/total number of requests	4.3.2
Market Bulletin subscription reach	16,000	15,894	15,600	July 1- June 30	Kelly Registration Systems	Total number of Market Bulletin subscribers	4.4.1
Number of agribusiness identified for prospective expansion or projects in South Carolina	6	87	75	July 1- June 30	Recruitment log; updated monthly	Totaling monthly number of contacts	4.1.1, 4.1.3, 4.1.4, 4.1.5
Earned media	new	479	500	July 1- June 30	Media tracking records; daily	Total number of all agency media mentions	4.3.3, 4.4.2, 4.4.3, 4.4.4

## *Performance*

Information on individual performance measures are listed in the previous section in Tables 6.1; 7.1; 8.1; and 9.1 for ease of comparison with the agency's goals.

Additionally, the **Program Evaluation Report requests information about the entities the agency views as top in performance areas similar to the agency.**<sup>53</sup> Based on the agency's mission and strategic plan, there are three other entities, the agency considers the best in the country: (1) New Jersey Department of Agriculture (branding state agriculture products); (2) Florida Department of Agriculture & Consumer Services (branding state agriculture products and seafood regulation); and (3) North Carolina Department of Agriculture and Consumer Services (food safety program).

## STUDY PROCESS

### *Agency Selection*

The Department of Agriculture is an agency subject to legislative oversight.<sup>54</sup> During the 121<sup>st</sup> General Assembly,<sup>55</sup> the **Committee prioritizes the agency for study** by the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee on January 28, 2016.<sup>56</sup> When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development Transportation, and Natural Resources Subcommittee.<sup>57</sup>

The **Committee notifies the agency** about the study on February 4, 2016.<sup>58</sup> The notification letter is in Appendix A. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are notified about the agency study.<sup>59</sup>

### *Subcommittee Membership*

The **Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency.**<sup>60</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. During the 121<sup>st</sup> General Assembly, the Honorable Phyllis J. Henderson serves as chair, and during the 122<sup>nd</sup> General Assembly, the Honorable Ralph W. Norman serves as chair until he resigns from the General Assembly on February 16, 2017.<sup>61</sup> The Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presides at the remainder of the Subcommittee meetings with the agency. Members participating in the study of the agency are listed below:

- The Honorable Neal A. Collins (122<sup>nd</sup> General Assembly);
- The Honorable Laurie Slade Funderburk (122<sup>nd</sup> General Assembly);
- The Honorable Phyllis J. Henderson (121<sup>st</sup> General Assembly);
- The Honorable Ralph W. Norman (121<sup>st</sup> and 122<sup>nd</sup> General Assembly);
- The Honorable Mandy Powers Norrell (122<sup>nd</sup> General Assembly);
- The Honorable Robert L. Ridgeway, III (121<sup>st</sup> and 122<sup>nd</sup> General Assembly); and
- The Honorable Samuel Rivers, Jr. (121<sup>st</sup> General Assembly).

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct a self-analysis** by requiring it to complete and submit a Seven-Year Plan for cost savings and increased efficiencies; annual Restructuring Reports, and a Program Evaluation Report. These reports are available to the public on the Committee's website.

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

S.C. Code of Laws § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period.”<sup>62</sup> The agency submits its plan on March 11, 2015.<sup>63</sup>

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”<sup>64</sup> The **agency submits Annual Restructuring Reports** on March 11, 2015, January 12, 2016, and September 15, 2016.<sup>65</sup> The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Restructuring Report.<sup>66</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, “requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee.”<sup>67</sup> SC Code of Laws § 2-2-60 outlines what an investigating committee’s request for a program evaluation report (PER) must contain. It also provides a list of information an investigating committee may request. The agency’s PER includes information in the following areas: history, structure, strategic plan, programs, strategic allocation of resources, performance measures, comparisons to other agencies, and recommendations.

The **PER serves as the base document for the Subcommittee’s study of the agency.** The Committee sends guidelines for the agency’s PER on May 16, 2016.<sup>68</sup> The agency submits the report on August 24, 2016 and updates the report on December 30, 2016.<sup>69</sup>

### *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee’s process.**<sup>70</sup> Members of the public are provided an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee website, and appear in person before the Subcommittee.<sup>71</sup>

### *Public Survey*

From May 1, 2016, to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Agriculture** and four other agencies.<sup>72</sup> Members of the public are able to participate anonymously in a public survey about the agency. In an effort to communicate this public input opportunity widely, a statewide media release is issued about the public survey on April 29, 2016.<sup>73</sup> House Members are provided copies of this media release and are encouraged to share notice of this public input opportunity with their constituents.<sup>74</sup>

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.<sup>75</sup> These comments are not considered testimony.<sup>76</sup> As noted in the survey, "input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>77</sup> Documents related to the public survey are in Appendix B on page 52. The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>78</sup>

Of those that respond to questions related to the Department of Agriculture, 72% have a positive or very positive opinion of the department.<sup>79</sup> Over 68% of respondents form their opinions via personal or business experience with the agency or from media coverage.<sup>80</sup>

Written comments about the agency are provided by 23 survey participants; often, these comments address more than one topic. Many of the written comments address the agency's customer service and the farmers market.<sup>81</sup> Responses to online surveys are posted on the Committee's webpage verbatim as they are received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

### *Public Input via Committee Website*

Throughout the course of the study, the public is able to submit comments anonymously on the Committee website. No public input is received through this communication method with the Committee.

### *Public Input via In-Person Testimony*

The Committee offers the public an opportunity to appear and provide sworn testimony. A meeting dedicated to public input is held on July 6, 2016.<sup>82</sup> A press release announcing this opportunity is sent to media outlets statewide on June 28, 2016.<sup>83</sup> No public testimony is received about the agency during the meeting. Additionally, the chair of either the Committee or Subcommittee has the discretion to allow the testimony about the agency during meetings.

### *Meetings Regarding the Agency*

The full Committee meets once about the agency, and the Subcommittee meets either with or about the agency on nine occasions. A timeline of meetings is in Figure 2 on page 8. Meeting minutes and archived videos of meetings are available online.<sup>84</sup>

#### *121<sup>st</sup> General Assembly (2015-2016)*

##### **January 2016**

On January 28, 2016, the Committee **meets and prioritizes the Department of Agriculture** for study.<sup>85</sup> Appendix C includes the meeting packet.

## April 2016

On April 28, 2016, the Subcommittee holds **Meeting #1**, an entry meeting, to discuss **procedural issues and receive a brief overview of the agency's operations** from the Commissioner of Agriculture.<sup>86</sup> Appendix D includes the meeting packet.

## July 2016

On July 6, 2016, the Subcommittee holds **Meeting #2** to offer an **opportunity for the public to provide testimony about the agency**.<sup>87</sup> No testimony is received. The Commissioner of Agriculture provides information on the **agency's history, mission, and its key partners**. Following the meeting, the Subcommittee requests information on the following: (1) overview of relationships with South Carolina State University Public Service Activities; (2) information about pivot irrigation systems; (3) copies of studies mentioned during the meeting; and (4) recommendations the agency may have for revisions to laws for consideration as part of the study.<sup>88</sup> The agency responds to these requests on September 2, 2016.<sup>89</sup> Appendix E includes the meeting packet.

## October 2016

On October 31, 2016, the Subcommittee holds **Meeting #3** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) impact of Hurricane Matthew to the agency and agriculture in the state; (2) structure, funding, staffing, and procurement for commodity boards; and (3) the structure and history of the Agriculture Commission**.<sup>90</sup> Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission appointment process; and (2) commodity board staffing and fee assessments.<sup>91</sup> The Commissioner responds to these questions. Appendix F includes the meeting packet.

## *122<sup>nd</sup> General Assembly (2017-2018)*

### January 2017

On January 26, 2017, the Subcommittee holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly.<sup>92</sup> Appendix G includes the meeting packet.

### February 2017

On February 16, 2017, the Subcommittee holds **Meeting #5** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) the agency's program structure, and (2) the agency's strategic plan**.<sup>93</sup> Subcommittee members question the Commissioner about the following topics: (1) state aid package to assist farmers, meeting certain criteria, affected by the October 2015 historic flood; (2) agency's budget requests; and (3) the relationship between the state's agricultural production and consumption. The Commissioner responds to these questions. Appendix H includes the meeting packet.

### May 2017

On May 2, 2017, the Subcommittee holds **Meeting #6** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>94</sup> The Commissioner of Agriculture provides

information about the following topics: (1) successes; (2) challenges; (3) emerging issues; (3) strategic plan objectives; (4) implementation of Legislative Audit Council’s recommendations relating to the State Farmers Market; and (5) the “50 by 20” ten-year goal for South Carolina agriculture [i.e., agribusiness industry flow \$50 billion in the state’s economy by 2020]. Subcommittee members question the Commissioner about the following topics: (1) federal Food Safety Modernization Act; (2) farming profession; (3) surface water withdrawal; (4) farmers market; (5) commodity boards and the procurement code; and (6) marketing and economic development. The Commissioner of Agriculture responds to these questions. Following the meeting, the Subcommittee requests information on the following: (1) the federal Food Safety Modernization Act; and (2) commodity boards and procurement.<sup>95</sup> The agency responds to the Subcommittee’s request on June 6, 2017.<sup>96</sup> Additionally, the agency and the Department of Health and Environmental Control provide the Subcommittee with information relating to the agency’s recommendations for statutory changes.<sup>97</sup> Appendix I includes the meeting packet.

### June 2017

On June 15, 2017, the Subcommittee holds **Meeting #7** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>98</sup> The Commissioner of Agriculture provides information about the **agency’s recommendations** for revisions to laws relating to the agency. Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission; (2) model feed law proposed by the American Association of Feed Control Officials; (3) laboratory analysis performed by the agency; (4) agency’s regulation of petroleum dispensers; (5) food inspection; (6) salvaged food; (7) electronic warehouse receipts for cotton; and (8) licensure requirements to sell eggs. The Commissioner of Agriculture, Assistant Commissioner for Consumer Protection, and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee requests information about the agency’s recommendations.<sup>99</sup> Appendix J includes the meeting packet.

On June 22, 2017, the Subcommittee holds **Meeting #8, a work session to further discuss the agency’s recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>100</sup> Following the meeting, the Subcommittee sends a letter to the agency requesting information relating to its recommendations.<sup>101</sup> Appendix K includes the meeting packet.

### July 2017

On July 10, 2017, the Subcommittee holds **Meeting #9, a work session to further discuss the agency’s recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>102</sup> Subcommittee members question agency representatives about the agency’s recommendations. The Assistant Commissioner for Consumer Protection and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee sends a letter to the agency.<sup>103</sup> Appendix L includes the meeting packet.

### August 2017

On August 4, 2017, **the Subcommittee provides notice that its study of the agency is available for consideration by the full Committee.**<sup>104</sup>

On August 16, 2017, the full Committee holds **Meeting #10** to discuss the Subcommittee’s Study, with the Honorable Wm. Weston J. Newton presiding. The Honorable Laurie Slade Funderburk, Committee First-Vice Chair, provides an overview of the study and responds to questions about the study. Additionally,

the Commissioner of Agriculture, Assistant Commissioner for Consumer Protection, and Assistant Commissioner for Agency Operations are present and respond to questions about the agency. Appendix M includes the meeting packet.

### October 2017

On October 16, 2017, the full Committee holds **Meeting #11** to further discuss the Subcommittee's Study, with the Honorable Wm. Weston J. Newton presiding. The Subcommittee's Study is amended and approved.<sup>105</sup> Pursuant to Committee standard practice, Committee members have an opportunity for members to provide written comments for inclusion with the study. Appendix N includes the meeting packet.

### November 2017

On November 3, 2017, the full Committee publishes the Study of the Department of Agriculture.

### *Study Process Completion*

To support the Committee's ongoing oversight by maintaining current information about the Department of Agriculture, the agency receives an annual Request for Information.

## RECOMMENDATIONS

### *General Information*

The following **recommendations include areas identified for potential improvement by the Committee**. The **Committee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings, and analysis of the information obtained by the Subcommittee and Committee. This information, including, but not limited to the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency can all be found on the Committee's website.

### *Continue*

The **Committee does not have any specific recommendations with regards to continuance of agency programs**.

### *Curtail (i.e. Revise)*

The Committee has **nine recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1.



### *Recommendation to Modernize Law Relating to the Commissioner of Agriculture*

1. **The Committee recommends the General Assembly consider removing the bond (\$50,000) requirement of the Commissioner of Agriculture.** The chief executive officer of the agency is the Commissioner of Agriculture, an elected state constitutional officer.<sup>106</sup> If a vacancy occurs in the office, the Governor appoints a successor to fill the unexpired term.<sup>107</sup> State statutes provide general qualifications for the office and outline specific duties for the Commissioner. The general qualifications include “a competent knowledge of agriculture, manufacturing and general industries, commerce, chemistry, and publicity.”<sup>108</sup> A variety of other duties of the Commissioner are referenced in statute, and one of those duties includes the posting of a bond.<sup>109</sup>

The bond requirement has not been updated in more than 60 years.<sup>110</sup> During the study process, the Commissioner of Agriculture testifies 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>111</sup> A summary of the recommendation is in Table 10.

*Table 10. Summary of recommendation to modernize law relating to the Commissioner of Agriculture (bond).*

Statute or Regulation	SECTION 46-3-50. Bond
Explanation of Revision	1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
Recommended Language	<p><del>SECTION 46-3-50. Bond.</del></p> <p><del>The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.</del></p> <p><del>HISTORY: 1962 Code Section 3-3.1; 1954 (48) 1566.</del></p>

### *Recommendations to Modernize Laws Relating to the Agriculture Commission*

2. **The Committee recommends the General Assembly consider limiting service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.** The Agriculture Commission is composed of one member from each judicial circuit and one member from the state at large appointed by the Governor who serves as chair; the Commissioner of Agriculture serves ex officio.<sup>112</sup> According to information from the South Carolina Secretary of State’s Office, **one judicial circuit has a vacancy on the Agriculture Commission; half of the sixteen judicial circuits have members on the commission who are serving in a hold-over capacity with expired terms, including one that expired a quarter of a century ago.**<sup>113</sup> A summary of the recommendation is in Table 11. During the Committee’s August 16, 2017, meeting, the Commissioner of Agriculture testifies his agency has been addressing this issue of significant periods of service in a hold-over capacity on the South Carolina Agriculture Commission for five to six years now, and he hopes the Committee’s recommendation will bring some light to it.<sup>114</sup>

*Table 11. Summary of recommendation to modernize law relating to the Agriculture Commission (service in a hold-over capacity).*

Statute or Regulation	<b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.
Explanation of Revision	2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
Recommended Language	<p><b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.</p> <p>There is created the Agriculture Commission of South Carolina, to be composed of one member from each judicial circuit and one member from the State at large who shall be designated chairman. The Commissioner of Agriculture shall be a member, ex officio, but without the power to vote. All terms shall be for four years, except that of the chairman, who shall be appointed by the Governor and whose term shall be coterminous with the office of the Governor appointing. <u>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.</u> The chairman shall be an agricultural producer or grower of agricultural products. The member representing a judicial circuit shall be elected by the legislative delegations representing the circuit. Representation on the Commission shall be rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit. The Commissioner of Agriculture shall serve as secretary to the Commission. No one shall be appointed or elected who should attain the mandatory retirement age prior to the expiration of his term.</p> <p>The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Commission to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as a member of the Agriculture Commission of South Carolina. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office.</p> <p>Any vacancy shall be filled in the manner as prescribed herein by election by the legislative delegations of the judicial circuit for the unexpired portion of the term.</p> <p>The Commission shall meet on the call of the chairman or a majority of the members.</p>

A list of the current members on the Agriculture Commission is in Table 12.

*Table 12. Agriculture Commission current members.*

Position	Current Members	Appointed Date	Expiration Date
1st Judicial Circuit	Shirer, Michael Perry	2/4/2015	12/31/2018
<b>2nd Judicial Circuit</b>	McElmurray, Thomas W.	10/21/1987	10/21/1991
<b>3rd Judicial Circuit</b>	VACANT		
4th Judicial Circuit	Robeson, Robert Barton	5/7/2015	12/31/2019
5th Judicial Circuit	Lanham, J. Thomas	9/16/2013	9/16/2017
<b>6th Judicial Circuit</b>	Barfield, Douglas A. Jr.	2/14/1997	2/14/2001
<b>7th Judicial Circuit</b>	Gramling, Ben M. II	3/1/2007	3/1/2011
8th Judicial Circuit	Abercrombie, Billy Ray	1/13/2015	1/13/2019
9th Judicial Circuit	West, Steven Carolye	12/2/2014	12/31/2018
<b>10th Judicial Circuit</b>	Harris, John Robert	1/23/2013	1/23/2017
<b>11th Judicial Circuit</b>	Carr, Chalmers	5/2/2001	5/2/2005
<b>12th Judicial Circuit</b>	Gibson, Michael	3/28/2008	3/28/2012
<b>13th Judicial Circuit</b>	Looper, Franklin	6/30/1995	6/30/1999
<b>14th Judicial Circuit</b>	Sanders, Ross "Mac" Jr.	2/3/2004	2/3/2005
15th Judicial Circuit	Andrew, J. Benjie	2/8/2011	2/8/2015
<b>16th Judicial Circuit</b>	Hicks, Lewis W.	1/30/1994	1/30/1998
At Large	Price, Frances	3/10/2011	
Ex Officio	Commissioner of Agriculture		

*Table Note: Judicial circuits with either a vacancy or members with expired terms are in bold print.*

3. The Committee recommends the General Assembly consider removing statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer. Various Attorney General Opinions over the years have examined the relationship between the Commission and the Department of Agriculture and have opined that the Commissioner of Agriculture is the governing entity of the Department of Agriculture.<sup>115</sup>

On October 31, 2016, the Commissioner of Agriculture testifies the current responsibilities of the Agriculture Commission include: overseeing the administration of the South Carolina Agricultural Commodities Marketing Act; issuing, amending, or terminating marketing agreements or orders to produce the intended effects; and maintaining the required records, issuing notices, conducting hearings, and ensuring growers have the opportunity to participate in referendums.<sup>116</sup> A summary of the recommendation is in Table 13.

*Table 13. Summary of recommendation to modernize law relating to the Agriculture Commission (powers).*

Statute or Regulation	SECTION 46-5-10. Powers.
Explanation of Revision	3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.
Recommended Language	The Commission shall have the power to:  <del>(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.</del> <del>(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.</del> <del>(3) (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.</del> <del>(4) (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.</del> <del>(5) (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.</del>

*Recommendations to Improve Customer Service*

4. The Committee recommends the General Assembly consider adopting the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.<sup>117</sup> During the study process, the Commissioner of Agriculture testifies the current feed law has been in place for half a century and places consumers and feed mills at a disadvantage.<sup>118</sup> Among other things, agency representatives testify this proposal: requires registration of facilities with the agency to facilitate recalls and pre-emptive measures to address food borne outbreaks, animal welfare, and other potential issues prior to an event occurring.<sup>119</sup> Assistant Commissioner for Consumer Protection testifies adoption of this model law increases efficiencies for the agency more efficient and industry.<sup>120</sup> A summary of the recommendation is in Table 14.

*Table 14. Summary of recommendation to improve consumer services (model feed law).*

Statute or Regulation	S.C. Code of Laws 36-25-210 and 40-7-1
Explanation of Revision	4. Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
Recommended Language	The full text of the proposed language is 160 pages long and is available online for review and in Appendix O.

5. The Subcommittee recommends the General Assembly consider requiring businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.

6. The Subcommittee recommends the General Assembly consider enforcing a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.

While the Department of Agriculture regulates the dispensing of petroleum products (e.g., liquid petroleum gas; natural gas; diesel; kerosene; aviation fuel; and home heating oil), under existing law there is no statutory requirement or enforcement mechanism for a business dispensing petroleum products to register with the agency. Registration is voluntary. The Assistant Commissioner for Consumer Protection testifies registration allows the agency to verify the accuracy of pumps and dispensers prior to a business selling products to the public.<sup>121</sup> The agency requests authorization to administer a tiered monetary penalty for repeat violators and habitual offenders that inaccurately advertise cash/ credit prices and/or have repeat dispenser issues (i.e., shorting the consumer). A summary of the recommendations are in Table 15.

*Table 15. Summary of recommendations to improve consumer services (petroleum).*

Statute or Regulation	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p>
Explanation of Revision	<p>5. Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.</p> <p>6. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers</p>
Recommended Language	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p>“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.</p> <p>A. <u>Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.</u></p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p> <p>The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.</p> <p><u>(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.</u></p>

### *Recommendations to Reduce Restrictions on Businesses*

7. The Subcommittee recommends the General Assembly consider removing reference in statute to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer). A cottage food operation is a home-based food operation in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer.<sup>122</sup> The Department

of Agriculture does not regulate retail food sales to the end consumer in South Carolina as this is under the authority of the Department of Health and Environmental Control's (DHEC) Food Protection Division.<sup>123</sup> DHEC supports this revision.<sup>124</sup> A summary of the recommendation is in Table 16.

*Table 16. Summary of recommendation to reduce restrictions on businesses (home-based food operations).*

Statute or Regulation	<b>SECTION 44-1-143.</b> Requirements for home-based food production operations.																	
Explanation of Revision	7. Remove reference in statute to the agency's involvement with the "cottage law," which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer).																	
Recommended Language	<p>(A) For the purposes of this section:</p> <p>(1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.</p> <p>(2) "Nonpotentially hazardous foods" are candy and baked goods that are not potentially hazardous foods.</p> <p>(3) "Person" means an individual consumer.</p> <p>(4) "Potentially hazardous foods" includes:</p> <p>(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;</p> <p>(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:</p> <table border="1" data-bbox="409 1234 1414 1297"> <tr> <td>Aw values</td> <td>pH values</td> <td>4.6 or less</td> <td>&gt; 4.6-5.6</td> <td>&gt; 5.6</td> <td>(1) &lt; 0.92</td> <td>non-PHF</td> <td>non-PHF</td> <td>non-PHF</td> <td>(2) &gt; 0.92-0.95</td> <td>non-PHF</td> <td>non-PHF</td> <td>PHF</td> <td>(3) &gt; 0.95</td> <td>non-PHF</td> <td>PHF</td> <td>PHF</td> </tr> </table> <p>Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.</p> <p>(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:</p> <p>(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;</p> <p>(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;</p> <p>(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;</p> <p>(4) prohibiting any person who is infected with a communicable disease that can be transmitted by</p>	Aw values	pH values	4.6 or less	> 4.6-5.6	> 5.6	(1) < 0.92	non-PHF	non-PHF	non-PHF	(2) > 0.92-0.95	non-PHF	non-PHF	PHF	(3) > 0.95	non-PHF	PHF	PHF
Aw values	pH values	4.6 or less	> 4.6-5.6	> 5.6	(1) < 0.92	non-PHF	non-PHF	non-PHF	(2) > 0.92-0.95	non-PHF	non-PHF	PHF	(3) > 0.95	non-PHF	PHF	PHF		

food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE-PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina~~

Department of Agriculture.
HISTORY: 2012 Act No. 190, Section 1, eff June 7, 2012.

8. The Subcommittee recommends the General Assembly consider modernizing the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). According to the agency, the 2012 census of Agriculture notes 300,036 acres of cotton (587,589 bales) in the state. S.C. Code of Laws Section 39-22-110 requires identification tags placed on cotton bales accepted for storage in a warehouse operated under the state warehouse system. New tags are placed on the bale as it goes to a new gin, even though there are electronic receipts which reflect the location of the cotton bale.<sup>125</sup> A summary of the recommendation is in Table 17.

*Table 17. Summary of recommendation to reduce restrictions on businesses (cotton warehouse receipts).*

Statute or Regulation	SECTION 39-22-110. Required identification tags on bales.
Explanation of Revision	10. Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)
Recommended Language	Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. <u>The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.</u>

9. The Subcommittee recommends the General Assembly consider revising state egg law (i.e., exempt United States Department of Agriculture (USDA) graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration). It is unlawful to sell unlabeled and ungraded eggs at a location other than a farm.<sup>126</sup> For other locations, the sale of eggs requires licensure by the Department of Agriculture, and, currently, there is no fee to offset the cost of administration for licensure.<sup>127</sup> As state law does not authorize licensure of quail eggs, local producers must obtain quail eggs outside of South Carolina.<sup>128</sup> According to the agency, this recommendation reduces restrictions on businesses (1) by exempting USDA-graded facilities from obtaining a state license, and (2) authorizing producers to sell up to 30 dozen eggs per week to the end consumer away from the farm without licensure.<sup>129</sup> A summary of the recommendation is in Table 18.

*Table 18. Summary of recommendation to reduce restrictions on businesses (eggs).*

Statute or Regulation	Title 39 (Trade and Commerce), Chapter 39 (Eggs and Baby Chicks)
Explanation of Revision	9. Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; authorize the licensure of quail eggs; and remove licensure requirements for small producers).



Recommended  
Language**Section 39-39-110.** Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
  - (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
  - (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
  - (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
  - (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
  - (6) "South Carolina eggs" means eggs produced in this State.
  - (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
  - (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.
  - (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
  - (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
  - (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
  - (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.  
(New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75.  
(New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-120.** Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, producers, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. The license must be issued at no cost and in a form prescribed by regulations promulgated by the department.

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-121.** Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South

Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. There is no fee for this license.

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-135.** Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-140.** Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act not less than two inches by four inches or not less than eight square inches on one end of each case. On this label must be printed or stamped, legibly in letters not less than one-fourth of an inch in size, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin may be given.~~ If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The state of origin also may be given.~~

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the

classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-141.** Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, ~~not less than eight by eleven inches~~, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters ~~not less than one inch in height~~, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin of eggs may appear on the placard.~~

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provide to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-150.** Unlawful acts.

(1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;

(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.

(2) use the word "nulaid", "country", "hennerly", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;

(3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;

(4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";

(5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-170.** Exemptions.

The following are exempt from this chapter:

(1) persons who buy or sell eggs to be used exclusively for hatching purposes;

(2) shipments of eggs in interstate commerce;

(3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.

(4) producer selling eggs from their farms directly to end consumers of their production ~~offsite when egg sales do not exceed 30 dozen per week.~~

(5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.

(6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-180.** Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

## INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>130</sup>

## ADDITIONAL INFORMATION OF INTEREST

During the study process, the Committee receives information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest include: (1) April 28, 2016, Attorney General Opinion that commodity boards are not subject to the State Procurement Code; (2) agency's draft language for modernizing salvage food (e.g., dented cans) regulations; and (3) agency's draft language for authorization of various fees (e.g., registration fee [\$5] per dispenser for businesses dispensing petroleum products; application fee [\$25] and tiered annual fee for a registration verification certificate; and administrative egg license fee [not to exceed \$10 annually]).<sup>131</sup> These documents are available online.

## SELECTED AGENCY INFORMATION

**Department of Agriculture. "Program Evaluation Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 25, 2017).

**Department of Agriculture. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed May 25, 2017).

**Department of Agriculture. "Annual Restructuring Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed May 25, 2017).

**Department of Agriculture. "Agency Accountability Report, 2015-2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 25, 2017).

**SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 25, 2017).

# APPENDICES

## *Appendix A. Notification Letter to Agency*

### Appendix Includes:

- Letter from Oversight Committee to Department of Agriculture (February 4, 2016)
  - Notifies agency it is under study.

First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee

Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor



William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams

### South Carolina House of Representatives

Jennifer L. Dobson  
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Room 228 Blatt Building

Charles L. Appleby IV  
Legal Counsel

Carmen J. McCutcheon  
Research Analyst

February 4, 2016

Commissioner Hugh E. Weathers  
South Carolina Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211

RE: Legislative Oversight Study of the South Carolina Department of Agriculture

Dear Commissioner Weathers:

In conducting these Studies, it is the Legislative Oversight Committee's goal to partner with the agency to help it identify areas in which it can continue to improve upon the positive results it has generated for the people of South Carolina.

In the near future, the Economic Development, Transportation, Natural Resources and Subcommittee will schedule a meeting with your agency to discuss preliminary matters relating to the Study of the South Carolina Department of Agriculture. During this preliminary meeting, Representative Phyllis J. Henderson will explain the Committee's expectations. In addition, the agency will have an opportunity provide a brief overview of its programs and ask questions.

The Committee wants to ensure the agency has as much information as possible and ample opportunity to review materials prior to the meeting. Therefore, enclosed is a flow chart with an overview of the process the Committee intends to follow, copy of the Committee's Rules and copy of the Committee's Standard Practices (please note these may be modified). Also, below is a brief summary of the expectations.

The Committee expects an agency to inform its staff that the agency is undergoing the legislative oversight study process as well as the purpose of the study. The Committee expects an agency to appoint a liaison to assist the Committee with all activities. The Committee expects an agency to respond to its requests in a concise, complete and timely manner. The Committee expects an agency to be candid with it and to promptly discuss with the




Page Two  
Commissioner Weathers

Committee any concerns or questions the agency may have related to the legislative oversight study process, including any concerns the agency may have that the Committee has drawn an incorrect conclusion.

I hope the information above and enclosed is helpful to you and your agency in understanding the process the Committee intends to following in conducting the Study. Please do not hesitate to contact me, Representative Henderson, or Committee staff, if you have any questions or concerns about the Study.

Sincerely,

A black rectangular redaction box covering the signature of Wm. Weston J. Newton.

Signature Redacted

Wm. Weston J. Newton  
Chairman, House Legislative Oversight Committee

Enclosures

cc: Representative Phyllis J. Henderson

## *Appendix B. Public Survey Information*

### Appendix Includes:

- Press release announcing public survey (April 29, 2016)
- Results of survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016)

*Chairman Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

## **Legislative Oversight Committee**

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*Charles L. Appleby IV  
Legal Counsel*

*Carmen J. McCutcheon  
Research Analyst/Auditor*

### **MEDIA RELEASE**

April 29, 2016  
For Immediate Release

Contact: Chairman Weston Newton  
Email: WestonNewton@schouse.gov

#### **S.C. HOUSE LEGISLATIVE OVERSIGHT COMMITTEE ANNOUNCES AN ONLINE SURVEY SEEKING CITIZENS' INPUT ON NEXT FIVE AGENCIES UNDER STUDY BY THE COMMITTEE**

*Department of Agriculture, Department of Health and Environmental Control, Law Enforcement Training  
Council and Criminal Justice Academy, Department of Archives and History, and Retirement Investment Commission*

**Columbia, SC** - Speaker Jay Lucas and the South Carolina House of Representatives' Legislative Oversight Committee are pleased to announce an online survey seeking citizens' input on the next five agencies under study by the Committee. The next five agencies under study by this House Committee are the Department of Agriculture, Department of Health and Environmental Control, Law Enforcement Training Council and Criminal Justice Academy, Department of Archives and History, and Retirement Investment Commission. Citizens are encouraged to take the survey, which provides an opportunity to share with the Committee any comments, concerns or suggestions citizens may have about these five agencies. To take the survey, go to [www.statehouse.gov](http://www.statehouse.gov), click on the "Citizens' Interest" tab on the top row, then click on the "House Legislative Oversight" link. While the survey will only be available until May 31, 2016, citizens may contact the Committee anytime to share comments, concerns or suggestions about state agencies. There were over 1000 responses to a survey conducted during last September's survey on the State Transportation Infrastructure Bank, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and the Treasurer's Office), with responses coming from 41 out of 46 counties (89%).

Input and observations from those citizens who choose to provide responses are important to the Members of the House Legislative Oversight Committee because they may help direct the Committee to potential areas for improvement with these agencies. The Committee's vision is for South Carolina agencies to become, and continuously remain, the most effective state agencies in the country through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government.

The specific task of the House Legislative Oversight Committee is to conduct legislative oversight studies on agencies at least once every seven years. The purpose of a legislative oversight study is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether or not they should be continued, curtailed or even eliminated. Also, the Committee recognizes that a legislative oversight study of an agency serves the purpose of informing the public about an agency. Any legislator may file legislation, which will go through the normal legislative process, to implement recommendations this Committee may have relating to the agencies being studied.

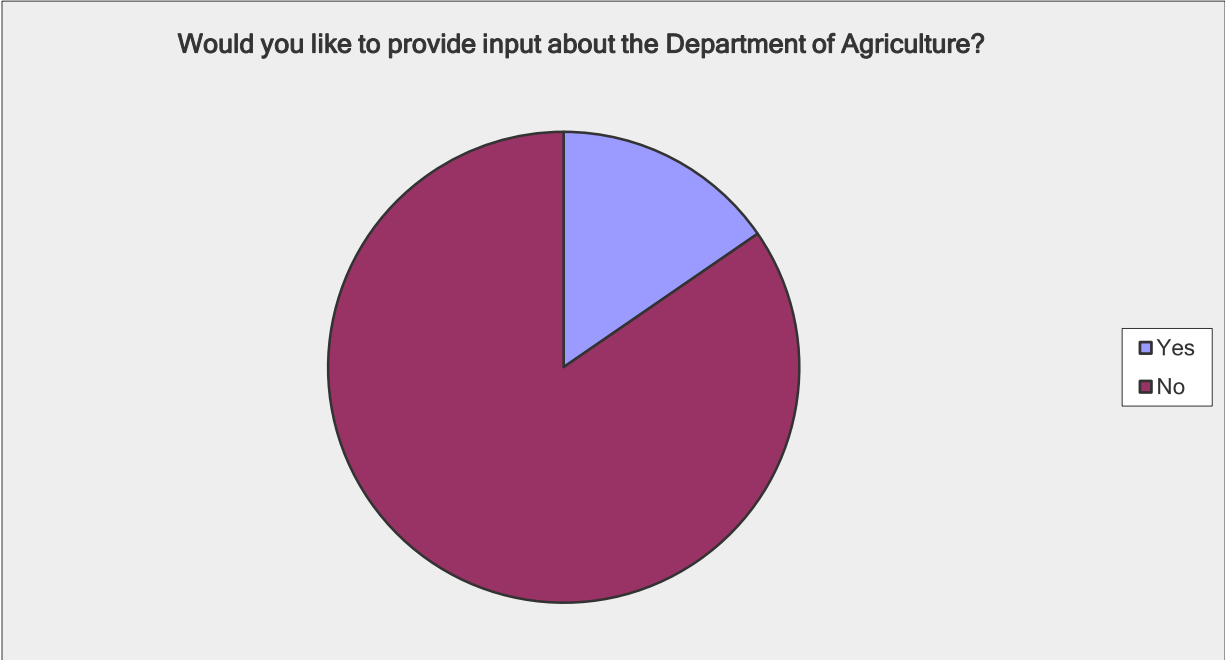
- What:** Online survey seeking citizen's input
- When:** May 1 until May 31
- Where:** Online; from home, school or public library  
The link to take the survey is <https://www.research.net/r/May2016LOC>
- Who:** Entire public and agency personnel are encourage to take the survey

Suggestions for additional ways to inform the public about this survey and the House Legislative Oversight Committee's process are welcomed.

###

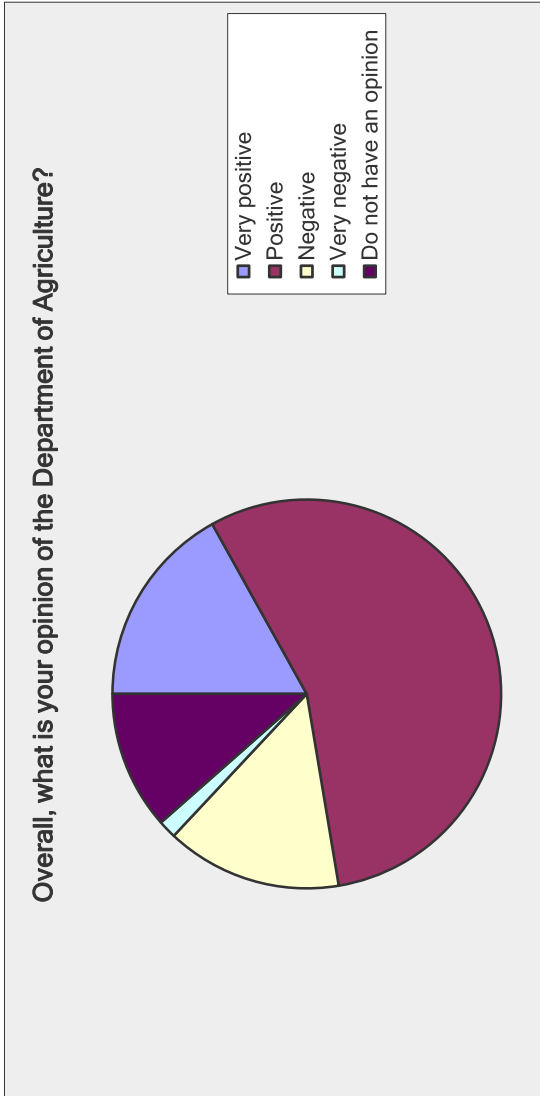
### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Agriculture?		
Answer Options	Response Percent	Response Count
Yes	15.4%	156
No	84.6%	858
<i>answered question</i>		<b>1014</b>
<i>skipped question</i>		<b>11</b>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Overall, what is your opinion of the Department of Agriculture?			
Answer Options	Response Percent	Response Count	
Very positive	16.9%	22	
Positive	55.4%	72	
Negative	14.6%	19	
Very negative	1.5%	2	
Do not have an opinion	11.5%	15	
			<b>130</b>
<i>answered question</i>			
			<b>895</b>
<i>skipped question</i>			

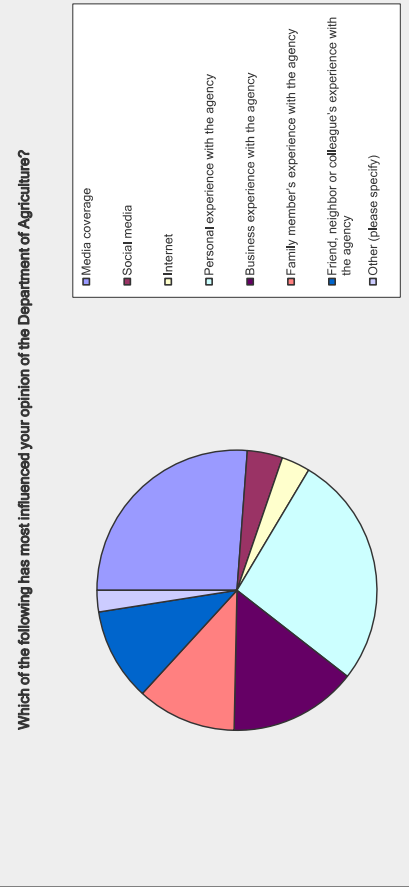


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Which of the following has most influenced your opinion of the Department of Agriculture?

Answer Options	Response Percent	Response Count
Media coverage	26.2%	32
Social media	4.1%	5
Internet	3.3%	4
Personal experience with the agency	27.0%	33
Business experience with the agency	14.8%	18
Family member's experience with the agency	11.5%	14
Friend, neighbor or colleague's experience with the agency	10.7%	13
Other (please specify)	2.5%	3
	<i>answered question</i>	<b>122</b>
	<i>skipped question</i>	<b>903</b>

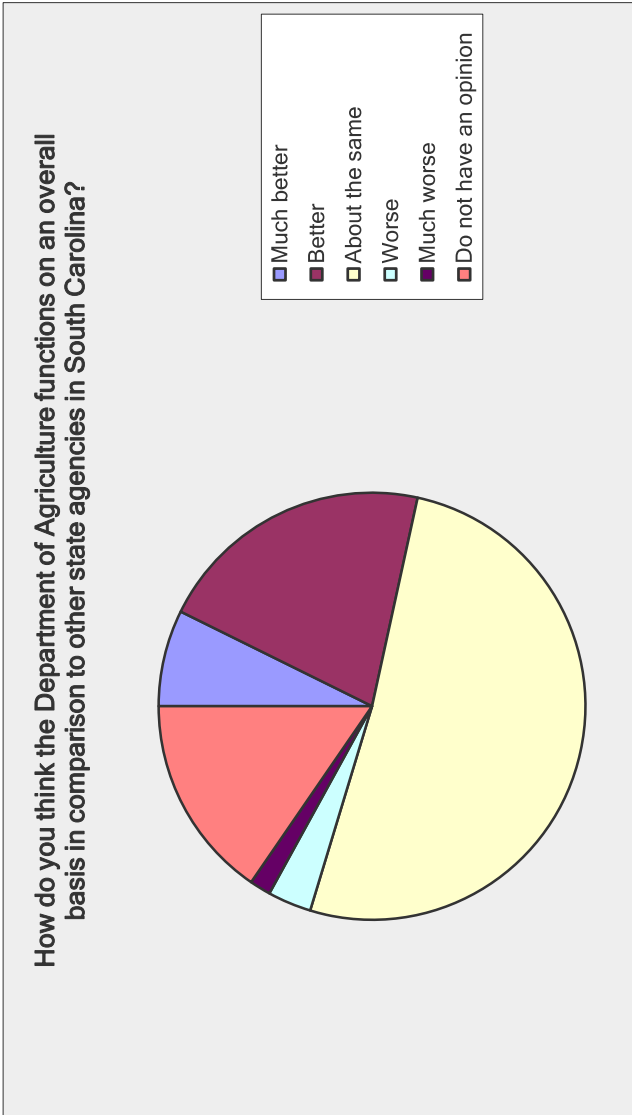
Number	Response Date	Eastern Standard Time	Other (please specify)
1	May 18, 2016 12:41 PM	May 18, 2016 8:41 AM	Guidelines from USDA that affect WIC Program
2	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	WIC
3	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	No interaction



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	7.3%	9
Better	21.1%	26
About the same	51.2%	63
Worse	3.3%	4
Much worse	1.6%	2
Do not have an opinion	15.4%	19
<i>answered question</i>		<b>123</b>
<i>skipped question</i>		<b>902</b>



## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Agriculture. Your response will be quoted verbatim and published online.

Answer Options	Response Count
	23
<i>answered question</i>	23
<i>skipped question</i>	1002

Number	Response Date	Eastern Standard Time	Response Text
1	May 27, 2016 12:45 PM	May 27, 2016 8:45 AM	Please publish online the ethanol local staff are helpful
2	May 26, 2016 1:37 PM	May 26, 2016 9:37 AM	free gas stations and octane The environmental impacts of industrial farming are growing. Most farming operations are exempt from DHEC rules and the Dept of Agriculture relies on the Natural Resource Conservation Service to help farmers reduce their environmental impact. Is this system adequate for the future or is more oversight needed?
3	May 23, 2016 2:24 PM	May 23, 2016 10:24 AM	The farmers market in West Columbia is a huge disappointment. There are very few vendors selling fresh fruits and vegetables. A lot of wasted space and not very convenient as to location.
4	May 22, 2016 5:25 PM	May 22, 2016 1:25 PM	Why does the Department of Agriculture waste money on parties?
5	May 19, 2016 7:37 PM	May 19, 2016 3:37 PM	



6	May 18, 2016 2:18 PM	May 18, 2016 10:18 AM	The Food and Safety Compliance office has excellent, well trained personnel
7	May 17, 2016 6:58 AM	May 17, 2016 2:58 AM	Unnecessary State (and Federal) subsidies are a concern.
8	May 16, 2016 7:23 PM	May 16, 2016 3:23 PM	Slow to respond, if at all. The new Farmers Market is a joke. People pass it by to travel to the Western orth Carolinas Market in Ashville.
9	May 16, 2016 5:44 PM	May 16, 2016 1:44 PM	There is a lot of red tape for farmers to get approved to receive funding and assistance in having fresh fruits and vegetables into the hands of South Carolinian's.
10	May 16, 2016 1:59 PM	May 16, 2016 9:59 AM	Out dated methods of training for farmers.
11	May 16, 2016 1:55 PM	May 16, 2016 9:55 AM	Improve relationships with small home garden residents
12	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	what do they do concerning their roles for the public? Need to have less qualifications for WIC participants to make it user friendly and to increase participation rates up
13	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	The actual responsibilities and assistance available to the non-average farmer (individual or organization who may seek assistance on a limited basis) is not clear.
14	May 16, 2016 1:09 PM	May 16, 2016 9:09 AM	The "SC Grown Certified" campaign seems to be very helpful for SC farmers. Keep up the good work.
15	May 16, 2016 12:07 PM	May 16, 2016 8:07 AM	

<p>I find it appalling that when I call I get the run around. No one in the agency seems versed on what they actually do. The answer is always DHEc or Clemson does that. Well what does the department do besides collect state tax dollars and pesticides? Where do they find the money to repeatedly by PFG shirts for the events they attend? I was at the fair, both flower shows, and that BBQ festival. All employees had different PFGs at all events. Also who is in charge of these "events" at the farmers market? After attending severl BbQ fests it seems there are 3 or 4 employees standing around drinking during working hours. I find that appalling that A. They are allowed to not work and B that they were drinking. The farmers market is a great place for events, shaded, parking, and easily located. Seems like more "events" should happen there. Also who designed that ridiculous sign and how much money was earmarked for that? It looks like the state fair sign. It is nice to see SC brand of fruits and vegetables and massive amount of advertisement for it. Has there been a cost-benefit studied of this campaign by an external entity?</p>			
<p>16</p>	<p>May 15, 2016 7:24 PM</p>	<p>May 15, 2016 3:24 PM</p>	
<p>17</p>	<p>May 14, 2016 10:13 PM</p>	<p>May 14, 2016 6:13 PM</p>	

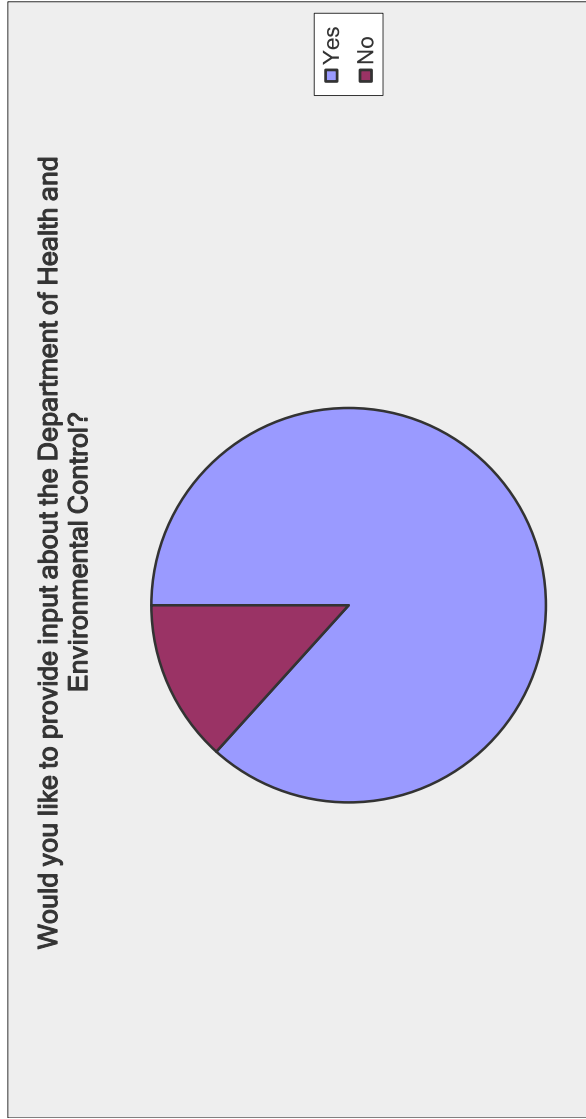
I have had several products tested by the Lab for my farm. I have stopped by to talk with those running the test or Phil (lab manager) to be told their hours are 7-3:30. Also on Friday the only people who ever seem to be there after 3 are the girl at the front desk and maybe one or two others. Why have your hours be from 8:30-5 if the majority of the employees arent there from that time? I havent had dealings with other agencies so i am not sure how they gair, but this agency seems to allow certian personnel to work when they want and force others to cover their laziness. Never hear about them. They do a good job.

18	May 14, 2016 6:03 PM	May 14, 2016 2:03 PM
19	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM
20	May 13, 2016 8:42 PM	May 13, 2016 4:42 PM

	<p>It has come to my attention that an individual that was hired for a "certified" position is actually not certified in his area. This makes me very concerned about the efficacy and legality of the work being done by the Dept of Ag. Second, I have also come to find out that hard-working individuals that have been performing duties outside of their area (as preparation for a new title) are being passed over after they have already completed the extra work with no compensation. This is a very poor choice for management and also a huge problem for the employees' commitment and morale, not to mention ethically wrong.</p>
<p><b>21</b></p>	<p><b>May 13, 2016 9:07 AM</b></p>
	<p>Great Job - Agribusiness is very important to SC. Keep up the great work!</p>
<p><b>22</b></p>	<p><b>May 8, 2016 10:57 PM</b></p>
	<p>SCDA touches more citizens in South Carolina daily more than most other agencies. SCDA not only inspects the fruits and vegetables we eat, but also ensures consumer protection in multiple ways. I wish SCDA would spend as much time informing citizens about their Consumer Protection Division and SCDA's many inspection services as they do about Certified SC and the farmers markets.</p>
<p><b>23</b></p>	<p><b>May 13, 2016 1:07 PM</b></p>
	<p><b>May 9, 2016 2:57 AM</b></p>
	<p><b>May 4, 2016 12:25 PM</b></p>
	<p><b>May 4, 2016 8:25 AM</b></p>

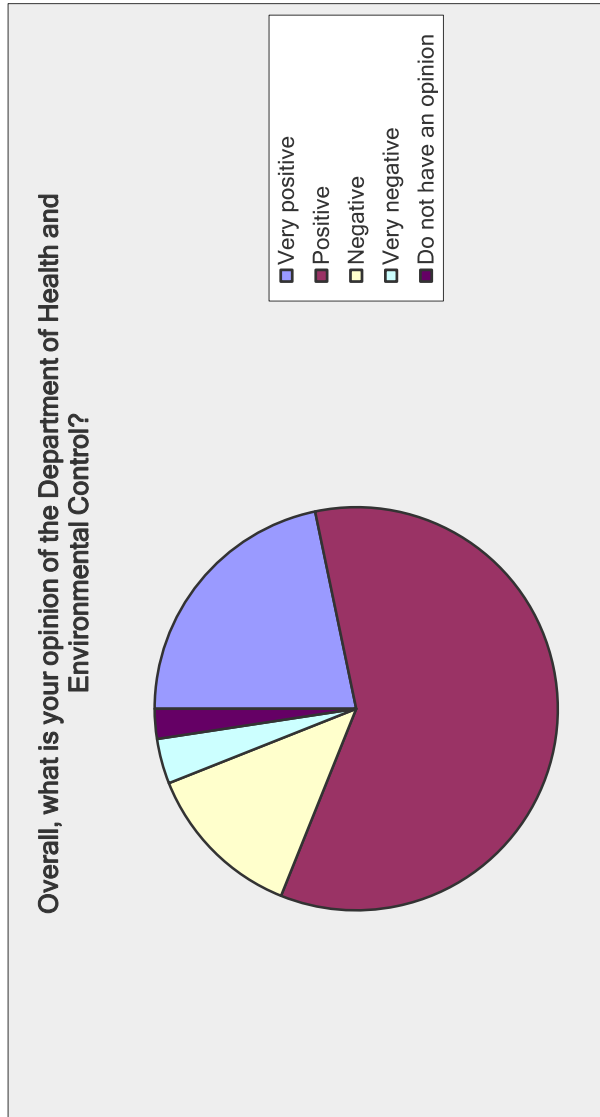
### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Health and Environmental Control?			
Answer Options	Response Percent	Response Count	
Yes	86.7%	848	
No	13.3%	130	
<i>answered question</i>			<b>978</b>
<i>skipped question</i>			<b>47</b>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Overall, what is your opinion of the Department of Health and Environmental Control?		
Answer Options	Response Percent	Response Count
Very positive	21.7%	155
Positive	59.3%	423
Negative	12.9%	92
Very negative	3.6%	26
Do not have an opinion	2.4%	17
<i>answered question</i>		<b>713</b>
<i>skipped question</i>		<b>312</b>



## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Department of Health and Environmental Control?			
Answer Options	Response Percent	Response Count	Response Count
Media coverage	0.8%	6	6
Social media	0.1%	1	1
Internet	0.3%	2	2
Personal experience with the agency	80.6%	572	572
Business experience with the agency	9.9%	70	70
Family member's experience with the agency	1.3%	9	9
Friend, neighbor or colleague's experience with the	1.5%	11	11
Other (please specify)	5.5%	39	39
			<b>710</b>
			<b>315</b>

Number	Response Date	Eastern Standard Time	Other (please specify)
1	May 25, 2016 12:54 PM	May 25, 2016 8:54 AM	Employee with Department
2	May 25, 2016 12:26 PM	May 25, 2016 8:26 AM	Employee Employment
3	May 20, 2016 8:12 PM	May 20, 2016 4:12 PM	with the agency. Division of WIC
4	May 20, 2016 4:43 PM	May 20, 2016 12:43 PM	Services working with
5	May 19, 2016 9:39 PM	May 19, 2016 5:39 PM	DHEC I am employed
6	May 18, 2016 7:53 PM	May 18, 2016 3:53 PM	here.
7	May 18, 2016 1:13 PM	May 18, 2016 9:13 AM	Employee
8	May 18, 2016 1:11 PM	May 18, 2016 9:11 AM	employee Employee for
9	May 17, 2016 3:04 PM	May 17, 2016 11:04 AM	47 years.
10	May 17, 2016 2:06 PM	May 17, 2016 10:06 AM	Employee Employee of
11	May 17, 2016 1:27 PM	May 17, 2016 9:27 AM	agency
12	May 17, 2016 12:09 PM	May 17, 2016 8:09 AM	employment
13	May 17, 2016 2:16 AM	May 16, 2016 10:16 PM	employee
14	May 16, 2016 8:12 PM	May 16, 2016 4:12 PM	employee

15	May 16, 2016 5:26 PM	May 16, 2016 1:26 PM	employee employment duties
16	May 16, 2016 4:18 PM	May 16, 2016 12:18 PM	I work for DHEC
17	May 16, 2016 3:51 PM	May 16, 2016 11:51 AM	empolymnt work their
18	May 16, 2016 3:50 PM	May 16, 2016 11:50 AM	Working here, having a small part in all of the good the
19	May 16, 2016 1:55 PM	May 16, 2016 9:55 AM	Agency does employee Work
20	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	experience Agency
21	May 16, 2016 1:36 PM	May 16, 2016 9:36 AM	Employee Working for the agency
22	May 16, 2016 1:32 PM	May 16, 2016 9:32 AM	20 years of working at the Agency
23	May 16, 2016 1:03 PM	May 16, 2016 9:03 AM	Work for SCDHEC
24	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	Employee's opinion about the work environment
25	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	Current employee as a part time employee I am an
26	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	Employee. Employment with the agency
27	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	
28	May 16, 2016 12:22 PM	May 16, 2016 8:22 AM	
29	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
30	May 16, 2016 11:39 AM	May 16, 2016 7:39 AM	
31	May 14, 2016 1:01 AM	May 13, 2016 9:01 PM	



32	May 13, 2016 10:09 PM	May 13, 2016 6:09 PM	<p>Personal experience, based on the Preventative Health side of the Agency. Everything that is done form this agency is very important to the state of South Carolina. I have been able to work with every program area in DHEC and find that it's one agency that really needs to stay on the cutting edge of technology to keep all of her Employee Employment with the agency Employee employee Mission to protect public health and environment All Choices above</p>
33	May 13, 2016 9:07 PM	May 13, 2016 5:07 PM	
34	May 13, 2016 9:02 PM	May 13, 2016 5:02 PM	
35	May 13, 2016 8:54 PM	May 13, 2016 4:54 PM	
36	May 13, 2016 8:45 PM	May 13, 2016 4:45 PM	
37	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
38	May 13, 2016 8:42 PM	May 13, 2016 4:42 PM	
39	May 2, 2016 5:12 PM	May 2, 2016 1:12 PM	

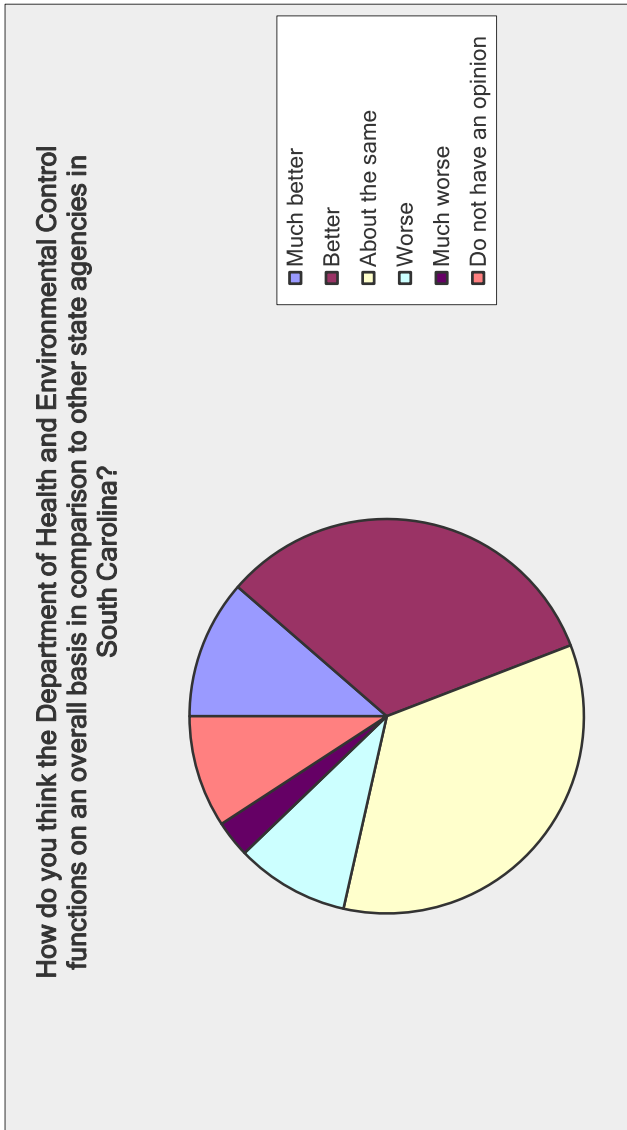
Which of the following has most influenced your opinion of the Department of Health and Environmental Control?



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**How do you think the Department of Health and Environmental Control functions on an overall basis in comparison to other state agencies in South Carolina?**

Answer Options	Response Percent	Response Count
Much better	11.4%	81
Better	32.8%	233
About the same	34.4%	244
Worse	9.3%	66
Much worse	3.0%	21
Do not have an opinion	9.2%	65
<i>answered question</i>		<b>710</b>
<i>skipped question</i>		<b>315</b>



### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Health and Environmental Control. Your response will be quoted verbatim and published online.

#### Answer Options

	Response Count
<i>answered question</i>	257
<i>skipped question</i>	257
	768

Number	Response Date	Eastern Standard Time	Response Text
1	May 31, 2016 7:03 PM	May 31, 2016 3:03 PM	Most of the interview panels at the Bureau of Laboratories are not diverse.
2	May 31, 2016 5:57 PM	May 31, 2016 1:57 PM	The agency seems to recruit and hire persons with little or no training and skills for the job in which they are assigned. Oppressive management style at the regional management level has a negative impact on client services to South Carolina residents
3	May 29, 2016 6:30 PM	May 29, 2016 2:30 PM	What is offered to employees to retain them, such as competitive pay, incentives, and appreciation.
4	May 27, 2016 7:09 PM	May 27, 2016 3:09 PM	Knowledgeable and efficient staff; pleasant experience
5	May 27, 2016 12:47 PM	May 27, 2016 8:47 AM	Employees' hands are tied up in the process that it takes a long time to get anything accomplished.
6	May 26, 2016 6:57 PM	May 26, 2016 2:57 PM	Increasing workload; not organized/prepared with changes
7	May 26, 2016 2:38 PM	May 26, 2016 10:38 AM	Unfair to employees and pay stinks to put up with such crap from upper management
8	May 26, 2016 2:13 PM	May 26, 2016 10:13 AM	I wish the new Director would do something about the "good ole boy" system.
9	May 26, 2016 1:39 PM	May 26, 2016 9:39 AM	BOL management is disinterested at best and incompetent at worst. Management is slow to make decisions and uses incomplete and incorrect information. There is a serious lack of communication. DHEC upper management would do well to talk with employees below the division director level and find out the obstacles we face daily just trying to do our jobs. Employees should be able to give input into management evaluations. I have been with BOL over 20 years and morale and confidence in management is the worst I have ever experienced. Cookouts and other "morale boosting activities" are not a substitute for competent, involved management. On a positive note, Ms. Heigel seems to be better than Ms. Templeton and it appears she has hired upper management that is actually qualified for their jobs. Thank you for this opportunity, though I do not expect anything to come of this survey and nothing will be done to address employee concerns.
10	May 26, 2016 12:14 PM	May 26, 2016 8:14 AM	

11	May 25, 2016 7:09 PM	May 25, 2016 3:09 PM	<p>2600 Bull Street building needs work - dirty especially in the stair wells and restrooms. Pay equity (not on par with other agencies, and some parts of the agency are paid more than others).</p> <p>The new Director is an asset to the agency unlike the previous. Main concern is the revolving door of employees. In my area alone we have 18 engineers compared to 30 to 40 8 years ago and have lost over 20 in 8 years and 2 last week. Lack of support from the legislature to improve employee retention.</p> <p>Maintaining an experienced Staff. We have gone from 30 to 40 engineers to 20 and now 18 since 2 left lat Friday. The Department is on a much better path than it was 3 years ago. The department should be allowed to do their job without intervention from the outside and should have the support from the legislature to improve the department.</p> <p>Agency appears to have become "top heavy" while clinics/service areas are shorthanded - especially administrative staff.</p> <p>DHEC needs to update equipment, especially computer systems. Some buildings, those over 20 years old, need to be evaluated for safety and security. Employee salaries need to be competitive with other like services.</p> <p>Turn over is high and positions are difficult to fill due to extremely low salaries as compared to private industry, non-profits, other states, and other agencies within South Carolina.</p> <p>DHEC has so many environmental programs and regulations. Often times the programs overlap resulting in unjustified burdens on the regulated community. The DHEC staff has to be extremely knowledgeable of all programs so that the right hand knows what the other hand is doing, not only to prevent over regulation, but also the instances where no action is taken with the assumption that another program will intercede. While it only takes days to learn a regulation, it takes years to develop the technical expertise and understanding to be multi-media (air, land, and water) savvy. The DHEC employees that have multi-media experience need to be paid more for the knowledge that helps the agency be more efficient and can be applied with many more sectors of industry.</p> <p>Answer to # 5 is based on we all have constraints due to budget, short staffed and underpaid. All goes back to the budget. As far as serving the public, The current employees working for all agencies are doing the best job we can with as little as we can. I know for sure the DHEC staff do an awesome job with the public!!!</p>
12	May 25, 2016 12:54 PM	May 25, 2016 8:54 AM	
13	May 25, 2016 12:26 PM	May 25, 2016 8:26 AM	
14	May 25, 2016 12:15 PM	May 25, 2016 8:15 AM	
15	May 23, 2016 8:11 PM	May 23, 2016 4:11 PM	
16	May 23, 2016 4:35 PM	May 23, 2016 12:35 PM	
17	May 23, 2016 2:52 PM	May 23, 2016 10:52 AM	
18	May 23, 2016 2:38 PM	May 23, 2016 10:38 AM	

19	May 23, 2016 2:21 PM	May 23, 2016 10:21 AM	DHEC employees should know what records they have and don't have...they repeatedly refer customers to other agencies to obtain records that these other agencies (i.e. SCDAH) don't have or that they (DHEC) can provide I feel the agency is no longer concerned with client care, but with the numbers. Productivity and percentages, fewer staff means shorter time with clients and its all about how many of them can you see in a day? And the employees on the front lines are less important each day. Over worked and way underpaid.
20	May 23, 2016 1:19 PM	May 23, 2016 9:19 AM	1. Communication within the agency is poor at best. 2. Turnover within the water lab at the Hayne Building is frequent. New employees come in to get trained and then leave for better paying jobs or to work in a better environment. Increasing chemist pay may help retain employees.
21	May 23, 2016 12:47 PM	May 23, 2016 8:47 AM	Professional staff, particularly nurses, are very dedicated. The state office of vital records is severely understaffed and poorly supervised. The frustration that causes customers creates an unsettled environment. There are eight customer service windows with only 3 or 4 workers to wait on a room full of people.
22	May 23, 2016 11:49 AM	May 23, 2016 7:49 AM	DHEC has a lot of opportunities to mobilize the community to live healthier lives!
23	May 23, 2016 1:37 AM	May 22, 2016 9:37 PM	Overall, DHEC is a great organization. My only concern is that at times I am not sure as to whom I need to answer to in my department because my immediate supervisor has three assistants and I feel the need to answer to all four of them. I do think having so many people in leadership roles in one department is unnecessary and may cost the agency too much money.
24	May 20, 2016 9:01 PM	May 20, 2016 5:01 PM	There is little to no local DHEC representation in most counties since offices were consolidated under the previous director. In order to apply for permits, request inspections, report dog bites, etc., we now have to make long distance phone calls or travel 50-100 miles to the "central" office. This is both expensive and time consuming. Even then it may take several days after "scheduling" for results. The Beaufort office is a joke, upper management appears arrogant, hateful and spiteful with little regard for the public or the employees there. Hopefully this is not indicative of all "central offices". DHEC should seriously consider putting offices back in the individual counties. We the public deserve more for our tax dollars than an out of date bloated bureaucracy.
25	May 20, 2016 7:56 PM	May 20, 2016 3:56 PM	
26	May 20, 2016 7:22 PM	May 20, 2016 3:22 PM	

27	May 20, 2016 4:43 PM	May 20, 2016 12:43 PM	I enjoy reading the DHEC Dashboard, the agency's employee information portal. The Dashboard is designed to make it easier to stay connected to the latest updates from the DHEC blog, news releases, events, employee spotlights, worksite wellness programs. Keeping South Carolina up-to-date with Healthy Living and the Control of our Environment. The front line staff has always worked diligently to provide services to the citizens. The leadership (from the top to regional management) is recent years has made it difficult as the front line staff has felt abused. The treatment and attitude toward the worker bees of the agency has greatly improved with Director Catherine Heigel. The Department will change their decision if you get your legislatures involved. The decision should not be political - it should be based on laws and regulations We are working to improve how we do business but not there yet DHEC protects our food and our environment. Great agency doing great work for the citizens of SC! reward and retain the folks who actually do the work, not the self serving incompetent management that is only concerned with justifying their position state employees need comparable pay to other states. DHEC needs to consider the reasons there is such high turnover among staff throughout the agency. Inexperience managers and leaderships expecting individuals to do more with less will drive away the good people needed to run the agency. Salary disparities between African Americans and Caucasians It is concerning that the agency has moved so far away from serving as a safety-net provider, and from developing or working in partnership with other organizations to provide public health programs. As the state's public health agency, DHEC has lost its focus on public health and that puts us all at jeopardy. I am honored to be a DHEC employee and privileged to work for an agency that protects our individual citizens and the environment. It's programs should be better funded, especially the nursing and health departments. This agency should not have to constantly beg for adequate funding. The new regions are too large geographically Really feel that there should be electronic records in the clinic areas.
28	May 20, 2016 4:42 PM	May 20, 2016 12:42 PM	
29	May 20, 2016 3:57 PM	May 20, 2016 11:57 AM	
30	May 20, 2016 3:46 PM	May 20, 2016 11:46 AM	
31	May 19, 2016 9:04 PM	May 19, 2016 5:04 PM	
32	May 19, 2016 8:41 PM	May 19, 2016 4:41 PM	
33	May 19, 2016 8:30 PM	May 19, 2016 4:30 PM	
34	May 19, 2016 8:27 PM	May 19, 2016 4:27 PM	
35	May 19, 2016 7:02 PM	May 19, 2016 3:02 PM	
36	May 19, 2016 5:43 PM	May 19, 2016 1:43 PM	
37	May 19, 2016 5:18 PM	May 19, 2016 1:18 PM	
38	May 19, 2016 3:11 PM	May 19, 2016 11:11 AM	
39	May 19, 2016 2:40 PM	May 19, 2016 10:40 AM	
40	May 19, 2016 4:00 AM	May 19, 2016 12:00 AM	
41	May 18, 2016 7:43 PM	May 18, 2016 3:43 PM	

42	May 18, 2016 5:43 PM	May 18, 2016 1:43 PM	<p>the agency have very low moral for their employees, agency do not value their employees refuse to fight to make sure employees receive yearly raises, would not match our retirement plan, the insurance premiums are very high versus private companies, the agency in Columbia have better pay than the surrounding agencies within DHeC, management need to be more concerning about employees and have some type of experience for their position, very high employment turn overs, there's no compensation for employees 20 plus years, have to wear many hats for your programs with getting better pay.</p> <p>1. DHEC does not value the employees, NO raises , NO incentives new people are hired instead of the loyal ones promoted, New people are brought into the agency making the salary the old ones make You show no seniority between the two . The young people are leaving because the salary can't even pay there student loans. The state of SC DHEC pays less than other agencies and our supervisor, seem not to be able to give us a raise. I feel the agency has some very loyal employees and should recognize them because they are the keepers</p> <p>I have concerns about the public's perception of DHEC employees. DHEC employees are hard working and dedicated people.</p> <p>The Agency's buildings are in need of maintenance: cleaning the out side of the buildings of dirt, wasp nests, etc. The roofs of some of the buildings are leaking, with possible mold present. Laboratory staff salaries are lower and not competitive with other states or private laboratories. Suggest increasing the laboratory staff salaries to better recruit and maintain staff.</p> <p>To provide the best customer service, the department is lacking a full staff.</p> <p>The staff at DHEC cares about the duties that they perform to protect public health and the environment, they educate industry and the public as well as enforcing regulations. Employees are underpaid for the responsibilities in the jobs they do.</p> <p>Staff are concerned about the public's well-being overall; but must operate within regulatory boundaries.</p> <p>Excellent leadership produces excellent customer service! need better ways to compensate hard working employees I think its employees should have more training raises/ promotions based on experience and education; need to promote greater employee incentives and reward to recruit/ retain quality staff; needs to promote wellness programs, work-from-home opportunities, and training/ educational development to compete with corporate employers</p>
43	May 18, 2016 5:15 PM	May 18, 2016 1:15 PM	
44	May 18, 2016 5:12 PM	May 18, 2016 1:12 PM	
45	May 18, 2016 4:18 PM	May 18, 2016 12:18 PM	
46	May 18, 2016 2:55 PM	May 18, 2016 10:55 AM	
47	May 18, 2016 2:22 PM	May 18, 2016 10:22 AM	
48	May 18, 2016 2:18 PM	May 18, 2016 10:18 AM	
49	May 18, 2016 1:36 PM	May 18, 2016 9:36 AM	
50	May 18, 2016 1:13 PM	May 18, 2016 9:13 AM	
51	May 18, 2016 1:11 PM	May 18, 2016 9:11 AM	
52	May 18, 2016 12:44 PM	May 18, 2016 8:44 AM	
53	May 17, 2016 9:56 PM	May 17, 2016 5:56 PM	



54	May 17, 2016 9:48 PM	May 17, 2016 5:48 PM	Need inspectors in every county like it used to be Needs neater, more professional offices-- does not promote a good image; needs more public outreach/ promotion of DHEC services; needs greater frequency of restaurant inspections As always we work hard for very little pay 26.5 yrs ,pay does not reflect my yrs. of service. matter what program they work for. The "hierarchy" of this agency does not seem to recognize this. When someone can be hired in at the same salary or higher as someone who has been working here for many many years in that same position with a wealth of experience, something is wrong with that. No matter how much we voice our opinions about that and other concerns it seems as though no one is listening or even concerned. We are always short staffed because of a constant high turn over with staff and that's anyone from Nurses to Admin and everybody in between. Is anyone up there concerned? It seems as though "Public Health Services" is a thing of the past. I suggest we get back to the business of serving clients with a lot less paper, electronic records, and incentives for deserving employees. DHEC has improved in its customer service. They seem to not care about there lower level employees. They do not get raises and there complaints seem to fall on death ears. Employees seem to be overworked due to lack of staff because staff are leaving because of moral. Valuable resource for our state. DHEC helps protect the citizens of South Carolina. New employees that you train makes a larger salary than you.
55	May 17, 2016 9:44 PM	May 17, 2016 5:44 PM	
56	May 17, 2016 9:00 PM	May 17, 2016 5:00 PM	
57	May 17, 2016 8:34 PM	May 17, 2016 4:34 PM	
58	May 17, 2016 7:54 PM	May 17, 2016 3:54 PM	
59	May 17, 2016 7:53 PM	May 17, 2016 3:53 PM	
60	May 17, 2016 6:30 PM	May 17, 2016 2:30 PM	
61	May 17, 2016 5:03 PM	May 17, 2016 1:03 PM	1. As a citizen, I am concerned about the Certificate of Need process. What do other states do? 2. I am an hourly employee, and wondered whether a small raise is in my future, since I have been at the same rate for at least 10 years. I believe that hourly employees are very cost effective for the state, since we receive no benefits. 3. I am a WIC employee, and I believe that the WIC department is very well run, and that we are continuously improving the service that we are giving our clients.
62	May 17, 2016 4:44 PM	May 17, 2016 12:44 PM	

The agency was functioning well, both internally and externally, before Catherine Templeton took over the agency. Templeton basically destroyed the morale of the agency by her firings, her stern leadership, no one could speak against her and basically no communication from her office. During Templeton's tenure, the Information Technology Department basically took on the same manage style, causing people to leave and "NO" communication. Thank goodness, for Catherine Heigel. She had/has a tremendous job of rebuilding the agency, internally again. She's doing a great job. Communicating, filling vacancies with knowledgeable staff, showing a strong concern about the employees. Now, we don't find out about what's happening in the agency thru the news media, like we did with Templeton. The agency is becoming strong again.

n/a

Morale has been low for years. Employee performance evaluations are not completed by managers yearly so you never know how you perform in your job. No pay raises; which is possibly has a correlation to receiving no evaluation. Managers receive pay raises consistently. Little to no opportunities for advancement. Approval processes are not consistent and are changed on the fly; takes extremely long time for decisions to be made. Would like to see more diversity in the agency especially in management roles.

Is truly community focused.

previous director. She is trying to improve service delivery & support ideas to improve employee morale. However, internal communication remains a challenge at all levels within DHEC. I feel that I am often not included in decisions made that directly impact my staff/direct reports. It creates a level of frustration and a feeling that your opinion does not matter or that your voice is not important. Staff report feeling as if they are being dictated to rather than being given an opportunity to participate in the decision making process. I would love to see more opportunity for employee participation in decision making at all levels.

Be firm and stern about being "One DHEC"

63 May 17, 2016 3:04 PM May 17, 2016 11:04 AM  
 64 May 17, 2016 2:06 PM May 17, 2016 10:06 AM

65 May 17, 2016 2:01 PM May 17, 2016 10:01 AM  
 66 May 17, 2016 1:38 PM May 17, 2016 9:38 AM

67 May 17, 2016 1:27 PM May 17, 2016 9:27 AM  
 68 May 17, 2016 1:19 PM May 17, 2016 9:19 AM

69	May 17, 2016 1:19 PM	May 17, 2016 9:19 AM	<p>Like the new director. Seems to really care about staff and fixing the agency. Morale is much better/less fear.</p> <p>Employees getting more info on what's going on at the agency from leadership with new director/better communication to employees. Not learning about things going on at work for the first time in the newspaper/TV anymore. Like most of the changes that have been made, especially the dashboard and employee appreciation efforts. Only suggestion is need to focus more on fixing IT because it has gotten really slow. Takes a long time to get a new computer/repairs done, internet is slow and tech support seems overwhelmed.</p> <p>I don't think the public is totally aware of the many different aspects of the Department of Health and Environmental Control, and it's impact on the general public. The staff are very caring people who are genuinely concerned about the health and well-being of the citizens of South Carolina. Many times the employees are not compensated, or recognized for their work or efforts, and are taken for granted.</p>
70	May 17, 2016 12:48 PM	May 17, 2016 8:48 AM	<p>DHEC has been plague with numerous problems across the board. The unfair hiring practices, management and staffing problems are just a few issues that have been noticed internal and externally. Perhaps, by fixing its internal problems to build a strong foundation can have a positive impact on the community's image of the agency. Public awareness to educate communities about the services they can expect from DHEC.</p>
71	May 17, 2016 12:15 PM	May 17, 2016 8:15 AM	<p>DHEC IS AN AGENCY THAT REACTS TO PROBLEMS RATHER THAN USES SOUND PROACTIVE STEPS TO AVOID THINGS HAPPENING IN THE FIRST PLACE. MANAGEMENT MAKES DECISIONS WITHOUT INVOLVING STAFF THAT IT AFFECTS---ASK FOR INPUT FROM THE PEOPLE THAT ACTUALLY DO THE WORK!!!! STOP GIVING RAISES BASED ON CLICKS RATHER THAN PERFORMANCE. ONE OF THE BIGGEST MOTIVATORS, FOR MOST PEOPLE, IS MORE MONEY NOT A MUFFIN!!! DHEC STOP WASTING TAXPAYERS MONEY BY ELIMINATING PROGRAMS THAT BLEED MONEY EVERY YEAR. LAST BUT NOT LEAST, START LETTING EMPLOYEES EVALUATE OR CRITIQUE THEIR SUPERIORS AND USE THAT AS A TOOL TO ADD TO THEIR EVALUATION EVERY YEAR----THEY EVALUATE US WHY CAN'T WE EVALUATE THEM!!!!</p>
73	May 17, 2016 8:55 AM	May 17, 2016 4:55 AM	<p>Sound management structure lacking.</p>
74	May 17, 2016 6:58 AM	May 17, 2016 2:58 AM	<p>An agency of dedicated public servants who work extremely hard (very little pay) to protect all of our communities across the state.</p>
75	May 17, 2016 2:16 AM	May 16, 2016 10:16 PM	

76	May 16, 2016 9:32 PM	May 16, 2016 5:32 PM	DHEC has one responsibility: to protect the health of South Carolinians. The mission cannot be accomplished by separating the agency. The new leadership needs to be given the opportunity and resources to improve the agency. Need more professional and clean, presentable, uniform facilities to promote a positive image; Need more public outreach and promotion of DHEC services and goals; Need more staff to ensure adequate inspections of food facilities (at least once per year)
77	May 16, 2016 8:46 PM	May 16, 2016 4:46 PM	In my opinion, all the traveling for training, and covering for other sites..... that if we did training on line or by live tv and had extra people from closer sites to cover that we could save a lot of money.
78	May 16, 2016 8:12 PM	May 16, 2016 4:12 PM	Great employees, they are hard working and take their work seriously. They show concern about the health of the people of South Carolina and the Environment for our state. They are ALL under paid for what they do for us.State employees in this Agency deserve better pay.
79	May 16, 2016 8:03 PM	May 16, 2016 4:03 PM	I feel with the new administration our voices are being heard and changes are being implemented.
80	May 16, 2016 7:54 PM	May 16, 2016 3:54 PM	They have forgotten their mission statement.
81	May 16, 2016 7:24 PM	May 16, 2016 3:24 PM	Comments: Better salary adjustments reflective of staff with secondary degree(s), credentials and experience. needs more from enforcement
82	May 16, 2016 7:09 PM	May 16, 2016 3:09 PM	The air quality in the SC DHEC buildings is unsafe to its employees and others. This should be corrected in the current buildings or other, safer work areas should be made available asap. Also, there should be additional amenities provided to the public in the lobby area of the first floor (such as a snack machine and water fountain) so that members of the public are not allowed unattended in areas where ID cards are necessary for entry (any place beyond the lobby and the Vital Records office).
83	May 16, 2016 7:02 PM	May 16, 2016 3:02 PM	The air quality in the SC DHEC buildings is unsafe to its employees.
84	May 16, 2016 6:52 PM	May 16, 2016 2:52 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
85	May 16, 2016 6:47 PM	May 16, 2016 2:47 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
86	May 16, 2016 6:36 PM	May 16, 2016 2:36 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
87	May 16, 2016 6:35 PM	May 16, 2016 2:35 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
88	May 16, 2016 6:30 PM	May 16, 2016 2:30 PM	Technical staff should be appreciated for the expertise they bring to the table and compensated appropriately.

89	May 16, 2016 6:25 PM	May 16, 2016 2:25 PM	<p>At the Bureau of Labs some of the departments are working with out-dated instruments and have been told there is no money to upgrade. If we could get better equipment, I believe it would save the Agency money in the long run. We waste money on equipment that we have bought and have done the validation on and it sits because no one checks the results to get the instruments up and running. We are also wasting money on Specimen Gate, which is a new computer program for Newborn Screening. We have been paying money on it for a couple of years and are still not up and running.</p>
90	May 16, 2016 6:16 PM	May 16, 2016 2:16 PM	<p>The demand for more advanced technology is well over due.</p>
91	May 16, 2016 5:56 PM	May 16, 2016 1:56 PM	<p>Offer more ways to advance in career paths and then compensate appropriately. Also, support maternity leave without having to use all/some of one's annual/sick leave. Try to retain employees versus a constant revolving door of new employees.</p>
92	May 16, 2016 5:53 PM	May 16, 2016 1:53 PM	<p>DHEC is effective as it is now and should not be broken apart or placed under the control of another agency.</p>
93	May 16, 2016 5:52 PM	May 16, 2016 1:52 PM	<p>Although I believe good customer service provided to our clients is a great thing, I think though it would be better if the internal clients ie we the employees were treated with more incentive to work better and serve our clients better.</p>
94	May 16, 2016 5:49 PM	May 16, 2016 1:49 PM	<p>People are doing a lot of good with very little. I feel that the agency has become to large to be handled under one umbrella. I feel the Dept of Health and the Dept of Environmental need to be two separate agencies so that all needs and concerns can be met. The needs of certain parts of the agency are not being met because there always seems to be other more pressing issues to be dealt with. Employee compensation is very low in comparison to other state governments. Some employees are required to work on weekends, holidays, and in inclement conditions with any additional compensation. Equipment is very old and when new equipment arrives it sits for years because management takes forever to complete clearance for its usage. Employee morale is low and a lot of quality employees are being lost because they no longer have the patience to wait out their concerns dealt with.</p>
95	May 16, 2016 5:49 PM	May 16, 2016 1:49 PM	<p>The housecleaning that has happened in the last few years has gotten rid of a lot of dead wood but having a new administration every year has done nothing to fix serious problems with recruiting and retaining a good workforce.</p>
96	May 16, 2016 5:48 PM	May 16, 2016 1:48 PM	<p>Treatment of employees, managers who cannot solve problems or are unwilling to solve problems. Leadership above frontline does not support employees and do not care about quality care of clients.</p>
97	May 16, 2016 5:47 PM	May 16, 2016 1:47 PM	

98	May 16, 2016 5:46 PM	May 16, 2016 1:46 PM	I think that if we had better wages we would have more loyal employees willing to stay longer.
99	May 16, 2016 5:37 PM	May 16, 2016 1:37 PM	none
100	May 16, 2016 5:33 PM	May 16, 2016 1:33 PM	Everyone in Supervisory positions always make changes and not realize how this effects everyone. A professional Agency of qualified employees that strives to achieve consistency and proper scientific evaluations for the the citizens and business community in SC.given the enacted regulations buy the legislature.
101	May 16, 2016 5:26 PM	May 16, 2016 1:26 PM	No pay raises when requested ( 10 years), many turnovers, and no morale
102	May 16, 2016 5:25 PM	May 16, 2016 1:25 PM	The epitome of a bureaucracy-driven "top-down" governance, which is commendably effective at inhibiting agency efficiency and deterring employee initiative. too many chiefs not enough indians
103	May 16, 2016 5:14 PM	May 16, 2016 1:14 PM	In the 3 years I have been employed with the agency, great changes were highly noticeable once the new Director of the Agency was appointed. She came in and immediately began addressing issues and concerns employees had.
104	May 16, 2016 5:00 PM	May 16, 2016 1:00 PM	Our new Director has shed a positive light on the Agency, which helped boost a once diminishing morale. She not only cares about the concerns of employees, but also the concerns of the citizens and stakeholders.
105	May 16, 2016 4:43 PM	May 16, 2016 12:43 PM	DHEC should begin to be more creative with their employment opportunities for staff with regards to creating part time positions to keep young professionals and more veteran, skilled employees longer when they can't work full time.
106	May 16, 2016 4:18 PM	May 16, 2016 12:18 PM	most of the interiors for DHEC look like rats and roaches live there.
107	May 16, 2016 4:11 PM	May 16, 2016 12:11 PM	is a great leader and has a very good executive management team. Good leadership makes all the difference when it comes to managing and leading employees. Employees are now allowed to perform their job duties with ease and accountability. Everyone will not always be satisfied, but the agency is moving in a good direction.
108	May 16, 2016 4:06 PM	May 16, 2016 12:06 PM	I think the patients best interest has been forgotten and the agencies budget/ management whoas have taken priority. If it were not for the public, we would not be needed as an agency.
109	May 16, 2016 4:00 PM	May 16, 2016 12:00 PM	I tried to write some comments here but it kept saying invalid format.
110	May 16, 2016 3:56 PM	May 16, 2016 11:56 AM	DHEC is trying to move forward as an agency in pioneering the best solutions for protecting public health and the environment in a modern world
111	May 16, 2016 3:46 PM	May 16, 2016 11:46 AM	Poor Leadership and "Good Ole' Boy" Network still in full effect.
112	May 16, 2016 3:18 PM	May 16, 2016 11:18 AM	

113	May 16, 2016 3:16 PM	May 16, 2016 11:16 AM	<p>sc employees are not paid salaries that are comparable to georgia and north carolina</p> <p>At the DHEC BOL, I have witnessed favoritism and conflicts of interest during the hiring and promoting process. In upper management, there is little if no diversity. People who are in certain "groups" and positions will determine the extent of someone else's promotion, pay raise or career depending on their personal feelings. Because of these actions, very good, highly qualified techs are held back or even quit. There are great techs here, but the moral is very low because the of the current situation and because the future here looks bleak.</p> <p>DHEC is moving in the right direction. The leadership is implementing great plans to advance the agency and its employees.</p> <p>No agency in state government has the potential to impact the lives of the citizens of SC more than DHEC. Despite the wide array of services provided, DHEC is an efficiently run agency. The linkage between the health of our environment and our citizens is inseparable. DHEC staff are dedicated, highly qualified professionals who care about the people they serve.</p> <p>DHEC needs better management that really know how the clinics operate and who are willing to help clinic staff give better customer service to our clients.</p> <p>Staff seem to lack desire to excel</p> <p>DHEC and most other state agencies would be vastly improved by providing them funding to be able pay for enhancements and improvements to methodology, staff morale, and helping the public know exactly what is happening inside said agencies.</p> <p>I am extremely proud to be an employee of the Department of health and Environmental Control. We work very hard to sure the safety of our environment. We work as a team to achieve our goals.</p> <p>Often, DHEC is the target of negative media attention, but in my experience, DHEC has dedicated and knowledgeable staff. The environmental part of the agency really struggles with a lack of funding and adequate staff to perform necessary duties. Outdated technology exacerbates the problem of slow turnaround and poor communication.</p> <p>Improve customer service</p>
114	May 16, 2016 3:14 PM	May 16, 2016 11:14 AM	
115	May 16, 2016 3:03 PM	May 16, 2016 11:03 AM	
116	May 16, 2016 2:51 PM	May 16, 2016 10:51 AM	
117	May 16, 2016 2:49 PM	May 16, 2016 10:49 AM	
118	May 16, 2016 2:38 PM	May 16, 2016 10:38 AM	
119	May 16, 2016 2:32 PM	May 16, 2016 10:32 AM	
120	May 16, 2016 2:30 PM	May 16, 2016 10:30 AM	
121	May 16, 2016 2:12 PM	May 16, 2016 10:12 AM	
122	May 16, 2016 2:05 PM	May 16, 2016 10:05 AM	

123	May 16, 2016 2:02 PM	May 16, 2016 10:02 AM	Management on the regional level could be better as they still operate on the premise of friends helping friends and not about education and experience. Employees who are friends of management, have received promotions that were not other wise posted for others to apply and received raises when no one else received a raise which makes it difficult for moral around the agency. Turn over in employees is high and no changes are being done to address this. It is still who you know. Management establishes guidelines with out input from front line workers, which causes some RNs to not have lunch due to the over scheduled pts. The programs that they offer need to be promoted more so that the community knows what great programs they have to offer. There are a great deal of resources-both financial and employee talent-misused and ultimately lost due to lack of leadership in supervisory and managerial positions. While the new strategic goals for this agency are well-defined, they are not making it "down the ladder" to support employees on the "front lines" be more effective in their service to the state. Our facilities, technologies, and policy procedures are grossly outdated, making it nearly impossible to stay competitive and effective in the services we provide. The state is wasting alot of time and money not holding webinar trainings for the employees All health departments need to have extended hours a couple days a week. There's lack of morale in the workplace and recognition of staff. SCDHEC is a great place to work because the Agency supports so many different programs, there is always something new to learn. Better compensation and work environment with proper up to date equipment. Lack of communication between CO and Regional Staff is a serious issue. Staff who actually perform the work on a daily basis are not given the opportunity to share their ideas/input. There is not a cohesive "team" feel but an "us vs. them" mentality. Salaries are inferior to the private sector as well as other state agencies, particularly for seasoned staff. Morale is low/turn-over is high. State employee wages are lower than national and regional averages.
124	May 16, 2016 2:01 PM	May 16, 2016 10:01 AM	
125	May 16, 2016 2:01 PM	May 16, 2016 10:01 AM	
126	May 16, 2016 2:00 PM	May 16, 2016 10:00 AM	
127	May 16, 2016 1:54 PM	May 16, 2016 9:54 AM	
128	May 16, 2016 1:54 PM	May 16, 2016 9:54 AM	
129	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	
130	May 16, 2016 1:39 PM	May 16, 2016 9:39 AM	
131	May 16, 2016 1:29 PM	May 16, 2016 9:29 AM	
132	May 16, 2016 1:28 PM	May 16, 2016 9:28 AM	
133	May 16, 2016 1:27 PM	May 16, 2016 9:27 AM	Little to no leadership for over 2 years.



134	May 16, 2016 1:25 PM	May 16, 2016 9:25 AM	Public, legislature, other agencies,... don't understand DHEC's legal authorities. They assume DHEC can do anything that relates to their perception of their health or their environment. The employees work hard and try to do their jobs. They are not appreciated by the governor, legislature and much of the public. Appointing someone like Templeton, who thought any one with a DHEC badge could perform any task that DHEC had to, shows the ignorance or the lack of respect of our leadership. Need to have more tech savvy (ie: electronic medical records) Pay grade is not what it should be for employees I think the DHEC has established a standard of care throughout the community and state. I feel that this dept. needs to become more visible to the communities, and lead the way in promoting excellent healthcare for all SC communities. DHEC should definitely promote its services to citizens. Some services are well known (ie: WIC, Food Inspections (thanks to TV) ) other services not as much. There are a lot of individuals that are knowledgeable, but not in the positions that suit their knowledge. I wish more people were put in positions that showed their full capabilities. I suggest that the agency will reconsider doing TB skin testing again. We stopped about 5-6 years ago and to this day we get numerous calls from he public wanting to come for a test. It would generate funds for the agency and would certainly make it less complicated for the public to have access to this service.I know change takes place from time to time but something that has been instrumental for long time is not there anymore takes a bit getting use to. Management little understands the mission and inner workings of the agency. Employees are underappreciated and underpaid. Promotions are seldom based upon experience and/or ability, but upon who has connections/friendships. Very disappointed in the lack of any pay raise based on experience
135	May 16, 2016 1:24 PM	May 16, 2016 9:24 AM	
136	May 16, 2016 1:20 PM	May 16, 2016 9:20 AM	
137	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	
138	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	
139	May 16, 2016 1:17 PM	May 16, 2016 9:17 AM	
140	May 16, 2016 1:12 PM	May 16, 2016 9:12 AM	
141	May 16, 2016 1:07 PM	May 16, 2016 9:07 AM	
142	May 16, 2016 1:06 PM	May 16, 2016 9:06 AM	
143	May 16, 2016 1:05 PM	May 16, 2016 9:05 AM	
144	May 16, 2016 1:00 PM	May 16, 2016 9:00 AM	
145	May 16, 2016 1:00 PM	May 16, 2016 9:00 AM	The overall moral of this agency is mediocre at best because of the lack of integrity of the upper management, lack of trust of upper management by the average worker, and a severely low disconnect of upper managements value of individual employees concerning: salaries, diversity, & representation in management and upper-management levels. Upper management (in the bureau I'm employed in has basically taken the "If you don't like it, leave, but we appreciate you, not" approach.

146	May 16, 2016 12:59 PM	May 16, 2016 8:59 AM	The agency in charge of protecting the air we breathe and the water we drink should not be on the bottom of the list of state employee salaries. It is bad enough that SC state employees are in the bottom 25% of the southeast salaries, but this agency should not be in the bottom 25% of the SC salaries.
147	May 16, 2016 12:57 PM	May 16, 2016 8:57 AM	Increase salaries Too many people have a title of Supervisor that is not necessary. There are many upper management positions in the WIC program that could really be consolidated. The public is not served well because there is no representation from the agency in most counties since they were all centralized to 6 locations. The citizens of this state should not have to drive in some cases 50 miles to talk to a DHEC person face to face.
148	May 16, 2016 12:57 PM	May 16, 2016 8:57 AM	The Department of Health and Environmental Control regulates so much that people in SC are not even aware of. They do a great job of performing inspections, investigating complaints, and providing good customer service towards the public. No agency is perfect. However, DHEC has a lot of employees with heart who are passionate about what they do and they desire to serve the public well.
149	May 16, 2016 12:54 PM	May 16, 2016 8:54 AM	Employees are open, friendly and easy to work with. DHEC has done a terrible job of retaining experienced professionals. The comparative low pay for employees even against other state agencies is a deterrent to career minded staff.
150	May 16, 2016 12:53 PM	May 16, 2016 8:53 AM	central office management's decisions in relation to the preventive health clinics. Management seems more interested in self-promotion and making a name for themselves than valuing other staff. Customer service and teamwork are preached, however, front line staff are usually the last to be consulted and the first to be reprimanded. The turn-over of staff statewide should be an alarming wake up call that the agency is run by fools. I believe Director Heigel wants to make DHEC a better place, and given the time and resources she could accomplish that.
151	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	Run down facilities - disconnect between the health and environmental side, as far as research and science initiatives It would be nice if DHEC management included some medical doctors.
152	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	
153	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	
154	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM	
155	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM	

DHEC is a great organization; filled great people who work very hard and try there best everyday to make South Carolina a better place. The only draw back I see is that often times they seem to lack some of the resources they may need to most effectively perform their wonderful jobs. But overall amazing interpersonal relationships between dhec and the public is a normal sight in this agency. Great Agency full of Great People, only draw back is an overall lack of resources (and probably compensation) for these outstanding individuals.  
 I enjoy working at DHEC and feel like we provide an important contribution to the welfare of the state.  
 The department of health needs more front line staff admin Understaffed, no back up on analysis', underpaid, no room for advancement  
 New Administration is not much different then Templeton administration. Our HR dept continues to be weak. Jobs continue to be created to support those above who cannot do their job. Please take a toll at the leadership at the state lab as well as other Divisions  
 There has been a massive departure of experience and knowledge from the agency in the past several years. Pay increases based on merit should be provided to retain current technical staff. Way too many "assistant" management positions. More emphasis should be placed on maintaining an adequate level of technical staff.  
 I think DHEC is a great state agency to work for, we have our faults like all other state agencies but it still enjoy coming to work everyday. However, I would like to see information and directives from upper management be communicated better to all staff and follow up if necessary. It has gotten extremely better but there still seems to be a disconnect.  
 The Department is understaffed.  
 In my experience as far as dealing with any agency in the state the Department of Health and Environmental Control has been the best experience by far. Very professional and caring overall.  
 I really wish that we were still doing TB testing because for such a long time we were the staple for testing and then it was taken out of the health dept but we get 100's of calls from the public wanting to come and get a TB skin test and I have to tell them we no longer have that service. it would certainly generate revenue for the agency if were still doing them.

156	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM
157	May 16, 2016 12:48 PM	May 16, 2016 8:48 AM
158	May 16, 2016 12:47 PM	May 16, 2016 8:47 AM
159	May 16, 2016 12:46 PM	May 16, 2016 8:46 AM
160	May 16, 2016 12:39 PM	May 16, 2016 8:39 AM
161	May 16, 2016 12:39 PM	May 16, 2016 8:39 AM
162	May 16, 2016 12:38 PM	May 16, 2016 8:38 AM
163	May 16, 2016 12:37 PM	May 16, 2016 8:37 AM
164	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM
165	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM

166	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM	Money has always been an issue for resources. The availability of resources(vehicles, equipment, etc.) were better 5-10 year ago then they are now. When EQC was placed with the Health Department, resources for EQC have been merged with Environmental Health and due to the lack of understanding of the Environmental side, it does not get priority as it once did. Also, the IT resources are lacking since Footprints came about and EQC no longer has it's own IT personnel.
167	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	Why does DHEC pay it's front line staff so little as compared to other agencies?
168	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	Some African American managers and employees show preference to other African Americans Excessive red-taping; I believe the agency and the public are disconnected; The lack of pay increases is also an issue. You can work for this agency for many years and because there is very little to no increases you have new hires that make the same or even more than someone who has been here with 3 or more years, prior experience, and master and/or PhD degrees. Leadership and their subordinates are disconnected. This agency can be great; however, more than surface changes need to take place. We are under-paid, no tuition assistance, no loan repayment, no pay raises, over-worked at times; some of us have several jobs pinned on us due to high turnover. I hope there is some revamping quick before we lose more great people.
169	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	DHEC is vital in serving the diversified population in our communities. Clients are seen in the Health Dept. when they can't afford patient care from a private source.
170	May 16, 2016 12:30 PM	May 16, 2016 8:30 AM	DHEC's staff are here to help the people of SC. The legislature needs to provide the resources for a well trained and educated staff
171	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	Not enough staffing, frequent staff turnover, poor staff retention, low salary for employees; all of which affect employees being able to provide excellent service to the public.
172	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	I feel like this agency plays a vital role in the health of our state, the environment, and it's citizens. More resources should be allocated to it's cause.
173	May 16, 2016 12:28 PM	May 16, 2016 8:28 AM	DHEC need to show their employee's they are cared about by providing a less stressful work environment. There should also be pay increases biased on fair employee work ethic.
174	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	Surveillance and clinical need to be able to communicate openly, There needs to be more control at each individual site. We need a raise.
175	May 16, 2016 12:26 PM	May 16, 2016 8:26 AM	

176	May 16, 2016 12:22 PM	May 16, 2016 8:22 AM	DHEC needs to place a greater emphasis on developing, funding, and staffing a comprehensive groundwater/surface water management program. DHEC has been through many changes over the last few years. I can honestly say the morale continues to improve each day among staff, and that we have the right leadership in place to improve public perception. Provide adequate funding for the agency. I appreciate the new hierarchy trying to help improve the situation at the Agency. The agency needs updates in its IT infrastructure. More funding should be provided for server capacity and functionality of DHEC applications and programs. I think it is a very good agency that does not get credit where credit is due. Overall I absolutely love my job. I have very good management to work with. Would like to see more done on employee retention and salaries. Every citizen has contact with Environmental Health from Birth to Death. When you are born they handle birth cert, turn water on the morning, DHEC makes sure it is safe, sewer is controlled by DHEC, the food you buy to cook or already prepared is inspected by DHEC, when you die, your death cert. is handled. Without DHEC SC would not be a great place to live. In the Bureau that I work, many current employees are reaching retirement age. I am concerned that their knowledge will not be adequately passed onto the next workforce in place. I am especially concerned that efforts to retain current employees, mostly due to insufficient pay compensation, will seriously hamper this agencies ability to conduct superior work. The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
177	May 16, 2016 12:21 PM	May 16, 2016 8:21 AM	
178	May 16, 2016 12:16 PM	May 16, 2016 8:16 AM	
179	May 16, 2016 12:14 PM	May 16, 2016 8:14 AM	
180	May 16, 2016 12:09 PM	May 16, 2016 8:09 AM	
181	May 16, 2016 12:08 PM	May 16, 2016 8:08 AM	
182	May 16, 2016 12:08 PM	May 16, 2016 8:08 AM	
183	May 16, 2016 12:07 PM	May 16, 2016 8:07 AM	
184	May 16, 2016 12:02 PM	May 16, 2016 8:02 AM	
185	May 16, 2016 11:47 AM	May 16, 2016 7:47 AM	
186	May 16, 2016 11:46 AM	May 16, 2016 7:46 AM	
187	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
188	May 16, 2016 11:39 AM	May 16, 2016 7:39 AM	
189	May 16, 2016 11:38 AM	May 16, 2016 7:38 AM	

190	May 16, 2016 11:38 AM	May 16, 2016 7:38 AM	From my experience of working with another state Department of Health, the SC HIV/STD division is more in tune with the training needs of grantees and offer an array of trainings. I would have former coworkers from another state come to the trainings offered by the SC HIV/STD Division. It is hard to keep good employees within DHEC because the pay is not acceptable for highly productive individuals. Furthermore, the agency keeps employees who do not move the agency forward through their poor work ethic. The salary for the average employee is very low. Only certain employees have get raises and have a good income. Very good agency to work for. Environmental Affairs side has no accountability for supervisors and managers, causing good employees to leave The current Agency administration is very professional and dedicated to the mission of the Agency. It is difficult to staff this agency adequately when the salaries paid are not competitive, especially with administrative staff. Cannot get service in my county. Must go to another county for service. Pay raises for admins. Does anyone know who does what at DHEC? high employee turnover rate Si tffort to heal the wounds created by the past administration: public opinion of staff intelligence, dedication and commitment. when an agency Would like SC government, in general to start being more proactive. It not only saves money in the long run but it will increase the efficiency of operations and the Government's image to the public. DHEC has become increasingly better since the new Director has taken position. However, there are still areas that need improvement, specifically investing in employees - training and involvement in decision making for standard operating procedures, etc., increased salary to attract and keep higher quality employees, IT capabilities - reduction in redundancy, etc.. I would also like to see more outreach and community involvement from all departments within DHEC - workshops, information sessions, etc. for the public, industry, etc. Treats employees poorly, poor management So much money has been spent in the STI area yet our state's ranking has worsen year after year, particularly among African American population. Why? The bosses get all the raises and bonuses. What about the front line employees?
191	May 16, 2016 11:18 AM	May 16, 2016 7:18 AM	
192	May 16, 2016 11:08 AM	May 16, 2016 7:08 AM	
193	May 16, 2016 10:59 AM	May 16, 2016 6:59 AM	
194	May 16, 2016 10:29 AM	May 16, 2016 6:29 AM	
195	May 16, 2016 10:21 AM	May 16, 2016 6:21 AM	
196	May 16, 2016 2:46 AM	May 15, 2016 10:46 PM	
197	May 16, 2016 1:18 AM	May 15, 2016 9:18 PM	
198	May 15, 2016 10:06 PM	May 15, 2016 6:06 PM	
199	May 15, 2016 7:24 PM	May 15, 2016 3:24 PM	
200	May 15, 2016 4:50 PM	May 15, 2016 12:50 PM	
201	May 15, 2016 4:30 PM	May 15, 2016 12:30 PM	
202	May 14, 2016 11:27 PM	May 14, 2016 7:27 PM	
203	May 14, 2016 11:12 PM	May 14, 2016 7:12 PM	
204	May 14, 2016 10:28 PM	May 14, 2016 6:28 PM	
205	May 14, 2016 8:47 PM	May 14, 2016 4:47 PM	

206	May 14, 2016 6:05 PM	It seems that DHEC never knows what thwy actually do or who in their department actually does it. Thw website is horrible and information is hard to find.
207	May 14, 2016 4:03 PM	More so than any other agency I've dealt with, their customer service is leaps and bounds better than I've experienced elsewhere.
208	May 14, 2016 2:29 PM	It appears that DHEC doesn't mind overworking their employees. Add more work without extra pay and when positions are vacated they are not filled. Also if they are filled, they are filled by individuals that do not have the experience or knowledge to lead.
209	May 14, 2016 12:44 PM	Since Catherine Heigel became director of the agency there has been a marked change in the work place atmosphere. She was an excellent choice to lead the agency.
210	May 14, 2016 11:47 AM	Loss of experienced, knowledgeable staff to retirement and during restructuring has left some areas dependent on new hires in key positions. Currently, it appears that the agency will continue to have difficulty retaining these new hires for the long term.
211	May 14, 2016 11:31 AM	They do not take care of their employees only the employees in higher positions they forget about taking care of the lower paid employees
212	May 14, 2016 7:15 AM	Too much nepotism and too much hiring of buddies. No one has a chance to grow.
213	May 14, 2016 7:13 AM	Too much nepotism and too much hiring of buddies. No one has a chance to grow.
214	May 14, 2016 2:01 AM	leave policy allows for advantage to be taken of the system. Large amounts of unscheduled leave is a major contributor of the agency struggling to meet community demands in the health departments. Please consider changing the policy to more closely mirror hospital absentee policies.
215	May 14, 2016 1:01 AM	DHEC functions well as a hybrid organization with environmental and health "sides" collaborating on issues such as response to children with elevated blood lead levels. Such collaboration would be much more difficult between separated health and environmental agencies.
216	May 14, 2016 12:21 AM	DHEC is responsible for too many programs. It is so difficult to hire and retain good employees as the pay is so low in comparison to the private sector. Training for new hires in Preventative Health needs great improvement as well.
217	May 13, 2016 10:09 PM	The restructure and previous leadership of DHEC has caused much damage and trauma to the agency. It has affected staff morale, services and public perception of this agency
218	May 13, 2016 9:37 PM	They have a long history of customer service.
219	May 13, 2016 9:30 PM	

220	May 13, 2016 9:29 PM	They do not value their staff. Promotions are not given equitably. There is a serious pay disparity between agency employees and private business employees with similar education, experience and backgrounds. DHEC has the responsible of surveying nursing homes. The surveyors are not being done timely. The department lacks professionalism or common respect for the facilities. Staff morale is at an all time low due to poor management. Worst of all racism is tolerated. spot trouble managers. Do a serious evaluation of salaries for the talent DHEC employ form the doctors and nurse practitioners to the scientist biologist and computer scientist.
221	May 13, 2016 9:26 PM	
222	May 13, 2016 9:24 PM	
223	May 13, 2016 9:07 PM	The agency's new leadership, strategic plan, and focus on its people is having a profound impact on the agency's performance for the public. Heading in the right direction! Adm. Support Staff should have privilege of AWS
224	May 13, 2016 9:06 PM	I think managers should be reviewed by their staff. I think management should be flattened, with more rights and responsibilities given to front-line managers.
225	May 13, 2016 9:03 PM	
226	May 13, 2016 9:03 PM	
227	May 13, 2016 9:03 PM	I know that most people think state employees are overpaid. For the vast majority of cases, it's just not true. Please look into pay equity between state employees and private industry, state employees across state agencies, and job classifications within DHEC. Some of our most technical and difficult to train people are not compensated appropriately. Programs do not appear to communicate with each other. Staff who work in all program areas are sometimes caught in the middle be cause the processes passed down to staff contradicts The employees are passionate, hardworking , dedicated, educated but aren't appreciated in regards to the pay they receive.
228	May 13, 2016 9:02 PM	
229	May 13, 2016 9:01 PM	
230	May 13, 2016 8:59 PM	It should be two separate agency's. One for Health and one for Environment. Almost all other states have two agency's. We should pick and choose the best practices and systems from those states to copy.
231	May 13, 2016 8:57 PM	POOR CUSTOMER SERVICE BECAUSE OF SHORT STAFF
232	May 13, 2016 8:54 PM	It is so many hats under DHEC. The pay is different in each one. Some make more than others. It would be great to just do a time card instead of PCAS.
233	May 13, 2016 8:54 PM	This Agency is not concerned about the welfare of its employees. We are placed in buildings with poor infrastructure, bad air quality, mold and unsafe conditions.
234	May 13, 2016 8:54 PM	The Agency's new strategic vision provides ample opportunity for significant improvements.



235	May 13, 2016 8:53 PM	I find it exceedingly difficult to do my job with regulations littered with more loopholes than words. I am proud of my job and our mission at DHEC but to be honest I feel many times that I am left short of being able to complete important tasks because the regulations are lacking. There is so much turnover that it is concerning the agency has employees who know and can adequately perform the technical nature of their jobs
236	May 13, 2016 8:50 PM	Employee Retention and Salaries need to be evaluated
237	May 13, 2016 8:49 PM	The Department of Health and Environmental Control serves a vital function to the state of South Carolina. Employees are competent and care about what they do in providing quality services to residents of South Carolina. It may serve the public better for the agent to be split. One agency focusing on Health. One agency focusing on Environmental. As is the standard for 48 other states.
238	May 13, 2016 8:49 PM	DHEC plays an active role in promoting and protecting the health of the community. It is impressive that they answer the call of duty in environmental emergencies and during disease outbreaks.
239	May 13, 2016 8:49 PM	While salaries don't need to be on par with those in the regulated community, they should at least be competitive if we are to maintain a competent workforce.
240	May 13, 2016 8:46 PM	I think that we provide excellent customer service and care to the public.
241	May 13, 2016 8:46 PM	We have a great captain at the helm.
242	May 13, 2016 8:46 PM	State Agencies. Staff members in the Public Health Division haven't had merit pay increases for over eight years, which is NOT the case in other state agencies. We have tremendous, dedicated staff who work tirelessly to serve the public health, and it is unfair that they don't have the same salaries or merit pay incentives as their counterparts in other DHEC divisions or sister state agencies.
243	May 13, 2016 8:45 PM	The agency has always had a laudable mission and vision, and day-to-day functions benefit a huge number of people living in SC. The agency has wanted for strong leadership for a long time, and it looks like the tide might finally be turning with Catherine Heigel at the helm.
244	May 13, 2016 8:45 PM	consistently understaffed Human Resources needs a complete overhaul N/A
245	May 13, 2016 8:44 PM	Need to limit amount of educational materials printed. Staff would benefit via merit raises. Travel system needs updating.
246	May 13, 2016 8:43 PM	Micromanaged and underpaid
247	May 13, 2016 8:43 PM	Highly professional and well intertwined organization albeit strapped for resources
248	May 13, 2016 8:42 PM	They do a very good job.
249	May 13, 2016 8:42 PM	
250	May 13, 2016 8:42 PM	
251	May 13, 2016 8:42 PM	
252	May 13, 2016 8:42 PM	

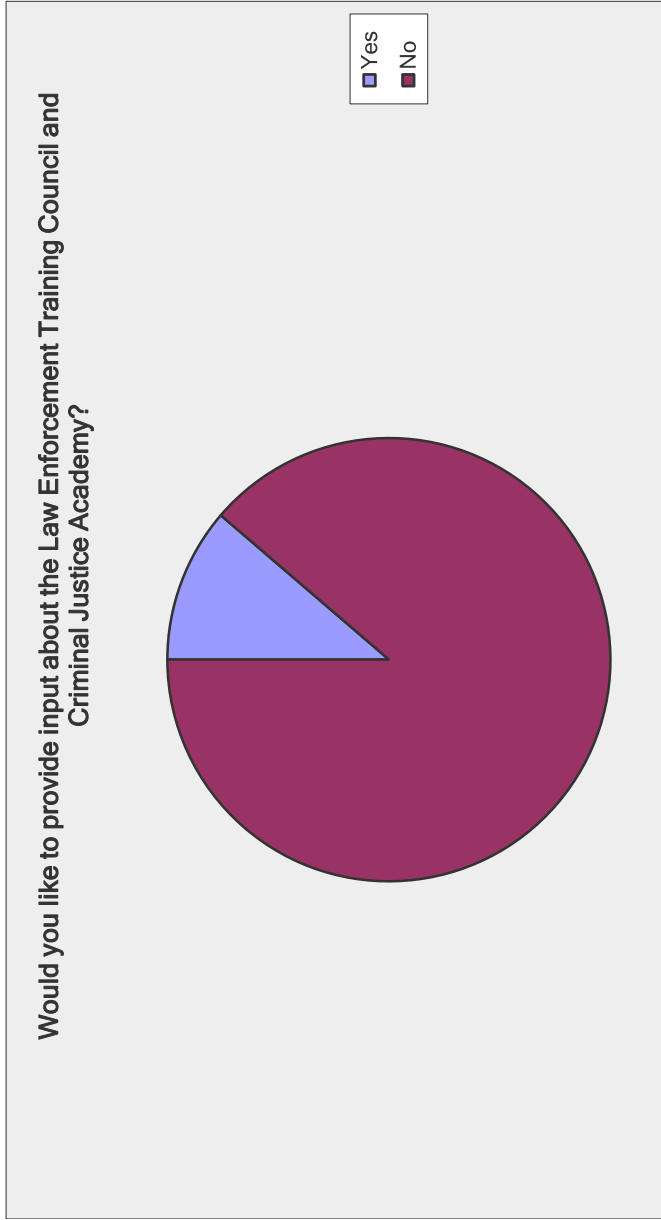
I retired from DHEC six years ago this month. what concerns me most is how an abundance of valuable experience was lost during Mrs. Templeton's tenure. Inspectors that are out to make a name for themselves at the expense of public utilities  
There is great need for more training for those who work with the public.  
Too top heavy, not enough worker bees to enforce regulations  
Employees should be able to express suggestions without feeling they will be retaliated against.

253	May 10, 2016 9:31 PM
254	May 10, 2016 4:54 PM
255	May 3, 2016 12:56 AM
256	May 2, 2016 3:34 PM
257	May 2, 2016 2:52 PM

### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Law Enforcement Training Council and Criminal Justice Academy?

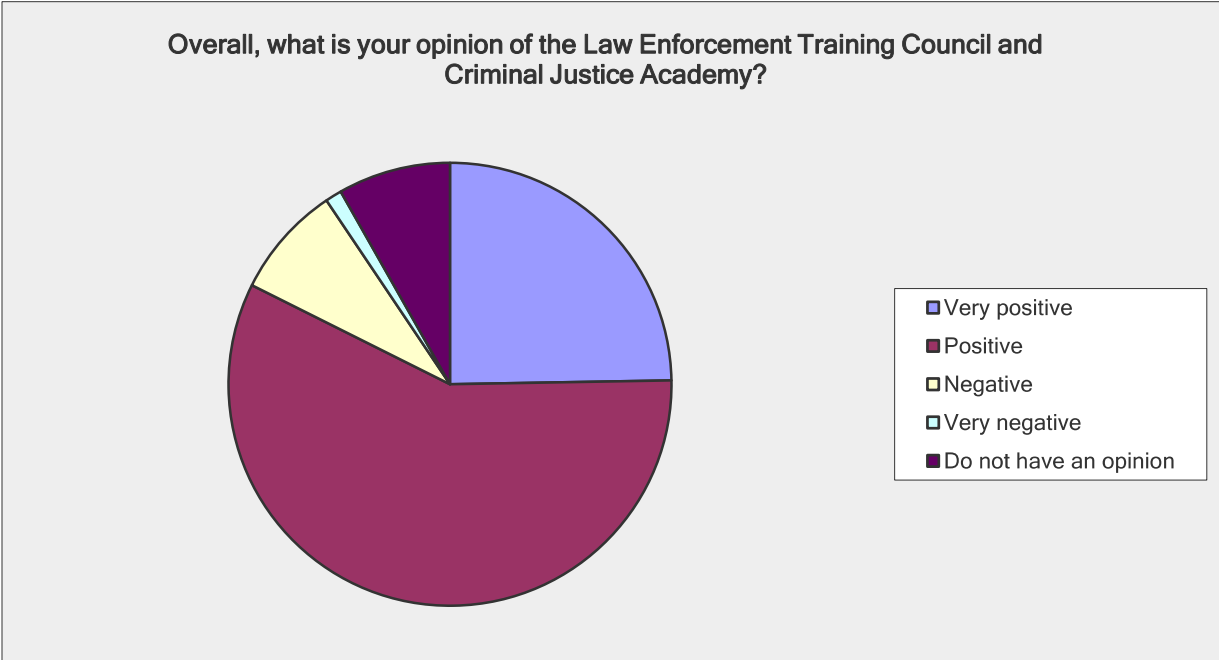
Answer Options	Response Percent	Response Count
Yes	11.3%	92
No	88.7%	719
<i>answered question</i>		<b>811</b>
<i>skipped question</i>		<b>214</b>



### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Law Enforcement Training Council and Criminal Justice Academy?

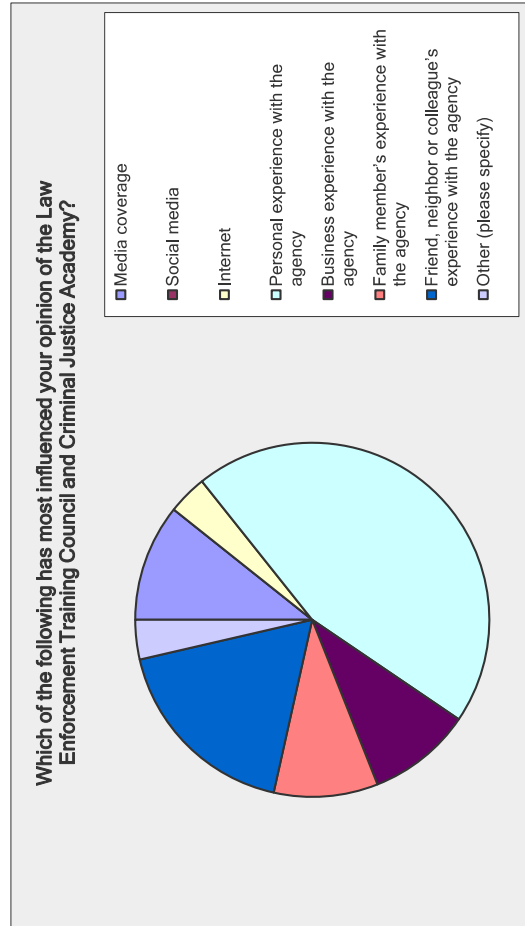
Answer Options	Response Percent	Response Count
Very positive	24.7%	21
Positive	57.6%	49
Negative	8.2%	7
Very negative	1.2%	1
Do not have an opinion	8.2%	7
<i>answered question</i>		<b>85</b>
<i>skipped question</i>		<b>940</b>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Which of the following has most influenced your opinion of the Law Enforcement Training Council and Criminal Justice Academy?			
Answer Options	Response Percent	Response Count	
Media coverage	10.7%	9	
Social media	0.0%	0	
Internet	3.6%	3	
Personal experience with the agency	45.2%	38	
Business experience with the agency	9.5%	8	
Family member's experience with the agency	9.5%	8	
Friend, neighbor or colleague's experience with the agency	17.9%	15	
Other (please specify)	3.6%	3	
			<b>84</b>
<i>answered question</i>			<b>84</b>
<i>skipped question</i>			<b>941</b>

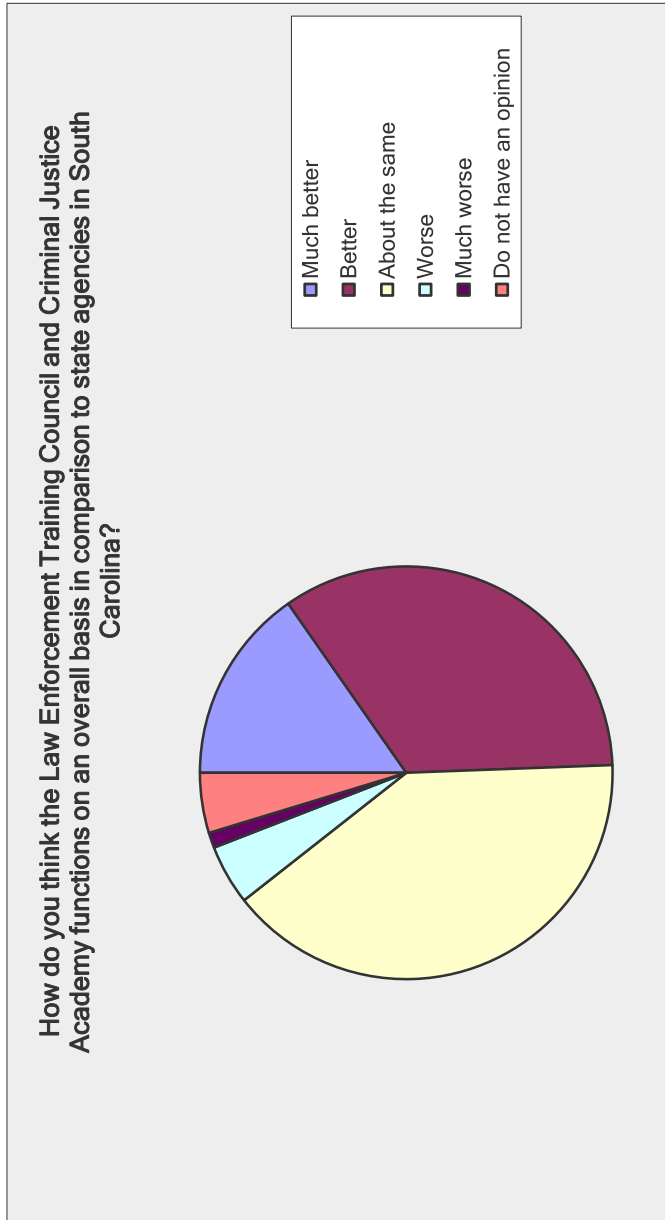
Number	Response Date	Eastern Standard	Other (please specify)
1	May 19, 2016 2:43 PM	May 19, 2016 10:43 AM	family member with no experience
2	May 18, 2016 2:47 PM	May 18, 2016 10:47 AM	Employed at the agency
3	May 16, 2016 1:42 PM	May 16, 2016 9:42 AM	No opinion.



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**How do you think the Law Enforcement Training Council and Criminal Justice Academy functions on an overall basis in comparison to state agencies in South Carolina?**

Answer Options	Response Percent	Response Count
Much better	15.3%	13
Better	34.1%	29
About the same	40.0%	34
Worse	4.7%	4
Much worse	1.2%	1
Do not have an opinion	4.7%	4
<i>answered question</i>		<b>85</b>
<i>skipped question</i>		<b>940</b>



## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Law Enforcement Training Council and Criminal Justice Academy. Your response will be quoted verbatim and published online.

Answer Options	Response Count
<i>answered question</i>	21
<i>skipped question</i>	1004

Number	Response Date	Eastern Standard	Response Text
1	May 31, 2016 6:40 PM	May 31, 2016 2:40 PM	<p>Agency should establish a pay step increase program based on years of service.</p> <p>The Criminal Justice Academy needs to be able to fund more competitive salaries for instructors. Currently, starting pay for an instructor is equal to or slightly better than entry level pay for police officers at local agencies. The Academy should be recruiting the best officers from around the state to instruct our state's officers, but the average instructor-candidate with 6-10 years experience would probably not be able to afford the reduction in pay that comes with working at the Academy.</p> <p>Very important agency concerning the past, present and future of our State. The agency is underfunded. It cannot compete for qualified instructors or administrative staff. It is difficult to qualify for grants because the State has not declared it a State Law Enforcement Agency. Personnel are in fact over worked and underpaid. Given the circumstances the agency enjoys a much improved relationship with the Law Enforcement Community as well as the media and the legislature. The staff is hardworking and dedicated but woefully underpaid.</p>
2	May 23, 2016 8:37 PM	May 23, 2016 4:37 PM	
3	May 18, 2016 2:47 PM	May 18, 2016 10:47 AM	
4	May 18, 2016 1:01 PM	May 18, 2016 9:01 AM	

5	May 16, 2016 12:35 PM	May 16, 2016 8:35 AM	<p>The more training we can have for law enforcement officers the better for everyone involved: officers and community.</p> <p>If someone doesn't pass a portion of the academy, the turnaround time is not standard for them to go back to pass the course. Some people from some agencies are quickly enrolled back in to pass portion of class failed while others may have to wait months. I believe the process should be standardized for all agencies.</p> <p>It's a bad sign when law enforcement shot unarm citizens who are running away from them and claim they fear for their life.</p> <p>They do a very good job.</p> <p>For the last eight years, the SCCJA has excelled in all areas, making great strides in law enforcement training. When you consider the minuscule budget afforded the Academy, the results achieved are truly amazing. The present Director is the best that the Academy has ever had....a man of vision and leadership.</p> <p>SC police are the best. As a civilian, I can tell they have received top training.</p> <p>The Training Council does not fully consider all aspects of an officer's career or the circumstances involved for a certification hearing. They did use proxy hearing officers to hear cases by non-council members and pretty much rubber stamped their recommendations. This proxy hearing officer procedure was found to be unlawful.</p> <p>Employees, especially instructors, consistently leave work early on Fridays and do not take annual leave. This is costing the state thousands of dollars.</p>
6	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
7	May 13, 2016 9:26 PM	May 13, 2016 5:26 PM	
8	May 13, 2016 8:43 PM	May 13, 2016 4:43 PM	
9	May 12, 2016 10:46 AM	May 12, 2016 6:46 AM	
10	May 9, 2016 2:59 AM	May 8, 2016 10:59 PM	
11	May 7, 2016 4:16 PM	May 7, 2016 12:16 PM	
12	May 5, 2016 11:36 PM	May 5, 2016 7:36 PM	



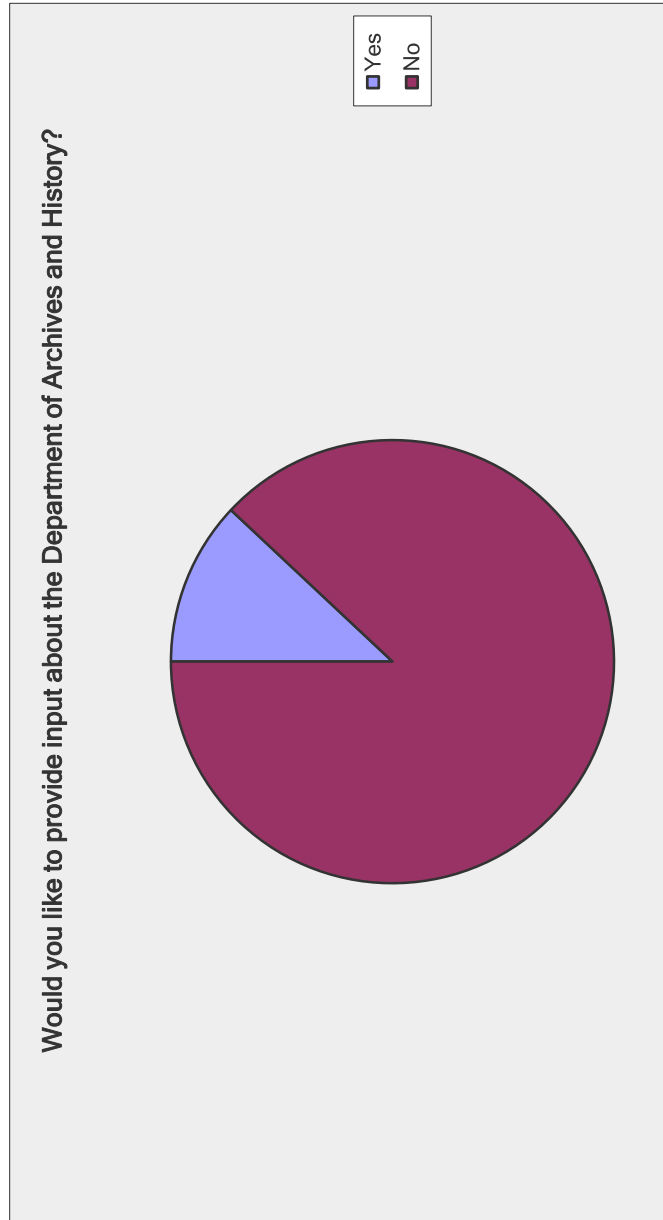
<p>I am proud to be part of The Academy staff and make a difference towards our goal of training the law enforcement officers of the state and making sure they are equipped to protect the citizens. The staff here take their job serious and do their best to train the officers to be prepared. One of the main problems I see is that we do not have the funding to be able to pay highly qualified staff for specialized instructional programs and even to hire a highly experience IT Consultant. We are working within our budget to find the best employees we can to perform the job, but feel like we are not competitive with other Agencies and Law Enforcement Agencies in attracting highly trained staff.</p>		<p><b>May 5, 2016 8:27 PM</b></p>	<p><b>May 5, 2016 4:27 PM</b></p>
<p>They do a great job, When i was a student and heard that several of the staff and Teacher had two jobs. This told me the state doesnt pay them enough. They train us cops and the state should pay them more.</p>		<p><b>May 5, 2016 1:18 PM</b></p>	<p><b>May 5, 2016 9:18 AM</b></p>
<p>The academy does a great job, though they have to function with an unreasonable budget, and their employees are way under paid for what they do.</p>		<p><b>May 5, 2016 1:14 PM</b></p>	<p><b>May 5, 2016 9:14 AM</b></p>

16	May 3, 2016 2:44 PM	May 3, 2016 10:44 AM	<p>The Academy is governed by the LETC, governed by SC Agency Heads, and SC Chiefs and Sheriffs. It has been felt by many that this group is biased when it comes to the Academy's primary responsibility of certification and decertification. These LEO's know each other and are often intimidated by a council member. There must be a change in the structure of the LETC to allow laymen to participate, not solely law enforcement. The LETC also has say who should take over when a Director resigns office. This can be heavily swayed by internal friendships on staff and not necessarily the best of the best. A more stringent and filtering process needs to be implemented in the selection of an Interim Director, appointed Director, and Deputy Director. History shows that LEO's don't make good managers, nor do attorneys. The SCCJA needs to have a manager with a past of fixing agencies and weeding out the problems.</p>
17	May 3, 2016 1:11 PM	May 3, 2016 9:11 AM	<p>The decrease in funding must be addressed in order to keep providing excellent training to the law enforcement community. I suggest that the Law Enforcement Training Council be comprised of law persons. Having the Council comprised of Directors, Sheriffs, Chiefs result in an entity that is too political, and not a Council answerable to the concerns of the citizens of S.C. Police training and certification is a concern of all citizens.</p>
18	May 3, 2016 1:39 AM	May 2, 2016 9:39 PM	

19	May 2, 2016 9:59 PM	<p>Pay increases are used to pad the upper echelons retirement accounts at the expense of people who go 15 to 20 years without a pay raise. Law Enforcement personnel are favored over non-law enforcement personnel. Cronyism is rampant. Ethical behavior is a rarity not a norm. The entire executive staff needs to be replaced. There is a complete lack of understanding that the Academy is a school/training facility not a police department. Frequently, when employees are called in for counseling they are treated like criminals with law enforcement interrogation tactics. Many employees have been driven to nervous breakdowns. When employees are not being paid fairly it creates a climate of distrust and hostility that tears the place apart. The Academy needs to be funded to support the classes it teaches. Demanding instructors put together programs and not funding the staff and supplies needed to do the job is an everyday occurrence.</p>	May 2, 2016 5:59 PM
20	May 2, 2016 5:14 PM	<p>CJA operates about the same as other state agencies in that with government no one can use common sense. When suggestions are made, they are not considered. An open mind would be better in all state agencies. The Criminal Justice Academy has some of the most dedicated employees that have a true passion for the work they do. Training law enforcement throughout the state to serve and protect the citizens of this state as well as keeping themselves safe. It doesnt matter if it is the cafeteria staff, facility management, admin staff, instructors, or command staff, everyone has a stake in the students that come through.</p>	May 2, 2016 1:14 PM
21	May 2, 2016 2:06 PM		May 2, 2016 10:06 AM

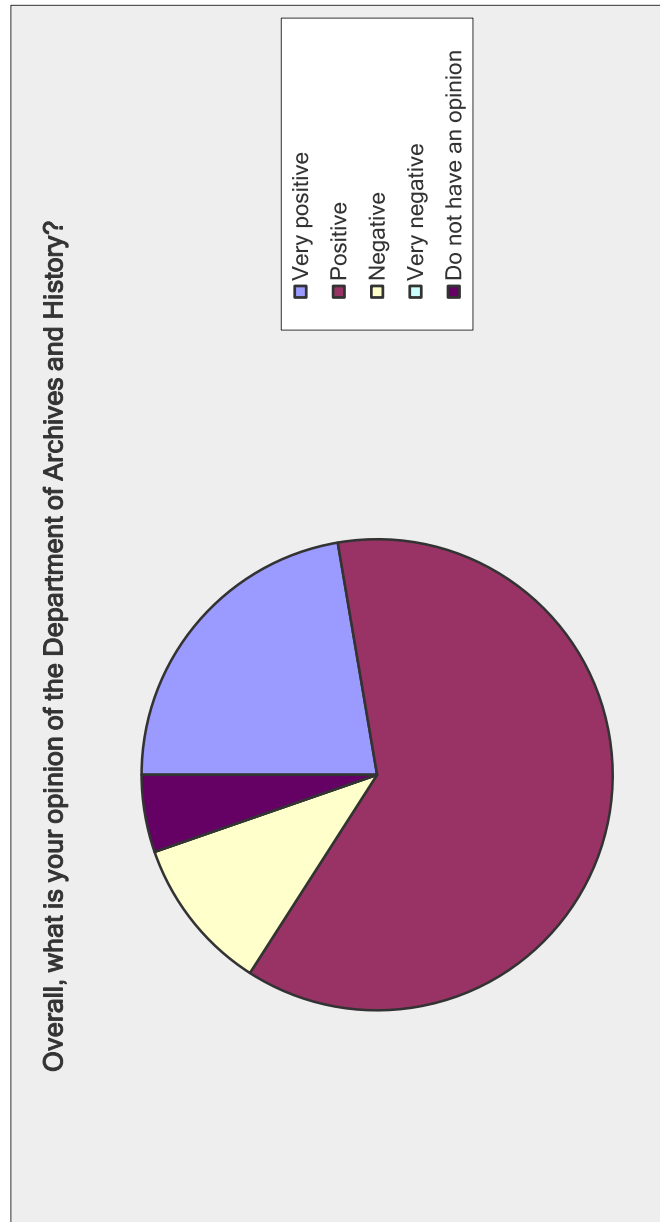
**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Would you like to provide input about the Department of Archives and History?		
Answer Options	Response Percent	Response Count
Yes	12.0%	96
No	88.0%	704
<i>answered question</i>		<b>800</b>
<i>skipped question</i>		<b>225</b>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Overall, what is your opinion of the Department of Archives and History?		
Answer Options	Response Percent	Response Count
Very positive	22.3%	21
Positive	61.7%	58
Negative	10.6%	10
Very negative	0.0%	0
Do not have an opinion	5.3%	5
<i>answered question</i>		<b>94</b>
<i>skipped question</i>		<b>931</b>

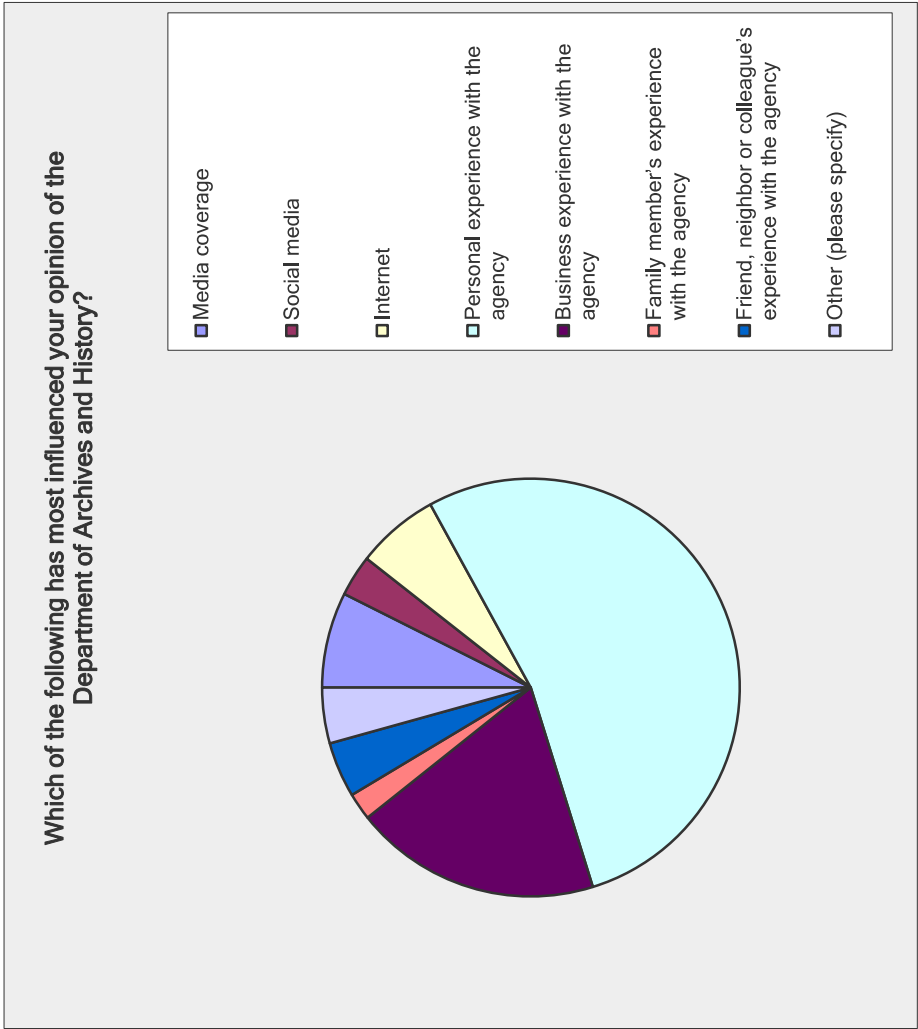


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Which of the following has most influenced your opinion of the Department of Archives and History?			
Answer Options	Response Percent	Response Count	
Media coverage	7.4%	7	
Social media	3.2%	3	
Internet	6.4%	6	
Personal experience with the agency	53.2%	50	
Business experience with the agency	19.1%	18	
Family member's experience with the agency	2.1%	2	
Friend, neighbor or colleague's experience with the	4.3%	4	
Other (please specify)	4.3%	4	
			<b>94</b>
<i>answered question</i>			<b>931</b>
<i>skipped question</i>			

Number	Response Date	Eastern Standard	Other (please specify)
1	May 20, 2016 1:25 PM	May 20, 2016 9:25 AM	Never heard of this agency Negative. We have been housing an abundance of archived records at our already crowded sites because this Department has not been able to make space to store them. Emails are not returned when inquiries are made as well.
2	May 13, 2016 10:12 PM	May 13, 2016 6:12 PM	

Employee at Sandel Elementary Career Day	Don't hear much about them	3	May 13, 2016 8:47 PM	May 13, 2016 4:47 PM
4	May 2, 2016 3:35 PM	May 2, 2016 11:35 AM		

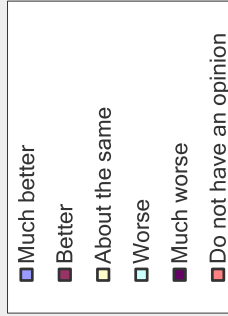
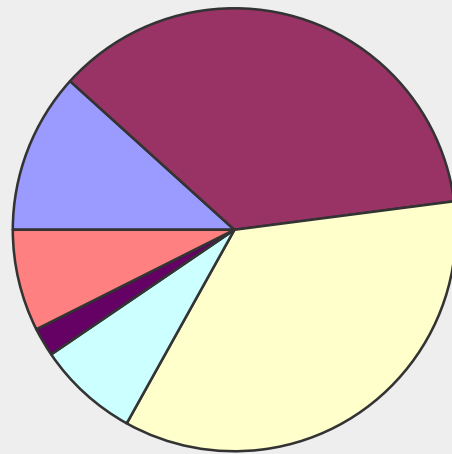


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

How do you think the Department of Archives and History functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	11.7%	11
Better	36.2%	34
About the same	35.1%	33
Worse	7.4%	7
Much worse	2.1%	2
Do not have an opinion	7.4%	7
<i>answered question</i>		<b>94</b>
<i>skipped question</i>		<b>931</b>

How do you think the Department of Archives and History functions on an overall basis in comparison to other state agencies in South Carolina?





## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Archives and History. Your response will be quoted verbatim and published online.

Answer Options	Response Count
<i>answered question</i>	26
<i>skipped question</i>	999

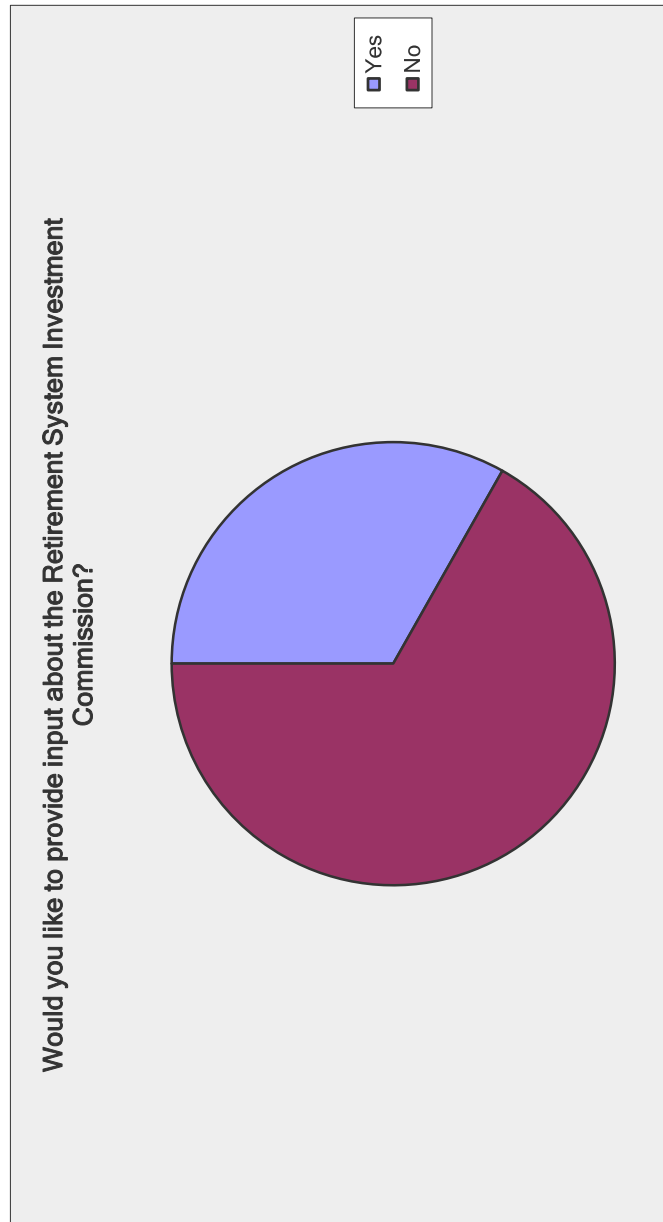
Number	Response Date	Eastern Standard	Response Text
1	May 27, 2016 12:48 PM	May 27, 2016 8:48 AM	seem to do a great job with limited resources Would like them to work together with other agencies to ensure a smooth transitions to electronic records from other formats. The website for searching the electronic records they currently have, though few, could be improved.
2	May 25, 2016 6:31 PM	May 25, 2016 2:31 PM	Sounds like a waste of money
3	May 20, 2016 1:25 PM	May 20, 2016 9:25 AM	Why is it so difficult to get archives and history to schedule a date to receive documents from state agencies? It can take months and months during which agencies are required to secure documents while waiting for a response. Perhaps they don't have adequate resources to receive documents in a timely manner. This creates an undue burden on agencies who are trying to comply with archiving regulations.
4	May 20, 2016 2:21 AM	May 19, 2016 10:21 PM	Needs to work closely with other state agencies in its initiative to receive electronic records.
5	May 19, 2016 1:15 PM	May 19, 2016 9:15 AM	The Archives provides a great service to the people of SC.
6	May 19, 2016 1:03 AM	May 18, 2016 9:03 PM	The staff is very helpful and knowledgeable, they provide a service in protecting our heritage.
7	May 18, 2016 2:23 PM	May 18, 2016 10:23 AM	Needs more employees to provide services to our citizens and other state agencies.
8	May 17, 2016 6:32 PM	May 17, 2016 2:32 PM	

9	May 17, 2016 12:18 PM	May 17, 2016 8:18 AM	My experience with the agency has always been positive. My only concern has been with the limited after five and week-end hours that limits the working 9-5 individuals access to do research. I was not sure of the function of this agency until we entered the debate of the confederate flag location. It would be helpful to know what the agency is tasked with doing. They are very behind in picking up archived materials due to lack of resources.
10	May 17, 2016 12:11 PM	May 17, 2016 8:11 AM	papers and other items that are to be archived which contain PHI are piling up in DHEC with no space to store them
11	May 16, 2016 6:18 PM	May 16, 2016 2:18 PM	Better access
12	May 16, 2016 5:04 PM	May 16, 2016 1:04 PM	Can't really say because I do not know the schedule of the other agencies.
13	May 16, 2016 2:06 PM	May 16, 2016 10:06 AM	Again I feel like many of our agencies do good work and yet remain under funded and under staffed.
14	May 16, 2016 1:08 PM	May 16, 2016 9:08 AM	Great resource. Need to continue adding records for online research. The information is readily available
15	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	The Department of Archives and History does an excellent job in preserving the history of the state of SC. The value of this agency to the state has not been fully recognized by the legislature. The agency should receive more funding to do its work.
16	May 16, 2016 11:50 AM	May 16, 2016 7:50 AM	Records management website information is outdated.
17	May 16, 2016 12:49 AM	May 15, 2016 8:49 PM	up archived records in health departments on a consistent basis now for 3 years. Build up of boxes with records needing to be archived has been extremely challenging.
18	May 16, 2016 12:03 AM	May 15, 2016 8:03 PM	
19	May 15, 2016 7:48 PM	May 15, 2016 3:48 PM	
20	May 14, 2016 2:07 AM	May 13, 2016 10:07 PM	

21	May 13, 2016 8:57 PM	May 13, 2016 4:57 PM	At present not enough room for archive charts. These charts have to be pulled according to patient's last visit. They have no room so that means certain departments cannot pull per policy and have no space to store. documents available for free online.
22	May 13, 2016 8:50 PM	May 13, 2016 4:50 PM	They do a very do job.
23	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	extraordinary job of preserving the state's valuable public records and making them available to the public. I have used them frequently for my research as a doctoral candidate and now as a professor of history, and have found the staff unfailingly knowledgeable, professional, and helpful. While in the reading room, I have also had the opportunity to observe their interactions with other patrons, and see the valuable services they provide to a diverse population of South Carolinians. As an institution, too, I have found the SCDAH extremely collegial in my interactions with them through the South Carolina Historical Association.
24	May 4, 2016 9:09 PM	May 4, 2016 5:09 PM	There is a real need to improve the agency funding. The search room hours were cut around 2002 and should be restored. The budget for book purchases should be restored.
25	May 3, 2016 1:04 AM	May 2, 2016 9:04 PM	I think the Historic Preservation Office is understaffed and could use more reviewers to speed up
26	May 2, 2016 1:23 PM	May 2, 2016 9:23 AM	the 106 review process

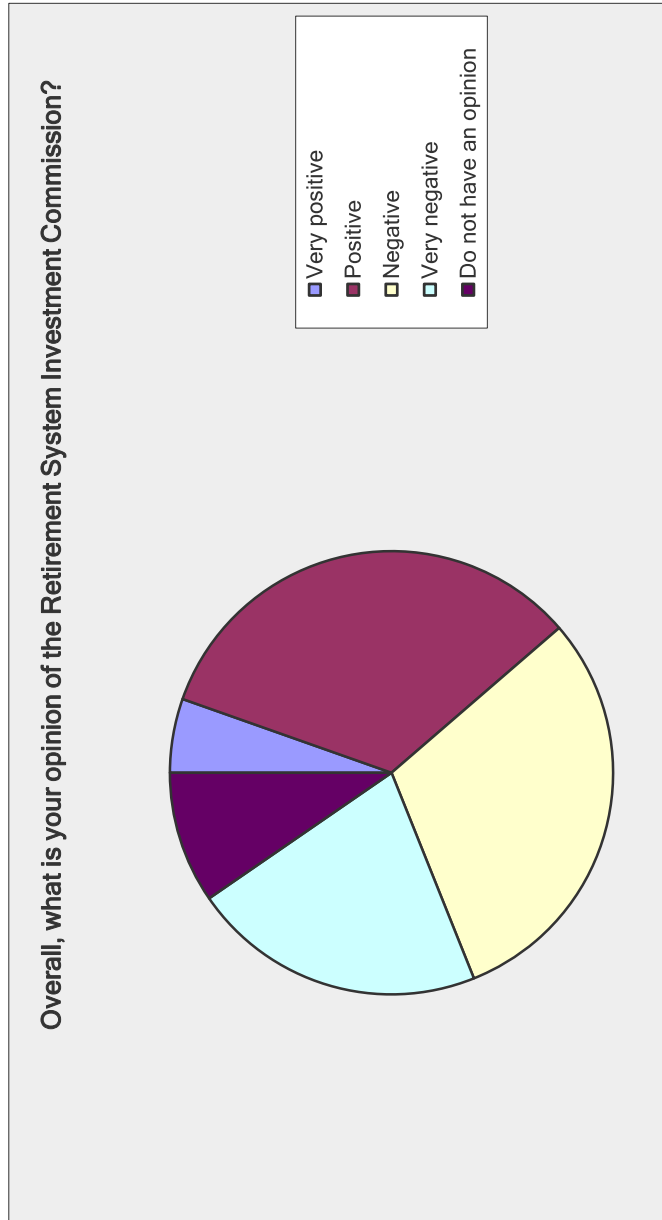
**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Would you like to provide input about the Retirement System Investment Commission?			
Answer Options	Response Percent	Response Count	
Yes	33.2%	262	
No	66.8%	527	
			<b>789</b>
			<b>236</b>
			<i>answered question</i>
			<i>skipped question</i>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Overall, what is your opinion of the Retirement System Investment Commission?		
Answer Options	Response Percent	Response Count
Very positive	5.4%	14
Positive	33.3%	87
Negative	30.3%	79
Very negative	21.5%	56
Do not have an opinion	9.6%	25
<i>answered question</i>		<b>261</b>
<i>skipped question</i>		<b>764</b>

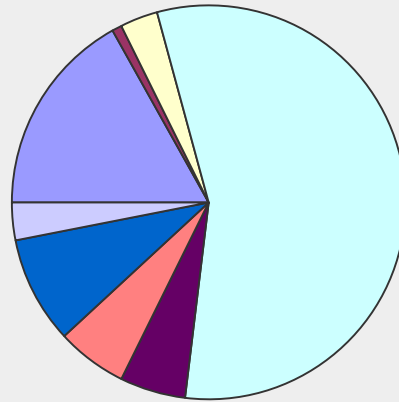


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

Which of the following has most influenced your opinion of the Retirement System Investment Commission?		
Answer Options	Response Percent	Response Count
Media coverage	16.9%	44
Social media	0.8%	2
Internet	3.1%	8
Personal experience with the agency	56.2%	146
Business experience with the agency	5.4%	14
Family member's experience with the agency	5.8%	15
Friend, neighbor or colleague's experience with the	8.8%	23
Other (please specify)	3.1%	8
<i>answered question</i>		<b>260</b>
<i>skipped question</i>		<b>765</b>

Number	Response Date	Eastern Standard	Other (please specify)
1	May 25, 2016 7:11 PM		News reports about underperforming investments and extremely high fees paid, especially to NY firms.
2	May 25, 2016 12:59 PM		I am a state employee
3	May 17, 2016 7:13 PM		Senate Journal They made bad investments in the past and now the employees are having to pay for them.
4	May 16, 2016 6:27 PM		employee
5	May 16, 2016 2:16 PM		None.
6	May 16, 2016 1:13 PM		Personal research
7	May 16, 2016 12:41 PM		State employee
8	May 16, 2016 12:18 PM		

**Which of the following has most influenced your opinion of the Retirement System Investment Commission?**

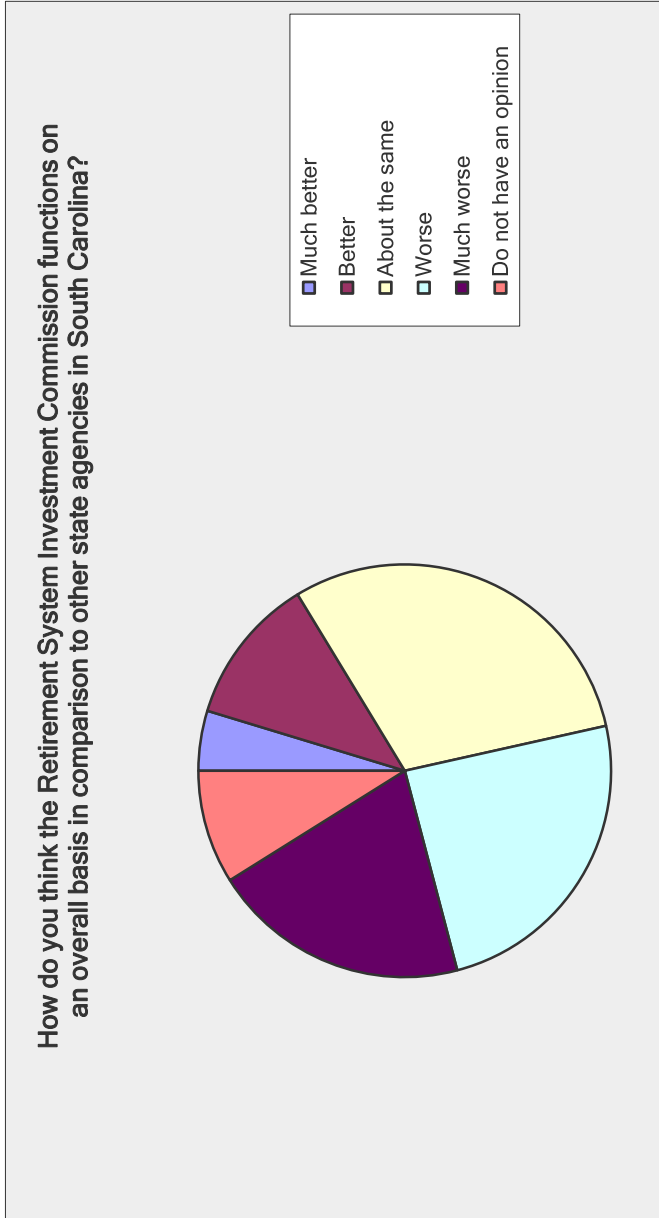


- Media coverage
- Social media
- Internet
- Personal experience with the agency
- Business experience with the agency
- Family member's experience with the agency
- Friend, neighbor or colleague's experience with the agency
- Other (please specify)

**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**How do you think the Retirement System Investment Commission functions on an overall basis in comparison to other state agencies in South Carolina?**

Answer Options	Response Percent	Response Count
Much better	4.7%	12
Better	11.6%	30
About the same	30.2%	78
Worse	24.4%	63
Much worse	20.2%	52
Do not have an opinion	8.9%	23
<i>answered question</i>		<b>258</b>
<i>skipped question</i>		<b>767</b>





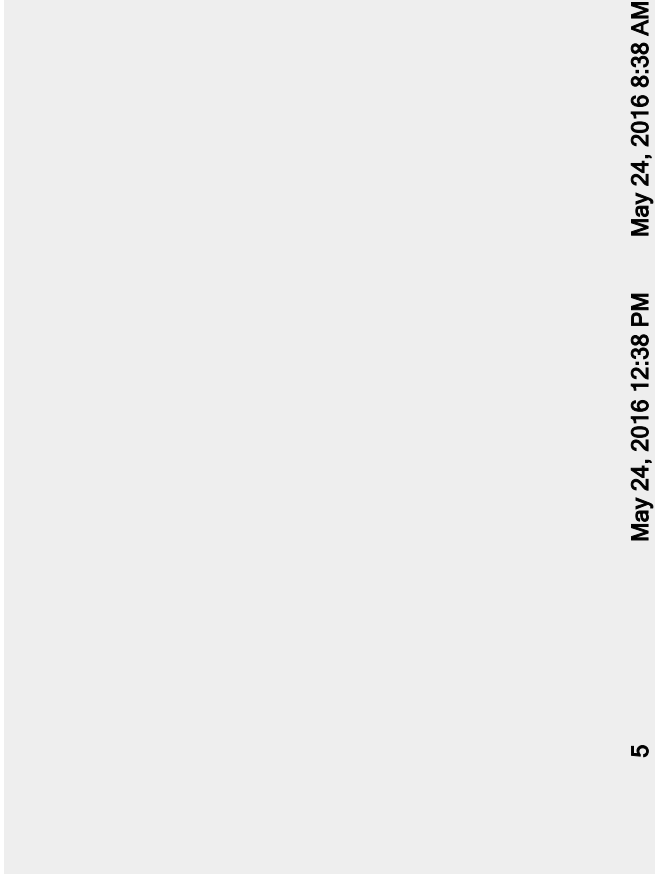
## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Retirement System Investment Commission. Your response will be quoted verbatim and published online.

Answer Options	Response Count
<i>answered question</i>	101
<i>skipped question</i>	924

Number	Response Date	Eastern Standard	Response Text
1	May 27, 2016 6:08 PM	May 27, 2016 2:08 PM	Reynolds Williams has created an agency that has lost the state billions of dollars yet he still remains on the job. How much money would he have to lose to be kicked off the job? The believe the retirement system is not being invested properly.
2	May 26, 2016 2:08 PM	May 26, 2016 10:08 AM	In-state investment firm with low fees and proven record should be handling investments, not political friends in NY.
3	May 25, 2016 7:11 PM	May 25, 2016 3:11 PM	The leaders of the agency need to be accountable for their decisions. A long term fix should be developed and stop sapping state employees to fix the problem. The governors fix of 11% would actually mean I will have less take home money than I did 8 years ago.
4	May 25, 2016 12:59 PM	May 25, 2016 8:59 AM	

The Commission's leadership is grossly overpaid in relation to their investment performance. The "CEO" (how can the director of a state agency be called a CEO--this is a sign of pure arrogance) lacks any real experience and is purley a political appointee, who focuses too much on Machiavellian political maneuvers than effectively running an agency. The agency has not undertaken a meaningful search for a permanent CIO. Given the poor performance of the investment returns (as compared to other states), it does not seem logical to keep the current leadership in place.



5

May 24, 2016 12:38 PM

May 24, 2016 8:38 AM

6	May 24, 2016 2:11 AM	May 23, 2016 10:11 PM	<p>It is troubling that the director of this agency refers to himself as the "CEO". Upper management is vastly under-qualified in relevant areas and are grossly over-compensated based on their experience. It is also troubling that returns are abysmal compared to other similarly-situated funds, yet upper management is not held accountable for their poor performance. Leadership seems too focused on playing politics than protecting our retirement. While I think there are hard working individuals at the Commission, they are overshadowed by the egos of upper management. I don't understand how South Carolina's return on investment is so low compared to similar programs in other states yet the cost for this commission is relatively high. Concerned in regards to the past investment strategy (loss of funds) which seemed to be a result of a public vote for stock investment (instead of preference of employed persons paying into the retirement system). The fees paid are exorbitant for the returns realized</p>
7	May 23, 2016 4:37 PM	May 23, 2016 12:37 PM	<p>Investment returns are poor. The commission is not held accountable for their poor performance. Leadership seems too focused on playing politics than protecting our retirement. While I think there are hard working individuals at the Commission, they are overshadowed by the egos of upper management. I don't understand how South Carolina's return on investment is so low compared to similar programs in other states yet the cost for this commission is relatively high. Concerned in regards to the past investment strategy (loss of funds) which seemed to be a result of a public vote for stock investment (instead of preference of employed persons paying into the retirement system). The fees paid are exorbitant for the returns realized</p>
8	May 23, 2016 1:03 PM	May 23, 2016 9:03 AM	<p>The fees paid are exorbitant for the returns realized</p>
9	May 23, 2016 12:14 PM	May 23, 2016 8:14 AM	<p>for the returns realized</p>

Please take a close look at fees associated with the Investment Commission and risk levels associated with investments. Returns are lowest in the country but state employees have the highest employee contribution rate in the southeast. Staff at this agency make huge salaries and receive performance bonuses (but call them something else so testify that they don't pay bonuses). How is it ok that the proposed solution to their poor and suspicious management of retirement funds is to penalize state employees and retirees by increasing employee contribution rates and decreasing or eliminating retiree cost of living increases. Please put accountability where it belongs... With the Investment Commission. Highest fees and lowest returns equals incompetence and threatens the long term solvency of the system. Replace the whole commission.

10      **May 20, 2016 2:18 AM**      **May 19, 2016 10:18 PM**

11      **May 19, 2016 8:32 PM**      **May 19, 2016 4:32 PM**

The Investment Commission does a very poor job on informing retirees of specific reasons that the investment returns are the worse return of all states reviewed; yet it pays the highest fees and salaries compared to other states. In addition, the relationship between the Commission and the Retirees' Association is suspect. Any information the association provides to retirees looks like it was written for them by a staff member of the Commission. They normally blame someone else for any shortfalls in investments and fail to look at what they are doing or accepting constructive advice from outside sources.

12 May 19, 2016 8:14 PM May 19, 2016 4:14 PM

According to news reports the Investment Commission has lost millions of retiree funds in poor investments, paying high fees to investment firms, and paying exuberant bonuses to selected employees. The Oversight Committee needs to get a complete explanation of the relationship of Commission members and investment firms/individuals that the Commission invest with.

13 May 19, 2016 7:55 PM May 19, 2016 3:55 PM

14	May 19, 2016 7:51 PM	May 19, 2016 3:51 PM	<p>Charles Appleby was a lawyer working for Collins and Lacy. Reynolds Williams (a commissioner on the SC Retirement Investment Commission), hired Collins and Lacy. Charles Appleby is a Legislative Oversight committee staffer on the subcommittee for the Investment Commission. This is a direct conflict of interest.</p> <p>What has happened with the Investment Commission that they have not told the truth to the public why so much money was lost in investing retiree funds? It appears that the Commission has not properly invested funds.</p>
15	May 19, 2016 7:48 PM	May 19, 2016 3:48 PM	<p>Representative Newton's wife has an immediate family member who is a law partner with Reynolds Williams (a commissioner of the SC Retirement Investment Commission. Representative Newton is on the subcommittee reviewing the Investment Commission. This is a direct conflict of interest.</p>
16	May 19, 2016 7:46 PM	May 19, 2016 3:46 PM	<p>Why is the Oversight Committee wasting time on issues that have long been resolved? Why are they being so neglectful and not focusing to resolve the problems of our roads - highways and the damage caused by the flood</p>

18	May 19, 2016 7:40 PM	May 19, 2016 3:40 PM	Why haven't Mike Hitchcock and Geoff Burg been fired for loosing so much of Retirees and tax payers hard earned money? Not sure state employees are getting the best deal from investment decisions. ridiculous amounts of fees paid and bonuses paid employees in the presence of terrible performance and returns on investments..... no other agency doles out such high bonuses and no other agency is allowed continued terrible performance results Investment strategy is not sound for the overall longterm health of the retirement system
19	May 19, 2016 5:20 PM	May 19, 2016 1:20 PM	The Investment Commission does a very poor job in investing retiree funds. It pays the highest fees for questionable investments and receives the lowest returns in the country.
20	May 19, 2016 1:27 PM	May 19, 2016 9:27 AM	Concerned about significant cost for fund management compared to return performance.
21	May 19, 2016 12:43 PM	May 19, 2016 8:43 AM	
22	May 19, 2016 1:12 AM	May 18, 2016 9:12 PM	
23	May 18, 2016 5:59 PM	May 18, 2016 1:59 PM	

24	May 18, 2016 5:50 PM	May 18, 2016 1:50 PM	The Investment Commission does not provide sufficient and honest information to retirees. It only provides information that is convenient for them to publish. They refuse to have open third party audits. Any reviews that are held, the Investment Commission blames the reviewers or the State Treasurer for the finding.
25	May 18, 2016 5:45 PM	May 18, 2016 1:45 PM	need to match our retirement funds
26	May 18, 2016 5:17 PM	May 18, 2016 1:17 PM	The retirement system should match every dollar we put in
27	May 18, 2016 4:21 PM	May 18, 2016 12:21 PM	I am concerned that the commission places the retirement funds into investments that are too high a risk. there is something wrong when the retirement system continues to loose money. do not reward investors with bonus when their investment choices continually reveal a loss.
28	May 18, 2016 2:50 PM	May 18, 2016 10:50 AM	



29	May 18, 2016 2:36 PM	May 18, 2016 10:36 AM	<p>Aside from the miserable investment strategy the so called "financial experts" at the RSIC have haphazardly managed, The option for new employees to opt out of the standard pension plan was a grave error on the part of the legislature and RSIC. While the number of current state employees that have opted out of the pension program for a 401k style plan is not available, the fact that fewer personnel are contributing to the plan is a serious issue that is never discussed. Given the absurdly poor performance of the pension plan, one would assume that this would sway future employees to opt for an alternative plan thereby exacerbating the problems the pension system currently faces.</p>
30	May 18, 2016 2:22 PM	May 18, 2016 10:22 AM	<p>Concerned retirement coverage will be I am concerned with the fee system and what is paid to manage retirement accounts.</p>
31	May 18, 2016 1:40 PM	May 18, 2016 9:40 AM	<p>Media indicates that system is performing poorly with</p>
32	May 18, 2016 1:14 PM	May 18, 2016 9:14 AM	<p>investments</p>

33	May 17, 2016 6:34 PM	May 17, 2016 2:34 PM	<p>Need to invest our money more wisely. Our retirement contributions keep going up on what the employee pays. The rate of return is not as successful as other states in the South and other states do not pay as much into that state's retirement system. The group is not competent to manage funds. At a time when the overall market has been trending higher, this group put our money into questionable investments with high fees that lost money. Our money could have been invested in ordinary no-load index funds and made a profit. In addition, the managers were awarded bonuses. Kick them out and get someone capable of doing the job. This group is terrible.</p>
34	May 17, 2016 5:26 PM	May 17, 2016 1:26 PM	<p>Terri program need to continue</p>
35	May 17, 2016 5:05 PM	May 17, 2016 1:05 PM	<p>Question whether monies are invested in a responsible, nonpartisan way.</p>
36	May 17, 2016 3:42 PM	May 17, 2016 11:42 AM	<p>I understand there have been numerous debates about the retirement system being underfunded. As a state employee this poses a serious concerns. I am willing to contribute more to my state retirement to ensure I will be able to receive benefits.</p>
37	May 17, 2016 12:14 PM	May 17, 2016 8:14 AM	

38			Investment structuring questionable contributing to increasing system liabilities.
39	May 17, 2016 6:59 AM May 16, 2016 7:26 PM	May 17, 2016 2:59 AM May 16, 2016 3:26 PM	Friendly, compassionate I would appreciate an overall review of the RSIC relative to the Teri Plan and the options available to new Do away with it; they cost the state retirement system too much money. South Carolina employees earn the least but pay a higher percentage of their income into the retirement system compared to other states in the southeast. The investors in charge of funds have been making very risky investments and losing lots of money over the last few years. Its very frustrating to be underpaid and paying such a high percentage of your income into a system that squanders it away. I feel that actual experienced investors need to be brought in to handle employee
42	May 16, 2016 5:50 PM	May 16, 2016 1:50 PM	The person over the retirement makes a very large salary. The retirement of those already retired is more lucrative than those that are still working. This causes our deduction to be more than the retired ever contributed. Need more accountability for fund management As a state employee, I have concerns over the agency's investment strategies.
43	May 16, 2016 4:15 PM	May 16, 2016 12:15 PM	
44	May 16, 2016 3:36 PM	May 16, 2016 11:36 AM	
45	May 16, 2016 3:04 PM	May 16, 2016 11:04 AM	

46	May 16, 2016 2:07 PM	May 16, 2016 10:07 AM	Payment to groups managing funds way to high
47	May 16, 2016 1:57 PM	May 16, 2016 9:57 AM	The person I had, made my experience comfortable. Those idiots are way overpaid even if it was \$1. There is no excuse for the constant under performing and over paying. Someone should be in jail!!!
48	May 16, 2016 1:46 PM	May 16, 2016 9:46 AM	The Investment Commission should be more "visible" and interactive with State Employees.
49	May 16, 2016 1:39 PM	May 16, 2016 9:39 AM	What are they doing for state employees?
50	May 16, 2016 1:13 PM	May 16, 2016 9:13 AM	The Retirement System Investment Commission should be eliminated; they have grossly underperformed, and it appears that investments have been made based upon commissions paid and kick-backs rather than investment return. A simple investment strategy that invests 50% in a S&P 500 fund and 50% in government bonds would have been far more productive and would not have needed the
51	May 16, 2016 1:08 PM	May 16, 2016 9:08 AM	

I don't believe that the taxpaying employees of the state should have to increasingly have to pay for the POOR investments and mismanagement of funds we contribute to make up for their mistakes. We need to live on what we make NOW, not what we may or may not receive in the future.

**52** **May 16, 2016 1:02 PM** **May 16, 2016 9:02 AM**

We who are paying in to the system should not have to have our contribution rates increased because the investors are morons. Get people who know what they are doing before you fleece the current employees for more money. Our rates have already been raised once this year and that was supposed to solve the problem. Now we are hearing that we may have to have our rate increased AGAIN in the same calendar year! The problem is not the payouts to those who worked, the problem is the people who invested the money don't know crap from crab apples. Change the board or whatever is necessary to rectify the problem.

**53** **May 16, 2016 1:00 PM** **May 16, 2016 9:00 AM**

The Commission's poor decisions in relation to the investments should not be corrected on the backs of the underpaid state employees.

**54** **May 16, 2016 12:59 PM** **May 16, 2016 8:59 AM**

55	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	<p>I appreciate the Retirement System Investment Commission's work investing to plan for state employee's pensions. I would like to see more transparency from this state agency, I don't understand why the mandatory rates continue to rise, it really hurts the low income state employees the most.</p>
56	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	<p>The investment of assets looks like it could be managed better. These funds should not be borrowed or otherwise removed by the general assembly. That money is not there's to take.</p>
57	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	<p>Save millions by reducing staff and investing strictly in index funds. Index funds consistently beat actively managed funds and are much cheaper in terms of fees. Hedge funds should not be a vehicle for retirement investments.</p>
58	May 16, 2016 12:41 PM	May 16, 2016 8:41 AM	<p>Has the state ever considered using a fixed investment rate as opposed to mutual funds and the TERI program needs to go away.</p>
59	May 16, 2016 12:36 PM	May 16, 2016 8:36 AM	

60	May 16, 2016 12:18 PM	May 16, 2016 8:18 AM	<p>I am horrified about the unfunded debt issue. It to me indicates a lack of management, which goes all the way to the Governor. Basically the suggestion to have employees pay 11-12% of their pay is outrageous, and would result in a major payout. Also, other surrounding states are able to run their retirement system with less contribution than our current level - why can't we? Stop investing in the market. It was a bad idea to start doing that.</p>
61	May 16, 2016 12:17 PM	May 16, 2016 8:17 AM	<p>As a state employee who participates in the SCRS, I am very concerned about the ability of this Commission to make sound investments. The pension system (SCRS) should not be underfunded. It seems that this will cause future debt issues for the state. Need to find a better way to invest</p>
62	May 16, 2016 12:13 PM	May 16, 2016 8:13 AM	<p>SC state employees pay</p>
63	May 16, 2016 12:10 PM	May 16, 2016 8:10 AM	<p>higher rate for retirement than other states. There needs to be a retirement/investing training for employees once they are in state government on the importance of retirement planning early vs later in life.</p>
64	May 16, 2016 11:48 AM	May 16, 2016 7:48 AM	

State Employees are being robbed by this group. They are puppets for NY bankers and investors. SC is a laughing stock as a result of this groups inability to make wise choices.

65

May 14, 2016 11:14 PM

May 14, 2016 7:14 PM

This 10-year experiment should come to an end. In the words of Trump to Mr. Hitchcock and Mr. Berg: "You're Fired!" Time to empower PEBA and STO and clean out the Executive and C-Level overcompensated bureaucrats. RSIC had an opportunity to course correct with a compensation study. The study only yield results for the worse producers and best connected. Unfortunately, this is the new standard of SC state government.

66

May 14, 2016 10:13 PM

May 14, 2016 6:13 PM



Nepotism - The practice among those with power or influence of favoring relatives or friends, especially by giving them jobs. Executive management, with the keen oversight of human resources, often hires the children of politicians and other politicians as overcompensated interns in an attempt to further their careers. Here's some to name a few: The son of Gerald Malloy, the son of Eddie Fogler (Old USC basketball coach), and the son of a female staffer on SC Budget and Control Board.

67

May 14, 2016 4:44 PM

May 14, 2016 12:44 PM

All day, every day, the CEO is on a PERSONAL cell phone texting legislators. This happens blatantly during every meeting and in front of staffers. 1) This is not work commensurate of a \$250,000-\$300,000 salary; and 2) If you disagree and consider this "work", I would argue that your PERSONAL phone text messages, call log, and personal email is now FOIA-able. The House should FOIA this device, along with that sharp looking Apple watch.

68

May 14, 2016 2:23 PM

May 14, 2016 10:23 AM



72	May 14, 2016 7:19 AM	May 14, 2016 3:19 AM	<p>Compared to other states, it is very different and not doing enough to inform the employees of their benefits. More classes on the retirement system is needed for state employees. Several members of the House Oversight Committee that I have great respect for and believe are true leaders of South Carolina were informed of the Commission's shortcomings and the poor state of the pension plan. Now, you have the stage, you have the attention, and you should have the courage to make the necessary management changes to get the Commission on better footing.</p>
73	May 13, 2016 11:58 PM	May 13, 2016 7:58 PM	<p>This place is basically a cross between the Fourth Reich and cult. Drink the Kool-Aid and say "Yes Sir" and will make more money than you are worth.</p>
74	May 13, 2016 9:49 PM	May 13, 2016 5:49 PM	<p>Poor management like other state agencies. Top level people getting high salaries for doing a poor job.</p>
75	May 13, 2016 9:28 PM	May 13, 2016 5:28 PM	

76	May 13, 2016 9:03 PM	May 13, 2016 5:03 PM	<p>Commission investors should be paid according to gains made on investments. Paying them exhorbitant salaries to fail provides no incentive for them to work toward improving the retirement system's ability to fund retirees. These investors walk out with fat pockets while retirement system considers doubling the contributions of current state employees to continue funding retirees. So not fair! Help employees better understand the state retirement system and send quarterly statements out. Media coverage paints the picture agency is not managing money well. They do not do a good job. Being paid too much for the return in investments. The leader of the organization emails/texts his administrator to prepare and bring drinks in front of his entire staff during meetings. It is a strange and lazy sight to see. This is not a private company. This is a state agency and people should not be treated like servants or overpaid to perform degrading, meaningless tasks that do not drive the performance on the pension fund.</p>
77	May 13, 2016 8:49 PM	May 13, 2016 4:49 PM	
78	May 13, 2016 8:47 PM	May 13, 2016 4:47 PM	
79	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
80	May 13, 2016 8:43 PM	May 13, 2016 4:43 PM	
81	May 13, 2016 12:33 AM	May 12, 2016 8:33 PM	

Michael Hitchcock, bless his heart, at least he got the opportunity to be the Executive Director / CEO for two years. It is time to ask for his resignation and get leader at the helm of the ship. He should be proud that he got an opportunity, but realize that he has not contributed in any value added way. His recent salary increase along with the CIO's recent salary increase is just wrong.

There has been ZERO value added during his tenure. There is a caste system that exists even at the Commission. There have been and will continue to be departures of key personnel who have institutionalized the Commission over the years. The Commission will be left with over paid bureaucrats. The first CIO was not the best and over diversified, but the Acting CIO and CEO are untested business leaders and the cracks are showing.

82

May 13, 2016 12:27 AM

May 12, 2016 8:27 PM

83

May 12, 2016 2:53 PM

May 12, 2016 10:53 AM

the agency responsible for state employees retirements has mismanaged the funds that they were put in charge of. S.C. employees already pay more for their pensions than in any other Southeastern state and more than many private-sector employees. The burden of righting the retirement fund gap should not be put on the backs of state employees. plus the LOC needs to look at adjusting the bonus system for RSIC - the RSIC employees have been getting bonuses for managing an

84	May 11, 2016 7:40 PM	May 11, 2016 3:40 PM	
			At one point in my work life I withdraw funds from the retirement system. Later I was able to put it back with interest, with money I had already paid taxes on. I was told that it would only give me a small discount due to federal law. This is South Carolina not the US government. So now I am paying taxes on that money again. This is not right. Also my last year at the medical university I had to pay retirement and got nothing in return for it and that is just stealing. Can you do anything about any of this?
85	May 10, 2016 5:59 PM	May 10, 2016 1:59 PM	
86	May 10, 2016 2:38 AM	May 9, 2016 10:38 PM	Overpaid, wasteful, out of touch, and disingenuous

There is a 30 year old, a 30 year old, that makes \$163,000 a year! That just is not right. Someone should FOIA his value added track record, because unless this guy invested the cure to cancer this seems very stupid. Did this guy solve the Da Vinci code or something? This is not Wall Street...the is Main Street...the performance since inception does not justify the agency's existence. Simplify the asset allocation and reduce staff just like a private business. It is time for cost cuts starting the C-Level executives.

87

May 10, 2016 12:49 AM

May 9, 2016 8:49 PM

88

May 9, 2016 3:01 AM

May 8, 2016 11:01 PM





91 A guy with 15 years experience as a Senate lawyer does not qualify to be an Executive Director, I mean CEO. The current CEO barely qualifies for Mr. Varat's Senate Liaison gig. This position should be filled with someone with experience not a Senate "yes man". South Carolina deserves to have someone with a business degree or MBA at the helm of its \$25 billion plan that affects 550,000 beneficiaries. I vote Darla Moore!  
 Poor Human Resources Practices - This is the only state agency, hopefully, where an administrative assistant (secretary) earned \$76,000 per year. Per the state's salary database, the Human Resource Director went from making \$90,000 to \$135,000 per year in approximately three years. Tax payers and beneficiaries should feel absolutely insulted. Executive and Senior management needs to be terminated and PEBA/STO need to play a larger role. The SC House should FOIA every salary increase and promotion since inception of the Plan and cross reference such decisions with actual investments and their respective performance by each employee

May 7, 2016 12:25 AM May 6, 2016 8:25 PM

92 May 7, 2016 12:17 AM May 6, 2016 8:17 PM

93 May 5, 2016 4:30 PM May 5, 2016 12:30 PM

<p>Poor Executive and Senior Leadership with No Management Experience, Poor Asset Allocation with such Decision Makers Still Employed, Weak Compensation and Human Resources Capabilities</p>	<p>It is very frustrating know family members who work for the state who are constantly being asked to pay more and more into a fund that is not being invested wisely.</p>	<p>May 5, 2016 12:27 PM</p>	<p>May 5, 2016 4:27 PM</p>	<p>94</p>
<p>Being retired I don't see why working retirees, with fixed retirement still pay into the system and yet get no benefit. As for the investment aspect, I've been told by knowledgeable people in upper banking positions that we have the worst options available to state employees allotted to us for investment options. Their words, "they stink."</p>	<p>Are these people interested in the welfare of state employees? If given better investment options, you'd probably see retirees leaving sooner, opening the ranks for the younger generations to have jobs. It would be a win-win situation. This Commission needs to be re-evaluated.</p>	<p>May 4, 2016 8:26 AM</p>	<p>May 4, 2016 12:26 PM</p>	<p>95</p>
<p></p>	<p></p>	<p>May 3, 2016 11:09 AM</p>	<p>May 3, 2016 3:09 PM</p>	<p>96</p>

The stock market is up almost 4,000 points from its low in 2008. Why is the pension system losing money, when individual investors are making money?

97

May 3, 2016 1:43 AM

May 2, 2016 9:43 PM

As a South Carolinian working in NYC as an investment analyst, I am disappointed in the lack of returns, portfolio structure and lack of attention to detail. The Investment commission needs new leadership or it will continue to fail. Commissioners like Reynolds Williams have proven to be failures and are incapable of creating an organization that can earn the money needed to secure the benefits promised. I have many friends and family members in SC and they deserve and plan that is not run by cronies and flimflam artist.

98

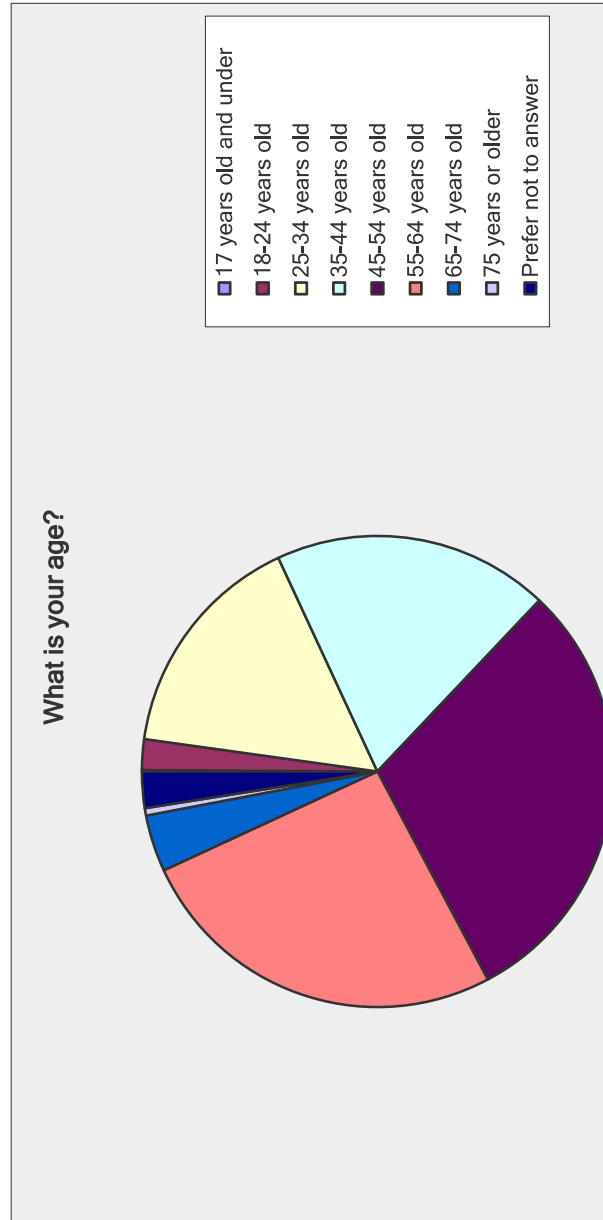
May 2, 2016 4:25 PM

May 2, 2016 12:25 PM

99	May 2, 2016 4:11 PM	May 2, 2016 12:11 PM	<p>How much money must be stolen from the taxpayers before SLED investigates this criminal enterprise. They have failed to make enough money to pay benefits without dipping into the retirement fund, they have given themselves lavish bonuses and made their friends and family wealthy. As a state employee I need and want my retirement checks and if these clowns are permitted to continue I want get a I am a retiree and have watched this agency perform baby for years. I cannot believe that men like Reynolds Williams are not in jail. There negligence has cost this state a fortune and they should be punished. If not, they poor performance will continue. Bonuses, etc. should not be allowed when dealing with employees' contributions, especially when they are not performing well and we are losing money.</p>
100	May 2, 2016 4:03 PM	May 2, 2016 12:03 PM	
101	May 2, 2016 2:54 PM	May 2, 2016 10:54 AM	

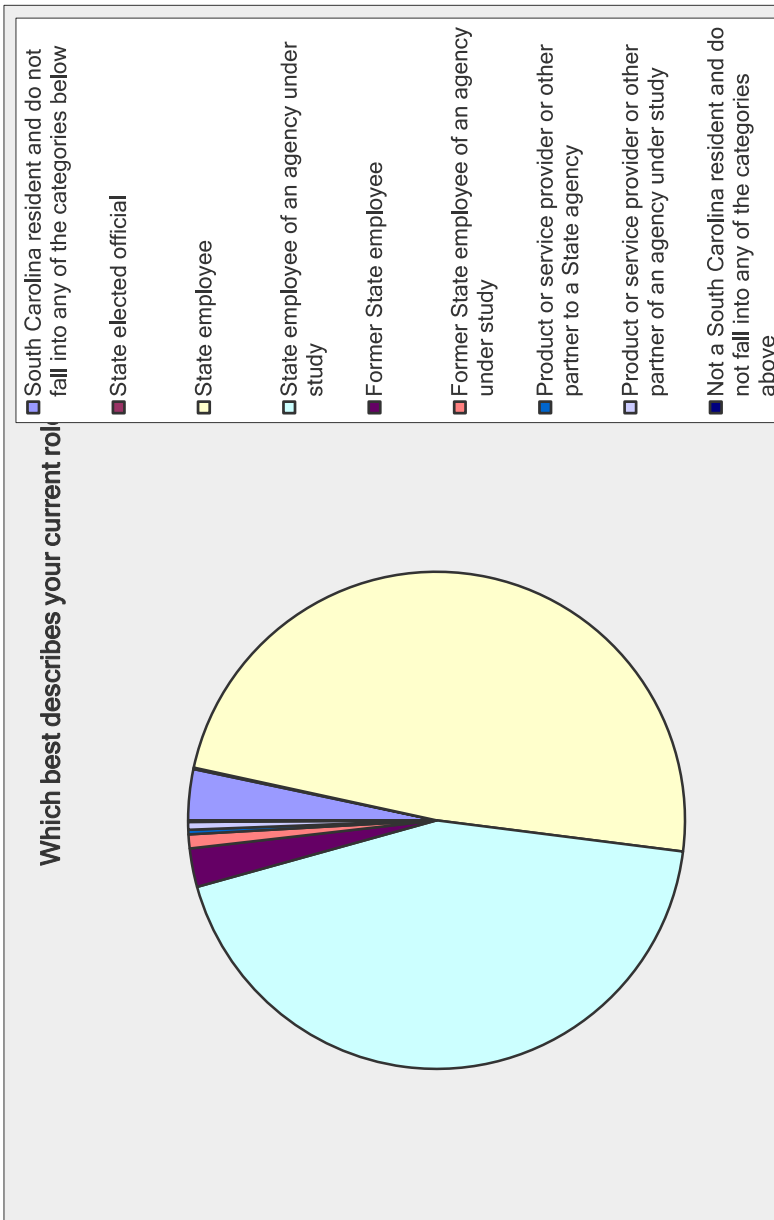
**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

What is your age?		
Answer Options	Response Percent	Response Count
17 years old and under	0.1%	1
18-24 years old	2.1%	16
25-34 years old	15.9%	122
35-44 years old	19.0%	146
45-54 years old	30.2%	232
55-64 years old	25.9%	199
65-74 years old	3.9%	30
75 years or older	0.5%	4
Prefer not to answer	2.5%	19
<i>answered question</i>		<b>769</b>
<i>skipped question</i>		<b>256</b>



**May 2016 - Provide Input to the South Carolina House of Representatives'  
Legislative Oversight Committee**

Which best describes your current role?		
Answer Options	Response Percent	Response Count
South Carolina resident and do not fall into any of the	3.3%	25
State elected official	0.1%	1
State employee	48.5%	365
State employee of an agency under study	43.6%	328
Former State employee	2.5%	19
Former State employee of an agency under study	0.9%	7
Product or service provider or other partner to a State	0.3%	2
Product or service provider or other partner of an agency	0.5%	4
Not a South Carolina resident and do not fall into any of	0.1%	1
	<b><i>answered question</i></b>	<b>752</b>
	<b><i>skipped question</i></b>	<b>273</b>

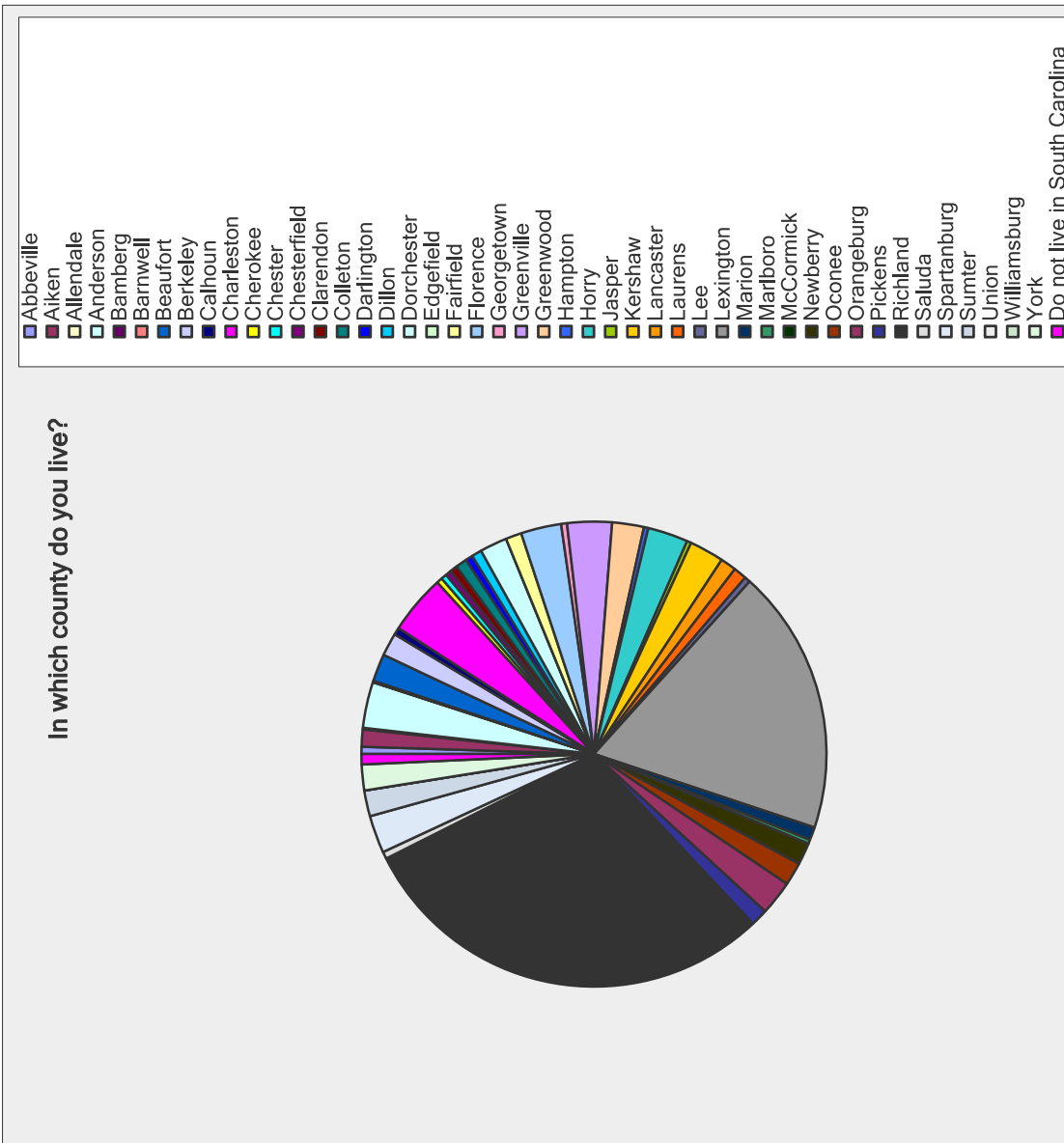


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

In which county do you live?		
Answer Options	Response Percent	Response Count
Abbeville	0.5%	4
Aiken	1.2%	9
Allendale	0.1%	1
Anderson	3.2%	24
Bamberg	0.0%	0
Barnwell	0.1%	1
Beaufort	1.9%	14
Berkeley	1.6%	12
Calhoun	0.5%	4
Charleston	4.1%	30
Cherokee	0.4%	3
Chester	0.4%	3
Chesterfield	0.4%	3
Clarendon	0.5%	4
Colleton	0.8%	6
Darlington	0.5%	4
Dillon	0.7%	5
Dorchester	1.9%	14
Edgefield	0.0%	0
Fairfield	1.1%	8
Florence	2.8%	21
Georgetown	0.4%	3
Greenville	3.1%	23
Greenwood	2.2%	16
Hampton	0.3%	2
Horry	2.8%	21
Jasper	0.3%	2
Kershaw	2.4%	18
Lancaster	1.1%	8
Laurens	0.9%	7



Lee	0.4%	3
Lexington	18.4%	136
Marion	0.9%	7
Marlboro	0.3%	2
McCormick	0.0%	0
Newberry	1.5%	11
Oconee	1.6%	12
Orangeburg	2.4%	18
Pickens	1.2%	9
Richland	29.5%	218
Saluda	0.5%	4
Spartanburg	2.6%	19
Sumter	1.8%	13
Union	0.0%	0
Williamsburg	0.0%	0
York	1.8%	13
Do not live in South Carolina	0.7%	5
	<b>answered question</b>	<b>740</b>
	<b>skipped question</b>	<b>285</b>



## *Appendix C. January 28, 2016 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - December 15, 2015 - Meeting Minutes
  - Letters to Committee regarding agency study priority
  - 2015 Update - Online summary
  - Study steps
  - January 6, 2016 memorandum from State Inspector Patrick J. Maley regarding executive branch

South Carolina  
House of Representatives



Legislative Oversight Committee

*Thursday, January 28, 2016*

*Room - 521 Blatt Building (Ways and Means Committee Room)*

*9:00 a.m.*

*Pursuant to Committee Rule 4.9, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.*

**AGENDA**

- I. Approval of minutes from December 15, 2015 meeting**
- II. Discussion of scheduled agency oversight studies, including, but not limited to, priority of agencies and an update on status of studies**
- III. Committee administrative matters**
- IV. Adjournment**

**LEGISLATIVE OVERSIGHT COMMITTEE**

**MINUTES FROM DECEMBER 15, 2015  
MEETING**

First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee



Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor

William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith, Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams

### South Carolina House of Representatives

Jennifer L. Dobson  
Research Director

Cathy A. Greer  
Administration Coordinator

Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811  
Room 228 Blatt Building

Charles L. Appleby IV  
Legal Counsel

Legislative Oversight Committee Meeting  
December 15, 2015  
10:00 a.m.  
Room 516 - Blatt Building

#### ARCHIVED VIDEO

- I. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee.

#### MINUTES

- II. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings.
- III. The House Legislative Oversight Committee (Committee) was called to order by Chairman Wm. Weston J. Newton on Tuesday, December 15, 2015, in Room 516 of the Blatt Building, Columbia, South Carolina.
- IV. Chairman Newton submitted proposed minutes from the Committee's previous meeting, November 9, 2015. Representative Ballentine moved to approve the minutes. A roll call vote was held.

<b>Rep. Ballentine's Motion to Approve the Minutes from the Committee's Meeting on November 9, 2015:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine	✓		
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III	✓		
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam	✓		
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

- V. The next order of business was a discussion of scheduled agency oversight studies agencies, including but not limited to, an update on status of studies.

The following Chairpersons provided a procedural update on their respective subcommittees or ad hoc committee, and answered questions asked of them by other members of the Committee: the Representatives Phyllis Henderson, James Smith, Kirkman Finlay, and Nathan Ballentine.

Representative Henderson explained that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee had held six meetings with Department of Transportation, reviewed the operations of the Chief Internal Auditor, and reviewed the agency's use of "C Funds." She explained that the Subcommittee's review of the agency had been put "on hold" until the Legislative Audit Council completes its audit of the DOT, something Representative Henderson said that she expected to be completed in March of 2016. Representative Henderson expressed that the Subcommittee will begin its study of the State Transportation Infrastructure Bank in the early part of 2016. She noted that the Legislative Audit Council is also currently performing an audit of the STIB. Representative Henderson answered questions asked of her by other members of the Committee.

Representative Smith explained that the Education and Cultural Subcommittee had reviewed the spending of First Steps to School Readiness relative to the number of families or children served by the agency, and that the Subcommittee intended to continue to review the agency's finances and governance. The Subcommittee had started preliminary meetings with the School for the Deaf and the Blind, but was waiting to complete its study of First Steps before it got further into its study of the

School for the Deaf and Blind. Representative Smith also answered questions asked of him by other members of the Committee.

Representative Ballentine explained that the Healthcare Subcommittee had three meetings with the Department of Social Services and had already adopted recommendations from the agency that the Subcommittee planned to present to the Committee at a future date. He stated that the Subcommittee was awaiting further information from the agency. The Subcommittee had only had one meeting with the Commission for the Blind at that point. Representative Ballentine also answered questions asked of him by other members of the Committee.

Representative Finlay explained that the Law Enforcement and Criminal Justice Subcommittee had met with the Department of Juvenile Justice on three occasions. The last meeting revealed that the DJJ had not reported data in the way required by the Subcommittee; therefore, the Subcommittee was unable to draw informed conclusions about the agency and its performance. In the same meeting, it came to light that the DJJ had made arbitrary decisions relating to the how the agency categorized its spending. That meeting was adjourned in order for the Subcommittee and Committee staff to be able to draft more precise questions. The Subcommittee had held an introductory Department of Public Safety meeting. Representative Finlay explained that the Subcommittee intended to spend more time studying the DJJ in 2016. Representative Finlay also answered questions asked of him by other members of the Committee.

Representative Clary explained that the ad hoc Committee had met with several state agencies and intended to bring its study to a conclusion soon. Representative Clary also answered questions asked of him by other members of the Committee.

Representative Putnam explained that the Executive Subcommittee had met with the Comptroller General's Office on several occasions, and he laid out to the Committee the Subcommittee's recommendations relating to the agency. Representative Putnam also answered questions asked of him by other members of the Committee.

Chairman Newton answered questions asked of him related to the process by which the Committee could make recommendations to the General Assembly.

- VII. Chairman Newton moved that the Committee approve the Executive Subcommittee's study of the Comptroller General's Office. A roll call vote was held, and the motion was passed.



<b>Rep. Newton's Motion to Approve the Executive Subcommittee's Study of the Comptroller General's Office:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine	✓		
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III	✓		
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam	✓		
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

- VIII. Chairman Newton presented a suggested list of five agencies for the Committee to begin to study in the coming year. The suggested list was as follows: the Office of the Secretary of State (Executive Subcommittee), the Commission on Higher Education (Education and Cultural Subcommittee), the Department of Health and Environmental Control (Healthcare Subcommittee), the Department of Agriculture (Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee), and the Law Enforcement Training Council (Law Enforcement and Criminal Justice Subcommittee).

Representative Funderburk moved that the Committee replace the Secretary of State's Office with the Retirement System Investment Commission in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Rivers moved that the Committee replace the Commission on Higher Education with the Department of Education in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Smith moved that the Committee replace the Commission on Higher Education with the Patriot's Point Authority in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Felder moved that the Committee adopt the recommended agencies, but without naming an agency for the Education and Cultural Subcommittee to study until such time as the Committee has an opportunity to discussion the matter with Representative Rita Allison. The motion was later tabled, so a roll call vote was not held.

Representative Finlay moved that the Law Enforcement and Criminal Justice Subcommittee not be assigned a recommended agency for study at that time. The motion was later tabled, so a roll call vote was not held.

Representative Henderson moved that the Committee include the Department on Employment and Workforce be added to the list in lieu of the Department of Education. The motion was later tabled, so a roll call vote was not held.

Representative Williams moved that the Commission on Human Affairs be added to the study list. The motion was later tabled, so a roll call vote was not held.

Representative Tallon moved that the Committee table all motions previously made. A roll call vote was held, and the motion was passed.

<b>Rep. Tallon's Motion to Table all Previously Made Motions so that the Committee Could Vote on Agencies by Each Respective Subcommittees:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Funderburk moved that the Executive Subcommittee study the Retirement System Investment Commission. A roll call vote was held, and the motion was passed.

<b>Rep. Funderburk's Motion that the Executive Subcommittee Study the Retirement System Investment Commission:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Walton McLeod moved that the Education and Cultural Subcommittee study the Patriot's Point Authority. A roll call vote was held, and the motion was passed.

<b>Rep. Walton McLeod's Motion that the Education and Cultural Subcommittee Study the Patriot's Point Authority:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder		✓	
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.		✓	
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Rivers moved to table Representative Walton McLeod's motion. A roll call vote was held, and the motion did not pass.

<b>Rep. Rivers' Motion to Table Representative Walton McLeod's Motion:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers		✓	
Gary E. Clary		✓	
Raye Felder		✓	
Kirkman Finlay, III			✓
Laurie Slade Funderburk		✓	
Phyllis Henderson		✓	
Joseph H. Jefferson, Jr.		✓	
Mia S. McLeod			✓
Walton J. McLeod		✓	
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III		✓	
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon		✓	
Bill Taylor	✓		
Robert Q. Williams		✓	
Wm. Weston J. Newton		✓	

Representative Henderson moved that the Healthcare Subcommittee study the Department of Health and Environmental Control. A roll call vote was held, and the motion was passed.

<b>Rep. Henderson's Motion that the Healthcare Subcommittee Study the Department of Health and Environmental Control:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Henderson moved that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee study the Department of Employment and Workforce. A roll call vote was held, and the motion was passed.

<b>Rep. Henderson's Motion that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee Study the Department of Employment and Workforce:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton			✓

Representative Tallon moved that the Law Enforcement and Criminal Justice Subcommittee study the Law Enforcement Training Council. A roll call vote was held, and the motion was passed.

<b>Rep. Tallon's Motion that the Law Enforcement and Criminal Justice Subcommittee Study the Law Enforcement Training Council:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

IX. There being no further business, the meeting was adjourned.



**LEGISLATIVE OVERSIGHT COMMITTEE**

**LETTERS TO COMMITTEE REGARDING  
AGENCY STUDY PRIORITY**

**Robert L. Ridgeway III**  
District No. 64 – Clarendon &  
Sumter Counties



422-A Blatt Building  
Columbia, SC 29201

Tel. (803) 212-6929

RobertRidgeway@schouse.gov

**Committee:**

Medical, Military, Public  
& Municipal Affairs  
Legislative Oversight

## House of Representatives

State of South Carolina

January 12, 2016

The Honorable Wm. Weston J. Newton  
Chairman, Legislative Oversight Committee  
228 Blatt Building  
Columbia, SC 29201

Dear Chairman Newton:

I understand that the Legislative Oversight Subcommittee for Economic Development, Transportation, Natural Resources and Regulatory is scheduled to review the Department of Employment and Workforce.

I also understand there is a possibility that following this we will be reviewing the Department of Agriculture. I am asking consideration to place the State Accident Fund on the list for review soon thereafter; perhaps following the Department of Agriculture or if the committee decides not to review the Department of Agriculture soon, to consider the State Accident Fund ahead of it.

Thank you for your consideration in this matter.

Sincerely,

Robert L. Ridgeway III

RLR/dkh/2016jan12-1

# The House of Representatives

STATE OF SOUTH CAROLINA

STATE HOUSE

P.O. BOX 11867

Columbia 29211

(803) 734-2997



**JAMES E. SMITH, JR.**

DISTRICT 72

RICHLAND COUNTY

JUDICIARY COMMITTEE

1ST VICE CHAIR

LEGISLATIVE OVERSIGHT  
COMMITTEE

EDUCATION AND CULTURAL

AFFAIRS SUBCOMMITTEE

CHAIRMAN

HOME ADDRESS  
POST OFFICE BOX 50333  
COLUMBIA, SC 29250  
(803) 933-9800  
James@JamesSmith.com  
@RepJamesSmith

January 22, 2016

HAND DELIVERED

The Honorable Wm. Weston J. Newton, Chairman  
House Legislative Oversight Committee  
1105 Pendleton St.  
Room 228  
Columbia, South Carolina 29201

Dear Chairman Newton:

I would like to request that the full committee consider adjusting the 2016 study schedule to review the South Carolina Department of Archives and History, instead of the Patriots Point Development Authority.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Smith, Jr." with a stylized flourish at the end.

James E. Smith, Jr.

Education and Cultural Subcommittee Chair

# **LEGISLATIVE OVERSIGHT COMMITTEE**

## **2015 UPDATE - ONLINE SUMMARY**

**GENERAL INFORMATION**

- Mission and Vision of the Committee
  - Brochure & Video about the Committee's process
- MEETINGS**
- Notification, opportunity to request for committee meetings with agencies
  - Live Stream of current meetings & Videos of past meetings
  - Minutes and Handouts from past meetings

**Online Resources****AGENCY INFORMATION**

- Public Input, opportunity to provide on 65 agencies in an anonymous format
- Reports, including Restructuring and Seven-Year Plan report for 65 agencies and Inspector General reports relevant to agencies under study
- Details, on individual agency pages including, but not limited to, agency history, employees, past audits or reviews, programs, budgets, etc. (currently building)

**Oversight Process****Step 1**

- (A) Full LOC - Determines Priority of an Agency Study and Investigation; Sets a Time Frame for Completion; Written Notification Provided to Agency  
 (B) Subcommittee or Ad Hoc Committee Assigned to Study - May schedule a meeting with the Agency to discuss preliminary matters

**Step 2**

- (A) Subcommittee or Ad Hoc Committee - May continue to have meetings with the agency to obtain information

- (B) Staff - Reviews and summarizes agency submissions (Restructuring Report; Program Evaluation Report; etc.) and information learned during meetings

- (C) Staff - Drafts Staff Study; Agency has 10 days to respond; after 10 days Staff Study is provided to Subcommittee or Ad Hoc Committee and all House Standing Committees

**Step 3**

- (A) Subcommittee or Ad Hoc Committee - Reviews Staff Study and any agency response, then determine other tools of legislative oversight, if any, to utilize, which include: (i) Requesting LAC Involvement (Study of Program Evaluation Study or Perform its Own Audit); (ii) Deposing Witnesses; (iii) Issuing Subpoenas; (iv) Holding a Public Hearing  
 (B) Subcommittee or Ad Hoc Committee - Draft and approve a Subcommittee Study for consideration by the full LOC

**Step 4**

- (A) Full LOC - Receives subcommittee study and takes one of three options: (a) refers study and investigation back to Subcommittee or Ad Hoc Committee; (b) approves Subcommittee or Ad Hoc Committee Study as the final LOC study; (c) performs further investigation itself, then approves a final LOC study.

- (B) Full LOC - Once final LOC study is approved, a briefing is provided to the Members of the House, then the public

- (C) Any House Member - May file legislation to implement any recommendations in LOC study

**Identified Agencies and Other Studies**

Scheduled Studies - 217 Potential Agencies to Study: (A) 10 under study; (B) 55 confirmed to study; (C) 152 may review (Committee's interpretation of whether entity meets statutory definition of agency pending).

Other Studies - 1 Other Study currently under way on agencies relationship with, funding of and other activities related to Planned Parenthood and other abortion providers in S.C.

**Agency Study Schedule**

1. Comptroller General's Office (Step 4) - Rep. Joshua Putnam, Chair
2. Department of Transportation (Step 3) - Rep. Phyllis J. Henderson, Chair
3. First Steps to School Readiness (Step 3) - Rep. James E. Smith Jr., Chair
4. Department of Social Services (Step 3) - Rep. Nathan Ballantine, Chair
5. Department of Juvenile Justice (Step 3) - Rep. Kirkman Finlay III, Chair
6. State Transportation Infrastructure Bank (Step 2) - Rep. Phyllis J. Henderson, Chair
7. School for the Deaf and Blind (Step 2) - Rep. James E. Smith Jr., Chair
8. Commission for the Blind (Step 2) - Rep. Nathan Ballantine, Chair
9. Department of Public Safety (Step 2) - Rep. Kirkman Finlay III, Chair
10. Treasurer's Office (Step 2) - Rep. Joshua Putnam, Chair

# LEGISLATIVE OVERSIGHT COMMITTEE

## MEETINGS TO DATE

- 23 subcommittee meetings
- 6 full committee meetings
- 3 ad hoc committee meetings

## STATUS OF STUDIES

- 65 agencies confirmed to study every 7 years
- 5 agencies in Step 2 of the oversight process
- 4 agencies in Step 3 of the oversight process
- 1 agency in Step 4 of the oversight process

## PUBLIC INVOLVEMENT

- 2 surveys to provide public input on agencies
- 1 webinar explaining oversight process
- 1 brochure explaining oversight process

2014 2015

2014	2015
<p><b>October</b></p> <p>30: House Rules &amp; Procedures Committee adopts proposal to establish a new Legislative Oversight Committee</p> <p>15: First meeting of House Legislative Oversight Committee</p> <p>13: Publication in House Journal of review schedule</p> <p>10: Notification Letter sent to first five agencies</p> <p>65 Agencies Will Review, 152 May Review, 117 Questionable</p>	<p><b>January</b></p> <p>7: Full committee meeting to adopt rules and discuss review schedule</p> <p>13: Publication in House Journal of review schedule</p> <p>10: Notification Letter sent to first five agencies</p> <p>17: Subcommittee entry meeting with DOT and Letter to Governor Seeking Input on Legislative Oversight</p>
<p><b>December</b></p> <p>2: Adoption of House Rules creating House Legislative Oversight Committee</p> <p>15: First meeting of House Legislative Oversight Committee</p> <p>13: Publication in House Journal of review schedule</p> <p>10: Notification Letter sent to first five agencies</p> <p>65 Agencies Will Review, 152 May Review, 117 Questionable</p>	<p><b>February</b></p> <p>5: Full committee meeting to hear from some of the entities that may assist the Committee with legislative oversight initial approval of Standard Practices</p> <p>24: Subcommittee entry meeting with Comptroller General's Office; Subcommittee entry meeting with First Steps</p> <p>9: Letter to Speaker and Committee Chairs seeking collaboration in legislative oversight process</p> <p>10: Request for Legislative Audit Council to do a comprehensive audit of DOT</p> <p>11: Amendment of Standard Practices to provide an extension for agency submission of reports</p> <p>16: Webinar with Speaker to inform the public about the committee's process for legislative oversight and ways for the public to participate</p>
<p><b>November</b></p> <p>4: Subcommittee meeting with DOT; DSS response to staff received</p> <p>6: Responses to survey about oversight process received from agencies (38)</p> <p>9: Full Committee meeting; Subcommittee meetings with Comptroller General and DSS</p> <p>12: Ad hoc committee meeting</p>	<p><b>March</b></p> <p>2: Restructuring and Seven Year Plan Report guidelines provided to agencies</p> <p>4: Subcommittee entry meeting with First Steps</p> <p>9: Letter to Speaker and Committee Chairs seeking collaboration in legislative oversight process</p> <p>10: Request for Legislative Audit Council to do a comprehensive audit of DOT</p> <p>11: Amendment of Standard Practices to provide an extension for agency submission of reports</p> <p>16: Webinar with Speaker to inform the public about the committee's process for legislative oversight and ways for the public to participate</p>
<p><b>September</b></p> <p>1: House Members notified about online survey available during month seeking constituents' input on first five agencies under study</p> <p>15: DOT response to staff study received</p> <p>30: 1,010 responses to the survey</p> <p>21: Staff Study provided to DSS</p> <p>23: Survey sent to agencies to obtain feedback about process</p> <p>9: Full Committee meeting; Subcommittee meetings with Comptroller General and DSS</p> <p>12: Ad hoc committee meeting</p>	<p><b>April</b></p> <p>1: Statewide Media release about webinar and email to House Members seeking collaboration in legislative oversight process</p> <p>14: Full committee meeting - five agencies added to begin to study in 2015; Amendment of Standard Practices to further provide for agency submission of reports</p> <p>22: Letter to Speaker and Committee Chairs seeking collaboration on additional agencies; Letter to Senate Clerk providing notification of agencies under review</p> <p>28: Subcommittee entry meeting with State Transportation Infrastructure Board and discussion of scope of study of DOT</p> <p>29: Subcommittee entry meeting with Department of Public Safety and Discussion of scope of study with DJJ</p>
<p><b>August</b></p> <p>4: Staff Study provided to Comptroller General's Office</p> <p>11: Subcommittee meeting with DOT to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the STIP</p> <p>26: Full committee meeting; 3: Ad hoc committee appointed</p> <p>10: Subcommittee meeting with Treasurer's Office and Comptroller General's Office online</p> <p>25: Draft staff study provided to DSS; House members notified about staff study of First Steps</p> <p>29: Ad hoc committee meeting</p>	<p><b>May</b></p> <p>1: House Members notified about online survey available during month seeking constituents' input on first five agencies under study</p> <p>22: Deadline for Program Evaluation Reports from first five agencies under study, unless granted an extension</p> <p>25: Program Evaluation Report Guidelines sent to second five agencies under study, unless granted an extension</p> <p>31: 1,788 responses received to the public survey about the Commission for Blind and discussion of scope of study with DSS</p> <p>12: Subcommittee entry meeting with School for Deaf and</p>
<p><b>July</b></p> <p>4: Staff Study provided to Comptroller General's Office</p> <p>11: Subcommittee meeting with DOT to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the STIP</p> <p>26: Full committee meeting; 3: Ad hoc committee appointed</p> <p>10: Subcommittee meeting with Treasurer's Office and Comptroller General's Office online</p> <p>25: Draft staff study provided to DSS; House members notified about staff study of First Steps</p> <p>29: Ad hoc committee meeting</p>	<p><b>June</b></p> <p>2: Subcommittee tour of the Treasurer's Office; Subcommittee meeting with DOT to discuss its budget</p> <p>27: Deadlines for Program Evaluation Reports from first five agencies under study, unless granted an extension</p> <p>30: Subcommittee entry meeting with DOT to discuss the C Fund Program, county transportation committees, and agency employee information</p>
<p><b>October</b></p> <p>4: Subcommittee meeting with DOT; DSS response to staff received</p> <p>6: Responses to survey about oversight process received from agencies (38)</p> <p>9: Full Committee meeting; Subcommittee meetings with Comptroller General and DSS</p> <p>12: Ad hoc committee meeting</p>	<p><b>November</b></p> <p>16: DJJ response to staff study received</p> <p>20: House Members notified about staff study of DSS online</p> <p>23: Subcommittee meeting with DOT</p> <p>4: House members notified about staff study of DSS online</p> <p>12: Publication in House Journal of review schedule; Deadline for annual Restructuring Report from agencies</p>
<p><b>September</b></p> <p>1: House Members notified about online survey available during month seeking constituents' input on first five agencies under study; Staff study provided to DOT and First Steps</p> <p>16: First Steps consultants' input on response to staff study received</p> <p>21: Notification to House Members about staff study of DOT online</p> <p>25: Draft staff study provided to DSS; House members notified about staff study of First Steps</p> <p>29: Ad hoc committee meeting</p>	<p><b>December</b></p> <p>1: Ad hoc committee meeting</p> <p>15: Full committee meeting; approval of Study of the Comptroller General's Office</p>
<p><b>August</b></p> <p>4: Staff Study provided to Comptroller General's Office</p> <p>11: Subcommittee meeting with DOT to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the STIP</p> <p>26: Full committee meeting; 3: Ad hoc committee appointed</p> <p>10: Subcommittee meeting with Treasurer's Office and Comptroller General's Office online</p> <p>25: Draft staff study provided to DSS; House members notified about staff study of First Steps</p> <p>29: Ad hoc committee meeting</p>	<p><b>January</b></p> <p>7: Full committee meeting to adopt rules and discuss review schedule</p> <p>13: Publication in House Journal of review schedule</p> <p>10: Notification Letter sent to first five agencies</p> <p>17: Subcommittee entry meeting with DOT and Letter to Governor Seeking Input on Legislative Oversight</p>

2015 Continued

2016

First five agencies under study: Comptroller General's Office, Department of Transportation, First Steps to School Readiness, Department of Social Services, and Department of Juvenile Justice

Second five agencies under study: State Transportation Infrastructure Bank; School for the Deaf and Blind; Commission for the Blind Department of Public Safety; and Treasurer's Office

# **LEGISLATIVE OVERSIGHT COMMITTEE**

---

## **STUDY STEPS**



## Purpose

The stated **purpose of legislative oversight** is to **determine if agency laws and programs** are being implemented and carried out in accordance with the intent of the South Carolina General Assembly and whether or not they **should be continued, curtailed, or eliminated**.

## Vision

The committee's vision is "[f]or South Carolina agencies to become, and continuously remain, the **most effective state agencies in the country** through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government."

## Required Considerations

**State law requires the Subcommittees consider** the following during oversight studies: (1) the application, administration, execution, and effectiveness of **laws and programs**; (2) the **organization and operation of agencies**; and (3) any conditions or circumstances that may indicate the **necessity or desirability of enacting new or additional legislation**.

## Practical Considerations

- Performing uniform analysis of agencies promotes consistency, efficiency and effectiveness.
- Focusing on how an agency utilizes its current funding and employee authorizations (i.e. it's resources) may help ensure the agency is deploying its resources efficiently.

## Complete Agency Oversight Process - Summary

### Annual Update/Feedback

- **Purpose:** Information is collected from agencies through the Annual Restructuring Report (ARR) to obtain information from agencies not yet under study and through Requests for Information to agencies the Committee has already studied during the seven year cycle, to provide a feedback loop on recommendations made at the end of each study. **ALSO ADD PURPOSE FROM STATUTE RELATED TO THE ARR**
- **Manner of Obtaining Information:** Annual Restructuring Report and Requests for Information
- **Information Obtained:** Each agency provides the following to the Committee, General Assembly and public in the agency's ARR as a way to keep everyone updated on its strategic plan, spending and performance:
  - Updated list of laws applicable to the agency, strategic plan with explanation of how those laws are satisfied, who is responsible for accomplishing each goal and objective in the strategic plan and yearly results of performance measures related to each objective in the strategic plan, and how much the agency budgeted and spent toward each objective in the strategic plan.
- **Where Information is Published:** Online for the General Assembly, public and anyone to view.
- The public, agency employees, or others may submit comments to the Committee for the Committee to utilize during its in depth study of the agency once every seven years via a link on the Committee's website.

### Seven Year Study (See Subcommittee Study Steps on next page)

- Performed on the agency once every seven years. A Subcommittee of the Committee takes the lead on each agency study.





## Subcommittee Study Steps - Summary

After receiving the Staff Study, and agency response to the Staff Study if one is provided, the Subcommittee may utilize the following steps to accomplish the legislative purpose of the Committee and work toward achieving the Committee's ultimate vision.

In conjunction with any of the meetings below, the Subcommittee may...

- vote on recommendations the Subcommittee has;
- utilize other investigation tools available such as depositions, Requests for Information, etc.; and
- discuss agency recommendations from the agency's ARR.

Purpose: The stated purpose of legislative oversight is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the South Carolina General Assembly and whether or not they should be continued, curtailed, or eliminated.

### Step 1 - Agency Background

Purpose: Determine *if the intent of the General Assembly is being implemented* (to put into effect according to or by means of a definite plan or procedure) in the agency's mission, vision and strategic plan.

- Meeting 1 – **History, Legal Responsibilities and Strategic Plan**
- Meeting 2 – Analyze **relationships** with other entities which the Agency utilizes to accomplish the Objectives in its Strategic Plan; responses to public surveys, other input submitted online and **public comments** during the meeting. (This informs the Subcommittee of certain aspects in different objectives to be particularly mindful of)
- Meeting 3 – **Resources** available (Employees and Funds) and how the agency allocates the resources to accomplish the Objectives in its Strategic Plan

### Step 2 - Agency Performance

Purpose: Determine *if the intent of the General Assembly is being carried out* (to effect or accomplish; complete) by the agency through its performance. Determine *if laws should be continued, curtailed or eliminated*.

- Meeting 4 – Agency **Performance** (Efficiency and Outcome Metrics) on each Objective and Programs utilized to accomplish the Objectives; **Agency Recommendations (Internal and Law changes)** to Improve Efficiency and Outcomes
  - After meeting 1, 2, and 3, the Subcommittee will know where to focus when looking at performance. At the end of this meeting Subcommittee will have list of programs to curtail or eliminate

### Step 3 - Subcommittee Recommendations

Purpose: Determine *if programs should be continued, curtailed or eliminated*.

- Meeting 5 – **Program** analysis; voting on any new Subcommittee recommendations and approval of final contents that staff will draft into the Subcommittee Study that will be sent to the Full Committee
- (Optional) Meeting 6 - Continued discussion of Subcommittee Study Report, if requested by a Subcommittee member after receiving the drafted Subcommittee Study Report.

**LEGISLATIVE OVERSIGHT COMMITTEE**

**JAN. 6, 2016 MEMORANDUM FROM STATE  
INSPECTOR PATRICK J. MALEY  
REGARDING EXECUTIVE BRANCH**



**State of South Carolina**  
**Office of the Inspector General**

**Memorandum**

Date: January 6, 2016

To: Honorable Nikki R. Haley, Governor  
Honorable Hugh K. Leatherman, Senate Pro Tempore  
Honorable James H. "Jay" Lucas, Speaker of the House of Representatives  
Honorable Richard Eckstrom, Comptroller General  
Honorable Curtis M. Loftis, State Treasurer

From: State Inspector General Patrick J. Maley

Re: The State Inspector General's Observations of the Executive Branch

Enclosed with this memo is a document titled, "The State Inspector General's (SIG) Observations of the Executive Branch (EB) of State Government."

After three years of looking "under the hood" in the EB starting with a staff of two investigators/auditors and increasing to five for the past two years, the SIG has a sufficient body of work and experience to discuss fraud, waste, and abuse in the EB. The enclosed document sets forth the SIG's observations of the EB's positive attributes and opportunities to improve.

The enclosed document contains State-wide issues that may be relevant to Executive and Legislative oversight for both consideration and context in carrying out their leadership roles over the complex EB of State Government. The enclosed document is a high level summary, which also contains an Internet link to a second more expansive document for those interested in a deeper level of detail. I would gladly provide, if interested, personal briefings using agency specific examples and investigative results to clarify and support the SIG's observations. For your information, SIG waste/effectiveness investigations and lessons learned are contained on its webpage ([oig.sc.gov](http://oig.sc.gov)).

Thanks in advance for taking the time to review this data, which hopefully will stimulate discussion and potential ways forward to improve State Government. Again, I welcome the opportunity to meet with anyone or group with an interest in further dialogue about the SIG's observations of the EB.

cc: Chairman W. Brian White, House Ways & Means Committee  
Chairman Wm. Weston J. Newton, House Oversight Committee

## The SIG's Observations of the **Executive Branch** of State Government

After three years of looking “under the hood” in the Executive Branch (EB) starting with a staff of two investigators/auditors and increasing to five for the past two years, the SIG has a sufficient body of work and experience to discuss fraud, waste, and abuse in the EB. As a reminder of the SIG’s unique mission, it was well described by John Ward, the father of the first state Office of the Inspector General Office in Massachusetts (1981), “**The basic concept behind the IG is that any institution, corporation, university, let alone the institution of government, must build into itself a mechanism for self-criticism and self-correction...the IG covers the vast middle ground between the ability to review all state transactions to a limited degree without the power to investigate [i.e., the Auditor], and the power to investigate allegations of fraud on a case-by-case basis [i.e., the Attorney General].**”

Below identifies the EB’s positive attributes and opportunities to improve; a more robust explanation of below items can be found at link: <http://oig.sc.gov/Documents/ExpandedSIGObservations.pdf>.

### Positive Attributes of the EB

1. EB employees conducting fraud/embezzlement against the state is a low risk with relatively a low loss in dollars.
2. The Statewide Procurement System (SPS) has a low risk of fraud.
3. The Statewide personnel system to address misconduct appears to be adequate.
4. EB corruption requires a bit more explanation in this summary given the public’s perception of government corruption, at all levels, and the public debate pertaining to the adequacy of State ethics laws.
  - EB **criminal** corruption risk is low, which may be contrary to a general public perception. Criminal corruption is essentially kickbacks, bribes, or the “old school” bag of cash involving a “quid pro quo” transaction.
  - Corrupting influence, also known as undue influence, in the EB is an entirely different issue, which, absent unusual circumstances, is essentially **non-criminal** due to a lack of a quid pro quo. Corrupting influence has no “meeting of the minds” of a “quid pro quo” transaction, but it is understood future reciprocating is not unimportant, which is often termed the “good old boy network” or the newer term of “gift economy.” In the EB, corrupting influence does not appear systemic. However, it is exceedingly difficult, if not impossible absent some unique evidence, to disentangle inappropriate “undue corrupt influence” from special interests or self-interest with appropriate influence from constituents, special interests, core beliefs, or other meritorious organizational criteria.
  - Addressing this difficult arena of corrupt influence starts with a clear understanding of the problem -- the days of “bags of cash” for a specific favor are essentially over -- wrongdoing government employees can monetize/benefit from this corrupt influence in a variety of other indirect methods, which, ironically, are also likely quite legal if separated from any connection to a quid pro quo transaction. The citizenry and the State’s best defense against corrupting influence is through increased ethical standards emphasizing boundaries and transparency [i.e., disclosure of real/apparent conflicts; no gifts; robust financial disclosures; and duty to report].

- Most important is establishing a clear demarcation where expected political and decision making input ends and the increased risk of undue influence begins. This requires formal disclosure or complete avoidance of issues having even the “appearance” of a conflict of interest or causing a reasonable member of the public to perceive a state employee as violating the public’s trust. In today’s era of the public’s diminishing trust in government, a rigorous “appearance” standard is required to improve public confidence in government. It protects from both perceived violations of the public’s trust which can do as much damage as actual violations, as well as shrinks the operating space where the risk of undue influence is heightened. Governor Haley’s recent model Code of Conduct adopted by her Cabinet agencies is a good start, but these standards need to be required by all EB agencies.

#### Opportunities to Improve

1. The State lacks an adequate agency Performance Management System to ensure agencies are operating using fundamental business practices using strategic objectives, tactical strategies, and results aligned with stated objectives, which creates a high risk of waste in state government. A renewed emphasis in a statewide agency Performance Management System represents the single best opportunity to address waste in State government.
2. The State lacks adequate requirements for agencies to conduct contract/grant monitoring, which has resulted in a high risk for waste in state government.
3. The State extensively uses the Commission form of oversight for state agencies which suffers from a lack of uniform expectations, which can result in some Commissions not assuming full ownership or possessing executive skills to carry out their fiduciary duty to ensure agency effectiveness. Citizens with subject matter expertise serving as Commissioners to provide oversight to government certainly has obvious and intuitive benefits, but it also increases the risk of potential conflicts of interest, both real and perceived, when subject matter expert Commissioners also have business interests potentially regulated or impacted by agency decisions.
4. State agency internal audit functions should shift focus away from traditional low risk compliance and financial audits and follow the private sector trend towards improving operational performance through improving risk management, control, and governance processes. Agency enterprise-wide risk assessments, a basic internal audit function, are not systematically conducted, which misses the opportunity to create internal and oversight visibility/accountability to address opportunities to improve.
5. The State has no systemic leadership development program, nor do agencies utilize standard leadership/climate surveys as a tool for feedback to assess opportunities to improve.

#### Potential EB Agency Trends Observed

- Preventative controls to prevent waste in State operated benefit programs have opportunities to improve.
- Regulatory controls have a tendency in both protocols and management inclination to under-address non-compliance in a serious and time-sensitive manner.

- EB agencies are inordinately risk adverse to any form of “bad news.” This is normal for any organization, but it seems State agencies just have a higher propensity to strive for a no waves, “get along, go along” attitude which just adds to the gravity of the status quo.
- Potential opportunity exists to maximize procurement contracts through both the level of competition and the use of negotiations.
- Outsourcing through contracts or grants, often to non-profits, seems to be viewed as automatically preferential to adding State employees, which is not accurate given the State’s high risk in its ability to contract/grant manage. Agencies have a tendency to view their job is essentially complete upon approving a contract/grant, when in fact outsourcing requires heightened skills in contract/grant monitoring and engaged risk based oversight to ensure value received by the State.

## *Appendix D. April 28, 2016 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - April 14, 2016 - Meeting Minutes
  - Draft Subcommittee Study of the Department of Transportation
  - SC Transportation Infrastructure Bank
    - Relationships
    - Public survey
  - Department of Agriculture - 2016 Annual Restructuring Report
- Documents provided by agency during meeting
  - PowerPoint - Introduction to the agency (April 28, 2016)

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND  
REGULATORY SUBCOMMITTEE*

*Chairman Phyllis J. Henderson  
The Honorable Ralph W. Norman  
The Honorable Robert L. Ridgeway III  
The Honorable Samuel Rivers Jr.*

*Thursday, April 28, 2016*

*1:00 p.m. or one hour after adjournment, whichever is later*

*Room 108 -Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes from the April 14, 2016 Subcommittee Meeting
- II. Brief Entry meeting with the Department of Agriculture
- III. Opportunity for Public Testimony about the South Carolina Transportation Infrastructure Bank

Individuals can sign up to testify by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at [hcommlegov@schouse.gov](mailto:hcommlegov@schouse.gov), or signing up in person a few minutes prior to the meeting. S.C. Code of Laws Section 2-2-70 provides that all testimony given to the investigating committee must be under oath.

An ongoing opportunity for public input is available on the Committee's website, which allows individuals to provide comments to the House Legislative Oversight Committee anonymously.

- III. Adjournment



# MINUTES FROM PREVIOUS MEETING

First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee



Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor

William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith, Jr.  
Edward R. Tallon Sr.  
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Legal Counsel

Cathy A. Greer  
Administration Coordinator

Carmen J. McCutcheon  
Auditor/Research Analyst

**Economic Development, Transportation, Natural Resources and Regulatory Subcommittee Meeting**  
**April 14, 2016**  
**1:00 pm.**  
**Room 409 - Blatt Building**

#### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, S.C. ETV was allowed access for streaming the Subcommittee meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee. **Please note due to technical difficulties, audio is unavailable for approximately the first fifteen minutes of the meeting.**

#### Attendance

- I. The Economic Development, Transportation, Natural Resource and Regulatory Subcommittee (Subcommittee) meeting was called to order by Subcommittee Chairwoman Phyllis J. Henderson on Thursday, April 14, 2016, in Room 409 of the Blatt Building, Columbia, South Carolina. The following Subcommittee Members were present for all or a portion of the meeting: Subcommittee Chair Henderson, Representative Robert L. Ridgeway III, and Representative Samuel Rivers, Jr.
- II. The following individuals were present from the General Assembly's Legislative Audit Council: Mr. K. Earl Powell, Director; Mr. E. Brad Hanley, Audit Manager; Mr. Eric Douglass, Senior Auditor; Mr. John C. Kresslein, Senior Auditor; Mr. Peter Adamowsky, Auditor; Ms. Julianna Nunnery, Auditor; Mr. Kevin Ryan, Auditor; and Ms. Kendra Wilkerson, Auditor.
- III. The following individuals were present from the Department of Transportation: Commissioner Mike Wooten, Chair; Commissioner John H. Hardee; Commissioner Woodrow "Woody" W. Willard, Jr.; Secretary of Transportation Christy A. Hall; Ms. Wendy Nicholas, Chief of Staff; Mr. Leland Colvin,

Acting Deputy Secretary for Engineering; Mr. Brian W. Keys, Deputy Secretary for Finance and Administration; and Mr. Ron K. Patton, Deputy Secretary for Intermodal Planning.

## Minutes

- I. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings. It is the practice of the House Legislative Oversight Committee to provide minutes, which are not verbatim accounts of such meetings, for its subcommittee meetings.
- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's previous meeting, which was held on March 10, 2016. A roll call vote was held, and the motion was passed.

<b>Rep. Ridgeway's Motion to Approve the Minutes from March 10, 2016:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

## Further Discussion of the Study of the Department of Transportation

- I. Subcommittee Chair Henderson explained one of the purposes of the meeting was to receive information about the **audit of the Department of Transportation, which was released April 6, 2016.**

Subcommittee Chair Henderson recognized, Mr. E. Brad Hanley, Audit Manager with the General Assembly's Legislative Audit Council, to provide a presentation about the comprehensive audit of the agency. The audit, an executive summary of the audit, and a copy of the Legislative Audit Council's presentation are available online. The presentation touched on the following topics: deterioration of South Carolina roads; project prioritization; governance; internal audit issues; revenues; funding needs; revenue alternatives; data issues; contracting; follow-up on the 2010 MGT audit; and issues for further review.

Additionally, Mr. Hanley noted that the Legislative Audit Council is in the process of conducting an audit of the South Carolina Transportation Infrastructure Bank (SCTIB). Subcommittee Chair Henderson asked when the audit of SCTIB would be finished. Mr. K. Earle Powell, Director of the Legislative Audit Council, provided an update on the procedural status of the audit of SCTIB and indicated it may be approximately four more weeks until the completion of that particular audit.

Representative Rivers made a motion that the recommendations of the Legislative Audit Council be included as information in the study. A roll call vote was held, and the motion was passed.

<b>Rep. Rivers' Motion that the study include the recommendation of the Legislative Audit Council as information in the study:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Next, Subcommittee Chair Henderson recognized the Department of Transportation to provide comments about the audit. The agency's response to the audit is an exhibit to the audit which is available online. A copy of the agency's presentation along with a list of the audit recommendations and the agency's response to each recommendation are available online. Subcommittee Chair Henderson reminded the Department of Transportation representatives that had been sworn in at a previous meeting, they were still under oath.

Secretary of Transportation Christy Hall provided testimony to the Subcommittee. Notably, Secretary Hall stated that DOT agrees with close to 85% of the recommendations provided by the Legislative Audit Council and that the agency intends to use this audit in its efforts towards continuous improvement. Secretary Hall stated the next step will be the publication of an implementation plan that includes target dates. Additionally, Secretary Hall stated the agency observed four major themes in the audit: no financial mismanagement was identified at the agency; the prioritization and ranking processes associated with Act 114 of 2007 are complex; agency is tasked with managing a transportation system in a state of disrepair with revenues that have not kept pace with rising construction costs; and unclear lines of authority and turnover have led to shifting or unstable priorities. Secretary Hall responded to various questions from Subcommittee Members.

Representative Rivers made a motion that the Subcommittee to follow up with the agency about its implementation of the recommendations from the audit by directing staff to send a request for information to the agency seeking an update on implementation at the end of the calendar year. A roll call vote was held, and the motion was passed.

<b>Rep. Rivers' Motion to follow up with the agency about its implementation of the recommendations from the audit:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

- II. Subcommittee Chair Henderson explained that another purpose of the meeting was to **address three recommendations by the agency for revisions to law that were previously carried over from the December 4, 2015, meeting and still under consideration by the Subcommittee.** These revisions pertain to the following: advertising on DOT facilities, penalties for obstructing right-of-ways, and producing hard copies of organizational charts.

Secretary Hall stated the agency would like to withdraw these three recommendations; Secretary Hall provided the Subcommittee with a formal letter to that effect and indicated the agency may seek to address some of these items at a future date. The April 14, 2016, letter from the agency requesting to withdraw these recommendations is available online. Representative Ridgeway made a motion to allow the agency to withdraw these three items. A roll call vote was held, and the motion was passed.

<b>Rep. Ridgeway's Motion to allow the agency to withdraw the items from consideration:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Representative Rivers made a motion that Committee staff draft a Subcommittee study and provide a copy of it to the Subcommittee members as soon as it is drafted. A roll call vote was held, and the motion was passed.

<b>Rep. Rivers' Motion that staff draft a study and provide a copy to Subcommittee members:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Secretary Hall asked a point of clarification if the agency's response to the audit would be included in the study as well. Subcommittee Chair Henderson noted that the agency's response is an exhibit to the audit but a motion on the issue would be in order. Representative Ridgeway made a motion that the study include the agency's response for information purposes. A roll call vote was held, and the motion was passed.

<b>Rep. Ridgeway's Motion that the study include the agency's response for information purposes:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Subcommittee Chair Henderson thanked the agency representatives for cooperation in the legislative oversight process. Also, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged.

## **Adjournment**

- I. Subcommittee Chair Henderson announced that the subcommittee's next meeting is scheduled for Thursday, April 28, 2016.

There being no further business, the meeting was adjourned.

# **DRAFT STUDY OF DOT**

# Legislative Oversight Committee

## Subcommittee Study of the Department of Transportation

*April 28, 2016*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		



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Table 1. Key Dates and Actions of the Study Process, 2015-2016.

### House Legislative Oversight Committee's Actions

- January 7, 2015 - Approves seven-year study recommendations for the Speaker
- January 13, 2015 - Speaker approves seven-year study recommendations and recommendations are published in the House Journal
- February 5, 2015 - Approves the priority of the study of the agency
- February 10, 2015 - Provides agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- March 10, 2015 - Requests Legislative Audit Council perform a comprehensive audit of agency
- April 6, 2016 - Receives Legislative Audit Council's comprehensive audit of the agency

### Economic Development, Transportation, Natural Resources and Regulatory Subcommittee's Actions

- February 17, 2015 - Holds introductory meeting with the agency and receives overview of the agency from the agency head
- April 28, 2015 - Holds meeting with the agency head to discuss the scope of the oversight study
- June 2, 2015 - Holds meeting with the agency to discuss its budget
- June 30, 2015 - Holds meeting with the agency to discuss the C-Fund Program, county transportation committees, and agency employee information
- August 11, 2015 - Hold meeting with the agency to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP)
- September 1, 2015 - Provides Staff Study to agency
- September 21, 2015 - Notifies House Members about availability of Staff Study online
- November 4, 2015 - Holds meeting with agency to discuss Staff Study and agency's recommendations for revisions to law from its Program Evaluation Report
- December 3, 2015 - Holds meeting with the agency to continue discussion of agency's recommendations for revisions to law from its Program Evaluation Report
- January 13, 2016 - Holds meeting to receive public input about the agency
- April 14, 2016 - Holds meeting receive information about the Legislative Audit Council's comprehensive audit of the agency

### Department of Transportation's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- May 22, 2015 - Submits its Program Evaluation Report to the Committee
- September 15, 2015 - Submits response to Staff Study
- April 14, 2016 - Publishes responses to Legislative Audit Council's recommendations online and requests to withdraw three recommendations for law revisions from the Subcommittee

### Public's Actions

- May 1, 2015, - May 31, 2015 - Survey about agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- January 13, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

# EXECUTIVE SUMMARY

## Study Process

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee (“Subcommittee”) of the House Legislative Oversight Committee (“Committee”) is studying the Department of Transportation (“agency” or “DOT”). The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>1</sup> The Subcommittee met with DOT nine times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

## Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meeting with the agency can all be found on the Committee’s website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs. The Subcommittee recommends revisions to laws relating to the agency. Specific recommendations for revised language for each are included as part of the full report on page 10. A summary of the recommendations for revisions of laws relating to the agency is listed in Table 2 on the next page.

Table 2. Summary of recommended revisions to laws relating to the agency.

Law	Topic
Section 57-5-820 Section 54-5-830	Municipal approval of projects
Section 57-5-1495	Collection of toll violations from out of state drivers
Section 6-29-770	State roads and rights of way subject to zoning ordinances
Section 28-2-420	Interest rate on condemnation cases
Section 28-11-30	Expediting inverse condemnation cases
Proviso 84.1 Fiscal Year 14-15 Appropriations Bill	Expenditure limitation
Proviso 84.2 Proviso 84.3 Fiscal Year 14-15 Appropriations Bill	Special fund authorization and securing bonds and insurance
Proviso 84.4 Fiscal Year 14-15 Appropriations Bill	Benefits
Proviso 84.5 Fiscal Year 14-15 Appropriations Bill	Document fees
Proviso 84.6 Fiscal Year 14-15 Appropriations Bill	Meals in emergency operations
Proviso 84.7 Fiscal Year 14-15 Appropriations Bill	Rest area water rates
Proviso 117.73 Fiscal Year 14-15 Appropriations Bill	Printed report requirements
Proviso 117.74 Fiscal Year 14-15 Appropriations Bill	Welcome centers
New Provision	Non-federal aid restrictions

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.<sup>3</sup> Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.<sup>4</sup> The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes.

## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.<sup>5</sup>

### *General Assembly's Legislative Audit Council*

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

### *Department of Transportation*

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation Christy Hall; and
- list of audit recommendations and the agency's response to each recommendation.

### *House Transportation Infrastructure & Management Ad-Hoc Committee*

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.<sup>6</sup>

## STUDY PROCESS

### **House Legislative Oversight Committee's Actions**

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.<sup>7</sup> The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.<sup>8</sup> The Department of Transportation is an agency subject to legislative oversight.<sup>9</sup> **The Committee approved the Department of Transportation as the second agency to be studied** on February 5, 2015.<sup>10</sup>

The **Committee notified the agency** about the study on February 10, 2015. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

On March 10, 2016, pursuant to Committee Rule 7.6 and S.C. Code of Laws Section 2-2-60(D), **a request was made for the Legislative Audit Council to perform a comprehensive audit of the agency**; additionally, other members of the General Assembly asked the Legislative Audit Council to conduct an audit of the agency. On April 6, 2016, the General Assembly received the comprehensive audit of the agency.<sup>11</sup>

### *Subcommittee Studying the Agency*

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>12</sup>

### *Meetings with the Agency*

The Subcommittee met with the agency on nine occasions.

1. **February 17, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **April 28, 2015**, the Subcommittee held a meeting and discussed the scope of the oversight study with the agency.
3. **June 2, 2015**, the Subcommittee held a meeting and received information about the agency's budget.
4. **June 30, 2015**, the Subcommittee held a meeting and discussed the C-Fund Program, county transportation committees, and agency employee information.
5. **August 11, 2015**, the Subcommittee held a meeting and discussed issues relating to the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP).
6. **November 4, 2015**, the Subcommittee held a meeting and discussed the staff study of the agency and the agency's recommendations for revisions to law.
7. **December 3, 2015**, the Subcommittee held a meeting and continued its discussion of the agency's recommendations for revisions to law.
8. **January 13, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
9. **April 14, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency, and at this meeting the agency withdrew three of its recommendations for revisions to laws.

### *Information from the Public*

From May 1, 2015, until May 31, 2015, the Committee posted an **online survey to solicit comments from the public about the Department of Transportation** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. There were 1,788 responses to the survey, with at least one response coming from each of the 46 South Carolina counties.<sup>13</sup> These comments are not considered testimony.<sup>14</sup> As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>15</sup> **The public was informed they could continue to submit written comments about agencies online** after the public survey closed.<sup>16</sup> All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the January 13, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.** Thus, by the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

### *Information from the Agency*

The Committee asked the agency to conduct a self-analysis by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, 2016 Annual Restructuring Report, and a Program Evaluation Report. The agency submitted its 2015 Restructuring

Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.<sup>17</sup> The agency reported spending 50 hours for two people (100 hours) to complete the process and 35 hours for two people (70 hours) to complete the combined report.<sup>18</sup> The agency submitted its Program Evaluation Report on May 22, 2015.<sup>19</sup> Pursuant to Committee Standard Practices, the agency asked for and received permission to amend its reports, which it did so on August 31, 2016.<sup>20</sup> Committee staff provided the agency the committee staff study on September 1, 2015.<sup>21</sup> The agency had ten business days to provide a response, if it wanted to provide a response.<sup>22</sup> The agency provided a response on September 15, 2015, and House Members were notified about the staff study with the agency response on September 21, 2015.<sup>23</sup> The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.<sup>24</sup> All of these reports are available online.<sup>25</sup>

### *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full committee chair shall, pursuant to Committee Standard Practice 13.1, **include the Subcommittee Study on the agenda for a full committee meeting.** During the full committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available.

**When the full committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study.** The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy.

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.



# RECOMMENDATIONS

## Purpose

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>26</sup>

## Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports submitted to the full Committee, and videos of meeting with the agency can all be found on the Committee’s website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs.

The Subcommittee recommends **revisions to laws relating to the agency**. The laws, and specific revisions recommended, along with the basis for the recommendation provided by the agency, are listed below. The Subcommittee did not receive testimony from any other agency or entity related to these recommendations and notes that these recommendations have been published online during the study process. Discussion of these recommendations for revisions to laws relating to the agency spanned three meetings: November 4, 2015; December 3, 2015; and April 14, 2016.

Table 3. Recommendations for revision of laws relating to the agency - **municipal approval of projects**.

<b>Code Sections</b>	South Carolina Code § 57-5-820 South Carolina Code § 57-5-830
<b>Basis</b>	SCDOT is required to obtain municipal approval of plans and projects being constructed within municipal boundaries. This requirement can frequently delay projects, as municipalities may desire aesthetic improvements to plans at the last minute. SCDOT recommends that the statute be amended to require the municipalities to submit comments during the environmental process and to give approval prior to the project going into the STIP.
<b>Suggested Language</b>	<b>SECTION 57-5-820.</b> Consent of municipality to work on State highways; exception; definitions. As used in this section and Section 57-5-830:

	<p>"Structurally deficient" means not adequate to handle the vehicle weights authorized on roads leading to them.</p> <p>"Functionally obsolete" means narrow clearances or sharp roadway approach angles that make passage difficult or hazardous, or with too few lanes for existing traffic needs.</p> <p><del>All</del> work to be performed by the Department on state highways within a municipality must be <del>with the consent and approval of the proper municipal authorities,</del> <u>approved by the municipality prior to a project's inclusion in the Statewide Transportation Improvement Program, and subject to the mutually agreed upon design features and typical section found in the final environmental document for the project,</u> except that work performed or to be performed on a bridge and its approaches, certified by the Department as functionally obsolete or structurally deficient, to remove, replace, or improve such bridge and its approaches shall not require prior consent and approval of a municipal authority if the bridge crosses the intracoastal waterway, <u>or the bridge qualifies for federal emergency bridge replacement funds.</u></p> <p><del>SECTION 57-5-830. Assent of municipality to plans; exception:</del></p> <p><del>In every case of a proposed permanent improvement, construction, reconstruction, or alteration by the Department of any highway or highway facility within a municipality, the municipality may review and approve the plans before the work is started; except that a municipality may not have the right to review and approve plans to remove, replace, or improve a bridge and its approaches within its limits where such bridge and its approaches have been certified by the Department to be functionally obsolete or structurally deficient and if the bridge crosses the intracoastal waterway.</del></p>
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Table 4. Recommendations for revisions of a law relating to the agency - collection of toll violations from out of state drivers.

<b>Code Section</b>	South Carolina Code § 57-5-1495
<b>Basis</b>	The statute governing toll collections does not provide a mechanism for collecting toll violations from out of state drivers. Also, SCDOT is required to go to Magistrate's Court to collect toll violations from in-state violators, which is expensive and time consuming. SCDOT recommends that the department be allowed to enter into reciprocity agreements with other states to collect from out of state violators. SCDOT also recommends that for in-state violators, that vehicle registrations be suspended when violations are over \$300, and that the Magistrate requirement be replaced with an in-house SCDOT appeals process.
<b>Suggested Language</b>	<p><del>SECTION 57-5-1495. Collection of tolls.</del></p> <p>(A) As used in this section:</p> <p>(1) "Electronic toll collection system" means a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge.</p>

(2) "Lessor" means any person, corporation, firm, partnership, agency, association, or organization renting or leasing vehicles to a lessee under a rental agreement, lease, or otherwise wherein the said lessee has the exclusive use of the vehicle for any period of time.

(3) "Lessee" means any person, corporation, firm, partnership, agency, association, or organization that rents, leases, or contracts for the use of one or more vehicles and has exclusive use of the vehicles for any period of time.

(4) "Owner" means a person or an entity who, at the time of a toll violation and with respect to the vehicle involved in the violation, is the registrant or co-registrant of the vehicle with the Department of Motor Vehicles of this State or another state, territory, district, province, nation, or jurisdiction.

(5) "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle at the time it is used or operated in violation of toll collection regulations.

(6) "Toll violation" means the passage of a vehicle through a toll collection point without payment of the required toll.

(7) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

(B) Notwithstanding another provision of law, when a vehicle is driven through a turnpike facility without payment of the required toll, the owner and operator of the vehicle is jointly and severally liable to the Department of Transportation to pay the required toll, administrative fees, and civil penalty as provided in this section. The department or its authorized agent may enforce collection of the required toll as provided for in this section.

(C) A certificate, sworn to or affirmed by an agent of the department, or a facsimile of it, that a toll violation has occurred, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo-monitoring system, is prima facie evidence of the violation and is admissible in any proceeding charging a toll violation pursuant to this section. A photograph, microphotograph, videotape, or other recorded image evidencing a violation must be available for inspection by the party charged and is admissible into evidence in a proceeding to adjudicate liability for a violation.

(D) The department or its authorized agent may assess and collect administrative fees of:

(1) not more than ten dollars for the first toll violation within a period of one year;

(2) not more than twenty-five dollars for each subsequent toll violation within a period of one year.

~~(E) Upon failure to pay the required toll and administrative fees to the department within thirty days of the notice, the owner or operator may be cited for failure to pay a toll pursuant to this subsection and, upon an adjudication of liability, is subject to a civil penalty not to exceed fifty dollars for each violation as contained in subsection (F). Upon an adjudication of liability, a judgment must be entered against the owner or operator, and the court must mail a copy of the judgment to the owner or operator. Upon failure to satisfy the judgment within thirty days, the court shall notify the Department of Motor Vehicles and the authorized agent, and the department shall suspend the registration of the vehicle that was operated when the toll was not paid~~

~~and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent. An owner or operator who has been convicted of a violation of Section 57-5-1490 is not liable for the penalty imposed by this subsection.~~

~~(F) If a magistrate or municipal judge determines that the person or entity charged with liability under this section is liable, the magistrate or municipal judge shall collect the unpaid tolls and administrative fee and forward them to the department or its authorized agent. The magistrate or municipal judge also may impose a civil penalty of up to fifty dollars for each violation, plus court costs and attorney's fees. The civil penalty must be distributed in the same manner as other fines and penalties collected by the magistrate. Notwithstanding another provision of law:~~

~~— (1) adjudication of liability pursuant to this section must be made by the magistrate's court of the county in which the toll facility is located or the municipal court of the city in which the toll facility is located; and~~

~~— (2) an imposition of liability pursuant to this section must be based upon a preponderance of evidence submitted and is not a conviction as an operator pursuant to Section 57-5-1490.~~

~~(G) (E) The department or its authorized agent shall send:~~

~~(1) a "First Notice to Pay Toll" to the owner or operator of a vehicle which, on one occasion in any twelve-month period, is identified as having been involved in a toll violation. The first notice must require payment to the department of the required toll, plus an administrative fee as provided for in subsection (D), within thirty days of the mailing of the notice;~~

~~(2) a "Second Notice to Pay Toll" to the owner or operator of a vehicle which is identified as having been involved in a second toll violation in a twelve-month period, or who has failed to respond to a "First Notice to Pay Toll" within the required time period. The second notice must require payment to the department of the required tolls, plus an administrative fee as provided for in subsection (D) for each violation within thirty days of the mailing of the notice;~~

~~(3) a "Failure to Pay a Toll" citation to the owner or operator of a vehicle which is identified as having been involved in a third toll violation in a twelve-month period, or who has failed to respond to the second notice within the required time period. The citation requires payment to the department of the unpaid tolls, plus an administrative fee of not more than twenty-five dollars for each violation, within thirty days, or the recipient's appearance in magistrate's court of the county in which the violation occurred or the municipal court of the city in which the violation has occurred to contest the citation. A "Failure to Pay a Toll" citation constitutes the summons and complaint for an action to recover the toll and all applicable fees allowed pursuant to this section; and Once a recipient has accumulated at least \$300.00 in unpaid citations, the department or its authorized agent may notify the Department of Motor Vehicles to suspend the registration of the vehicle that was operated when the toll was not paid and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent.~~

~~(a) The department will offer the recipient a due process opportunity to contest responsibility for the toll violation, without appearing in person, including an~~

opportunity to present information in the recipient's favor and an opportunity for a record review by a hearing officer.

(4) notwithstanding another provision of law, the notices and citation required by subsection ~~(G)~~ (E) by first-class mail to the owner or operator of the vehicle identified as being involved in the toll violation. If a vehicle is registered in two or more names, the notices or citation must be mailed to the first name listed on the registration records. Notwithstanding another provision of law, personal delivery of the notices and citation is not required. A manual or automatic record of the mailing of the notices or citation prepared in the ordinary course of business is prima facie evidence of the mailing of the notices or citation;

(5) the notices and citation required by this subsection must contain the following information:

(a) the name and address of the person or entity alleged to be liable for a failure to pay a toll pursuant to this section;

(b) the registration number of the vehicle involved in the toll violation;

(c) the location where the toll violation took place;

(d) the date and time of the toll violation;

(e) the identification number of the photo-monitoring system which recorded the violation or other document locator number;

(f) information advising of the manner and time in which liability may be contested;

(g) warning advising that failure to contest liability in the manner and time provided in this section is an admission of liability; and

(h) information advising that failure to pay a toll may result in the suspension of vehicle registration.

(F) The department may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the department may collect the tolls and administrative fees properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

(1) The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the department and does, in fact, reciprocate in collecting administrative fees and tolls of the department by employing sanctions that include denial of a person's right to register or reregister a motor vehicle;

(2) The penalties, exclusive of tolls, claimed by the away agency against an owner of an automobile registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations;

(3) The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner;

(4) An owner of an automobile registered in this State may present evidence to the away agency or to the department by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and

(5) The reciprocal collection arrangement between the department and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles.

~~(H)~~ (G) If a vehicle owner receives a notice or citation pursuant to this section for a period during which the vehicle involved in the toll violation was:

(1) reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a failure to pay a toll is that the vehicle had been reported to a law enforcement division as stolen before the time the violation occurred and had not been recovered by the time of the violation. If an owner receives a notice or citation pursuant to this section for a violation which occurred during a time period in which the vehicle was stolen, but which had not been reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a toll violation pursuant to this section is that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subitem, a certified copy of the police report on the stolen vehicle, sent by first-class mail to the department, its agent, or the magistrate's court or the municipal court having jurisdiction of the citation within thirty days after receipt of the notices or citation, is sufficient;

(2) leased to another person or entity, the lessor is not liable for the violation if the lessor sends to the department or to the court having jurisdiction over the citation a copy of the rental, lease, or another contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the notices or citation. Failure to send the information within the thirty-day period renders the lessor liable for the unpaid tolls and any administrative fees or penalties assessed pursuant to this section. If the lessor complies with the provisions of this subitem, the lessee of the vehicle on the date of the violation is subject to liability for the failure to pay the toll if the department or its agent mails a notice of liability to the lessee within thirty days after receipt of a copy of the rental, lease, or other contract document.

~~(I)~~ (H) If a person or entity receives a notice or citation pursuant to this section, it is a valid defense to liability that the person or entity that receives the notice was not the owner of the vehicle at the time of the toll violation.

~~(J)~~ (I) If an owner who pays the required tolls, fees, or penalties, or all of them pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

~~(K)~~ (J) An owner of a vehicle is not liable for a penalty imposed pursuant to this section if the operator of the vehicle has been convicted of a violation of Section 57-5-1490 for the same incident.

~~(L)~~ (K) On turnpike facilities where electronic toll collection systems are utilized:

(1) a person who wants to make payment of tolls electronically must apply to the department or its authorized agent to become an account holder. The department or its authorized agent, in its discretion, may deny the application of a person. A person whose application is accepted must execute an account holder's agreement. The terms of the account holder's agreement must be established by the department;

(2) the department shall ensure that adequate and timely notice is given to all electronic toll collection system account holders to inform them when their accounts are delinquent. The owner of a vehicle who is an account holder under the electronic toll collection system is not liable for a failure to pay a toll pursuant to the provisions of this section unless the department or its authorized agent has first sent a notice of delinquency to the account holder and the account holder was delinquent at the time of the violation;

	<p>(3) the department shall not sell, distribute, or make available the names and addresses of electronic toll collection system account holders, without the account holder's consent, to any entity that uses the information for commercial purposes. However, this restriction does not preclude the exchange of this information between entities with jurisdiction over or operating a toll highway bridge or tunnel;</p> <p>(4) information or data collected by the department or its authorized agent for the purpose of establishing and monitoring electronic toll collection accounts is not subject to disclosure under the Freedom of Information Act;</p> <p>(5) notwithstanding another provision of law, all information, data, photographs, microphotographs, videotape, or other recorded images prepared pursuant to this section must be for the exclusive use of the department or its authorized agent in the discharge of its duties under this section and must not be open to the public, subject to the disclosure under the Freedom of Information Act, nor used in a court in an action or a proceeding pending unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this section.</p> <p><del>(M)</del> (L) Notwithstanding any other provision of law, school buses transporting school children for a school event, shall be exempt from the payment of any tolls.</p>
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Table 5. Recommendations for revision to a law relating to the agency - **state roads and rights of way subject to zoning ordinances.**

<b>Code Section</b>	South Carolina Code § 6-29-770
<b>Basis</b>	State agencies, including SCDOT, are subject to local zoning ordinances. This is reasonable for buildings and other types of structures. However, subjecting state roads and rights of way to zoning ordinances can affect safety and efficient operation of the state highway system. An example is that of local tree ordinances. A local zoning ordinance may restrict SCDOT from removing trees of a certain size from the right of way, even though these trees may constitute a safety hazard. SCDOT recommends exempting state roads and rights of way from local zoning ordinances.
<b>Suggested Language</b>	<p><b>SECTION 6-29-770.</b> Governmental entities subject to zoning ordinances; exceptions.</p> <p>(A) Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances, <u>except for state roads and the adjacent rights of way.</u></p> <p>(B) A county or agency, department or subdivision of it that uses any real property, as owner or tenant, within the limits of any municipality in this State is subject to the zoning ordinances of the municipality.</p> <p>(C) A municipality or agency, department or subdivision of it, that uses any real property, as owner or tenant, within the limits of any county in this State but not within the limits of the municipality is subject to the zoning ordinances of the county.</p> <p>(D) The provisions of this section do not require a state agency, department, or subdivision to move from facilities occupied on June 18, 1976, regardless of whether or not their location is in violation of municipal or county zoning ordinances.</p> <p>(E) The provisions of this section do not apply to a home serving nine or fewer</p>

	<p>mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.</p> <p>(F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate.</p> <p>(G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods.</p> <p>(H) The governing body of a county or municipality whose zoning ordinances are violated by the provisions of this section may apply to a court of competent jurisdiction for injunctive and such other relief as the court may consider proper.</p>
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Table 6. Recommendations for revisions of a law relating to the agency - **interest rate on condemnation cases.**

<b>Code Section</b>	South Carolina Code § 28-2-420
<b>Basis</b>	Current law gives 8% interest on the judgment in condemnation cases while the case is contested, which is significantly higher than the current Federal Reserve interest rate.
<b>Suggested Language</b>	<p>SECTION 28-2-420. Interest on amount found to be just compensation; return of excess funds deposited with clerk of court.</p> <p>(A) A condemnor shall pay interest at the <del>rate of eight percent a year</del> <u>current federal reserve prime rate at the time of filing</u> upon sums found to be just compensation by the appraisal panel or judgment of a court to the condemnee. This interest shall</p>



	<p>accrue from the date of filing of the Condemnation Notice through the date of verdict or judgment by the court. Interest accruing on funds on deposit with the clerk of court must be offset against the interest computed pursuant to this section. Interest shall not accrue during the twenty-day period commencing upon the date of verdict or order of judgment. If the judgment is not paid within the twenty-day period, interest at the rate provided by law for interest on judgments must be added to the judgment. Thereafter, the entire judgment shall earn interest at the rate provided by law for interest on judgments.</p> <p>(B) In the event the court determines that just compensation is due the landowner in an amount less than the funds held by the clerk of court, the clerk of court shall refund to the condemnor the balance of the excess deposit with accrued interest.</p>
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Table 7. Recommendations for revisions of a law relating to the agency - **expediting inverse condemnation cases.**

<b>Code Section</b>	South Carolina Code § 28-11-30
<b>Basis</b>	Current law allows for standard condemnation cases, but not inverse condemnation cases, to take precedence over other cases on the civil roster for trial. Condemnation cases can greatly slow down the ability of SCDOT to advance a project to construction. It is therefore important that both types of condemnation cases be quickly resolved. SCDOT recommends that the statute be amended to allow for expediting inverse condemnation cases over other civil cases.
<b>Suggested Language</b>	<p><b>SECTION 28-11-30.</b> Reimbursement of property owners for certain expenses.</p> <p>To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to federal aid to such states in programs or projects involving the acquisition of real property for public uses, state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in these programs or projects may expend available public funds as provided in this section, whether or not the program or project is federally aided.</p> <p>(1) A person, agency, or other entity acquiring real property for public use in a project or program shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the State deems fair and reasonable, for expenses he necessarily incurred for:</p> <p>(a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State;</p> <p>(b) penalty costs for prepayment for preexisting recorded mortgage entered into in good faith encumbering such real property; and</p> <p>(c) the pro rata portion of real property taxes paid which are allocable to a period</p>

	<p>subsequent to the date of vesting title in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier.</p> <p>(2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use and:</p> <p>(a) the final judgment is that the real property cannot be acquired by condemnation; or</p> <p>(b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of these sums will be paid by the person, agency, or other entity which sought to condemn the property.</p> <p>(3) Where an inverse condemnation proceeding is instituted by the owner of a right, title, or interest in real property because of use of his property in a program or project, the court, rendering a judgment for the plaintiff in the proceeding and awarding compensation for the taking of property, or the attorney effecting a settlement of a proceeding, shall determine and award or allow to the plaintiff, as a part of the judgment or settlement, a sum that will, in the opinion of the court or the agency's attorney, reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.</p> <p>(4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations.</p> <p><u>(5) If either party to an inverse condemnation proceeding so demands, the action must be given precedence over other civil cases for trial.</u></p>
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Table 8. Recommendations for revisions of a law relating to the agency - expenditure limitation.

<b>Proviso</b>	Proviso 84.1 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 84.1 allows SCDOT the flexibility needed to deal with cash balances from the previous year. Due to the construction cycle and multiple years across which some projects take, the ability to bridge fiscal years is important to SCDOT. The proviso was established in the 1950's and was amended to current language in 1993. SCDOT recommends codification.
<b>Suggested Language</b>	<del>84.1 The Department of Transportation is hereby authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward</del>

	<p><del>from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales.</del></p> <p><u>Section 57-3-205. Department of Transportation authorized to expend funds from previous fiscal year.</u></p> <p><u>The Department of Transportation is authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales.</u></p>
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Table 9. Recommendations for revisions of a law relating to the agency - **special fund authorization and securing bonds and insurance.**

<b>Provisos</b>	<p>Proviso 84.2 in the FY 14-15 Appropriations bill  Proviso 84.3 in the FY 14-15 Appropriations bill</p>
<b>Basis</b>	<p>Proviso 84.2 allows SCDOT to set up special funds with the Treasurer for accounting purposes. The proviso was introduced in 1951 with the current language.</p> <p>Proviso 84.3 allows SCDOT to obtain bonds and insurance to cover SCDOT operations. The Proviso was introduced in 1951 with the current language.</p> <p>SCDOT recommends codification.</p>
<b>Suggested Language</b>	<p><b>SECTION 57-3-110. Powers and duties of Department of Transportation.</b></p> <p>The Department of Transportation shall have the following duties and powers:</p> <ol style="list-style-type: none"> <li>(1) lay out, build, and maintain public highways and bridges, including the exclusive authority to establish design criteria, construction specifications, and standards required to construct and maintain highways and bridges;</li> <li>(2) acquire such lands, road building materials, and rights-of-way as may be needed for roads and bridges by purchase, gift, or condemnation;</li> <li>(3) cause the state highways to be marked with appropriate directions for travel and regulate the travel and traffic along such highways, subject to the laws of the State;</li> <li>(4) number or renumber state highways;</li> <li>(5) initiate and conduct such programs and pilot projects to further research and development efforts, and to promote training of personnel in the fields of planning, construction, maintenance, and operation of the state highway system;</li> <li>(6) cooperate with the federal government in the construction of federal-aid</li> </ol>

	<p>highways in the development of improved mass transit service, facilities, equipment, techniques, and methods and in planning and research in connection therewith; and seek and receive such federal aid and assistance as may from time to time become available except for funds designated by statute to be administered by the Chief Executive Officer of the State;</p> <p>(7) instruct, assist, and cooperate with the agencies, departments, and bodies politic and legally constituted agencies of the State in street, highway, traffic, and mass transit matters when requested to do so, and, if requested by such government authorities, supervise or furnish engineering supervision for the construction and improvement of roads and bridges, provided such duties do not impair the attention to be given the highways in the state highway system;</p> <p>(8) promulgate such rules and regulations in accordance with the Administrative Procedures Act for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;</p> <p>(9) grant churches the right to cross over, under, along, and upon any public roads or highways and rights-of-way related thereto;</p> <p>(10) enter into such contracts as may be necessary for the proper discharge of its functions and duties and may sue and be sued thereon;</p> <p>(11) erect such signs as requested by a local governing body, if the department deems the signs necessary for public safety and welfare, including "Deaf Child" signs and "Crime Watch Area" signs; and</p> <p><u>(12) to establish special funds with the State Treasurer out of the Department funds as may be deemed advisable for proper accounting purposes, with the approval of the State Treasurer.</u></p> <p><u>(13) to secure bonds and insurance covering such activities of the department as may be deemed proper and advisable, due consideration being given to the security offered and the service of the claims.</u></p> <p><del>(12)</del> <u>(14)</u> do all other things required or provided by law.</p>
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Table 10. Recommendations for revisions of a law relating to the agency - **benefits**.

<b>Proviso</b>	Proviso 84.4 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 84.4 in the FY 14-15 Appropriations bill provides that SCDOT employees receive equivalent raises, benefits, and bonuses as other state employees, and that such compensation and benefits are funded from SC DOT funding sources. The proviso was introduced in 1996 with the current language. SCDOT recommends codification.
<b>Suggested Language</b>	<del>84.4 (DOT: Benefits) Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses</del>

	<p>provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources.</p> <p><u>Section 57-3-790. Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources.</u></p>
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Table 11. Recommendations for revisions of a law relating to the agency - **document fees.**

<b>Proviso</b>	Proviso 84.5 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 84.5 allows SCDOT to recover the costs of producing the many documents that are requested from SCDOT by businesses and the public. The proviso was introduced in 1992 with the current language. SCDOT recommends codification.
<b>Suggested Language</b>	<p><del>84.5. (DOT: Document Fees) The Department of Transportation is hereby authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, etc. based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, etc.</del></p> <p><u>Section 57-3-795. The Department of Transportation is authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, and other documents based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, and other documents.</u></p>

Table 12. Recommendations for revisions of a law relating to the agency - **meals in emergency operations.**

<b>Proviso</b>	Proviso 84.6 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 84.6 in the FY 14-15 Appropriations Bill allows SCDOT to feed employees who cannot leave their work station during states of emergency or other such operations. The proviso was introduced in 2001 with the current language. SCDOT recommends codification.
<b>Suggested Language</b>	<p><del>84.6. (DOT: Meals in Emergency Operations) The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.</del></p> <p><u>Section 57-3-800. The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.</u></p>

Table 13. Recommendations for revisions of a law relating to the agency - rest area water rates.

<b>Proviso</b>	Proviso 84.7 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 84.7 in the FY 14-15 Appropriations Bill requires water and sewer providers to charge in-district water rates for SCDOT rest areas. The proviso was introduced in 2005 with the current language. SCDOT recommends codification.
<b>Suggested Language</b>	<p><del>84.7. (DOT: Rest Area Water Rates) For the current fiscal year, rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates.</del></p> <p><u>Section 57-3-805. Rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates.</u></p>

Table 14. Recommendations for revisions of a law relating to the agency - printed report requirements.

<b>Proviso</b>	Proviso 117.73 in the FY 14-15 Appropriations bill
<b>Basis</b>	Proviso 117.73 of the FY 14-15 allows SCDOT to submit several statutorily-required reports electronically rather than in printed format. With the availability of these reports in electronic format and corresponding ability to print, the printed requirement is obsolete. The proviso also allows SCDOT to combine its Annual Report and Mass Transit report with its Annual Accountability Report. SCDOT recommends codification.
<b>Suggested Language</b>	<p><b>117.77. (GP: Printed Report Requirements) (A)</b> For Fiscal Year 2014-15, state supported institutions of higher learning shall not be required to submit printed reports mandated by Sections 2-47-40, 2-47-50, and 59-103-110 of the 1976 Code, and shall instead only submit the documents electronically.</p> <p>Submission of the plans or reports required by Sections 59-101-350, 59-103-30, 59-103-45(4), and 59-103-160(D) shall be waived for the current fiscal year, except institutions of higher learning must continue to report student pass rates on professional examinations, and data elements otherwise required for the Commission on Higher Education Management Information System. The commission, in consultation with institutions, shall take further action to reduce data reporting burdens as possible.</p> <p>(B) For Fiscal Year 2015-16, the Department of Agriculture shall not be required to submit printed reports mandated by Section 46-49-10 of the 1976 Code. The department shall provide these reports electronically and shall use any monetary savings for K5-12 agricultural education programs.</p> <p>(C) For Fiscal Year 2015-16, the Department of Health and Human Services shall not be required to provide printed copies of the Medicaid Annual Report required pursuant to Section 44-6-80 of the 1976 Code and shall instead only submit the documents electronically.</p>

	<p>(D) For Fiscal Year 2015-16, the Department of Transportation shall not be required to submit printed reports or publications mandated by Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code.</p> <p>The Department of Transportation may combine their Annual Report and Mass Transit Report into their Annual Accountability Report.</p> <p>SECTION 57-3-760. Annual reports.</p> <p>(A) The department, at the beginning of each regular session of the General Assembly, shall make a full, printed, detailed report to the General Assembly showing an analysis of:</p> <ol style="list-style-type: none"> <li>(1) the department's accomplishments in the past year;</li> <li>(2) a ten-year plan detailing future needs of the State in the fields of planning, construction, maintenance, and operation of the state highway system;</li> <li>(3) a five-year plan detailing the regulation of traffic which includes the administration and enforcement of traffic, driver, and motor vehicle laws and other laws relating to such subjects, the coordination of state and federal programs relating to mass transportation among the departments, agencies, and other bodies politic and legally constituted agencies in the State; and</li> <li>(4) a listing of all firms, companies, or businesses of any type doing business with the department and the amount of such contracts entered into by the department.</li> </ol> <p>(B) The Department shall not be required to submit printed reports pursuant to Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code</p>
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Table 15. Recommendations for revisions of a law relating to the agency - welcome centers.

Proviso	Proviso 117.74 in the FY 14-15 Appropriations bill
Basis	A proviso in the FY 14-15 Appropriations Bill required SCDOT to transfer ownership of the state Welcome Centers to the Department of Parks, Recreation, and Tourism, along with the amount of funds required to operate the centers from FY13-14 (\$3.16 million). The proviso was amended at the request of SCPRT to up the funding to \$3.23 million in the FY 15-16 budget. SCDOT recommends the deletion of this proviso because SCDOT has already transferred ownership to SCPRT and has a Memorandum of Understanding as to the operation and funding of the centers.
Suggested Language	<del>117.114. (GP: South Carolina Welcome Centers) The Department of Parks, Recreation and Tourism and the Department of Transportation shall maintain a Memorandum of Understanding (MOU) that provides that the Department of Parks, Recreation and Tourism shall control operations of all South Carolina Welcome Centers. The MOU shall include replacement, renovation and maintenance of the facilities, daily operations, and grounds maintenance and upkeep and shall clearly define responsibility for additional portions of Welcome Centers to include paving and</del>

	<p>sidewalks. The Department of Transportation shall transfer to the Department of Parks, Recreation and Tourism the amount of \$3,313,560 less any state funds appropriated by the General Assembly for the same purpose. The Department of Parks, Recreation and Tourism assumes responsibility for this amount and the timing of the transfer of these funds shall be defined as part of the MOU. The funds transferred to the Department of Parks, Recreation and Tourism shall be placed in a separate and distinct fund and these funds shall be carried forward from the prior fiscal year into the current fiscal year and be expended for the same purposes.</p>
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Table 16. Recommendations for revisions of a law relating to the agency - **non-federal aid restrictions.**

Code Section	
Basis	<p>South Carolina's 41,000 centerline mile roadway network is a state-owned, partially federally assisted system. As the owner of the state system, the State of SC is responsible for maintaining and operating all facets of it from the neighborhood streets, to the farm-to-market roads, to the US/SC Routes and to the Interstate System. While the federal-aid program does make available funding for some of these types of roadways, Congress is shifting the focus of the federal program to the National Highway System (NHS). For SC, this means the federal funds for pavement rehabilitation and reconstruction will likely be focused on the 3,603 centerline mile NHS system in the state, which includes the entire Interstate system and less than 30% of the Primary system.</p> <p>That movement at the federal level coupled with the state's current restriction to use the funding only on the "Non-Federal Aid System" (neighborhood streets) will leave the bulk of the Primary system and 10,370 centerline miles of Secondary (farm-to-market) roadways essentially defunded for resurfacing at the state level. These 2 segments of the state system carry nearly 2/3 of the state's traffic and both are in very poor condition with approximately half of their pavements already in poor condition, approximately 30% in fair and approximately 20% in good condition. An investment is critically needed here in order to return this segment of our network to better condition and save repair costs by intercepting the fair condition roadways before they decay to poor condition.</p> <p>SCDOT asks that it be allowed the flexibility to shift funds from the Non-Federal Aid Highway Fund to secondary and primary routes when need is demonstrated by the SCDOT Transportation Asset Management Plan and the projects are ranked according to Act 114.</p>
Suggested Language	<p><u>Section 57-11-30. Funds from the Non-Federal Aid Highway Fund may be utilized for resurfacing secondary and primary routes when need is sufficiently determined under the Department's Transportation Asset Management Plan, and the projects to receive funds are prioritized according to Section 57-1-370.</u></p>



## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.<sup>27</sup>

### *General Assembly's Legislative Audit Council*

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

### *Department of Transportation*

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation; and
- list of audit recommendations and the agency's response to each recommendation.

### *House Transportation Infrastructure & Management Ad-Hoc Committee*

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.<sup>28</sup>

## Follow Up

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.<sup>29</sup> Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.<sup>30</sup> The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes.

## SELECTED AGENCY INFORMATION CITED

- SC Department of Transportation. "Annual Restructuring Report, 2016."  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DOT.PDF> (accessed April 18, 2016).
- SC Department of Transportation. "LAC Recommendations/SCDOT Response, April 14, 2016"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DOT/LAC%20Recommendations%20SCDOT%20Response.pdf> (accessed April 18, 2016).
- SC Department of Transportation. "Program Evaluation Report, 2015."  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/SCDOT%20Program%20Evaluation%20Report.pdf> (accessed April 18, 2016).
- SC Department of Transportation. "Restructuring and Seven-Year Plan Report, 2015."  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Transportation.pdf> (accessed April 18, 2016).
- SC General Assembly, Legislative Audit Council. "A Review of the SC Department of Transportation, April 2016."  
[http://lac.sc.gov/LAC\\_Reports/2016/Pages/SCDOT.aspx](http://lac.sc.gov/LAC_Reports/2016/Pages/SCDOT.aspx) (accessed April 18, 2016).
- SC House of Representatives, Legislative Oversight Committee. "May 2015 Survey Results."  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf) (accessed April 18, 2016).
- SC House of Representatives, Legislative Oversight Committee. "September 1, 2015, Staff Study of the SC Department of Transportation and Agency Response."  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015StaffStudyAndAgencyResponse/SCDOT%20Staff%20Study%20and%20Agency%20Response.pdf> (accessed April 18, 2016).

## ENDNOTES

- <sup>1</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports,"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed April 18, 2016).
- <sup>2</sup> *SC Code of Laws*, sec. 2-2-20(C).
- <sup>3</sup> SC House of Representatives, House Legislative Oversight Committee, Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee, "April 14, 2016, Meeting Minutes. As the minutes have not been approved by the Subcommittee yet for this meeting, they have not been published online at this time. A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>4</sup> *Ibid*.
- <sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).
- <sup>6</sup> Information about the work of the House Transportation Infrastructure & Management Ad-Hoc Committee is available on the General Assembly's website under "House Transportation Infrastructure & Management Ad-Hoc Committee Postings and Reports."
- <sup>7</sup> SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Full Committee Minutes,"  
<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>8</sup> The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/committeeinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).
- <sup>9</sup> *SC Code of Laws*, sec. 2-2-10(1).
- <sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, "February 5, 2015 Full Committee Minutes," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Minutes,"  
<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/February052015.pdf> (accessed August 5, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

- <sup>11</sup> SC General Assembly, Legislative Audit Council, "A Review of the SC Department of Transportation," under "Recent Publications" [http://lac.sc.gov/LAC\\_Reports/2016/Pages/SCDOT.aspx](http://lac.sc.gov/LAC_Reports/2016/Pages/SCDOT.aspx) (accessed April 18, 2016).
- <sup>12</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed April 18, 2016).
- <sup>13</sup> SC House of Representatives, House Legislative Oversight Committee, "May 2015 Survey Results," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Comptroller General's Office" [http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf), unnumbered page 1 and 133-135, (accessed July 5, 2015).
- <sup>14</sup> Standard practice 10.4.
- <sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, "May 2015 Public Survey." The survey is closed. The survey sought comments from the public about the Comptroller General's Office; Department of Transportation; Department of Social Services; Department of Juvenile Justice; and First Steps to School Readiness. The 1,788 responses is inclusive of responses for all five agencies.
- <sup>16</sup> SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports."
- <sup>17</sup> SC Department of Transportation, *Restructuring and Seven-Year Plan Report*.
- <sup>18</sup> *Ibid.*, 36.
- <sup>19</sup> SC Department of Transportation, *Program Evaluation Report*.
- <sup>20</sup> SC House of Representatives, House Legislative Oversight Committee, "Standard Practices," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices02022016.pdf> (accessed April 19, 2016).
- <sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 Summary - House Legislative Oversight Committee," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015SummaryHouseLegislativeOversightCommittee.pdf> (accessed April 19, 2016).
- <sup>22</sup> *Standard Practices*, 11.5.
- <sup>23</sup> *2015 Summary - House Legislative Oversight Committee*.
- <sup>24</sup> *2016 Annual Restructuring Report*, 1.
- <sup>25</sup> SC House of Representatives, House Legislative Oversight Committee, "Department of Transportation," under "Committee's Seven-Year Study Cycle," and under "Agencies Currently Under Study," <http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/ComptrollerGeneral.php> (accessed July 5, 2015).
- <sup>26</sup> *SC Code of Laws*, sec. 2-2-20(C).
- <sup>27</sup> SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).
- <sup>28</sup> Information about the work of the House Transportation Infrastructure & Management Ad-Hoc Committee is available on the General Assembly's website under "House Transportation Infrastructure & Management Ad-Hoc Committee Postings and Reports."
- <sup>29</sup> SC House of Representatives, House Legislative Oversight Committee, Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee, "April 14, 2016, Meeting Minutes. As the minutes have not been approved by the Subcommittee yet for this meeting, they have not been published online at this time. A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>30</sup> *Ibid.*

## CONTACT INFORMATION

### Committee Contact Information

Address:

South Carolina House of Representatives  
Legislative Oversight Committee  
1105 Pendleton Street, Blatt Building Room 228  
Post Office Box 11867  
Columbia, South Carolina 29211

Telephone: 803-212-6810

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/committeeinfo/houselegislativeoversightcommittee.php>.

### Agency Contact Information

Address:

South Carolina Department of Transportation  
955 Park Street  
Post Office Box 191  
Columbia, South Carolina 29201-3959

Telephone: 803-737-2314  
855-GO-SCDOT\*  
855-467-2368\*  
\*toll free

Online:

Agency's home page: <http://www.dot.state.sc.us/>

## **SCTIB INFORMATION**

- **RELATIONSHIPS**
- **PUBLIC SURVEY**

## Relationships and Public Input

### Relationships

In the SCTIB's reports to the Committee, it has provided information about its partners, customers and stakeholders.<sup>54</sup> Notably, the agency may have more than one relationship with an entity; for example, SCTIB lists the Department of Transportation as a partner, customer, and stakeholder.

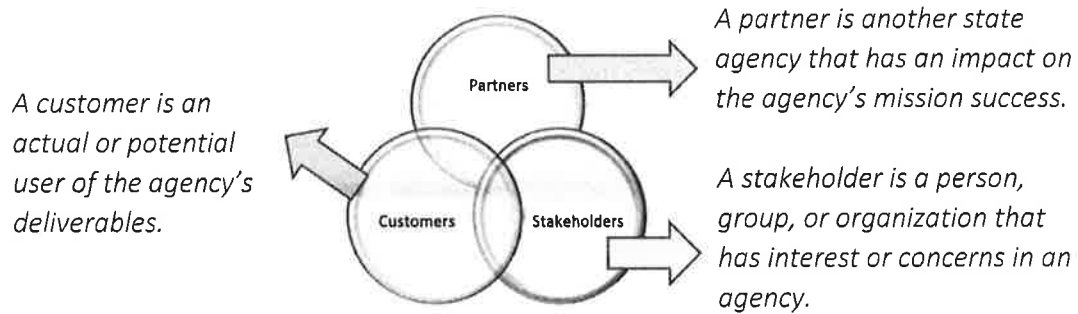


Figure 2. Partners, customers, and stakeholders defined.<sup>55</sup>

Table 2. Agency's partners, customers, and stakeholders.<sup>56</sup>

Partner	Customer	Stakeholder	Entity
			<b>State and Local Government Entities</b>
✓			SC State Treasurer's Office
✓			SC Department of Motor Vehicles
✓			SC Comptroller General's Office
✓			SC General Assembly
✓			Joint Bond Review Committee
	✓	✓	Local Governments
✓	✓	✓	SC Department of Transportation
			<b>Associations, Businesses, and Individuals</b>
	✓		Motorists in South Carolina (citizens and visitors)
✓			Bond Counsel
✓			Legal Counsel
✓			Financial Management Firm

## Public Comments about the Agency

In the House Legislative Oversight Committee's September 2015 public survey, the opinions of 449 participants who chose to provide their opinion about the agency were divided, and a small percentage expressed no opinion (7.8% - 35).<sup>57</sup> The significant majority (80.4%) of participants had a negative (22.9% - 103) or very negative opinion (57.5% - 258) of the agency.<sup>58</sup> Only a small number (11.8% - 53) of participants had a positive or very positive opinion of the agency. Notably, many participants answered that they had knowledge of the agency through media coverage (36.7%) or through an Internet source (15.8%).<sup>59</sup> Additionally, the agency notes a challenge in its perception due to its complexity, which facilitates flexibility in financing major qualified projects.<sup>60</sup>

Written comments about the agency were provided by 257 survey participants; often, those comments addressed more than one topic.<sup>61</sup> Some of the topics addressed in the written comments are listed in Table 3. The complete comments can be found online.<sup>62</sup> Responses to online surveys posted on the Committee's webpage are provided verbatim as they were received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.<sup>63</sup>

Table 3. Some topics addressed by survey participants in written comments about the agency.<sup>64</sup>

Topic	Number of Comments
Decisions/Priorities	59
Condition of Roads	29
Governing Board	23
Accountability	18

## Resources

### Sources of Revenues and Expenses

*Note: Background information on the state's budget process is available in the appendix to this document.*

# **DEPARTMENT OF AGRICULTURE INFORMATION**



**Legislative Oversight Committee**  
South Carolina House of Representatives  
Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811



## **2016 Annual Restructuring Report Guidelines**

### **PLEASE NOTE:**

**The information included in the agency's report will appear online for all legislators and the public to view.**

Agency Name:

**South Carolina Department of Agriculture**

Date Report Submitted:

**January 12, 2016**

Agency Head

First Name

Hugh

Last Name:

Weathers

Email Address:

[skitchen@scda.sc.gov](mailto:skitchen@scda.sc.gov)

Phone Number:

803-734-2179

# General Instructions

SUBMISSIONS	
What to submit?	Please submit this document electronically only in both the original format (Excel) as well as in a PDF document. Save the document as "2016 - Agency ARR ( <i>insert date agency submits report</i> )."
When to submit?	The deadline for submission is by the first day of session, January 12, 2016.
Where to submit?	Email all electronic copies to <a href="mailto:HCommLegOv@schouse.gov">HCommLegOv@schouse.gov</a> .

**NOTE:** If the agency enters its Name and the Date of Submission in the "Cover Page" tab, it should automatically populate at the top of each tab in this report.

WHERE INFORMATION WILL APPEAR	
Where will submissions appear?	The information included in the agency's report will appear online for all legislators and the public to view. On the South Carolina Statehouse Website it will appear on the Publications page as well as on the individual agency page, which can be accessed from the House Legislative Oversight Page.

QUESTIONS	
Who to contact?	House Legislative Oversight at 803-212-6810.

OTHER INFORMATION	
<i>House Legislative Oversight</i>	
Mailing	Post Office Box 11867
Phone	803-212-6810
Fax	803-212-6811
Email	<a href="mailto:HCommLegOv@schouse.gov">HCommLegOv@schouse.gov</a>
Web	The agency may visit the South Carolina General Assembly Home Page ( <a href="http://www.scstatehouse.gov">http://www.scstatehouse.gov</a> ) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports."

## Mission, Vision and Goals

This is the second chart because the agency's mission and vision should have a basis in the legal standards, which the agency provided in the previous chart. After the agency knows the laws it must satisfy, along with its mission and vision, it can then set goals to satisfy those laws and achieve that vision (and the strategy and objectives to accomplish each goal - see next chart). To ensure accountability, one person below the head of the agency should be responsible for each goal. The same person is not required to be responsible for all of the goals.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	42381
Fiscal Year for which information below pertains	2015-16

*Instructions :* Provide the agency's mission, vision and laws (i.e. state and/or federal statutes) which serve as the basis for the agency's mission and vision.

Mission	To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.
Legal Basis for agency's mission	Act No. 104 of 1879
Vision	For the State's economy to grow and prosper, providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture.
Legal Basis for agency's vision	46-3-10

*Instructions :*

- 1) Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal is satisfying. All of the laws mentioned in the previous chart (i.e. Legal Standards Chart) should be included next to one of the agency's goals. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. SC Code 63-19-320 thru 63-19-450). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
- 2) Under the "Goals and Description" column, enter the number and description of the goal which will help the agency achieve its vision (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). The agency should have 3-4 high level goals.
- 3) Under the "Describe how the Goal is SMART" column, enter the information which shows the goal is Specific, Measurable, Attainable, Relevant and Time-bound.
- 4) Under the "Public Benefit/Intended Outcome" column, enter the intended outcome of accomplishing the goal.
- 5) Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal. The Responsible Person has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives to accomplish the goal. In addition, this is the person who monitors the progress and makes any changes needed to the strategies and objectives to ensure the goal is accomplished. Under the "Position" column, enter the Responsible Person's position/title at the agency.

Legal Responsibilities Satisfied	Goals & Description	Describe how the Goal is S.M.A.R.T.	Public Benefit/Intended Outcome	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:
(i.e. state and federal statutes or provisos the goal is satisfying)	(i.e. Goal 1 - insert description)	Specific Measurable Attainable Relevant Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome			
46-3-10	Goal 1 - Improve agency operational readiness and workforce development		Better customer service and more efficient use of taxpayer dollars.	Aaron Wood		Assistant Commissioner, Agency Operations
46-3-20,240; 46-21-25,35; 46-27-410; 46-40-10; 46-41-40; 46-42-10; 39-9-70; Provisos 44.1.3,4,7,8	Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.		Protection of both producers and consumers engaged in the marketplace	Derek Underwood		Assistant Commissioner, Consumer Protection

### Mission, Vision and Goals

46-3-80; 46-15-10 thru 46-15-80; 46-14-340; 46-19-290; Provisos 44.2,6	Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products		Increase the per-acre value of agriculture in South Carolina.	Martin Eubanks		Assistant Commissioner, Agricultural Services
Proviso 44.1; 46-3-80	Goal 4 - Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry		Build the public value of the agricultural industry; more, un-biased information will producers and consumers make better decisions.	All Assistant Commissioners and respective divisions		
46-19-290	Goal 5 - Enhance growth and expansion of the state's total agricultural product output, economic impact, and capital investment		Increase the direct, indirect, and induced value of agriculture in South Carolina	Clint Leach		Assistant Commissioner, Economic Development and External Affairs

## Strategy, Objectives and Responsibility

This is the next chart because once the agency determines its goals, and those responsible for each goal, it then needs to determine the strategy and objectives to accomplish each goal. To ensure accountability, one person should be responsible for each objective. This can be the same person responsible for the goal, if it is a small agency, or, for larger agencies, a person who reports to the person responsible for the goal. The same person is not required to be responsible for all of the objectives.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	4/23/11
Fiscal Year for which information below pertains	2015-16

**Instructions:**

- Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal or objective is satisfying. For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. All of the legal standards mentioned for a particular goal should be included next to one of the objectives under that goal. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. 63-19-320 thru 63-19-370). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
- Under the "Strategic Plan Part and Description" column, enter the strategic plan part number and description (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. If the agency is still utilizing the same strategies and objectives it submitted as part of the Accountability Report, it can copy and paste those into this chart, then fill in the remainder of the columns. However, if the agency has trouble explaining how each objective is SMART, it may need to revise its objectives. In addition, if the agency has revised its strategic plan since submitting its last Accountability Report, please provide information from the most current strategic plan.
- Under the "Describe how it is SMART" column, enter the information which shows how each goal and objective is Specific, Measurable, Attainable, Relevant and Time-bound.
- Under the "Public Benefit/intended Outcome" column, enter the intended outcome of accomplishing each goal and objective.
- Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal and objective. The Responsible Person for a goal has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person for an objective has employees and possibly different teams of employees beneath him/her to help accomplish the objective. The Responsible Person for a goal is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives needed to accomplish the goal. The Responsible Person for an objective is the person who, in conjunction with his/her employees and approval from higher level superiors, sets the performance measure targets and heads the game plan for how to accomplish the objective for which he/she is responsible. Under the "Position" column, enter the Responsible Person's position/title at the agency. Under "Office Address" column, enter the address for the office from which the Responsible Person works. Under the "Department/Division" column, enter the department or division at the agency in which the Responsible Person works. Under the "Department/Division Summary" column, enter a brief summary (no more than 1-2 sentences) of what that department or division does in the agency.

Legal Responsibilities Satisfied:	Strategic Plan Part and Description	How it is S.M.A.R.T.:	Public Benefit/Intended Outcome:	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:	Office Address:	Department or Division:	Department or Division Summary:
(i.e. state and federal statutes or provisos the goal or objective is satisfying)	(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)	Describe how each goal and objective is... Specific; Measurable; Attainable; Relevant; and Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome						
	Goal 1 - Improve agency operational readiness and workforce development	Unless otherwise noted, the time-frame for accomplishment is the end of this FY		Aaron Wood		Assistant Commissioner	Headquarters (1200 Senate Street, 5th Floor Wade Hampton Building, Columbia) unless otherwise noted	Agency Operations (AO) Division	see website
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.1 - Evaluate new technology products and services and implement based on cost/benefit analyses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.1.1 - Replace personal computers every three years			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
	Objective 1.1.2 - Update all computer operating systems to Windows 10 this FY			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	

## Strategy, Objectives and Responsibility

The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<b>Strategy 1.2 - Prioritize information security activities</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 1.2.1 - Achieve 100% completion of the US Department of Defense Information Security Awareness Program by 31 October every year</i>			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
	<i>Objective 1.2.2 - Implement all 13 INFOSEC policies by 2016</i>			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<b>Strategy 1.3 - Provide more professional development opportunities for employees</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 1.3.1 - Offer in-house training at least quarterly</i>			Kathleen Pierce		Human Resources Director		HR (AO)	
	<i>Objective 1.3.2 - Staff will participate in trade groups and industry associations</i>			Unit supervisors					
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<b>Strategy 1.4 - Improve financial reporting and business procedures</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 1.4.1 - Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility</i>			Carla Lindler		Administration Director		Admin (AO)	
	<i>Objective 1.4.2 - Achieve a higher agency procurement certification from MMO</i>			Carla Lindler		Administration Director		Admin (AO)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<b>Strategy 1.5- Emphasize employee health and safety on and off the job</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 1.5.1 - Offer an annual health screening for all employees</i>			Kathleen Pierce		Human Resources Director		HR (AO)	
	<i>Objective 1.5.2 - Purchase Personal Protective Equipment for all field personnel</i>			Unit supervisors					
	<i>Objective 1.5.3 - Ensure that all agency office buildings with 10 or more employees are equipped with AED machines</i>			Kathleen Pierce		Human Resources Director		HR (AO)	
	<b>Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.</b>			Derek Underwood		Assistant Commissioner	123 Ballard Court, West Columbia, SC	Consumer Protection (CP) Division	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<b>Strategy 2.1 - Provide food/feed safety oversight at SC food manufacturing and storage facilities through routine periodic inspections based on product types, inspection history, and risk analysis</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 2.1.1 - Participate in the Food and Drug Administration's MFRPS by 2015</i>			Angie Culler		Director	123 Ballard Court, West Columbia, SC	Food and Feed Safety (CP)	

## Strategy, Objectives and Responsibility

	<i>Objective 2.1.2 - Make all 42 public forms able to be submitted online</i>			Chris Cortez / Lauren Gunn		IT Consultant / Administrative Assistant	123 Ballard Court, West Columbia, SC	IT (AO) / CP	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<i>Strategy 2.2 - Maintain the accuracy of the state's measurement system by providing high precision calibration services to public and private sector customers at the SC Metrology Laboratory</i>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 2.2.1 - Become accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)</i>			Robert McGee		Lab Director	237 Catawba Street, Columbia SC	Metrology	
	<i>Objective 2.2.2 - Design and build a new metrology laboratory to meet the requirements for an Echelon I metrology laboratory</i>			Robert McGee		Lab Director	237 Catawba Street, Columbia SC	Metrology	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<i>Strategy 2.3 - Provide the public with assurance that commodities bought and sold are the correct quantity and quality, safe, wholesome, and adhere to specific standards</i>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 2.3.1 - Routinely inspect 100% of regulated firms annually</i>			John Stokes		Director	123 Ballard Court, West Columbia, SC	Consumer Services (CP)	
	<i>Objective 2.3.2 - Ensure same-day follow-up communication on 100% of consumer complaints</i>			Alicia Attaway		Administrative Assistant	123 Ballard Court, West Columbia, SC	Consumer Services (CP)	
	<i>Objective 2.3.3 - Increase and broaden sampling of fruits and vegetables in the chemical residue laboratory by 10%</i>			Sherry Garris		Chemist, Pesticide Residue	123 Ballard Court, West Columbia, SC	Laboratory (CP)	
	<i>Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</i>			Martin Eubanks		Assistant Commissioner		Agricultural Services (AS) Division	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<i>Strategy 3.1 - Expand Certified SC (CSC) branding program</i>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 3.1.1 - Increase program membership by 10%</i>			Ansley Rast		Marketing Specialist		Marketing (AS)	
	<i>Objective 3.1.2 - Use merchandising to grow sales of local products in retail outlets by 5%</i>			Sonny Dickinson		Merchandiser		Marketing (AS)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<i>Strategy 3.2 - Expand marketing opportunities through the State Farmers Market system, community based markets, roadside markets, and agritourism operators</i>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	<i>Objective 3.2.1 - Identify and prioritize critical upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality</i>			Martin Eubanks		Assistant Commissioner		AS	
	<i>Objective 3.2.2 - Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state</i>			Emily Joyce		Marketing Specialist		Marketing (AS)	
	<i>Objective 3.2.3 - Create 3 statewide food hubs</i>			Clint Leach		Assistant Commissioner		Economic Development and Legislative Affairs (EDLA)	





### Strategy, Objectives and Responsibility

	<i>Objective 5.2.1 - Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis.</i>			<i>Clint Leach</i>		<i>Assistant Commissioner</i>		<i>EDLA</i>	
	<i>Objective 5.2.2 - Participate in at least 7 business events and tradeshows per year</i>			<i>Jack Shuler</i>		<i>Director</i>		<i>Agribusiness Development (EDLA)</i>	
	<i>Objective 5.2.3 - Complete the Agribusiness Development application/online portal with Clemson University PSA</i>			<i>Clint Leach</i>		<i>Assistant Commissioner</i>		<i>EDLA</i>	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	<i>Strategy 5.3 - Take a leading role in advocating for sound, responsible agribusiness policies that encourage business growth and resource stewardship</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>
	<i>Objective 5.3.1 - Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers</i>			<i>Martin Eubanks / Clint Leach</i>		<i>Assistant Commissioners</i>		<i>AS / EDLA</i>	
	<i>Objective 5.3.2 - Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment</i>			<i>All Assistant Commissioners</i>					

## Objective Details

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	42381
Fiscal Year for which information below pertains	2015-16

**Instructions:** Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O\_\_" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

<b>Strategic Plan Context</b>	
# and description of Goal the Objective is helping accomplish:	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
<b>Objective</b>	
Objective # and Description:	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
<b>Agency Programs Associated with Objective</b>	
Program Names:	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
<b>Responsible Person</b>	
Name:	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	
Position:	
Office Address:	
Department or Division:	
Department or Division Summary:	
<b>Amount Budgeted and Spent To Accomplish Objective</b>	
Total Budgeted for this fiscal year:	Copy and paste this information from the Strategic Budgeting Chart
Total Actually Spent:	Agency will provide next year

### PERFORMANCE MEASURES

**Instructions:** Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.

- 1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
- 2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
- 3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
- 4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

# Objective Details

**Types of Performance Measures:**

**Outcome Measure** - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.

**Efficiency Measure** - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection

**Output Measure** - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.

**Input/Explanatory/Activity Measure** - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

**How the Agency is Measuring its Performance**

Objective Number and Description:	
Performance Measure:	
Type of Measure:	
<b>Results</b>	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
<b>Details</b>	
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Insert any further explanation, if needed
What are the names and titles of the individuals who chose this as a performance measure?	
Why was this performance measure chosen?	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	
What are the names and titles of the individuals who chose the target value for 2015-16?	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	

**POTENTIAL NEGATIVE IMPACT**

**Instructions:** Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	
Level Requires Outside Help	
Outside Help to Request	
Level Requires Inform General Assembly	
3 General Assembly Options	

**REVIEWS/AUDITS**

**Instructions:** Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

**PARTNERS**

## Objective Details

*Instructions:* Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

## Restructuring Recommendations and Feedback

Agency Responding	South Carolina Department of Agriculture
Date of Submission	4/23/16
Fiscal Year for which information below pertains	2015-16

### RESTRUCTURING RECOMMENDATIONS

Instructions: Please answer the questions below and add as many rows as needed.

Does the agency have any recommendations, minor or major, for restructuring?

If the agency has recommendations for restructuring, list each one on a separate row in the chart below. Add as many rows as needed.

Does the agency recommendation require legislative action?	Recommendation for restructuring

### FEEDBACK (Optional)

Instructions: Please answer the questions below to provide feedback on this Annual Restructuring Report ("Report").

Please list 1-3 benefits the agency sees in the public having access to the information requested in the Report, in the format it was requested.	Please list 1-3 benefits to agency management and employees in having all of this information available in one document.	Now that the agency has completed the Report, please list 1-3 things the agency could do differently next year (or it could advise other agencies to do) to complete the Report in less time and at a lower cost to the agency.
1	1	1
2	2	2
3	3	3

Does the agency believe this year's Restructuring Report was less burdensome than last year's?	Please list 1-3 changes to the Report questions, format, etc. the agency recommends to ensure the Report provides the best information to the public and General Assembly, in the least burdensome way to the agency.	Please add any other feedback the agency would like to provide (add as many additional rows as necessary)
No	Create a different reporting approach other than goals/strategies/objectives, which have already been aggregated in the Accountability Report.	The Restructuring Report in its current format requires agencies to expand upon information provided in the Accountability Report to the point where it is no longer useful or practical. Self-evaluation is an important tool to state agencies, and reports that divert staff time away from achieving the agency's mission should have a clear purpose and application.
Why or why not?	Avoid asking for the same information multiple different times, i.e. legal responsibilities satisfied.	
The objective detail is extremely cumbersome to aggregate; and the formatting was rough	Remove objective details worksheet.	

Agencies are not required to do anything in this worksheet. This worksheet is part of the document so the proper drop down menus can be available in the other tabs.

**Is Performance Measure Required?**

- State
- Federal
- Only Agency Selected

**Type of Performance Measure**

- Outcome
- Efficiency
- Output
- Input/Explanatory/Activity

**Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?**

- State/Local Government Entity
- College/University
- Business, Association or Individual

**Does the Agency have any restructuring recommendations**

- Yes
- No

Does the agency believe this year's Restructuring Report was less burdensome than last year's?

- Yes
- No

## Legal Standards

This is the first chart in the report because the legal standards which apply to the agency should serve as the basis for the agency's mission, vision and strategic plan.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	January 12, 2016

**Instructions**: List all state and federal statutes, regulations and provisos that apply to the agency (“Laws”) and a summary of the statutory requirement and/or authority granted in the particular Law listed. If the agency grouped Laws together last year, they can continue to do so this year. However, please be aware that when the agency goes under study, the House Legislative Oversight Committee will ask it to list each Law individually. The Committee makes this request so the agency can then analyze each of the Laws to determine which current Laws may need to be modified or eliminated, as well as any new Laws possibly needed, to allow the agency to be more effective and efficient or to ensure the Law matches current practices and systems. Included below is an example, with a partial list of Laws which apply to the Department of Juvenile Justice. Please delete the example information before submitting this chart in final form. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Item #	Statute, Regulation, or Proviso Number	State or Federal	Summary of Statutory Requirement and/or Authority Granted	Is the law a Statute, Proviso or Regulation?
1	46-3-10	State	Establishes duties of Department-The Department of Agriculture shall execute the laws of this State pertaining to agriculture except such laws as specifically designated for execution by others.	Statute
2	46-3-20	State	Establishes SCDA's authority to issue food manufacturers, processors, and packers permits.	Statute
3	46-3-25	State	Establishes a program within SCDA to foster relationships between S.C. farms, school districts, and other institutions and to provide them with fresh and minimally processed foods for consumption by students.	Statute
4	46-3-30	State	Establishes qualifications of the Commissioner of Agriculture.	Statute
5	46-3-40	State	Establishes election process for the Commissioner of Agriculture.	Statute
6	46-3-50	State	Establishes the bond of the Commissioner of Agriculture.	Statute
7	46-3-60	State	Allows for the appointment of a clerk by the Commissioner.	Statute

## Legal Standards

8	46-3-80	State	Establishes duties of the Commissioner-promotion of agriculture; establish a land registry	Statute
9	46-3-90	State	Establishes the Commissioner's authority to regulate the sale of marl or ground limestone.	Statute
10	46-3-100	State	Establishes the Commissioner's authority to regulate the sale of inoculating material.	Statute
11	46-3-110	State	Establishes the disposition of moneys derived from sale of innoculating material.	Statute
12	46-3-120	State	Establishes that other Departments and agencies shall furnish information to the Commissioner as necessary.	Statute
13	46-3-130	State	Establishes the authority of SCDA to enter into contracts or agreements with any State agency.	Statute
14	46-3-140	State	Establishes the requirement of an annual report of SCDA's work.	Statute
15	46-3-145	State	Establishes the definition of "beneficiary class" and SCDA's involvement with loan programs.	Statute
16	46-3-160	State	Establishes the Commissioner's authority to enter into agreements with the U.S. government for the conduct of aquatic plant control projects.	Statute
17	46-3-170	State	Establishes that the Commissioner may sue or be sued.	Statute
18	46-3-175	State	Establishes the authority of SCDA to issue agribusiness licenses.	Statute
19	46-3-180	State	Establishes the authority of the Commissioner to revoke registrations or licenses.	Statute
20	46-3-190	State	Establishes that a hearing must occur before a license is revoked.	Statute
21	46-3-200	State	Establishes the procedural powers of the Commissioner at license revocation hearing.	Statute
22	46-3-210	State	Establishes the bond to stay revocation.	Statute
23	46-3-220	State	Establishes the appeals process for revocation of registrations or licenses.	Statute
24	46-3-230	State	Establishes release of certain items from restraining orders.	Statute
25	46-3-240	State	Establishes the authority of the Commissioner and inspectors to enforce regulations relating to food and drugs.	Statute
26	46-3-260	State	Establishes the South Carolina Renewable Energy Infrastructure Development Fund and gives SCDA authority to prescribe procedures, as necessary, to execute related provisions.	Statute
27	46-3-270	State	Establishes the authority of SCDA to waive the remittance of indirect cost recoveries for the Specialty Crop Grant.	Statute



## Legal Standards

28	46-15-10	State	Establishes the general duties of SCDA.	Statute
29	46-15-20	State	Establishes the general powers of SCDA.	Statute
30	46-15-21	State	Establishes the abolition of the State Agricultural Marketing Commission.	Statute
31	46-15-30	State	Establishes that any rules and regulations must be filed with the Secretary of State.	Statute
32	46-15-40	State	Establishes that inspection, grading, and buyers' services shall be made available to private markets at reasonable charges.	Statute
33	46-15-50	State	Establishes that SCDA must keep markets' records.	Statute
34	46-15-60	State	Establishes that funds from the operation of the wholesale farmers' markets must be deposited monthly with the State Treasurer.	Statute
35	46-15-70	State	Establishes the Agricultural Marketing Advisory Council with the Commissioner as chairman.	Statute
36	46-15-80	State	Establishes meetings and compensation of the Agricultural Marketing Advisory Council.	Statute
37	46-15-90	State	Establishes duties of the Agricultural Marketing Advisory Council.	Statute
38	46-17-340	State	Establishes that SCDA shall provide administrative support to S.C. Commodity Boards and Associations.	Statute
39	46-19-40	State	Establishes that SCDA shall approve, assist, and supervise local marketing authorities.	Statute
40	46-19-210	State	Establishes the authority of the Commissioner to establish and supervise the Roadside Market Incentive Program.	Statute
41	46-19-220	State	Establishes the authority of the Commissioner to prescribe standards for participating in the Roadside Market Incentive Program.	Statute
42	46-19-230	State	Establishes the application process for the Roadside Market Incentive Program.	Statute
43	46-19-240	State	Establishes the Commissioner's authority to make signs for the Roadside Market Incentive Program.	Statute
44	46-19-250	State	Establishes periodic inspections of approved roadside markets.	Statute
45	46-19-260	State	Establishes notice and hearing on disapproved market application.	Statute
46	46-19-270	State	Establishes penalty for displaying an unauthorized market sign.	Statute
47	46-19-280	State	Establishes transfer of market signs.	Statute
48	46-19-290	State	Establishes the authority of the Commissioner to expend funds for the promotion and expansion of agricultural products.	Statute
49	46-19-300	State	Establishes the authority of the Commissioner to adopt rules to implement the Roadside Market Incentive Program.	Statute

## Legal Standards

50	46-19-310	State	Establishes the authority of the Commissioner to apply for an injunction.	Statute
51	46-21-25	State	Establishes the authority of SCDA to enforce state seed law.	Statute
52	46-21-35	State	Establishes the SCDA seed laboratory.	Statute
53	46-27-410	State	Establishes the authority of SCDA to inspect and take feed samples.	Statute
54	46-40-10	State	Establishes the SC Grain Dealers Guaranty Fund.	Statute
55	46-41-40	State	Establishes the authority of SCDA to issue agricultural dealers and handlers licenses.	Statute
56	46-42-10	State	Establishes the authority of SCDA to sample, grade, and inspect grain and oilseeds.	Statute
57	46-51-10	State	Establishes the Aquaculture Permit Assistance Office within SCDA.	Statute
58	39-9-68	State	Charges SCDA Consumer Services Division with performing weights and measures functions.	Statute
59	39-9-70	State	Charges the Commissioner of Agriculture with maintaining and enforcing weights and measures inspections and standards.	Statute
60	44.1	State	Establishes the authority of SCDA to charge a yearly subscription for the Market Bulletin.	Proviso
61	44.2	State	Establishes fruit/vegetable inspectors subsistence.	Proviso
62	44.3	State	Establishes SCDA use of the Warehouse Receipts Guaranty Fund.	Proviso
63	44.4	State	Establishes a weights and measures registration fee.	Proviso
64	44.5	State	Establishes the authority of SCDA to retain revenues associated with the sale of its property.	Proviso
65	44.6	State	Establishes an account for revenue associated with the State Farmers Market.	Proviso
66	44.7	State	Establishes the authority of SCDA to charge for export certification.	Proviso
67	44.8	State	Establishes the authority of SCDA to charge for registration of feed labels.	Proviso
68	5-190	State	State Farmers Markets; rules and regulations	Regulation
69	5-200 through 5-207	State	Commercial feeding stuffs	Regulation
70	5-210 through 5-235	State	Egg grading and packaging	Regulation
71	5-300 through 5-322	State	Food labeling	Regulation
72	5-360 through 5-373	State	Salvage operations dealing in foods and cosmetics	Regulation
73	5-420 through 5-426	State	Livestock sales licenses	Regulation
74	5-440 through 5-449	State	Petroleum products	Regulation
75	5-450 through 5-459	State	The Roadside Market Incentive Program	Regulation
76	5-460 through 5-483	State	Seeds	Regulation

## Legal Standards

77	5-490 through 5-497	State	Warehouse system	Regulation
78	5-500 through 5-572	State	Weights and measures	Regulation
79	5-581	State	Dealers and handlers of agricultural products	Regulation
80	5-610 through 5-613	State	Milk Producer Tax Credit	Regulation

Reporting Requirements

Agency Responding	SC Department of Agriculture
Date of Submission	1/12/2015
Fiscal Year for which information below pertains	2015-16

Instructions:

List all reports, if any, the agency is required to submit to a state, federal or outside entity on a regular basis. Insert the name of each report in a separate column and answer the questions below it. Add as many columns as needed.  
 PLEASE NOTE: All information the agency provides in the rows below the row labeled, "Date the Report was last submitted," should apply to when the agency most recently submitted the report (i.e., date report was last submitted).

Agency Responding	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture
Report #	1	2	3	4	5	6	7
Report Name	Restructuring Report	Accountability Report	Fees and Fines Report	Report on Sale of Real Property	Energy Usage Annual Progress Report	FY13-14 General Appropriations Property Report	2015 Capital Permanent Improvement Plan
<b>Why Report is Required</b>							
Legislative entity requesting the agency complete the report:	House Legislative Oversight Committee	Executive Budget Office	House Ways and Means Committee and Senate Finance Committee	House Ways and Means Committee	Office of Regulatory Staff, Energy Office	Division of General Services	Executive Budget Office
Law which requires the report:	SC Code 1-30-10(G)(1)	Proviso 117.29	Proviso 117.75	Proviso 93.25	48-52-610 through 48-52-910	Proviso 118.2 of the FY 2013-2014 General Appropriations Act	SC Code 2-47-55
Agency's understanding of the intent of the report:	Increased Efficiency	Provide the Governor and General Assembly with information that supports their analysis of the budget and ensure that the Agency Head Salary Commission has a basis for its decisions	Promote accountability and transparency	Information	Allow the Energy Office to verify compliance with the State Government Energy Conservation Act; assist in statewide energy planning efforts	To obtain a complete and accurate portfolio of all state-owned property.	The CPIP is designed to include all permanent improvement projects projected and proposed for the years covered by the plan regardless of the sources of funds expected to finance them.
Year agency was first required to complete the report:	2015	2012	unknown	2009	unknown	unknown	2002
Reporting frequency (i.e., annually, quarterly, monthly):	Annually	Annually	Annually	Annually	Annually	One time	Annually
<b>Information on Most Recently Submitted Report</b>							
Date Report was last submitted:	4/30/2015	9/14/2015	9/1/2014	12/4/2013	9/1/2015	8/3/2014	1/18/2015
<b>Timing of the Report</b>							
Month Report Template is Received by Agency:	November	June	July	July		February	January
Month Agency is Required to Submit the Report:	January	September	September	September	September	March	March
<b>Where Report is Available &amp; Positive Results</b>							
To whom the agency provides the completed report:	House Legislative Oversight Committee	Executive Budget Office	SC House Ways and Means Committee and Senate Finance Committee	SC House Ways and Means Committee	Office of Regulatory Staff, Energy Office	Division of General Services	Capital Budgeting Unit, Executive Budget Office
Website on which the report is available:	scstatehouse.gov	admin.sc.gov/budget	www.agriculture.sc.gov				http://www.admin.sc.gov/budget/capital-budgeting-unit/CPIP
If it is not online, how can someone obtain a copy of it:	n/a	n/a		contact House Ways and Means	contact the Energy Office	contact the Dept of Administration	
Positive results agency has seen from completing the report:	n/a	Increased clarity and organization of agency goals, strategies, and objectives.					

Information in all these rows should be for when the agency completed the report most recently

## Associated Programs

This is the next chart because once the agency has determined its goals, strategies and objectives, the agency needs to determine which of its programs will help achieve those objectives and goals and which programs may need to be curtailed or eliminated. If one program is helping accomplish an objective that a lot of other programs are also helping accomplish, the agency should consider whether the resources needed for that program could be better utilized (i.e. so the agency can most effectively and efficiently accomplish all of its goals and objectives) if they were distributed among the other programs that are helping accomplish the same objective or among programs that are helping accomplish other objectives.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	January 12, 2016
Fiscal Year for which information below pertains	2015-16

### Instructions:

- 1) Under the "Name of Agency Program" column, enter the name of every program at the agency on a separate row.
- 2) Under the "Description of Program" column, enter a 1-3 sentence description of the agency program.
- 3) Under the "Legal Statute Requiring Program" column, enter the legal statute which requires (this is different than allows) the program, if the program is required by a state or federal statute or proviso. Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute. If the program is not required by a state or federal statute or proviso, enter "none."
- 3) Under the "Objective the Program Helps Accomplish" column, enter the strategic plan objective number and description. The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart. Enter ONLY ONE objective per row. If an agency program helps accomplish multiple objectives, insert additional rows with that agency program information and enter each different objective it helps accomplish on a separate row.

Name of Agency Program	Description of Program	Legal Statute or Proviso Requiring the Program	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart)  List <u>ONLY ONE</u> strategic objective per row.
State Farmers Markets	The State of South Carolina owns and manages three regional state farmers markets in Columbia, Florence, and Greenville which provide consumers with a wide variety of locally grown produce and specialty products.	State 46-15-20	Goal 3
Grading/Inspections	Under a cooperative agreement with USDA, fruit, vegetable, poultry and egg, and commodity grading and inspection services are provided. Includes Good Agricultural Practices (GAP) training.	State 46-42-10	Goals 2 and 3
Market News Services	A USDA market service that analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers.	State 46-15-10	Goals 3 and 4
Marketing	Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality SC agricultural products at local, national, and international levels.	State 46-15-10	Goal 3
Consumer Services	Protects consumers by ensuring that the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce.	State 39-9-68; 39-9-70; Proviso 44.4	Goal 2
Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale; assures that goods meet acceptable standards of quality; and issues registrations, licenses, and permits to certain businesses. (Food Laboratory, Feed Laboratory, Seed Laboratory, Chemical Residue Laboratory, and Petroleum Products Laboratory)	State 46-21-25; 46-21-35; 46-27-410	Goal 2
Metrology	<b>Provides</b> NIST traceable calibrations for mass and volume standards, calibrates equipment for our state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.	State 39-9-68; 39-9-70	Goal 2

## Associated Programs

Food & Feed Safety and Compliance	Ensures that foods and feeds are <b>manufactured</b> under safe and sanitary conditions through routine <b>surveillance inspections</b> .	State 46-3-240	Goal 2
Administrative Services	Provides executive leadership, support, policy development and review, financial services, <b>information technology, facilities management</b> and other administrative services.	State 46-3-10	Goals 1 and 4
Market Bulletin	<b>Publication issued twice a month; available printed and electronically</b>	Proviso 44.1	Goal 4
Agribusiness Development	Works to continually promote agribusiness in SC through <b>research</b> and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in SC, via the production of <b>SC grown products or value-added services/processing</b> .	State 46-15-10	Goal 5
Grants Coordination	Cooperate with the federal government to implement the Specialty Crop Block Grant (SCBG), Farm to School Grant (F2S), Manufactured Food and Regulatory Program Standards (MFRPS); pursue and secure other grants to benefit the agriculture industry and SCDA.	Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C 1621 note.) and ammended under section 10109 of the Food Conservation and Energy Act of 2008, Public Law 110-246 (the Farm Bill); currently implemented under 7 CFR Part 1291	Goals 3 and 5

## Strategic Budgeting

This is the next chart because once the agency determines its goals, strategies and objectives, as well as the programs that will best allow the agency to accomplish its objectives, the agency needs to determine how to allocate its funds to most effectively and efficiently accomplish the objectives. After allocating the funds to the objectives, the agency may decide to go back and revise which associated programs it will continue, curtail or eliminate in order to most effectively and efficiently accomplish its goals and objectives.

Agency Responding	S. C. Department of Agriculture
Date of Submission	Insert Date Submitted
Fiscal Year for which information below pertains	2015-2016

IMPORTANT TIME SAVING NOTE: Please note that only one year of budgeted funds is requested. Once an agency is under study with the House Legislative Oversight Committee, the Committee may request information on how the agency budgeted and spent money for the previous five years. If an agency is chosen for study five years from now, the agency can quickly and easily combine the information from this chart for each of the last five years.

**Part A Instructions:** Estimated Funds Available this Fiscal Year (2015-16)

1) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e. general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e. state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns below so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency estimates it has available to spend and where the agency has budgeted the funds it has available to spend.

**Part B Instructions:** How Agency Budgeted Funds this Fiscal Year (2015-16)

- 1) Enter each agency objective and description (i.e. Objective 1.1.1 - insert description of objective). The agency can insert as many rows as necessary so that all objectives are included.
- 2) After entering all of the objectives, enter each "unrelated purpose" for which money received by the agency will go (i.e. Unrelated Purpose #1 - insert description of unrelated purpose) on a separate row. An "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e. pass through, carry forward, etc.).
- 3) Enter how much money from each source of funds the agency budgets to spend on each objective and unrelated purpose. The "Total budgeted to spend on objectives and unrelated purposes" for each source of funds in Part B should equal the "Amount estimated to have available to spend this fiscal year" in Part A.

Explanations from the Agency regarding Part A:

Insert any additional explanations the agency would like to provide related to the information it provides below.

**PART A**  
Estimated Funds  
Available this  
Fiscal Year  
(2015-16)

Source of Funds:	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development	
Is the source state, other or federal funding:	Totals	State & Other	State and Other	State, Other, Federal	Other	State	
Is funding recurring or one-time?	Totals	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring	
<b>\$ From Last Year Available to Spend this Year</b>							
Amount available at end of previous fiscal year		\$77,693	\$259,299	\$5,058,334	\$28,679	\$0	
Amount available at end of previous fiscal year that agency can actually use this fiscal year:		\$77,693	\$259,299	\$5,058,334	\$28,679	\$0	
If the amounts in the two rows above are not the same, explain why:	Enter explanation for each fund to the right						
<b>\$ Estimated to Receive this Year</b>							
Amount budgeted/estimated to receive in this fiscal year:		\$1,427,847	\$3,920,224	\$12,722,776	\$136,700	\$750,000	
<b>Total Actually Available this Year</b>							
Amount estimated to have available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount budgeted/estimated to receive this fiscal year):		\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	

Strategic Budgeting

Explanations from the Agency regarding Part B:

*Insert any additional explanations the agency would like to provide related to the information it provides below.*

**PART B**  
**How Agency**  
**Budgeted Funds**  
**this Fiscal Year**  
**(2015-16)**

Source of Funds: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development	0
Is source state, other or federal funding: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	State & Other	State and Other	State, Other, Federal	Other	State	0
Restrictions on how agency is able to spend the funds from this source:	n/a	No	No	No	No	No	
Amount estimated to have available to spend this fiscal year: (the rows to the left should populate automatically from what the agency entered in Part A)	\$0	\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	\$0
Are expenditure of funds tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes	
<b>Where Agency Budgeted to Spend Money this Year</b>							
1: Improve agency operational readiness and workforce development:		\$1,101,000	\$150,000	\$250,000			
2: Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing and providing community oversight of starge warehouses and facilities:			\$4,029,523	\$4,984,968			
3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products and to enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:				\$6,367,114		\$200,000	
4: Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry:		\$404,540		\$150,000	\$165,379		
5: Enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:				\$5,410,302		\$550,000	
<i>Unrelated Purpose #1: Renewable Energy</i>				\$19,668			
<i>Unrelated Purpose #2: Gateway Project</i>				\$500,000			
<i>Unrelated Purpose #3: No More Homeless Pets</i>				\$99,058			
Total Budgeted to Spend on Objectives and Unrelated Purposes: (this should be the same as Amount estimated to have available to spend this fiscal year)		\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	



# South Carolina Department of Agriculture



**Hugh E. Weathers, Commissioner**

# South Carolina Department of Agriculture (SCDA)

## Mission:

To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.



# SCDA

The logo of the South Carolina Department of Agriculture (SCDA) is a circular seal with a scalloped edge. It features a central green leaf with a brown stem. The seal is divided into several colored segments: green, orange, and light green. The text "SOUTH CAROLINA DEPARTMENT OF AGRICULTURE" is written around the perimeter of the seal. The acronym "SCDA" is prominently displayed in the center, and the year "1879" is at the bottom.

- Agricultural Services
  - Marketing
  - Grading and Inspection – F&V, grain
  - Market News Service – F&V, livestock
  - State Farmers Markets
- External Affairs and Economic Development
  - Legislative Affairs
  - Agribusiness Development
  - Grant Programs

# SCDA

- **Consumer Protection**
  - Food & Feed Safety
  - Laboratory Services
  - Consumer Services
  - Metrology
- **Agency Operations**
  - Office of the Commissioner
  - Administration
  - Human Resources
  - Information Technology
  - Public Information



## Certified South Carolina

- 2,050 members
- 91% of consumers are more likely to purchase CSC over other products
- 67% of consumers are willing to pay more for food items labeled CSC

## Fresh on the Menu

- 310 members
- Program awareness is up 10 percentage points from 2013



# AGRIBUSINESS

**#1** INDUSTRY  
*in South Carolina*

AGRIBUSINESS HAD A  
TOTAL ECONOMIC IMPACT OF  
**\$41.7 BILLION**

IN 2013

ECONOMIC IMPACT HAS  
**INCREASED 23%**  
SINCE 2006

ACCOUNTS FOR

**212,530**

JOBS TOTAL

REPRESENTING

**10.5%**

OF THE STATE'S WORKFORCE

# 2015 Flood and Rain Damage





**Clarendon County farm under water**



# SCDA Involvement

- SERT ESF 11 (food) and 17 (animal agriculture)
- Damage assessment
- Hay and feed analysis
- Sample grades of peanuts and grain
- Communication with crop insurance agents
- Fuel quality
- Developed protocols for evaluation of food crops in flooded areas
- 5 Team SC events and 6 farmer meetings
- Meeting with RMA Deputy Administrator

# 50 x 20

*Working toward our goal of agribusiness being a \$50 billion industry by 2020.*

- Access
- Partnerships
- Recruitment
- Diversification



# Questions?



[agriculture.sc.gov](http://agriculture.sc.gov)

## *Appendix E. July 6, 2016 Meeting Information*

### Appendix Includes:

- Correspondence before meeting
  - Press release announcing public input meeting (June 28, 2016)
- Meeting Packet
  - Agenda
  - June 28, 2016 - Meeting Minutes
  - Department of Agriculture
    - History, mission, and vision
    - Relationships
    - Public survey responses
- Documents provided by agency during meeting
  - PowerPoint - History, mission, vision, and key partners (July 6, 2016)
- Correspondence after meeting
  - Letter from Subcommittee to Department of Agriculture (August 9, 2016)
    - Requests the following information after the July 6, 2016, meeting: (1) brief overview of relationships with South Carolina State University public service activities; (2) information about pivot irrigation systems; (3) studies mentioned during the meeting; and (4) recommendations for revisions to laws that the agency would like the Subcommittee to consider for inclusion as a part of its study.
  - Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016)
    - Responds to the Subcommittee's August 9, 2016, letter and includes: (1) "The Economic Impact of Agribusiness and the Return on the Certified South Carolina Grown Campaign" published by The Darla Moore School of Business, University of South Carolina (April 2010); (2) "The Economic Impact of the Agribusiness Industry in South Carolina" prepared for the Palmetto AgriBusiness Council by Miley, Gallo & Associates, LLC (September 2008); (3) "The Impact of the Agribusiness Sector on the South Carolina Economy" prepared for the Palmetto AgriBusiness Council, SC Department of Agriculture, SC Farm Bureau, and Clemson University Public Service Activities (2015); and (4) "The Facts about Surface & Ground Water Withdrawal".



## MEDIA RELEASE

June 28, 2016  
For Immediate Release

Contact: Chairman Weston Newton  
Email: [WestonNewton@schouse.gov](mailto:WestonNewton@schouse.gov)

### INVITATION FOR PUBLIC TESTIMONY ABOUT THE SC DEPARTMENT OF AGRICULTURE AND THE SC SCHOOL FOR THE DEAF AND THE BLIND AT HOUSE LEGISLATIVE OVERSIGHT COMMITTEE'S SUBCOMMITTEE MEETINGS

**Columbia, SC** - The House Legislative Oversight Committee is currently conducting oversight studies on the South Carolina Department of Agriculture and the South Carolina School for the Deaf and the Blind. Subcommittee meetings will be held on the dates below for the purpose of receiving comments from the public about these agencies

[SC Department of Agriculture](#) - Wednesday, July 6, 2016 - 10:30 a.m. - Room 110, Blatt Building  
[SC School for the Deaf and the Blind](#) - Wednesday, July 13, 2016 - 10:00 a.m. - Room 108, Blatt Building

During these times, Speaker Jay Lucas and the South Carolina House of Representatives' Legislative Oversight Committee are pleased to invite the public to provide comments and recommendations about the agencies. Individuals can sign up to speak by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at [hcommlegov@schouse.gov](mailto:hcommlegov@schouse.gov) or signing up in person a few minutes prior to the meeting.

These meetings provide the opportunity to have an individual member of the public's face and voice connected with the comments while speaking directly to the Subcommittee members. Another ongoing opportunity is a public input link available on the Committee's website, which allows individuals to provide comments anonymously. A previous opportunity was an online public survey to provide comments anonymously, which was open for a month.

It is the Committee's practice to publish responses to online surveys verbatim as received by the Committee. To view responses, go to [www.scstatehouse.gov](http://www.scstatehouse.gov), click on the "Citizens' Interest" tab on the top row, then on the "House Legislative Oversight" link and finally click on the agency for which you would like to view responses from the public.

The Committee's vision is for South Carolina agencies to become, and continuously remain, the most effective state agencies in the country through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government. Comments from those citizens who choose to provide input are important to the Members of the House Legislative Oversight Committee because they may help direct the Committee to additional potential areas for improvement with these agencies.

The specific task of the House Legislative Oversight Committee is to conduct legislative oversight studies on agencies at least once every seven years. The purpose of a legislative oversight study is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether or not they should be continued, curtailed or even eliminated. Also, the Committee recognizes that an oversight study serves the purpose of informing the public about an agency. Any legislator may file legislation, which will go through the normal legislative process, to implement recommendations this Committee may have relating to the agencies.

Suggestions for additional ways to inform the public about this meeting and the House Legislative Oversight Committee's process are welcomed. ###

South Carolina  
House of Representatives



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND  
REGULATORY SUBCOMMITTEE***

*Chairman Phyllis J. Henderson  
The Honorable Ralph W. Norman  
The Honorable Robert L. Ridgeway III  
The Honorable Samuel Rivers Jr.*

*Wednesday, July 6, 2016  
10:30 a.m.*

*Room 110 -Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes from the June 28, 2016 Subcommittee Meeting
- II. Discussion of the study of the Department of Agriculture, including, but not limited to, its history, mission, and vision
- III. Opportunity for Public Testimony about the Department of Agriculture

Individuals can sign up to testify by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at [hcommlegov@schouse.gov](mailto:hcommlegov@schouse.gov), or signing up in person a few minutes prior to the meeting. S.C. Code of Laws Section 2-2-70 provides that all testimony given to the investigating committee must be under oath.

An ongoing opportunity for public input is available on the Committee's website, which allows individuals to provide comments to the House Legislative Oversight Committee anonymously.

- III. Adjournment

**LEGISLATIVE OVERSIGHT COMMITTEE**  

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**ECONOMIC DEVELOPMENT,  
TRANSPORTATION, NATURAL  
RESOURCES AND REGULATORY  
SUBCOMMITTEE**

**MINUTES FROM JUNE 28, 2016 MEETING**

Chairman Wm. Weston J. Newton

*First Vice-Chair:*  
Laurie Slade Funderburk

## Legislative Oversight Committee



Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor

South Carolina House of Representatives

William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith, Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams

Jennifer L. Dobson  
*Research Director*

Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811

Charles L. Appleby IV  
*Legal Counsel*

Cathy A. Greer  
*Administration Coordinator*

Room 228 Blatt Building

Carmen J. McCutcheon  
*Auditor/Research Analyst*

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

June 28, 2016

#### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Audits*, 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 Economic Development, Transportation, Natural Resource, and Regulatory Subcommittee meeting was called to order by Chair Phyllis J. Henderson on Tuesday, June 28, 2016, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for the meeting: Chair Henderson, Representative Samuel Rivers, Jr., and Representative Robert L. Ridgeway, III.
- II. The following were present from the State Transportation Infrastructure Bank: Mr. Vincent Graham (Chairman); Mr. Jim Holly (Legal Counsel); and Ms. Tami Reed (Chief Financial Officer).



- III. The following were present from the Department of Transportation: Secretary Christy Hall and Mr. Allen Hutto (Governmental Affairs Officer).
- IV. The following were present from the Legislative Audit Council: Mr. Earle Powell (Director); Mr. Andy Young (Audit Manager); and Courtney Phillips (Auditor).

### Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's previous meeting on May 26, 2016. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's motion that the Subcommittee approve the May 26 minutes:	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

### Discussion of the Transportation Infrastructure Bank

- I. Chair Henderson said that the purpose of the meeting was to give the Subcommittee the opportunity to ask questions of the Transportation Infrastructure Bank and to hear testimony from the Bank.
- II. Mr. Vincent Graham (Chairman) and Mr. Jim Holly (Legal Counsel) provided testimony in response to the Legislative Audit Council's audit of the Bank, and they explained which of the LAC recommendations with which the agency agreed and disagreed.

Mr. Holly testified that the Bank was in the process of updating its website so as to provide more information about the agency to the public.

Mr. Holly answered questions asked by Chair Henderson about the changes in the Bank's sources of revenue over time.

Mr. Andy Young (Audit Manager) testified about one of LAC's recommendations with which the Bank disagreed.

Mr. Holly answered questions asked by Chair Henderson about the Bank's guidelines for funding projects with local matches.

Representative Ridgeway asked for more information about the Bank's opinion that its bonding activities were constitutional. He also asked for an explanation of the process the Bank uses to amend its policies and guidelines.

Ms. Christy Hall (Secretary of Transportation) testified that the Department of Transportation had its own internal code of conduct that regulates the types of ethics activities that had been highlighted in the LAC audit.

- III. Representative Ridgeway moved that the Subcommittee's study include the Legislative Audit Council's recommendation number 24 relating to ethics violations by state employees for further study. A roll call vote was held, and the motion was passed.

<b>Rep. Ridgeway's motion that the Subcommittee's study include Legislative Audit Council's recommendation number 24:</b>	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

Representative Rivers moved that the Subcommittee include in its study, for information purposes, the Bank's response to the audit by the Legislative Audit Council and the Bank's summary of the changes to its guidelines and processes for informational purposes. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's motion that the Subcommittee include in its Study the Bank's response to the audit by the Legislative Audit Council and the Bank's summary of the changes to its guidelines and processes for informational purposes:	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

- IV. Mr. Graham testified before the Subcommittee about the changes the Bank had recently made to its operating guidelines and about his strategic vision for the agency.

Mr. Graham testified that he hoped to have a revised strategic plan to present to the Subcommittee in two or three months.

- V. Ms. Hall testified that the recent reforms of Act 275 were positive and would help the Department of Transportation and the Transportation Infrastructure Bank work together.

Chair Henderson asked if the two agencies had worked out the collaboration process that was required by Act 275. Secretary Hall said that the two agencies had started to develop the collaboration process.

- VI. Chair Henderson asked for an explanation of the process the Bank uses to choose a bonding agency. Mr. Holly and Mr. Graham testified about the bonding process of the Bank.

- VII. Chair Henderson said that the Subcommittee would likely hold another meeting with the Bank in a few months so that the Bank could submit the revised guidelines and strategic plan, and that the Subcommittee would complete its Subcommittee Study of the Bank after that time.

- VIII. The meeting was adjourned.

**LEGISLATIVE OVERSIGHT COMMITTEE**

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**ECONOMIC DEVELOPMENT,  
TRANSPORTATION, NATURAL  
RESOURCES AND REGULATORY  
SUBCOMMITTEE**

**HISTORY, MISSION AND VISION**

Agency Name:  
 Agency Code:  
 Agency Section:

**Purpose/Mission/Vision Chart**

**INSTRUCTIONS:** Provide information about the date the agency, in its current form, was initially created and the present purpose, mission and vision of the agency, with the date each were established in paranethesis. The Legal Standards Cross Reference column should link the purpose, mission and vision to the statutes, regulations and provisos listed in the Legal Standards Chart, which they satisfy.

Agency Submitting Report	Date Agency created	Purpose	Mission	Vision	Legal Standards Cross References
S.C. Department of Agriculture	December 23, 1879	To foster agribusiness through marketing and promotion; to protect South Carolina's citizens by ensuring proper weights and measures, grading and inspection of the state's agricultural products, laboratory analysis of food, feed, seeds, pesticides, and petroleum products, and food safety and compliance (December 23, 1879)	To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.	For the state's economy to grow and prosper providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture.	Creation: Act No. 104 of 1879 Purpose: 46-3-10 Mission: 46-3 Vision: 46-3

Agency Name:  
 Agency Section:  
 Agency Code:

## Historical Perspective Chart

**INSTRUCTIONS:** Please provide information about any restructuring or major changes in the agency's purpose or mission during the last ten years. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Year	Description of Restructuring that Occurred	Description of Major Change in Agency's Purpose or Mission
SC Department of Agriculture	2014	Restructuring of divisions into Agency Operations, Agricultural Services, Consumer Protection, and External Affairs and Economic Development.	The restructuring of agency divisions was designed to more fully support the agency's purpose and mission, not change it.

Agency Name:  
 Agency Section:  
 Agency Code:


**INSTRUCTIONS:** Provide information about the body that oversees the agency and to whom the agency head reports including what the overseeing body is (i.e. board, commission, etc.); total number of individuals on the body; whether the individuals are elected or appointed; who elects or appoints the individuals; the length of term for each individual; whether there are any limitations on the total number of terms an individual can serve; whether there are any limitations on the number of consecutive terms an individual can serve; and any other requirements or nuances about the body which the agency believes is relevant to understanding how the agency performs and its results.

Agency Submitting Report	Type of Body (i.e. Board, Commission, etc.)	# of Times per Year Body Meets	Total # of Individuals on the Body	Are Individuals Elected or Appointed?	Who Elects or Appoints?	Length of Term	Limitations on Total Number of Terms	Limitations on Consecutive Number of Terms	Challenges Imposed or that Agency staff and the Body have faced based on the structure of the overseeing body	Other Pertinent Information
S.C. Department of Agriculture	Commissioner of Agriculture is an elected position-Commissioner and agency report to the public.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	

**History, Mission, and Vision  
of the  
Department of Agriculture**

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Economic Development, Transportation, Natural Resources,  
and Regulatory Subcommittee  
of the House Legislative Oversight Committee




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**History of the Department Agriculture**

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- Established in 1879.
- The Department of Agriculture was initially supported by fines, forfeitures, and fees rather than by appropriations.
- The Department of Agriculture has been renamed several times.
- Today, the Department of Agriculture oversees the states \$3 billion agricultural industry

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**Agency Mission**

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To promote and nurture the growth and development of South Carolina's Agriculture industry and its related businesses while assuring the safety and security of the buying public.  
(Act No. 104 of 1879)

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Agency Vision



For the State's economy to grow and prosper, providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture.

(SC Code § 46-3-10)

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**LEGISLATIVE OVERSIGHT COMMITTEE**

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**ECONOMIC DEVELOPMENT,  
TRANSPORTATION, NATURAL  
RESOURCES AND REGULATORY  
SUBCOMMITTEE**

**AGENCY RELATIONSHIPS**

Agency Name:  
 Agency Section:  
 Agency Code:

**INSTRUCTIONS:** Provide information about the key customer segments identified by the agency and each segment's key requirements/expectations. A customer is defined as an actual or potential user of the agency's deliverables. Please be as specific as possible in describing the separate customer segments (i.e. do not simply put "public.") The Deliverables Cross References column should link customer groups to the deliverable listed in the Key Deliverables Chart, which they utilize. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Item #	Customer Segments	Requirements/Expectations	Deliverables Cross References
S.C. Department of Agriculture	1	consumers	quality products that are safe, delivered accurately, and affordable	Certified South Carolina Marketing Program; Consumer Protection
S.C. Department of Agriculture	2	processors/manufacturers	support and promotion of their locally made products and as little regulation as necessary	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program
S.C. Department of Agriculture	3	wholesalers, retailers, direct marketers	help with expanding market opportunities and marketing	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program
S.C. Department of Agriculture	4	commodity boards and associations	a fair and equal marketplace for the commodities they represent; additional product and market development	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program; Grading and Inspection Services
S.C. Department of Agriculture	5	local, state, and federal government officials	for their constituents to be well-served	All
S.C. Department of Agriculture	6	existing, expanding, or developing agribusinesses	assistance in agribusiness development	Agribusiness economic development

**Key Stakeholder Chart**

Agency Name:  
 Agency Section:  
 Agency Code:

**INSTRUCTIONS:** Provide information about the agency's key stakeholder groups and their key requirements and expectations. A stakeholder is defined as a person, group or organization that has interest or concern in an agency. Stakeholders can affect or be affected by the agency's actions, objectives and policies. Please be as specific as possible in describing the separate stakeholder groups (i.e. please do not simply put "the public.") The Deliverables Cross References column should link stakeholder groups to the deliverable, listed in the Key Deliverables Chart, for which they group has the most interest or concern. **NOTE:** Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Item #	Stakeholder Group	Requirements/Expectations	Deliverables Cross References
S.C. Department of Agriculture	1	Taxpayers	Fiscal responsibility; return on investment of tax dollars	all
S.C. Department of Agriculture	2	Employees	Healthy work environment, equitable compensation and benefits, opportunities for career advancement	n/a
S.C. Department of Agriculture	3	Vendors and suppliers	Fair procurement process	n/a
S.C. Department of Agriculture	4	Public and private agricultural partners	Cooperation and assistance in advancing their respective missions	all

Agency Name:  
 Agency Code:  
 Agency Section:

**Key Partner Agencies Chart**

**INSTRUCTIONS:** List the names of the other state agencies which have the biggest impact on the agency's mission success (list a minimum of three); partnership arrangements established and performance measures routinely reviewed with the other entity. The Major Program Areas Cross References Column should link the Partner Agency to the major program area, in the Major Program Areas Chart, on which it has the biggest impact. **NOTE:** Responses are not limited to the number of rows below that have borders around them, please list all that are applicable and a minimum of three.

Agency Submitting Report	Agency w/ Impact on Mission Success	Partnership Arrangement Established	Performance Measures Routinely Reviewed Together	Major Program Areas Cross Reference
S.C. Department of Agriculture	Clemson University	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Commerce	Agribusiness recruitment and project management	project announcements, capital investment, jobs created	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Parks, Recreation, and Tourism	Chef Ambassador Program	brand recognition, consumer preference	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Health and Environmental Control	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Education	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions

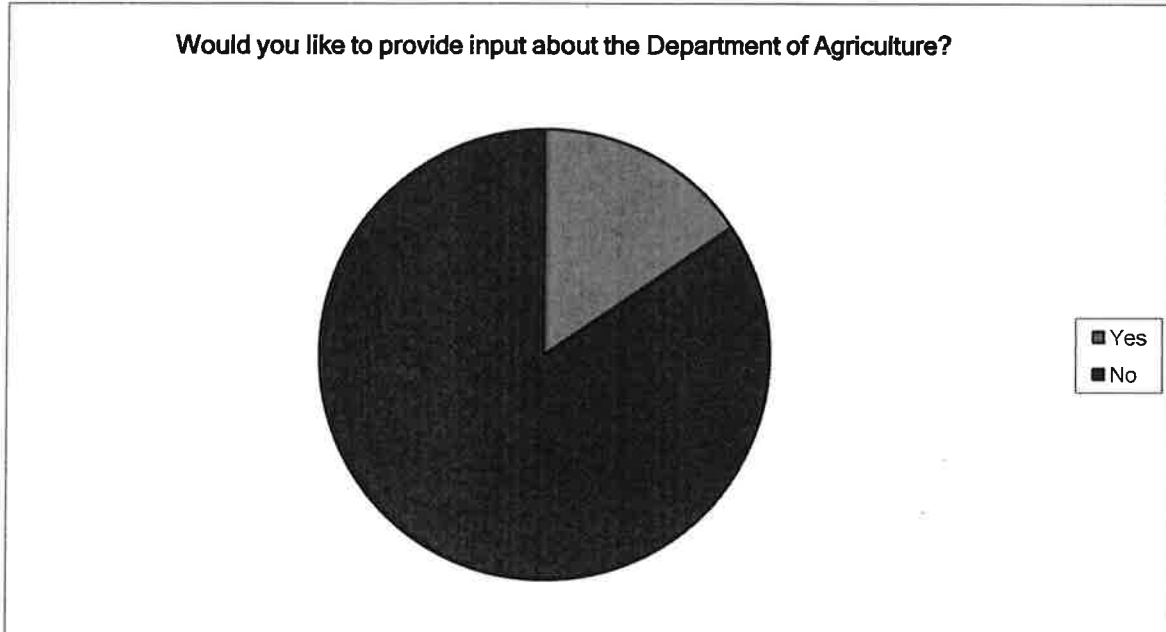
LEGISLATIVE OVERSIGHT COMMITTEE  
ECONOMIC DEVELOPMENT,  
TRANSPORTATION, NATURAL  
RESOURCES AND REGULATORY  
SUBCOMMITTEE

PUBLIC INPUT

### May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Agriculture?

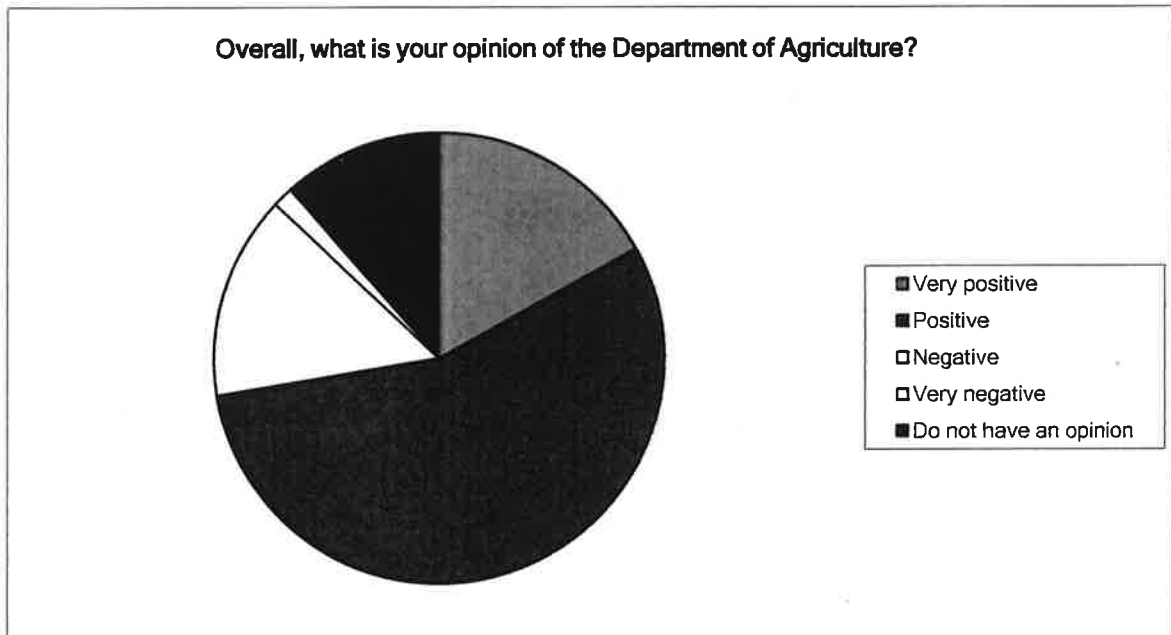
Answer Options	Response Percent	Response Count
Yes	15.4%	156
No	84.6%	858
	<i>answered question</i>	<b>1014</b>
	<i>skipped question</i>	<b>11</b>



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**Overall, what is your opinion of the Department of Agriculture?**

Answer Options	Response Percent	Response Count
Very positive	16.9%	22
Positive	55.4%	72
Negative	14.6%	19
Very negative	1.5%	2
Do not have an opinion	11.5%	15
<i>answered question</i>		<b>130</b>
<i>skipped question</i>		<b>895</b>



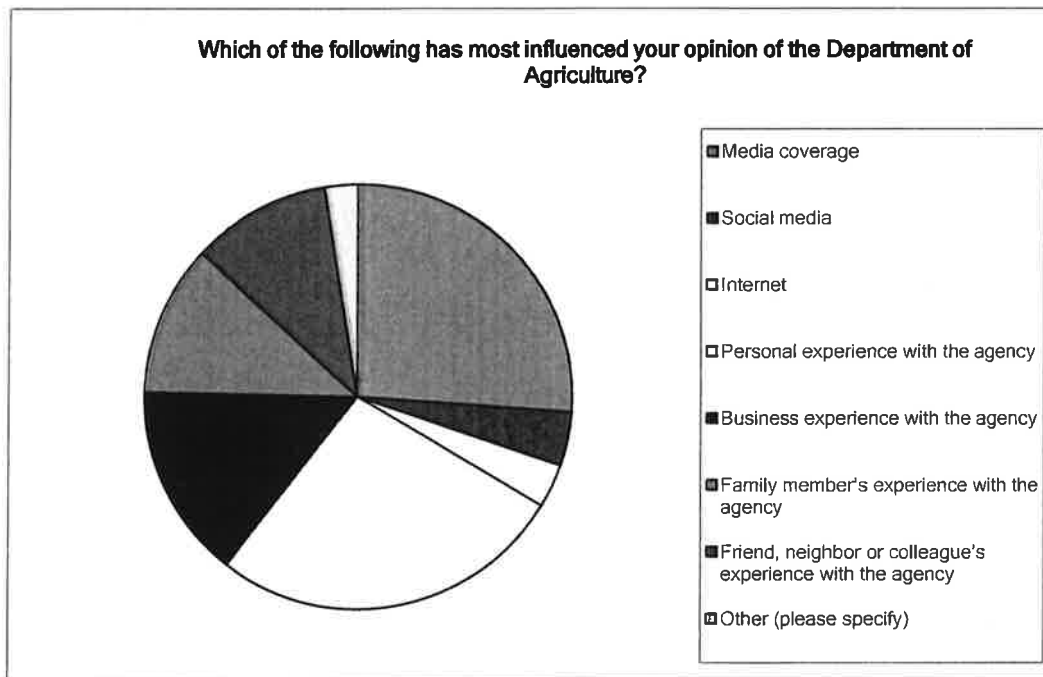


**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**Which of the following has most influenced your opinion of the Department of Agriculture?**

Answer Options	Response Percent	Response Count
Media coverage	26.2%	32
Social media	4.1%	5
Internet	3.3%	4
Personal experience with the agency	27.0%	33
Business experience with the agency	14.8%	18
Family member's experience with the agency	11.5%	14
Friend, neighbor or colleague's experience with the	10.7%	13
Other (please specify)	2.5%	3
	<i>answered question</i>	<b>122</b>
	<i>skipped question</i>	<b>903</b>

Number	Response Date	Other (please specify)
1	May 18, 2016 12:41 PM	Guidelines from USDA that affect WIC Program
2	May 16, 2016 1:18 PM	WIC
3	May 16, 2016 12:27 PM	No interaction



**May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee**

**How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?**

**Answer Options**

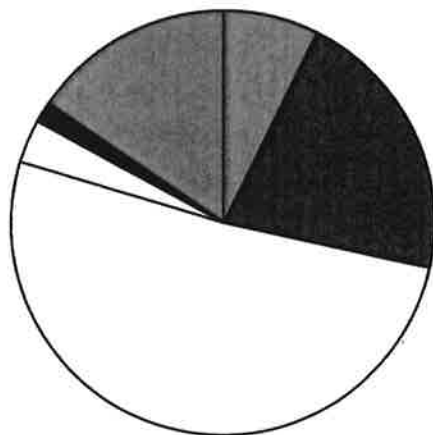
- Much better
- Better
- About the same
- Worse
- Much worse
- Do not have an opinion

Response Percent	Response Count
------------------	----------------

7.3%	9
21.1%	26
51.2%	63
3.3%	4
1.6%	2
15.4%	19

<b>answered question</b>	<b>123</b>
<b>skipped question</b>	<b>902</b>

**How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?**



- Much better
- Better
- About the same
- Worse
- Much worse
- Do not have an opinion

## May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Agriculture. Your response will be quoted verbatim and published online.

Answer Options	Response Count
	23
<i>answered question</i>	23
<i>skipped question</i>	1002

Number	Response Date	Response Text
1	May 27, 2016 12:45 PM	local staff are helpful
2	May 26, 2016 1:37 PM	Please publish online the ethanol free gas stations and octane The environmental impacts of industrial farming are growing. Most farming operations are exempt from DHEC rules and the Dept of Agriculture relies on the Natural Resource Conservation Service to help farmers reduce their environmental impact. Is this system adequate for the future or is more oversight needed?
3	May 23, 2016 2:24 PM	The farmers market in West Columbia is a huge disappointment. There are very few vendors selling fresh fruits and vegetables. Alot of wasted space and not very convenient as to location.
4	May 22, 2016 5:25 PM	Why does the Department of Agriculture waste money on parties?
5	May 19, 2016 7:37 PM	The Food and Safety Compliance office has excellent, well trained personnel
6	May 18, 2016 2:18 PM	Unnecessary State (and Federal) subsidies are a concern.
7	May 17, 2016 6:58 AM	Slow to respond, if at all.
8	May 16, 2016 7:23 PM	The new Farmers Market is a joke. People pass it by to travel to the Western orth Carolinas Market in Asheville.
9	May 16, 2016 5:44 PM	There is a lot of red tape for farmers to get approved to receive funding and assistance in having fresh fruits and vegetables into the hands of South Carolinian's. Out dated methods of training for farmers.
10	May 16, 2016 1:59 PM	Improve relationships with small home garden residents
11	May 16, 2016 1:55 PM	

- 12                                   **May 16, 2016 1:52 PM**    what do they do concerning their  
roles for the public?  
Need to have less qualifications for  
WIC participants to make it user  
friendly and to increase participation
- 13                                   **May 16, 2016 1:18 PM**    rates up  
The actual responsibilities and  
assistance available to the non-  
average farmer (individual or  
organization who may seek  
assistance on a limited basis) is not
- 14                                   **May 16, 2016 1:09 PM**    clear.  
The "SC Grown Certified" campaign  
seems to be very helpful for SC
- 15                                   **May 16, 2016 12:07 PM**   farmers. Keep up the good work.  
I find it appalling that when I call I get  
the run around. No one in the  
agency seems versed on what they  
actually do. The answer is always  
DHEc or Clemson does that. Well  
what does the department do  
besides collect state tax dollars and  
pesticides? Where do they find the  
money to repeatedly by PFG shirts  
for the events they attend? I was at  
the fair, both flower shows, and that  
BBQ festival. All employees had  
different PFGs at all events. Also  
who is in charge of these "events" at  
the farmers market? After attending  
severl BbQ fests it seems there are  
3 or 4 employees standing around  
drinking during working hours. I find  
that appalling that A. They are  
allowed to not work and B that they  
were drinking. The farmers market  
is a great place for events, shaded,  
parking, and easily located. Seems  
like more "events" should happen  
there. Also who designed that  
ridiculous sign and how much  
money was earmarked for that? It
- 16                                   **May 15, 2016 7:24 PM**    looks like the state fair sign.  
It is nice to see SC brand of fruits  
and vegetables and massive  
amount of advertisement for it. Has  
there been a cost-benefit studied of
- 17                                   **May 14, 2016 10:13 PM**   this campaign by an external entity?

I have had several products tested by the Lab for my farm. I have stopped by to talk with those running the test or Phil (lab manager) to be told their hours are 7:30-3:30. Also on Friday the only people who ever seem to be there after 3 are the girl at the front desk and maybe one or two others. Why have your hours be from 8:30-5 if the majority of the employees aren't there from that time? I haven't had dealings with other agencies so I am not sure how they fair, but this agency seems to allow certain personnel to work when they want and force others to cover their

18 **May 14, 2016 6:03 PM**

19 **May 13, 2016 8:44 PM** Never hear about them.

20 **May 13, 2016 8:42 PM** They do a good job.  
It has come to my attention that an individual that was hired for a "certified" position is actually not certified in his area. This makes me very concerned about the efficacy and legality of the work being done by the Dept of Ag. Second, I have also come to find out that hard-working individuals that have been performing duties outside of their area (as preparation for a new title) are being passed over after they have already completed the extra work with no compensation. This is a very poor choice for management and also a huge problem for the employees' commitment and morale, not to mention ethically

21 **May 13, 2016 1:07 PM** wrong.  
Great Job - Agribusiness is very important to SC. Keep up the great

22 **May 9, 2016 2:57 AM** work!

SCDA touches more citizens in South Carolina daily more than most other agencies. SCDA not only inspects the fruits and vegetables we eat, but also ensures consumer protection in multiple ways. I wish SCDA would spend as much time informing citizens about their Consumer Protection Division and SCDA's many inspection services as they do about Certified SC and the farmers markets.

23

May 4, 2016 12:25 PM

# South Carolina Department of Agriculture



**Hugh E. Weathers, Commissioner**

# House Legislative Oversight Committee

Economic Development, Transportation, Natural Resources,  
and Regulatory Subcommittee

10:30 am

Wednesday, July 6, 2016

110 Blatt Building





# South Carolina Department of Agriculture (SCDA)

- History
- Mission
- Vision
- Key partners and relationships
- Comments



# SC Agriculture Commissioners



A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
D. Leslie Tindal	1982-2002
Charles R. Sharpe	2002-2005
Hugh E. Weathers	2005-present

# History

- State's economy was built on production of crops like rice, indigo, tobacco, and cotton
- By the mid 1800's soil became overworked and depleted
- State also lacked statistical data by which to help make decisions
- Established in 1879 with broad scope of responsibilities, including: fertilizer regulation, soil improvement and analysis, distribution of seeds, sheep husbandry, immigration, geology, labor, forestry and more

# History

- Began under the supervision of the Board of Agriculture
  - Governor (Chair and ex officio) plus four others
- Agency began with an appropriation of \$168,759 (inflation adjusted)
- SCDA was initially supported by fines and forfeitures, and fees for land registration

# History

- SC Agriculture in 1880 (US Census)
  - 450,756 cows
  - 1,350,515 acres of cotton
  - 78,222 acres of rice
  - 81,009 bushels of peaches
  - Farmland – 6,259,186 acres
  - Molasses 414,015 gallons (9,446 ac of sugarcane and sorghum)

# History

- In 1887, SCDA worked with South Carolina College to help set up experiment farms in Charleston, Columbia, Darlington and Spartanburg Counties
- Clemson A & M College founded in 1889 and funded by fertilizer tonnage fee
- Under the Pure Food & Drug Act in 1913, SCDA was tasked with regulating “spirituous, fermented and malted liquors;” and prevention of the sale of cocaine
- Also in 1913, the *Market Bulletin* was first published as part of *The State Newspaper*

# History

- At least a dozen agencies have been created with responsibilities originally housed at SCDA
  - Clemson Regulatory Services
  - State Veterinarian's Office
  - Department of Labor, Licensing and Regulation
  - Department of Health & Environmental Control
  - Forestry Commission
  - Department of Revenue
  - State Law Enforcement Division
  - DNR (Land Resources, Geological Survey, Wildlife and Marine Resources)

# History

- SCDA has been renamed several times, with the current name being established in 1941
- 1968 brought legislation that created the Agriculture Commission and the authority to create and oversee commodity boards, and administer marketing orders
- In 1974, the Columbia Farmers Market was acquired by the State and placed under the supervision of SCDA



# History

- SCDA assumed operations of the Greenville Market in 1980
- Pee Dee State Farmers Market opened in 1989
- The office of Commissioner of Agriculture became a Constitutional Office in 1982



# History

- “Certified SC” campaign launched in 2007
  - 1,800 members currently
- In late 2009, “50 by 20 – A Ten Year Goal for South Carolina Agriculture” initiative is rolled out
- 2010 - “Fresh On The Menu” restaurant program is established
  - Over 300 restaurants now participating
- 2011 – began partnership with SC Department of Commerce for agribusiness project manager
- In January 2014, Agritourism program created

# History

- Agriculture today (2012 Census of Agriculture)
  - Agribusiness \$42 billion total impact, 212,000 jobs
  - 25,266 farms covering 4,971,244 acres
  - Broilers are the top cash crop (\$226 million)
  - Total farm gate income over \$3 billion
  - 300,036 acres of cotton (587,589 bales)
  - 106,476 acres of peanuts
  - 320,861 acres of corn
  - 581 agritourism operators (55% growth over 2007)

# SCDA Mission

To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public



# SCDA Vision

For the State's economy to grow and prosper, providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture



# Key Partners

## Economic Development

- SC Department of Commerce
  - Agribusiness recruitment
- Clemson University
  - Agribusiness education and research
- University of South Carolina
  - economic impact research, including current export study

# Key Partners

## Agricultural Services

- DHEC
  - Farm to institution, increasing access to healthy foods, farmers market nutrition, WIC/SNAP
- PRT & Governor's Office
  - Chef Ambassador Program
- SC Department of Education
  - Farm to Institution

# Key Partners

## Agricultural Services

- USDA Agricultural Marketing Service (AMS)
  - Market News
  - Poultry and Egg grading
- USDA Feed Grain Inspection Service (FGIS)
  - Grain grading and inspection
- USDA Food Safety Inspection Service (FSIS)
  - Fruit and Vegetable grading and inspection



# Key Partners

## Consumer Protection

- **FDA**

- Food and Cosmetic Act – enhanced contract inspections by FDA commissioned state inspectors
- Food Safety and Modernization Act (FSMA) – Preventive Controls and Produce Safety outreach and regulatory
- Manufactured Food Regulatory Program Standards (MFRPS) and Animal Feed Regulatory Program Standards (AFRPS) – FDA training and funding to implement federal food / feed laws and enhance laboratory capabilities

# Key Partners

## Consumer Protection

- SC Aeronautics Commission
  - Aeronautics purchased specialized equipment and SCDA inspects Jet A and 100LL dispensers at all public airports in the state



# Key Partners

## Consumer Protection

- DHEC – MOUs to prevent redundancies
  - Food Protection – SCDA inspects manufacturing, wholesale, distribution; DHEC inspects retail
  - Dairy – streamlined regulation of all dairy products one agency (DHEC)

# Key Partners

## Consumer Protection

- Clemson PSA
  - Food Safety Education and training, including FSMA and Good Agricultural Practices (GAP) to prevent conflict of interest
  - Pesticide Disposal Program
- USDA
  - AMS – Country of Origin Labeling (COOL) enforcement
  - Grain Inspection, Packers and Stockyards Administration (GIPSA) livestock scale standards

# Key Partners

## Agency Operations

- DNR
  - Tennant at the State Farmers Market
  - Regional Licensing Office
- Division of Technology
  - Provides network and information security support
  - SCDA IT staff working with DTO to streamline products and services

# Key Partners

## Agency Operations

- State Treasurer's Office
  - Previously combined HR department
- Lieutenant Governor's Office
  - Sourced 4,500 meals at Thanksgiving with Office on Aging





# Public Comments

*Chairman Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

## Legislative Oversight Committee

*Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor*



*William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams*

**South Carolina House of Representatives**

*Jennifer L. Dobson  
Research Director*

**Post Office Box 11867**

**Columbia, South Carolina 29211**

**Telephone: (803) 212-6810 • Fax: (803) 212-6811**

*Charles L. Appleby IV  
Legal Counsel*

*Cathy A. Greer  
Administration Coordinator*

*Carmen J. McCutcheon  
Auditor/Research Analyst*

**Room 228 Blatt Building**

August 9, 2016

Commissioner Hugh E. Weathers  
South Carolina Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211

Dear Commissioner Weathers:

Thank you for the important work in which you are engaged in the administration of the South Carolina Farm Aid Program, which makes available \$40 million dollars in relief funding to South Carolina farmers who suffered at least a 40% loss of an affected crop as a result of last October's flooding. On behalf of the entire Economic Development, Transportation, Natural Resources and Regulatory Subcommittee, I would like to thank you for sharing your time and knowledge with the subcommittee at our July 6, 2016, meeting.

The purpose of this letter is to share requests for information from the subcommittee as a follow up to the meeting. These requests are listed below.

- Please provide a brief overview of any relationships the Department of Agriculture may have with South Carolina State University public service activities.
- Please provide a brief summary about pivot irrigation systems, including any effects these system may have on wells.
- Please share with the subcommittee a copy of the stud[ies] you mentioned during our last meeting, including those which show how we may impact certain agricultural markets.
- Please provide any recommendations for revisions to laws that you would like the subcommittee to consider for inclusion as a part of its study.

We ask that you please provide this information by Friday, September 2, 2016. In your responses, please provide the subcommittee with any relevant, necessary context information. If the agency has any



Page Two  
Commissioner Weathers

concerns about the format of these questions yielding answers that do not provide an accurate reflection of the agency, please express those concerns, prior to responding to the question, in a letter to me with a copy to committee staff. Please retain any working papers for these responses in the event the subcommittee would like to view those.

Sincerely,

Phyllis J. Henderson  
Subcommittee Chair

cc: Economic Development, Transportation, Natural Resources, and Regulatory  
Subcommittee Members

State of South Carolina  
**Department of Agriculture**



Hugh E. Weathers  
 Commissioner

Wade Hampton Office Building  
 P.O. Box 11280  
 Columbia, S.C. 29211

Telephone: (803) 734-2190  
 Fax: (803) 734-2192  
 E-Mail: hweathe@scda.sc.gov

September 2, 2016

The Honorable Phyllis J. Henderson  
 Subcommittee Chair  
 Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee  
 PO Box 11867  
 Columbia, SC 29211

Dear Chairwoman Henderson,

Thank you for the opportunity to provide an overview of the South Carolina Department of Agriculture (SDCA) at the July 6, 2016 meeting of the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. This letter is in response to the request for information as a follow-up to that meeting, and includes the attached documents:

- An overview of ongoing work in collaboration with SC State University 1890 Extension Program
- A brief summary of irrigation systems
- *The Economic Impact of Agribusiness and the Return on the Certified South Carolina Grown Campaign*: Released in April 2010, this study conducted by the Darla Moore School of Business presents results from an analysis of the Certified South Carolina Grown program showing the campaign's economic potential.
- *The Economic Impact of the Agribusiness Industry in South Carolina*: Based on 2006 data, this report provides a summary of the combined impact of the agriculture and forestry industries.
- *The Impact of the Agribusiness Sector on the South Carolina Economy*: This assessment released in 2015 updates the previously mentioned economic impact study and shows a 23% increase in the economic impact of the SC agribusiness industry.
- Recommendations for revisions to laws: Also provided in the Program Evaluation Report, these recommendations focus on revisions to state law in order to reflect changes in federal law. This will streamline the regulatory process for producers and distributors, allow our Consumer Protection Division to simultaneously conduct state and federal inspections (rather than FDA), and provide greater food safety protection to consumers.

I look forward to the continued work of this committee. Please do not hesitate to contact me or my staff with any additional questions.

Sincerely,

Signature Redacted

Hugh E. Weathers

## **South Carolina State University**

### ***South Carolina Farm Aid Fund***

Delbert T. Foster, 1890 Extension Administrator, is a member of the Farm Aid Advisory Board. SCDA has worked with 1890 Extension Agents to educate farmers and provide assistance with completing the Farm Aid application.

### ***AgDiscovery Program***

SCSU participates in AgDiscovery, a USDA summer outreach program designed to help teenagers explore careers in plant and animal science, wildlife management, and agribusiness. SCDA hosts the group of students each year at the State Farmers Market and provides staff time and resources to give a tour of the laboratory and market facilities, as well as provide an overview of SCDA and the SC agriculture industry.

### ***South Carolina Advocates for Agriculture***

Both SCDA and SCSU representatives work with a non-profit organization, SC Advocates for Agriculture, to promote the South Carolina agriculture industry. Numerous projects and programs have benefited from this collaboration.

## **Irrigation Systems**

The attached document provides details about surface and groundwater usage across the spectrum in South Carolina. In 2013, there were 1,046 farms with a total of 33,927 acres using irrigation systems in the state. New technology and management techniques, including timers, rotating nozzles, and measuring systems, have allowed irrigation systems to become more efficient in water usage. Irrigation Water and System Management, a major research and extension program at Clemson University's Edisto Research and Education Center (REC), is developing and promoting sustainable and efficient irrigation water management in South Carolina.

Nationally, according to a 2012 USDA Economic Research Study, farmers continue to make significant investments in new and improved irrigation systems. Approximately, \$2.15 billion was invested in irrigations systems in 2008, a 92 percent increase over investments for 2003. Most on-farm irrigation investment is financed privately-less than 10 percent of farms reported financing irrigation improvements in 2008 through public financial assistance programs.

## **Recommendations for Revisions to Laws**

### ***Feed 36-25-210 and 40-7-1***

1. Model Feed Law, American Association of Feed Control Officials: Adopt this feed law into our current feed law.
2. Current feed law was written in 1967 and places consumers and feed mills at a disadvantage.
3. Current law does not provide specifics for feed inspections that federal FDA currently performs (Medicated feed, BSE, and GMP at mill operations).

4. Feed (animal or pet food) is being categorized much like human food. SCDA wishes to protect animals, pets, and growers thru adopting AAFCO model feed bill to anticipate and educate industry prior to FSMA.
5. FSMA will affect feed mills, animal/pet food operators and feed stores in SC. SCDA wishes to adopt this model feed bill in order to be the primary regulatory body to educate and regulate these facilities prior to, and in conjunction with, federal agencies.
6. Will require registration of facilities with SCDA to facilitate recalls, food borne outbreaks, animal welfare and potential issues prior to an event.

#### ***Food Quality (Consumer Protection Lab)***

1. Habitual violations for food testing (butter fat, meat fat, etc. under minimum), such as fat content, affects prices at grocery store. A 90-10(lean to fat) hamburger meat vs 70-30 (lean to fat) hamburger meat has a substantial price difference.
2. Adding administration fees to samples that are in violation because the lab must retest, validate and print reports, send out inspectors and utilize extra resources due to a violation or a mislabeled food. Recommend a \$100 admin fee for violators.
3. Feed Registration fees. Currently at \$15, recommend \$25 to mirror sister states. Tonnage Fees will not be used (this is very industry friendly).

#### ***Consumer Services***

1. Petroleum Law; add registration fee for products/facility. **39-41-250**
2. 66,000 dispensers in SC. \$5 per dispenser will generate \$330, 000 for more inspectors, more equipment to test, better response time for complaints and accountability. **39-9-68**
3. SCDA needs the authority to administer penalty (Not ALJ) for repeat violators and habitual offenders. Firms that cheat customers, inaccurately advertise cash credit prices, have repeat dispenser issues (meter creeping), or repeat dispensers out of tolerance (shorting the consumer) should have a monetary penalty to protect the buying consumers in SC. Recommend 1<sup>st</sup> Offense \$50 (current), 2<sup>nd</sup> \$200, 3<sup>rd</sup> \$500. **39-9-200 thru 39-9-210, 39-41-190**
4. Warehouse receipts...add verbiage to allow electronic receipts. **39-22-80, 39-22-200, and regulations Article 13, 5-493**

#### ***Food/Feed Safety 39-25-10***

1. Introduce Fee for Registration Verification Certificate (RVC) (SCDA Permit) application. Allows for department to collect fee at time of application. Applications are reviewed including business plan, product analysis, certifications and training requirements, and labels. This would happen much like a DHEC permit plan Review. Recommend \$25. **39-25-210**
2. RVC annual renewal based on tier system based on risk/length of inspection, size of firm (distribution) to prevent small prospective manufacturers from being burdened. RVC renewals will allow for more inspectors, better equipment, and faster response time for recalls, complaints, illnesses and enforcement. Public Health and Food Safety must be top priority. Recommend a renewal fee based on DHEC model. **39-25-210**
3. Add enabling legislation to enact FSMA (including Produce Safety Rule) at state level with no exemptions or changes. SCDA will be the face for outreach, education (along

with Clemson University), and regulatory oversight, in lieu of Federal Food and Drug Enforcement. New section to be created.

***Lessen Restrictions for businesses, stop duplication of inspection***

Cottage Bill (Remove SCDA involvement): This is a DHEC law and the new food code allows DHEC to regulate 100%. **44-1-143** DHEC's new Food Code allows for non-hazardous foods to be sold at retail and this law is MORE restrictive. SCDA does not regulate retail food sales directly to the end consumer in South Carolina, therefore, the approval of any operation as exempt from Regulation 61-25 is solely the responsibility of Department of Health and Environmental Control's Food Protection Division (DHEC).

Changes to Egg Law: Will exempt USDA Graded facilities from applying. Will focus on small egg producers in SC and will continue to require registration and licensing to continue but will add more exemptions for small producers. **39-39-10 to 39-39-40**

Changes to Salvage Food Regulation: Since RVC is required for food manufactures under SCDA purview; this actually will eliminate duplication and will shore up database. Also, regulation verbiage needs updating to modern language and terminology used by FDA and DHEC. This will prevent duplication of inspection and licensing/permitting. **5-360 through 5-373**

## *Appendix F. October 31, 2016 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - September 19, 2016 - Meeting Minutes
  - Draft Subcommittee Study of SC Transportation Infrastructure Bank
- Documents provided by agency during meeting
  - PowerPoint - SC Commodity Board structure and function (October 31, 2016)

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND  
REGULATORY SUBCOMMITTEE*

*Chairman Phyllis J. Henderson  
The Honorable Ralph W. Norman  
The Honorable Robert L. Ridgeway III  
The Honorable Samuel Rivers Jr.*

*Monday, October 31, 2016*

*9:45 a.m.*

*Room 108 -Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes from the September 19, 2016 Subcommittee Meeting
- II. Further discussion of the study of the State Transportation Infrastructure Bank, including but not limited to, study recommendations
- III. Further discussion of the study of the Department of Agriculture, including but not limited to, commodity boards
- IV. Adjournment

LEGISLATIVE OVERSIGHT COMMITTEE  

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ECONOMIC DEVELOPMENT, TRANSPORTATION,  
NATURAL RESOURCES AND REGULATORY  
SUBCOMMITTEE

MINUTES FROM SEPTEMBER 19, 2016 MEETING



Chairman Wm. Weston J. Newton

First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee



Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
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South Carolina House of Representatives

William K. (Bill) Bowers  
Raye Felder  
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Mia S. McLeod  
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Economic Development, Transportation, Natural  
Resources, and Regulatory Subcommittee

September 19, 2016

### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, Natural Resource, and Regulatory Subcommittee meeting was called to order by Chair Phyllis J. Henderson on Monday, September 19, 2016, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Chair Henderson; Representative Ralph W. Norman; Representative Robert L. Ridgeway, III, and Representative Samuel Rivers, Jr.

- II. Present on behalf of the State Transportation Infrastructure Bank (Bank) were: Mr. Vince Graham (Chair of the Transportation Infrastructure Bank Board), Mr. Jim Holley (General Counsel), and Ms. Tami Reed (Chief Financial Officer).
- III. Present on behalf of the Department of Transportation were: Ms. Christy Hall (Secretary of Transportation) and Mr. Brian Keys (Deputy Secretary for Finance and Procurement).

### Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Norman moved to approve the minutes from the Subcommittee's meeting on August 25, 2016. A roll call vote was held, and the motion passed.

Rep. Norman's motion to approve the minutes from July 6, 2016:	Yea	Nay	Not Voting
Rep. Norman	✓		
Rep. Ridgeway	✓		
Rep. Rivers	✓		
Rep. Henderson	✓		

### Discussion of the Department of Agriculture

- I. Chair Henderson provided an update on the Subcommittee's study of the Department of Agriculture.

### Discussion of the Transportation Infrastructure Bank

- I. Chair Henderson provided an update on the status of the Subcommittee's study of the State Transportation Infrastructure Bank's progress. She noted that the purpose of the meeting was to receive the information the Subcommittee had requested from the agency after its last meeting, which has been posted online for the public to view.

II. Subcommittee members asked questions of the agency on the following topics:

- litigation costs and legal expense responsibilities;
- I-526 project (potential litigation; debt commitments; future of the project; wind down process for project; and availability of capacity for other projects);
- financial commitments;
- status of draft guidelines provided to subcommittee
  - local matches - agency noted changes were proposed to these draft guidelines as a part of the legislative oversight process;
  - bundling of projects - agency noted changes were proposed to these draft guidelines as a part of the legislative oversight process;
  - application scoring and evaluation process availability online; and
  - potential scrivener's errors
- staffing at the agency;
- increased accountability and transparency at the agency; and
- status of implementation of Act 275 of 2016.

III. There being no further business, the meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE

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ECONOMIC DEVELOPMENT, TRANSPORTATION,  
NATURAL RESOURCES AND REGULATORY  
SUBCOMMITTEE

DRAFT SUBCOMMITTEE STUDY OF THE SC  
TRANSPORTATION INFRASTRUCTURE BANK

# Legislative Oversight Committee

## DRAFT Subcommittee Study of the South Carolina Transportation Infrastructure Bank *October 31, 2016*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.

#### House Legislative Oversight Committee's Actions

- April 14, 2015 - Approves the priority of the study of the agency
- April 15 - 22, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, Members of the House, Clerk of the Senate, and Governor
- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

#### Economic Development, Transportation, Natural Resources and Regulatory Subcommittee's Actions

- April 21, 2015 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- March 9, 2016 - Provides Staff Study to Agency
- March 10, 2016 - **(Meeting 2)** Holds meeting with the agency and receives an overview of the agency
- March 23, 2016 - Sends agency a follow up letter requesting information on project selection, bank administration, and projects for local governments
- April 8, 2016 - Notifies House Members about the public input meeting and issues press release about public input meeting
- April 28, 2016 - **(Meeting 3)** Holds meeting to receive public input about the agency
- May 26, 2016 - **(Meeting 4)** Holds meeting to receive information about the Legislative Audit Council's May 2016 audit of the agency
- June 15, 2016 - Sends agency a follow up letter requesting information pertaining to the audit of the agency
- July 6, 2016 - Sends agency a follow up letter requesting an updated organizational chart; summary document of new operating guidelines, noting those which implement or begin the implementation process of any Legislative Audit Council recommendations; general timeline for implementation of Legislative Audit Council recommendations; and any recommendations the agency would like the Subcommittee to consider for inclusion in its study
- June 28, 2016 - **(Meeting 5)** Holds meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan
- August 25, 2016 - **(Meeting 6)** Holds meeting with the agency to discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations
- September 19, 2016 - **(Meeting 7)** Holds meeting with the agency for further discussion of recommendations
- October 31, 2016 - **(Meeting 8)** Holds meeting with the agency for further discussion of recommendations

#### South Carolina Transportation Infrastructure Bank's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits its Program Evaluation Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- March 11, 2016 - Submits its response to the Staff Study
- April 23, 2016 - Provides Subcommittee information in response to the Subcommittee's March 23, 2016, letter
- August 15, 2016 - Provides Subcommittee information in response to the Subcommittee's July 6, 2016, letter

#### Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage



# EXECUTIVE SUMMARY

## Study Process

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee (“Subcommittee”) of the House Legislative Oversight Committee (“Committee”) is studying the South Carolina Transportation Infrastructure Bank (“agency” or “SCTIB”). The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>1</sup> The Subcommittee met with SCTIB eight times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

## Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he purpose of these oversight studies and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented and carried out in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly’s Legislative Audit Council and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency are available on the Committee’s website.<sup>3</sup>

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or elimination of agency programs.

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general. A summary of these recommendations is included in Table 2 on the next page, and more information about the recommendations is included in the Recommendation Details section of this study beginning on page 9.

Table 2. Summary of recommendations.

Topic	Recommendation for . . .
<b>. . . Agencies in general</b>	
Gifts received by state public officials, board members, and employees	The Subcommittee recommends implementation of the Legislative Audit Council's recommendation number 24 from its comprehensive audit released May 26, 2016. Specifically, this is a recommendation that "[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions." <sup>4</sup>
<b>. . . SCTIB in particular</b>	
\$25,000,000 minimum project cost	The Subcommittee recommends SCTIB not fund projects that have been "bundled together" to meet the minimum project threshold amount, if the smaller projects individually do not reach the \$25,000,000 minimum project cost required by statute. <sup>5</sup>
Local match	The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match." <sup>6</sup>
<b>. . . Follow up</b>	
Approval process for providing a loan or other financial assistance	The Subcommittee recommends follow up with SCTIB in the next year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented. <sup>7</sup>

## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online as are the materials relating to the study of the agency.<sup>8</sup>

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.<sup>9</sup> SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency.<sup>10</sup> On August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the Legislative Audit Council recommendations in which the agency concurs.<sup>11</sup>

# STUDY PROCESS

## House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.<sup>12</sup> The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.<sup>13</sup> The South Carolina Transportation Infrastructure Bank is an agency subject to legislative oversight.<sup>14</sup> The Committee approved the study of the agency on April 14, 2015.<sup>15</sup>

The Committee notified the agency about the study on April 15, 2015.<sup>16</sup> As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

### *Subcommittee Studying the Agency*

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>17</sup>

### *Meetings with the Agency*

The Subcommittee met with the agency on eight occasions. Videos and minutes of meetings are available online.

1. **April 21, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **March 10, 2016**, the Subcommittee held a meeting and received an overview of the agency.
3. **April 28, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
4. **May 26, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency released by the Legislative Audit Council.
5. **June 28, 2016**, the Subcommittee held a meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan.
6. **August 25, 2016**, the Subcommittee held a meeting with the agency to further discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations.
7. **September 19, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.
8. **October 31, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.

### *Information from the Public*

During the month of September, 2015, the Committee posted an **online survey to solicit comments from the public about the South Carolina Transportation Infrastructure Bank** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. As noted in the survey, “input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”<sup>18</sup> **The public was informed they could continue to submit written comments about agencies online** after the public survey closed.<sup>19</sup> The public was also informed that comments submitted are not considered testimony.<sup>20</sup> All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the April 28, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.**<sup>21</sup> By the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

### *Information from the Agency*

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, Program Evaluation Report, and 2016 Annual Restructuring Report. The agency submitted its 2015 Restructuring Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.<sup>22</sup> The agency submitted its Program Evaluation Report on July 27, 2015.<sup>23</sup> The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.<sup>24</sup> Committee staff provided the agency the **committee staff study** on March 11, 2016.<sup>25</sup> The agency had ten business days to provide a response, if it wanted to provide a response.<sup>26</sup> House Members were notified about the staff study on April 6, 2016.<sup>27</sup> These reports are available online.

### *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee’s Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, **include the Subcommittee Study on the agenda for a full committee meeting.** During a full Committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee’s study; or (3) further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight available.

**When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study.** The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy. Lastly, the full Committee

shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

## RECOMMENDATION DETAILS

### Purpose of Recommendations

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>28</sup>

### Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee **recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly’s Legislative Audit Council and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency can all be found on the Committee’s website.

#### *Continue*

The Subcommittee **does not have any specific recommendations with regards to continuance of agency programs.**

#### *Eliminate*

The Subcommittee **does not have any specific recommendations with regards to elimination of agency programs.**

#### *Revise (i.e., curtail)*

The Subcommittee **recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general.** A summary of these recommendations is included in Table 2 on page 6.

On May 26, 2016, the General Assembly received a **comprehensive audit of the agency conducted by the Legislative Audit Council.**<sup>29</sup> Notably, SCTIB concurs with 12 of the recommendations provided by the

Legislative Audit Council in its comprehensive audit of the agency, and on August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the recommendations in which the agency concurs.<sup>30</sup>

While the Subcommittee chose to include the recommendations from the Legislative Audit Council for information purposes in this report to the full Committee, the Subcommittee recommends the General Assembly implement Legislative Audit Council Recommendation #24.<sup>31</sup> Specifically, this is a recommendation that “[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions.”<sup>32</sup> The Subcommittee notes this recommendation applies to agencies in general and not to SCTIB in particular.

With regards to the issue of receipt of gifts by state public officials, board members, and employees, Secretary of Transportation Christy A. Hall testified that cabinet agencies and some other agencies have adopted an employee code of conduct and established their own ethics officers.<sup>33</sup> Executive Order 2014-23 established a State Employee Code of Conduct Task Force, and the task force issued its final report on August 7, 2014, which recommended a model code of conduct for state employees.<sup>34</sup> Cabinet agency employees are required to have training on these issues at least once a year. The Department of Administration assists in this process by providing online training modules for employees to complete. There is a training module which discusses policies on policy on gifts and other things of value, and the stated best practice is to avoid accepting gifts or other things of value.<sup>35</sup>

The Subcommittee acknowledges revisions in law enacted in Act 275 of 2016 by the General Assembly pertaining to SCTIB. The complete text of Act 275 of 2016 is available on the General Assembly’s website. The portions of Act 275 of 2016 pertaining to SCTIB are set forth below in an excerpt from a summary of the legislation prepared by the Office of House Research.

Before providing a loan or other financial assistance, the board of directors that oversees [SCTIB] must . . . submit its decision to the Department of Transportation Commission for its consideration. The [Department of Transportation] Commission can, in turn, approve or reject the decision or request additional information from the bank’s board of directors. [SCTIB’s policy of following the SC Department of Transportation’s project priority criteria is established as a statutory requirement. The General Assembly may, however, enact a joint resolution specifically allowing the bank to fund a project without using [Department of Transportation’s] prioritization criteria. The minimum project amount set in [SCTIB’s] requirements is lowered from \$100 million to \$25 million. This threshold is lowered to allow more areas to be able to afford local match requirements and take advantage of the bank’s bonding capabilities for financing their transportation projects.<sup>36</sup>

The Subcommittee recommends that SCTIB not fund projects that have been “bundled together” to meet the minimum threshold amount if the smaller projects individually do not reach the \$25,000,000 minimum project cost.<sup>37</sup> After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to bundling projects.<sup>38</sup>

As provided by SC Code Section 11-43-180(C), the Bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least \$25 million. Applicants may not combine improvements

to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C).<sup>39</sup>

The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term “local match.”<sup>40</sup> Section 11-43-180(B) provides that “[t]he board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive a loan or other financial assistance. Preference must be given to eligible projects which have local financial support.” On August 15, 2016, SCTIB provided the Subcommittee with a copy of its new operating guidelines that were approved in May 2016.<sup>41</sup> After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to local matches.<sup>42</sup>

Local matches must consist of the payment of monies by the project sponsor or owner to support the project. Local matches or loan payments on a project consisting of payments to the Bank that may be pledged to revenue bonds will be scored higher than other forms of ~~matches or payments~~. Next in order of scoring will be local matches that consist of payments of projects costs or loan payments that may not be pledged to revenue bonds. Local matches that are in kind or consist of the ~~local government project sponsor or owner~~ improving roads that are collateral to or not part of the project ~~may~~ will not be considered.<sup>43</sup>

## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are available online as is the study materials relating to the study of SCTIB.<sup>44</sup>

### *General Assembly’s Legislative Audit Council*

Materials of interest from the General Assembly’s Legislative Audit Council include the following:

- comprehensive audit of SCTIB released May, 2016;
- executive summary of the comprehensive audit;
- presentations about the audit made by Legislative Audit Council staff;
- agency’s official response to the comprehensive audit;
- agency’s bond counsel’s official response to the comprehensive audit;
- presentations about the comprehensive audit made by SCTIB Chairman Vince Graham;
- list of audit recommendations and the agency’s response to each recommendation, including a timeline of implementation for those recommendations in which the agency is in agreement;
- Department of Transportation’s official response to the comprehensive audit of SCTIB; and
- presentations about the audit made by Secretary of Transportation Christy A. Hall.

## South Carolina Transportation Infrastructure Bank

Also, the following materials are available online relating to the study of the agency:

- video archives;
- minutes of Subcommittee meetings;
- oversight reports and studies;
- public survey and public input via the Legislative Oversight Committee's webpage;
- correspondence with the agency;
- organizational charts;
- strategic budgeting;
- Act 148 of 1997 legislative findings;
- minutes from SCTIB Board meetings (April 1, 2004 - May 18, 2016);
- presentations provided by SCTIB to the Subcommittee;
- SCTIB operating guidelines;
- application process documents provided by SCTIB;
- applications submitted to SCTIB for project funding; and
- project summary for fiscal year 2016.

## Follow Up

The Subcommittee recommends following up with SCTIB in the subsequent year to **obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project.** Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented.

## SELECTED AGENCY INFORMATION CITED

SC Transportation Infrastructure Bank. *Program Evaluation Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>

SC Transportation Infrastructure Bank. *Restructuring and Seven-Year Plan Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>

SC Transportation Infrastructure Bank. *September 2015 Survey Results*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf>

SC Transportation Infrastructure Bank. *Annual Restructuring Report*, 2016.

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20\(PDF\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20(PDF).PDF)



## ENDNOTES

- <sup>1</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).
- <sup>2</sup> *SC Code of Laws*, sec. 2-2-20(C).
- <sup>3</sup> SC House of Representatives, House Legislative Oversight Committee, "Transportation Infrastructure Bank, S.C.," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).
- <sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, "June 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>6</sup> *Ibid.*
- <sup>7</sup> *Ibid.*
- <sup>8</sup> *SC Transportation Infrastructure Bank study materials.*
- <sup>9</sup> SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).
- <sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).
- <sup>11</sup> *Ibid.*
- <sup>12</sup> SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes," <http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>13</sup> The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," <http://www.scstatehouse.gov/committeeinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).
- <sup>14</sup> *SC Code of Laws*, sec. 2-2-10(1).
- <sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, "April 14, 2015 Full Committee Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes," <http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.
- <sup>16</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to STIB" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).
- <sup>17</sup> *Subcommittees -2016.*
- <sup>18</sup> SC House of Representatives, House Legislative Oversight Committee, "September 2015 Public Survey." The survey is closed. The survey sought comments from the public about the South Carolina Transportation Infrastructure Bank; South Carolina School for the Deaf and the Blind; Commission for the Blind; Department of Public Safety; and the Treasurer's Office.
- <sup>19</sup> SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee."
- <sup>20</sup> *Standard Practice 10.4.*
- <sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank,

S.C.” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>22</sup> SC House of Representatives, House Legislative Oversight Committee, “2015 - Agency ARR and Seven-Year Plan (March 31, 2015),” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016)

<sup>23</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>24</sup> SC House of Representatives, House Legislative Oversight Committee, “2016 Agency ARR” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>25</sup> SC House of Representatives, House Legislative Oversight Committee, “Staff Study and Agency Response (March 11, 2016)” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>26</sup> *Standard Practice*, 11.5. The agency opted not to provide a response to the staff study.

<sup>27</sup> SC House of Representatives, House Legislative Oversight Committee, “2015-2016 Summary - House Legislative Oversight Committee” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>28</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>29</sup> SC General Assembly, Legislative Audit Council, “A Review of the SC South Carolina Transportation Infrastructure Bank,” under “Recent Publications” [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).

<sup>30</sup> SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council’s recommendations” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee,” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>31</sup> *June 28, 2016 Meeting Minutes*.

<sup>32</sup> SC General Assembly, Legislative Audit Council, “A Review of the SC South Carolina Transportation Infrastructure Bank,” under “Recent Publications” [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).

<sup>33</sup> Secretary Christy’s Hall testimony is available for review on the June 28, 2016, video of the Subcommittee meeting at 50:39.

<sup>34</sup> This Executive Order and the task force’s report are both available online by visiting the website of South Carolina Office of the Governor Nikki R. Haley.

<sup>35</sup> The training modules are available online by visiting the website of the South Carolina Department of Administration. Specifically, Module 2 relates to gifts and other things of value.

<sup>36</sup> SC House of Representatives, Office of House Research, “Legislative Update June 7, 2016,” under “Publications,” under “Legislative Updates” <http://www.scstatehouse.gov/hupdate.php> (accessed September 8, 2016).

<sup>37</sup> *August 25, 2016 Meeting Minutes*.

<sup>38</sup> SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%202019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%202019,%202016).pdf) (accessed October 17, 2016).

<sup>39</sup> *Ibid*, page 10.

<sup>40</sup> *August 25, 2016 Meeting Minutes*.

<sup>41</sup> SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (August 25, 2016) - SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>42</sup> SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%202019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%202019,%202016).pdf) (accessed October 17, 2016).

<sup>43</sup> *Ibid*, page 10.

<sup>44</sup> SC House of Representatives, House Legislative Oversight Committee, under “Citizens’ Interest,” under “Agency Oversight by House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

## SUBCOMMITTEE MEMBER STATEMENTS

Pursuant to Standard Practice 12.4, on October 31, 2016, the following Legislative Oversight Committee Members provided statements for inclusion with the Subcommittee's Study:

## CONTACT INFORMATION

### Committee Contact Information

Address:

South Carolina House of Representatives  
Legislative Oversight Committee  
1105 Pendleton Street, Blatt Building Room 228  
Post Office Box 11867  
Columbia, South Carolina 29211

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

Telephone:

803-212-6810

### Agency Contact Information

Address:

South Carolina Transportation  
Infrastructure Bank  
Post Office Box 191  
Columbia, SC 29202-0191

Online:

Agency's home page: <http://sctib.sc.gov/Pages/default.aspx>

Telephone:

(803) 737-2875

# South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



**“South Carolina Commodity Board Structure and Function”**

# Overview

- ***The SC Agriculture Commission:*** provides governance and oversight to SC Commodity Boards in regards to their elections and structure.
- ***SC Commodity Boards:*** operate as autonomous representatives of their respective commodities
- ***The South Carolina Department of Agriculture:*** provides SC Commodity Boards with office space, network access and personnel services; and staff support to the Agriculture Commission

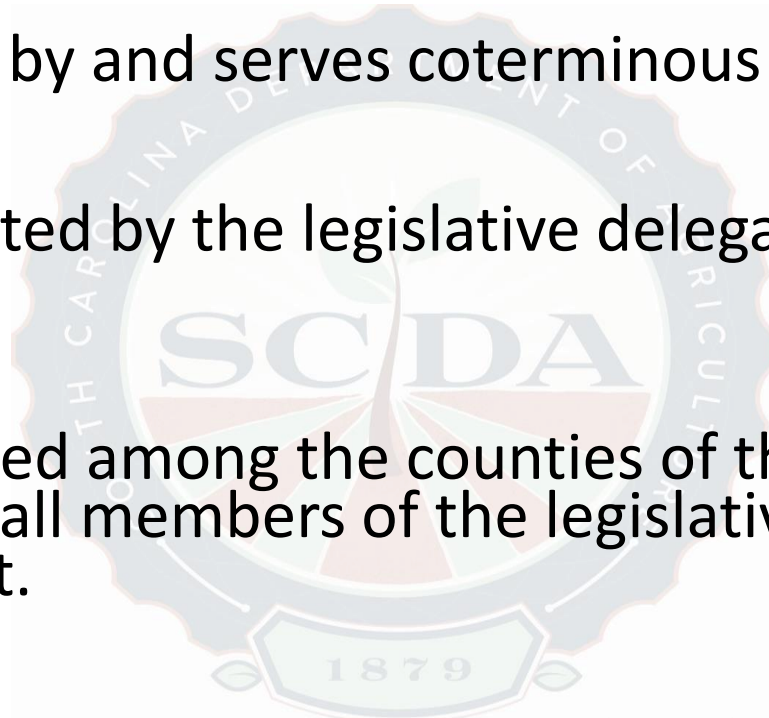
# SC Agriculture Commission

## SC Code §46-5

- Created in 1968 primarily to oversee the administration of the South Carolina Agricultural Commodities Marketing Act.
- Responsible for issuance, amendment, or termination of marketing agreements or orders to produce the intended effects of the Act.
- Maintains the required records, issues notices, conducts hearings, and ensures that all growers have the opportunity to participate in referendums.

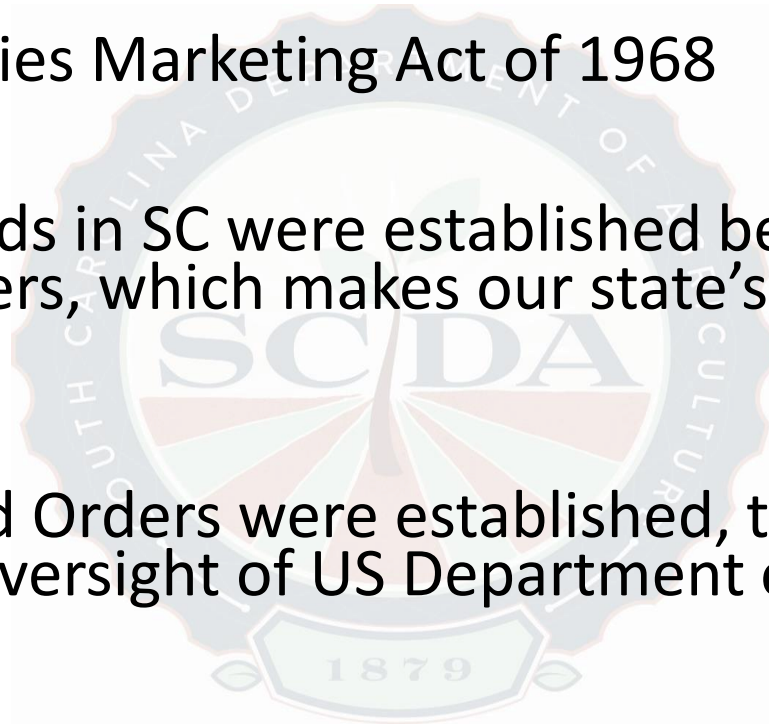
# SC Agriculture Commission cont.

- Chairman is appointed by and serves coterminous with the Governor.
- One member is appointed by the legislative delegation from each judicial circuit.
- Representation is rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit.
- The Chairman of the House Ag Committee, the Chairman of the Senate Ag Committee, and the Commissioner of Agriculture all serve as Ex Officio members.



# Commodity Boards History

- Agricultural Commodities Marketing Act of 1968
- Most Commodity Boards in SC were established before any National Marketing Acts or Orders, which makes our state's structure unique from a national perspective.
- Once National Acts and Orders were established, the funds of the state boards fell under the oversight of US Department of Agriculture-Agriculture Marketing Service.
- Commodity Board oversight was given to the SC Agriculture Commission as a check and balance system





# Commodity Boards Currently in Operation

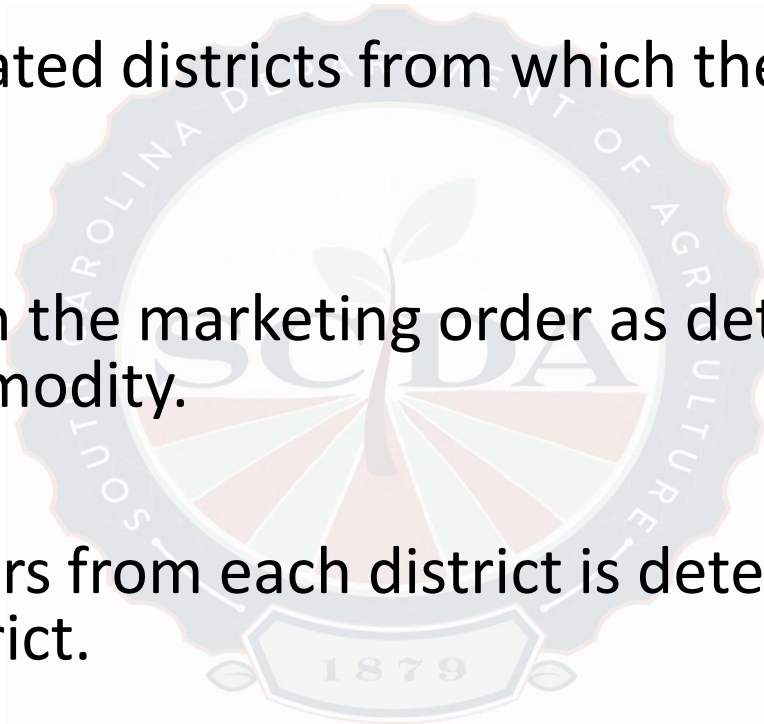
- SC Beef Council
- SC Pork Board
- SC Peanut Board
- SC Cotton Board
- SC Tobacco Board
- SC Soybean Board
- SC Watermelon Board



- Farmer leaders pooling and investing their own dollars to increase profitability and sustainability of their respective commodities.

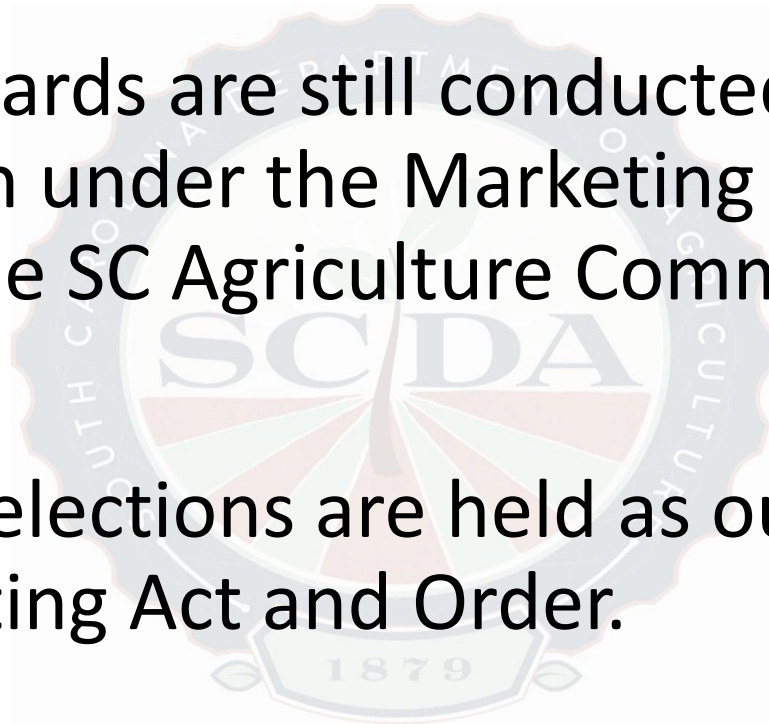
# Structure

- Each Board has designated districts from which the board of directors is elected.
- Districts are set forth in the marketing order as determined by the producers of that commodity.
- The number of members from each district is determined by the amount of production in that district.
- The State Commodity Board of Directors serve as representatives of all producers of their respective commodity in the state.



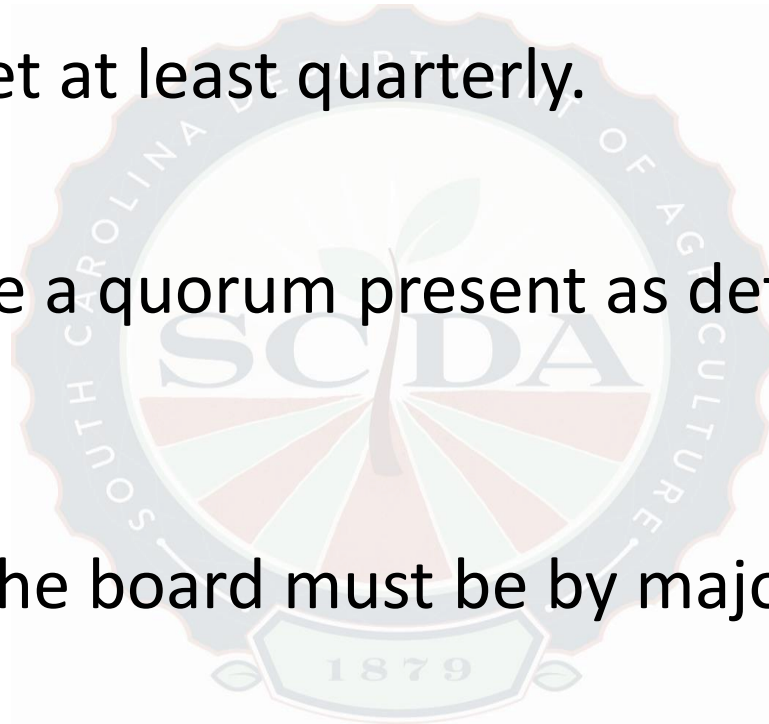
## Structure cont.

- Elections to the boards are still conducted under the guidelines set forth under the Marketing Act and administered by the SC Agriculture Commission.
- National delegate elections are held as outlined by the USDA-AMS Marketing Act and Order.



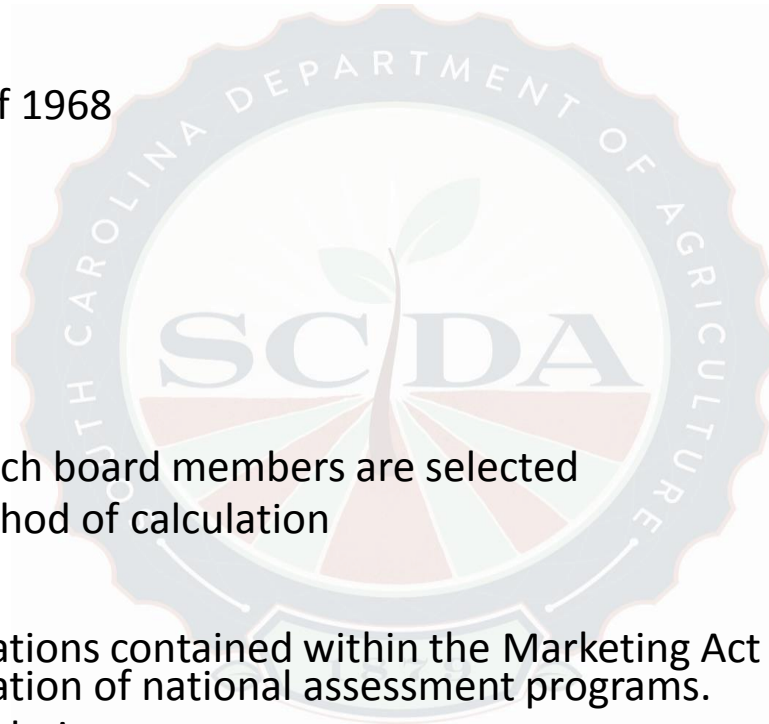
# Board Meetings

- Each Board must meet at least quarterly.
- Each Board must have a quorum present as defined in their marketing act and order.
- Any action taken by the board must be by majority vote, provided a quorum is present.



# State Rules and Regulations

- Established by the Marketing Act of 1968
- Not the same for all commodities
- Differences include:
  - Number of board members
  - Number of Districts from which board members are selected
  - Assessment amount and method of calculation
- Many of the State Rules and Regulations contained within the Marketing Act of 1968 were superseded by federal rules and regulations upon the creation of national assessment programs.
  - Assessment amount and calculation
  - Remittance process
  - Compliance regulations



# National Rules and Regulations

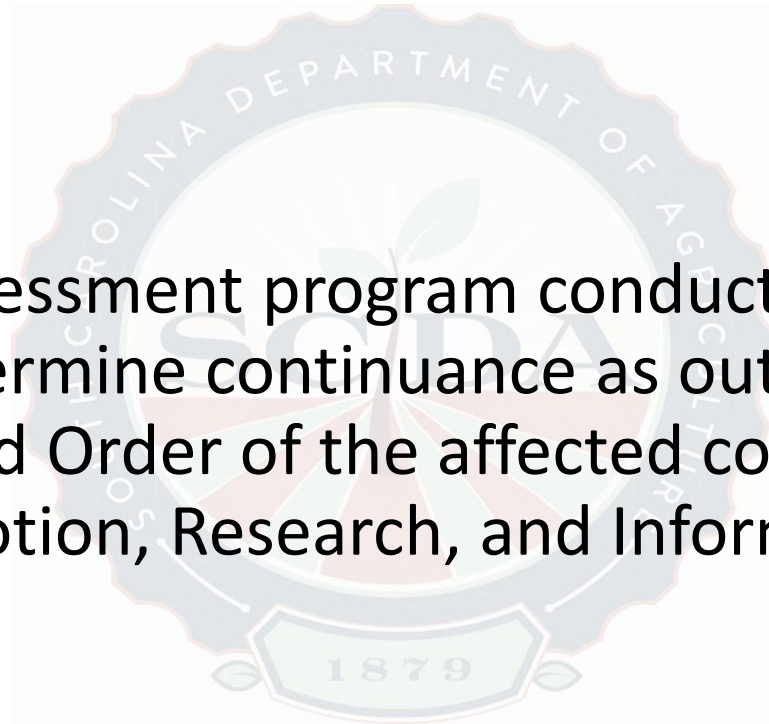
- Every Commodity Board that falls under the Marketing Act of 1968, with the exception of the SC Tobacco Board, now has a national program administered by USDA-AMS by a way of federal acts and orders governing compliance and operation.
- Assessments are collected from producers in South Carolina and are divided between the national commodity board and the state commodity board.
- National boards and state boards invest their respective assessments under federal rules, or state rules where applicable.

# Federal Compliance

- The Boards of Directors ensure that the funds being expended are in the best interest of the producers and provide a return on investment to the industry for which they represent.
- **Financial Audit**
  - Independent financial audit conducted each year to ensure compliance
- **Compliance and Control Audit**
  - Conducted by a USDA AMS approved designee at least every five years and whenever a new executive director is appointed to ensure sound policies and procedures and strong internal controls.

# Continuance of federal acts and orders

Each national assessment program conducts a referendum of producers to determine continuance as outlined in either the Marketing Act and Order of the affected commodity or in the “Commodity Promotion, Research, and Information Act of 1996.”



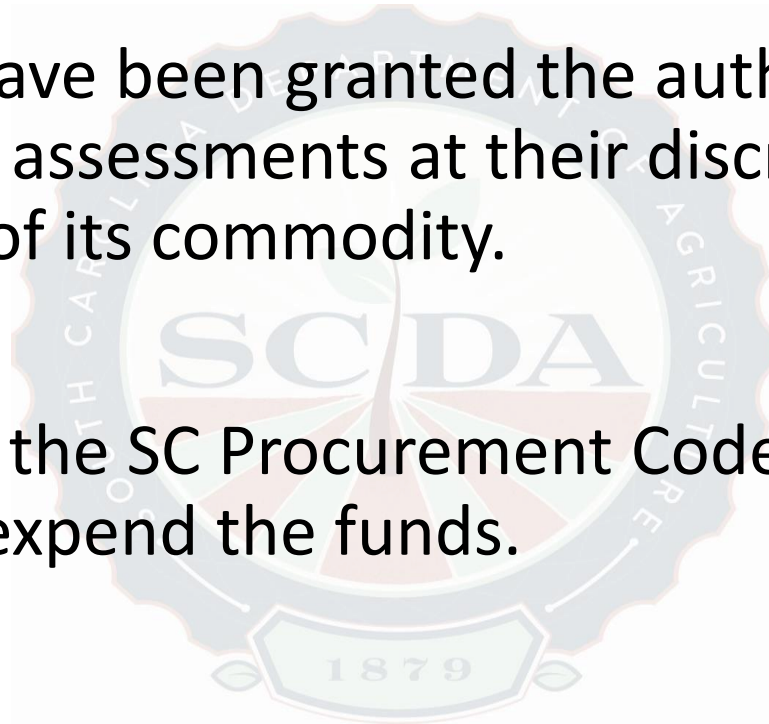


# Assessments

- Collected differently by every board, as outlined by the USDA-AMS Marketing Act and order.
- Deposited differently, depending on the Commodity Board's needs along with input from the national organization
- Each Board has a specific set of guidelines set forth by their national Act and Order that they must follow when expending funds from their respective assessments.
- Each Commodity Board is uniquely structured to maximize the benefit of assessments paid by farmers.
  - Example- SC Beef Council can only conduct market based research, whereas the SC Pork Board can conduct production research.

# Expenditure of Funds Issue

- Commodity Boards have been granted the authority to expend funds from their respective assessments at their discretion as the representative body of its commodity.
- Problems arise when the SC Procurement Code Rules do not align with the decision to expend the funds.

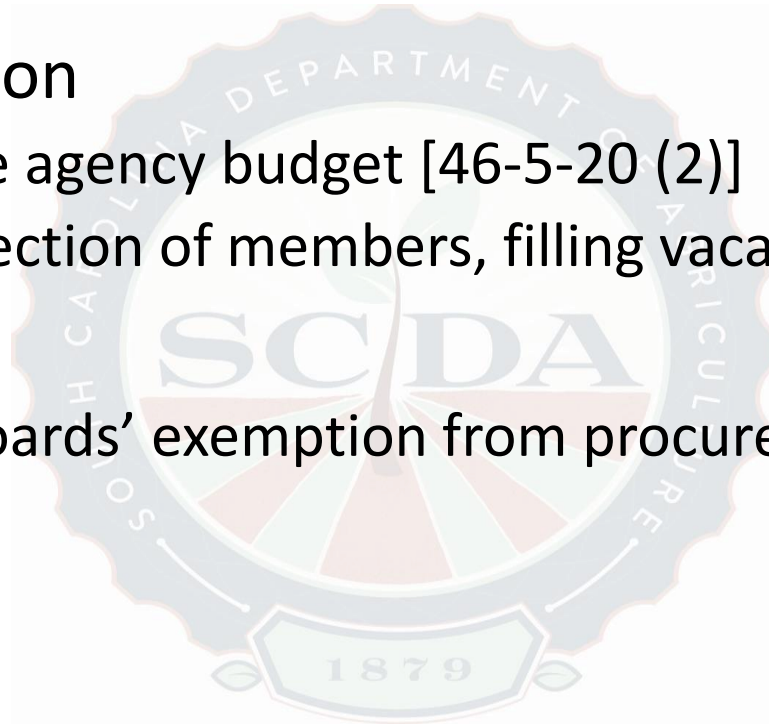


# Expenditure of Funds Issue cont.

- Examples:
  - National assessment programs are allowed to participate in the sponsorship of certain programs or events, and sponsorships are not allowed under the SC State Procurement Code.
  - National assessment programs allow the state Board of Directors to expend funds through a majority vote as long as the expenditure is within the annual budget parameters that is submitted to and approved by USDA-AMS. SC State Procurement Codes disallows some of these expenditures after the fact, which creates problems between the vendor and the Commodity Board.

# Possible legislative changes

- Agriculture Commission
  - Strike approval of the agency budget [46-5-20 (2)]
  - Process for terms, election of members, filling vacancies
- Procurement
  - Clarify commodity boards' exemption from procurement



# Value of Commodity Boards

- Co-location with SCDA improves cooperation and leverages marketing resources
- Farmers get more staff support, and in one place
- Farmers investing their own money
- Many examples of success
  - Got Milk, Beef: It's What's For Dinner
  - Consumer education BSE (mad-cow disease)
- Funds university research (Clemson, USC, SC State)

## *Appendix G. January 26, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - October 31, 2016 - Meeting Minutes
  - Study Status
    - SC Transportation Infrastructure Bank
    - Department of Agriculture
    - Human Affairs Commission
  - SC Transportation Infrastructure Bank
    - Draft Subcommittee Study
    - Recommendations

South Carolina  
House of Representatives



**Legislative Oversight Committee**

***ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE***

*Chairman Ralph W. Norman*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Thursday, January 26, 2017*

*30 minutes after adjournment*

***Room 409 -Blatt Building***

*(full Agriculture Committee Meeting Room)*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes from the October 31, 2016 Subcommittee Meeting
- II. Member Work Session, including but not limited to, discussion of studies of the State Transportation Infrastructure Bank and the Department of Agriculture
- III. Adjournment

LEGISLATIVE OVERSIGHT COMMITTEE  

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ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE

MINUTES FROM OCTOBER 31, 2016 MINUTES



First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee

Nathan Ballentine  
Gary E. Clary  
Kirkman Finlay III  
Joseph H. Jefferson Jr.  
Walton J. McLeod  
Joshua Putnam  
Samuel Rivers Jr.  
Tommy M. Stringer  
Bill Taylor



William K. (Bill) Bowers  
Raye Felder  
Phyllis J. Henderson  
Mia S. McLeod  
Ralph W. Norman  
Robert L. Ridgeway III  
James E. Smith, Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams

### South Carolina House of Representatives

Jennifer L. Dobson  
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Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811  
Room 228 Blatt Building

Charles L. Appleby IV  
Legal Counsel

**Economic Development, Transportation, Natural Resources and Regulatory  
Subcommittee Meeting  
Monday, October 31<sup>st</sup>, 2016  
9:30 a.m.  
Room 108 - Blatt Building**

#### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, S.C. ETV was allowed access for streaming the Subcommittee meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee.

#### Minutes

- I. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings. It is the practice of the House Legislative Oversight Committee to provide minutes, which are not verbatim accounts of such meetings, for its Subcommittee meetings.

#### Attendance

- I. The Economic Development, Transportation, Natural Resource and Regulatory Subcommittee (Subcommittee) meeting was called to order by Subcommittee Chair Phyllis J. Henderson on Monday, October 31<sup>st</sup>, 2016 in Room 108 of the Blatt Building, Columbia, South Carolina. The following Subcommittee Members were

present: Subcommittee Chair Henderson, Representative Robert L. Ridgeway III, and Representative Ralph W. Norman.

### Approval of Minutes from Previous Meeting

- I. Subcommittee Chair Henderson submitted proposed minutes from the Committee's previous meeting, September 19, 2016. Representative Ridgeway moved to approve the minutes. A roll call vote was held, and all present voted in favor of approval.

<b>Rep. Ridgeway's Motion to Approve the Minutes from the September 19, 2016 Meeting</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	✓		
Rep. Ralph Norman	✓		
Rep. Robert Ridgeway	✓		
Rep. Samuel Rivers			Not Present

### Discussion of the Study of the State Transportation Infrastructure Bank (STIB)

- I. Subcommittee Chair Henderson provided an update on the SCTIB. In May, the Legislative Audit Council released its' comprehensive audit of SCTIB. Subcommittee Chair Henderson stated that she and Representative Norman had some additional questions for the SCTIB so they are not yet ready to complete the study. Representative Norman asked for additional questions to be submitted to the SCTIB. Chair Henderson moved that members submit any additional questions to STIB. A roll call vote was held, and the motion passed.

<b>Chair Henderson's Motion to Submit Additional Questions to STIB:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting</b>
Rep. Phyllis Henderson	✓		
Rep. Ralph Norman	✓		
Rep. Robert Ridgeway	✓		
Rep. Samuel Rivers			Not Present

### Discussion of the Study of the Department of Agriculture

- II. Commissioner Weathers explained to the Subcommittee the ways Hurricane Matthew effected the Department of Agriculture and the state.
- III. Commissioner Weathers gave an overview of the various commodity boards, and the structure and history of the Department of Agriculture.

- IV. Commissioner Weathers testified about the Department's reliance upon a legal opinion issued by the Attorney General in its procurement practices relating to commodity boards. He testified about possible legislative changes that could be made in light of the state's agricultural situation.

Commissioner Weathers answered questions about topics such as:

- a. The makeup of the Commission of Agriculture, and the process by which commissioners are appointed;
  - b. The nature of the staff employed by the agency that work with the commodity boards; and
  - c. The fees assessed by the commodity boards.
- V. Representative Norman requested access to audits of the commodity boards and information on the agency's paid staff that worked with the boards.
- VI. The meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE  

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ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE

STATUS CHARTS OF STUDIES

Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.

#### House Legislative Oversight Committee's Actions

- April 14, 2015 - Approves the priority of the study of the agency
- April 15 - 22, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, Members of the House, Clerk of the Senate, and Governor
- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

#### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 21, 2015 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- March 9, 2016 - Provides Staff Study to Agency
- March 10, 2016 - **(Meeting 2)** Holds meeting with the agency and receives an overview of the agency
- March 23, 2016 - Sends agency a follow up letter requesting information on project selection, bank administration, and projects for local governments
- April 8, 2016 - Notifies House Members about the public input meeting and issues press release about public input meeting
- April 28, 2016 - **(Meeting 3)** Holds meeting to receive public input about the agency
- May 26, 2016 - **(Meeting 4)** Holds meeting to receive information about the Legislative Audit Council's May 2016 audit of the agency
- June 15, 2016 - Sends agency a follow up letter requesting information pertaining to the audit of the agency
- July 6, 2016 - Sends agency a follow up letter requesting an updated organizational chart; summary document of new operating guidelines, noting those which implement or begin the implementation process of any Legislative Audit Council recommendations; general timeline for implementation of Legislative Audit Council recommendations; and any recommendations the agency would like the Subcommittee to consider for inclusion in its study
- June 28, 2016 - **(Meeting 5)** Holds meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan
- August 25, 2016 - **(Meeting 6)** Holds meeting with the agency to discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations
- September 19, 2016 - **(Meeting 7)** Holds meeting with the agency for further discussion of recommendations
- October 31, 2016 - **(Meeting 8)** Holds meeting and requests in writing additional information from the agency

#### South Carolina Transportation Infrastructure Bank's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits its Program Evaluation Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- March 11, 2016 - Submits its response to the Staff Study
- April 23, 2016 - Provides Subcommittee information in response to the Subcommittee's March 23, 2016, letter
- August 15, 2016 - Provides Subcommittee information in response to the Subcommittee's July 6, 2016, letter
- December 16, 2016 - Provides Subcommittee information in response to the Subcommittee's November 4, 2016, letter

#### Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

## Key Dates and Actions of the Study Process for the Department of Agriculture

### House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016- Issues press release announcing public survey opportunity for the agency

### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function

### Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - - Submits agency's Program Evaluation Report
- December 30, 2016 - - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current
- **Subcommittee Steps to be addressed:**
- **Agency Legal Directives, Plan and Resources**
- **Agency Daily Operations and Performance**
- **Agency Recommendations**

### Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

**Constituent comments, including requested revisions, and Committee staff notes summarizing those comments are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, the House of Representatives, or any of these entities staff.**

## Key Dates and Actions of the Study Process for the **Human Affairs Commission**

### House Legislative Oversight Committee's Actions

- January 10, 2017 - Approves the study of the agency
- January 17, 2017 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor

### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

### Human Affairs Commission Actions

- April 14, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee

### Public's Actions

- Ongoing - Public may submit written comments on the Oversight Committee's webpage

**Constituent comments, including requested revisions, and Committee staff notes summarizing those comments are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, the House of Representatives, or any of these entities staff.**

LEGISLATIVE OVERSIGHT COMMITTEE  

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ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE

TRANSPORTATION INFRASTRUCTURE BANK

- DRAFT REPORT
- ISSUES; POTENTIAL QUESTIONS AND MOTION



# Legislative Oversight Committee

## DRAFT Subcommittee Study of the South Carolina Transportation Infrastructure Bank *January, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.

#### House Legislative Oversight Committee's Actions

- April 14, 2015 - Approves the priority of the study of the agency
- April 15 - 22, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, Members of the House, Clerk of the Senate, and Governor
- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

#### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 21, 2015 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- March 9, 2016 - Provides Staff Study to Agency
- March 10, 2016 - **(Meeting 2)** Holds meeting with the agency and receives an overview of the agency
- March 23, 2016 - Sends agency a follow up letter requesting information on project selection, bank administration, and projects for local governments
- April 8, 2016 - Notifies House Members about the public input meeting and issues press release about public input meeting
- April 28, 2016 - **(Meeting 3)** Holds meeting to receive public input about the agency
- May 26, 2016 - **(Meeting 4)** Holds meeting to receive information about the Legislative Audit Council's May 2016 audit of the agency
- June 15, 2016 - Sends agency a follow up letter requesting information pertaining to the audit of the agency
- July 6, 2016 - Sends agency a follow up letter requesting an updated organizational chart; summary document of new operating guidelines, noting those which implement or begin the implementation process of any Legislative Audit Council recommendations; general timeline for implementation of Legislative Audit Council recommendations; and any recommendations the agency would like the Subcommittee to consider for inclusion in its study
- June 28, 2016 - **(Meeting 5)** Holds meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan
- August 25, 2016 - **(Meeting 6)** Holds meeting with the agency to discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations
- September 19, 2016 - **(Meeting 7)** Holds meeting with the agency for further discussion of recommendations
- October 31, 2016 - **(Meeting 8)** Holds meeting and requests in writing additional information from the agency

#### South Carolina Transportation Infrastructure Bank's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits its Program Evaluation Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- March 11, 2016 - Submits its response to the Staff Study
- April 23, 2016 - Provides Subcommittee information in response to the Subcommittee's March 23, 2016, letter
- August 15, 2016 - Provides Subcommittee information in response to the Subcommittee's July 6, 2016, letter
- December 16, 2016 - Provides Subcommittee information in response to the Subcommittee's November 4, 2016, letter

#### Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

# EXECUTIVE SUMMARY

## Study Process

The Economic Development, Transportation, and Natural Resources Subcommittee (“Subcommittee”) of the House Oversight Committee (“Committee”) is studying the South Carolina Transportation Infrastructure Bank (“agency” or “SCTIB”). The chair of the Subcommittee is the Honorable Ralph W. Norman; other members include: the Honorable Neal A. Collins, the Honorable Mandy Powers Norrell, and the Honorable Robert L. Ridgeway, III.<sup>1</sup>

The study began in the 121<sup>st</sup> General Assembly by the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. The chair of the Subcommittee for the 121<sup>st</sup> General Assembly was the Honorable Phyllis J. Henderson; other members included: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>2</sup>

The Subcommittee met with SCTIB eight times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

## Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>3</sup>

## Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee **recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly’s Legislative Audit Council and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency are available on the Committee’s website.<sup>4</sup>

The Subcommittee **does not have any specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that **applies to agencies in general.** A summary of these recommendations is included in Table 2 on the next page, and more information about the recommendations is included in the Recommendation Details section of this study beginning on page 9.

Table 2. Summary of recommendations.

Topic	Recommendation for . . .
Gifts received by state public officials, board members, and employees	<p data-bbox="662 243 1422 275"><b>. . . Agencies in general</b></p> <p data-bbox="662 275 1422 558">The Subcommittee recommends implementation of the Legislative Audit Council's recommendation number 24 from its comprehensive audit released May 26, 2016. Specifically, this is a recommendation that "[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions."<sup>5</sup></p>
\$25,000,000 minimum project cost	<p data-bbox="662 569 1422 600"><b>. . . SCTIB in particular</b></p> <p data-bbox="662 600 1422 810">The Subcommittee recommends SCTIB not fund projects that have been "bundled together" to meet the minimum project threshold amount, if the smaller projects individually do not reach the \$25,000,000 minimum project cost required by statute.<sup>6</sup></p> <p data-bbox="662 810 1422 1020"><b>Note: SCTIB has internally implemented this recommendation.</b> SCTIB formally adopted a provision addressing this issue in revisions to its operating guidelines approved December 14, 2016. "Applicants may not combine improvements to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C)."<sup>7</sup></p>
Local match	<p data-bbox="662 1031 1422 1167">The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match."<sup>8</sup></p> <p data-bbox="662 1167 1422 1272"><b>Note: SCTIB has internally implemented this recommendation.</b> SCTIB formally adopted a definition in revisions to its operating guidelines approved December 14, 2016.<sup>9</sup></p>
Approval process for providing a loan or other financial assistance	<p data-bbox="662 1283 1422 1314"><b>. . . Follow up</b></p> <p data-bbox="662 1314 1422 1587">The Subcommittee recommends follow up with SCTIB in the next year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented.<sup>10</sup></p>

## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online as are the materials relating to the study of the agency.<sup>11</sup>

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.<sup>12</sup> SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency.<sup>13</sup> On August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the Legislative Audit Council recommendations in which the agency concurs.<sup>14</sup>

## STUDY PROCESS

### House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.<sup>15</sup> The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.<sup>16</sup> The South Carolina Transportation Infrastructure Bank is an agency subject to legislative oversight.<sup>17</sup> The Committee approved the study of the agency on April 14, 2015.<sup>18</sup>

The Committee notified the agency about the study on April 15, 2015.<sup>19</sup> As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

#### *Subcommittee Studying the Agency*

The Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Ralph W. Norman; other members include: the Honorable Neal A. Collins, the Honorable Mandy Powers Norrell, and the Honorable Robert L. Ridgeway, III.<sup>20</sup>

The study began in the 121<sup>st</sup> General Assembly by the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. The chair of the Subcommittee for the 121<sup>st</sup> General Assembly was the Honorable Phyllis J. Henderson; other members included: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.<sup>21</sup>

#### *Meetings with the Agency*

The Subcommittee met with the agency on eight occasions. Videos and minutes of meetings are available online.

1. **April 21, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **March 10, 2016**, the Subcommittee held a meeting and received an overview of the agency.
3. **April 28, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
4. **May 26, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency released by the Legislative Audit Council.

5. **June 28, 2016**, the Subcommittee held a meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan.
6. **August 25, 2016**, the Subcommittee held a meeting with the agency to further discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations.
7. **September 19, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.
8. **October 31, 2016**, the Subcommittee held a meeting to further discuss information to obtain from the agency.

### *Information from the Public*

During the month of September, 2015, the Committee posted an **online survey to solicit comments from the public about the South Carolina Transportation Infrastructure Bank** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>22</sup> The **public was informed they could continue to submit written comments about agencies online** after the public survey closed.<sup>23</sup> The public was also informed that comments submitted are not considered testimony.<sup>24</sup> All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the April 28, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.**<sup>25</sup> By the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

### *Information from the Agency*

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, Program Evaluation Report, and 2016 Annual Restructuring Report. The agency submitted its 2015 Restructuring Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.<sup>26</sup> The agency submitted its Program Evaluation Report on July 27, 2015.<sup>27</sup> The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.<sup>28</sup> Committee staff provided the agency the **committee staff study** on March 11, 2016.<sup>29</sup> The agency had ten business days to provide a response, if it wanted to provide a response.<sup>30</sup> House Members were notified about the staff study on April 6, 2016.<sup>31</sup> These reports are available online.

### *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.



Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight available.

When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy. Lastly, the full Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

## RECOMMENDATION DETAILS

### Purpose of Recommendations

As stated in SC Code of Laws Section 2-2-20(B), "[t]he purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee: (1) are being implemented and carried out in accordance with the intent of the General Assembly; and (2) should be continued, curtailed, or eliminated." In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>32</sup>

### Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly's Legislative Audit Council and the agency's response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency can all be found on the Committee's website.

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

## *Eliminate*

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs.

## *Revise (i.e., curtail)*

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general. A summary of these recommendations is included in Table 2 on page 6.

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.<sup>33</sup> Notably, SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency, and on August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the recommendations in which the agency concurs.<sup>34</sup>

While the Subcommittee chose to include the recommendations from the Legislative Audit Council for information purposes in this report to the full Committee, the Subcommittee recommends the General Assembly implement Legislative Audit Council Recommendation #24.<sup>35</sup> Specifically, this is a recommendation that “[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions.”<sup>36</sup> The Subcommittee notes this recommendation applies to agencies in general and not to SCTIB in particular.

With regards to the issue of receipt of gifts by state public officials, board members, and employees, Secretary of Transportation Christy A. Hall testified that cabinet agencies and some other agencies have adopted an employee code of conduct and established their own ethics officers.<sup>37</sup> Executive Order 2014-23 established a State Employee Code of Conduct Task Force, and the task force issued its final report on August 7, 2014, which recommended a model code of conduct for state employees.<sup>38</sup> Cabinet agency employees are required to have training on these issues at least once a year. The Department of Administration assists in this process by providing online training modules for employees to complete. There is a training module which discusses policies on policy on gifts and other things of value, and the stated best practice is to avoid accepting gifts or other things of value.<sup>39</sup>

The Subcommittee acknowledges revisions in law enacted in Act 275 of 2016 by the General Assembly pertaining to SCTIB. The complete text of Act 275 of 2016 is available on the General Assembly’s website. The portions of Act 275 of 2016 pertaining to SCTIB are set forth below in an excerpt from a summary of the legislation prepared by the Office of House Research.

Before providing a loan or other financial assistance, the board of directors that oversees [SCTIB] must . . . submit its decision to the Department of Transportation Commission for its consideration. The [Department of Transportation] Commission can, in turn, approve or reject the decision or request additional information from the bank’s board of directors. [SCTIB’s policy of following the SC Department of Transportation’s project priority criteria is established as a statutory requirement. The General Assembly may, however, enact a joint resolution specifically allowing the bank to fund a project without using [Department of Transportation’s] prioritization criteria. The minimum project amount set in [SCTIB’s] requirements is lowered from \$100 million to \$25 million. This threshold is lowered to allow

more areas to be able to afford local match requirements and take advantage of the bank's bonding capabilities for financing their transportation projects.<sup>40</sup>

The Subcommittee recommends that SCTIB not fund projects that have been "bundled together" to meet the minimum threshold amount if the smaller projects individually do not reach the \$25,000,000 minimum project cost.<sup>41</sup> After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its operating guidelines, which among other things, included a proposed revisions relating to bundling projects.<sup>42</sup> SCTIB internally implemented this change on December 14, 2016, by formally adopting the revision listed below to its internal operating guidelines.<sup>43</sup>

As provided by SC Code Section 11-43-180(C), the Bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least \$25 million. Applicants may not combine improvements to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C).<sup>44</sup>

The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match."<sup>45</sup> Section 11-43-180(B) provides that "[t]he board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive a loan or other financial assistance. Preference must be given to eligible projects which have local financial support." On August 15, 2016, SCTIB provided the Subcommittee with a copy of its new operating guidelines that were approved in May 2016.<sup>46</sup> After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to local matches.<sup>47</sup> SCTIB internally implemented this change on December 14, 2016, by formally adopting the revision listed below to its internal operating guidelines.<sup>48</sup>

Local matches must consist of the payment of monies by the project sponsor or owner to support the project. Local matches or loan payments on a project consisting of payments to the Bank that may be pledged to revenue bonds will be scored higher than other forms payments. Next in order of scoring will be local matches that consist of payments of projects costs or loan payments that may not be pledged to revenue bonds. Local matches that are in kind or consist of the project sponsor or owner improving roads that are collateral to or not part of the project will not be considered.<sup>49</sup>

## Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are available online as is the study materials relating to the study of SCTIB.<sup>50</sup>

### *General Assembly's Legislative Audit Council*

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of SCTIB released May, 2016;
- executive summary of the comprehensive audit;
- presentations about the audit made by Legislative Audit Council staff;

- agency's official response to the comprehensive audit;
- agency's bond counsel's official response to the comprehensive audit;
- presentations about the comprehensive audit made by SCTIB Chairman Vince Graham;
- list of audit recommendations and the agency's response to each recommendation, including a timeline of implementation for those recommendations in which the agency is in agreement;
- Department of Transportation's official response to the comprehensive audit of SCTIB;
- presentations about the audit made by Secretary of Transportation Christy A. Hall; and
- an October 25, 2016, Attorney General Opinion relating to the Legislative Audit Council's recommendation number 25.

### *South Carolina Transportation Infrastructure Bank*

Also, the following materials are available online relating to the study of the agency:

- video archives;
- minutes of Subcommittee meetings;
- oversight reports and studies;
- public survey and public input via the Legislative Oversight Committee's webpage;
- correspondence with the agency;
- organizational charts;
- strategic budgeting;
- Act 148 of 1997 legislative findings;
- minutes from SCTIB Board meetings (April 1, 2004 - May 18, 2016);
- presentations provided by SCTIB to the Subcommittee;
- SCTIB operating guidelines;
- application process documents provided by SCTIB;
- applications submitted to SCTIB for project funding;
- project summary for fiscal year 2016; and
- audited financial statements year ended June 30, 2016.

### Follow Up

The Subcommittee recommends following up with SCTIB in the subsequent year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented.

**SELECTED AGENCY INFORMATION CITED**

SC Transportation Infrastructure Bank. *Program Evaluation Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>

SC Transportation Infrastructure Bank. *Restructuring and Seven-Year Plan Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>

SC Transportation Infrastructure Bank. *September 2015 Survey Results*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf>

SC Transportation Infrastructure Bank. *Annual Restructuring Report*, 2016.

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20%20SCTIB%20\(PDF\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20%20SCTIB%20(PDF).PDF)

## ENDNOTES

<sup>1</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed January 3, 2017).

<sup>2</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed January 3, 2017).

<sup>3</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, "Transportation Infrastructure Bank, S.C.," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "June 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>7</sup> SC Transportation Infrastructure Bank, "Operating Guidelines revised December 14, 2016," paragraph E, page 10.

<sup>8</sup> SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes."

<sup>9</sup> SC Transportation Infrastructure Bank, "Operating Guidelines revised December 14, 2016," paragraph C, page 10.

<sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes."

<sup>11</sup> *SC Transportation Infrastructure Bank study materials*.

<sup>12</sup> SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).

<sup>13</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>14</sup> *ibid*.

<sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>16</sup> The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/committeefinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).

<sup>17</sup> *SC Code of Laws*, sec. 2-2-10(1).

<sup>18</sup> SC House of Representatives, House Legislative Oversight Committee, "April 14, 2015 Full Committee Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeefinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>19</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to STIB" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>20</sup> *Subcommittees - 2017*.

<sup>21</sup> *Subcommittees - 2016*.

<sup>22</sup> SC House of Representatives, House Legislative Oversight Committee, "September 2015 Public Survey." The survey is closed. The survey sought comments from the public about the South Carolina Transportation Infrastructure Bank; South Carolina School for the Deaf and the Blind; Commission for the Blind; Department of Public Safety; and the Treasurer's Office.

<sup>23</sup> SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee."

<sup>24</sup> *Standard Practice 10.4*.

<sup>25</sup> SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>26</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 31, 2015)," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016)

<sup>27</sup> SC House of Representatives, House Legislative Oversight Committee, "Agency PER" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>28</sup> SC House of Representatives, House Legislative Oversight Committee, "2016 Agency ARR" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>29</sup> SC House of Representatives, House Legislative Oversight Committee, "Staff Study and Agency Response (March 11, 2016)" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>30</sup> *Standard Practice*, 11.5. The agency opted not to provide a response to the staff study.

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-2016 Summary - House Legislative Oversight Committee" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee"

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>32</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>33</sup> SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).

<sup>34</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>35</sup> *June 28, 2016 Meeting Minutes*.

<sup>36</sup> SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" [http://lac.sc.gov/LAC\\_Reports/2016/Documents/SCDOT.pdf](http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf) (accessed July 21, 2016).

<sup>37</sup> Secretary Christy's Hall testimony is available for review on the June 28, 2016, video of the Subcommittee meeting at 50:39.

<sup>38</sup> This Executive Order and the task force's report are both available online by visiting the website of South Carolina Office of the Governor Nikki R. Haley.

<sup>39</sup> The training modules are available online by visiting the website of the South Carolina Department of Administration. Specifically, Module 2 relates to gifts and other things of value.

<sup>40</sup> SC House of Representatives, Office of House Research, "Legislative Update June 7, 2016," under "Publications," under "Legislative Updates" <http://www.scstatehouse.gov/hupdate.php> (accessed September 8, 2016).

<sup>41</sup> *August 25, 2016 Meeting Minutes.*

<sup>42</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%202019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%202019,%202016).pdf) (accessed October 17, 2016). SCTIB formally adopted the new operating guidelines in December 2016.

<sup>43</sup> SC House of Representatives, House Legislative Oversight Committee, "STIB Operating Guidelines - Adopted May 26, 2016; Revised December 14, 2016," " under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/STIB%20Operating%20Guidelines%20Revised%20December%202014,%202016.pdf> (accessed January 9, 2017).

<sup>44</sup> Ibid, paragraph E - page 10 .

<sup>45</sup> *August 25, 2016 Meeting Minutes.*

<sup>46</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 25, 2016) - SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C.,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

<sup>47</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%202019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%202019,%202016).pdf) (accessed October 17, 2016). SCTIB formally adopted the new operating guidelines in December 2016.

<sup>48</sup> STIB Operating Guidelines - Adopted May 26, 2016; Revised December 14, 2016.

<sup>49</sup> Ibid, paragraph C- page 10.

<sup>50</sup> SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

## SUBCOMMITTEE MEMBER STATEMENTS

## CONTACT INFORMATION

### Committee Contact Information

Address:

South Carolina House of Representatives  
Legislative Oversight Committee  
1105 Pendleton Street, Blatt Building Room 228  
Post Office Box 11867  
Columbia, South Carolina 29211

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

Telephone:

803-212-6810

### Agency Contact Information

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Address:

South Carolina Transportation  
Infrastructure Bank  
Post Office Box 191  
Columbia, SC 29202-0191

Online:

Agency's home page: <http://sctib.sc.gov/Pages/default.aspx>

Telephone:

(803) 737-2875

DRAFT



## *Appendix H. February 16, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - January 26, 2017 - Meeting Minutes
  - PowerPoint - Program structure in General Appropriations Act; goals and strategic plan; agency operations; and partnerships (February 16, 2017)
- Documents provided by agency after meeting
  - SC Farm Aid by the numbers

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE*

*Chairman Ralph W. Norman*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Thursday, February 16, 2017*

*30 minutes after adjournment*

*Room 110 -Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes from the February 14, 2017 Subcommittee Meeting**
- II. Further discussion of the study of the Department of Agriculture**
- III. Adjournment**



**Economic Development, Transportation and Natural Resources Subcommittee**  
January 26, 2017

**Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chair Ralph W. Norman on Wednesday, January 26, 2017, in Room 409 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Chair Norman; Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

**Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's meeting on October 31, 2016. A roll call vote was held, and the motion passed.

<b>Rep. Ridgeway's motion to approve the minutes from October 31, 2016</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins				✓
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

### **Discussion of the Transportation Infrastructure Bank**

- I. Chair Norman provided an update of the Subcommittee's work related to the Transportation Infrastructure Bank and the agency's implementation status of recommendations made by the Subcommittee in the previous session.
- II. Representative Collins moved to approve the recommendations made by the Subcommittee in the previous session related to the Transportation Infrastructure Bank. A roll call vote was held, and the motion passed.

<b>Rep. Collins's motion to approve the recommendations related to the Transportation Infrastructure Bank made by the Subcommittee in the previous session</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

### **Discussion of the Department of Agriculture**

- I. Chair Norman provided an update of the Subcommittee's work related to the Department of Agriculture.

- II. Representative Collins moved to approve the continuing study of the agency. A roll call vote was held, and the motion passed.

<b>Rep. Collins's motion to approve the recommendations related to the Department of Agriculture made by the Subcommittee in the previous session</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

Representative Collins moved that Subcommittee Members provide staff with any questions they would like asked of these agencies at the Subcommittee's next meeting by the end of the business day on Friday, January 27, 2017.

<b>Rep. Collins's motion for Subcommittee Members to provide any questions of the agencies to staff by the end of the business day, January 27, 2017</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

### **Administrative Matters**

- I. Chair Norman said that the Subcommittee's next meeting would be held on February 2, 2017, and thanked Members for their service.
- II. The meeting was adjourned.

# South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee  
Economic Development, Transportation, and Natural Resources Subcommittee  
February 16, 2017

# Program Structure in General Appropriations Act

- I. Administrative Services
- III. Consumer Protection
- IV. Marketing Services. A. Marketing & Promotions
- IV. Marketing Services. B. Commodity Boards
- IV. Marketing Services. C. Market Services
- IV. Marketing Services. D. Inspection Services
- IV. Marketing Services. E. Market Bulletin
- V. Employee Benefits



# Goals and Strategic Plan

Goal	Intended Public Benefit/Outcome
Improve agency operational readiness and workforce development	Agency employees provide better customer service and are more productive
Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	Provide public safety by ensuring quality and quantity of products in the marketplace are accurate
Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	Grow the value (per unit, total) of agricultural products and by-products in the state
Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	Increase the value of agribusiness in SC



# Agency Operations

“Improve agency operational readiness and workforce development”

## Daily Operations Programs:

- Commissioner’s Office
- Human Resources
- Administration
- Information Technology



# Agency Operations

“Improve agency operational readiness and workforce development”

## Key Services/Products

- Executive leadership
- Agency support services
- Personnel, budget, and supply management
- Constituent services

## Customers

- Executive branch/state agencies
- Employees
- General public

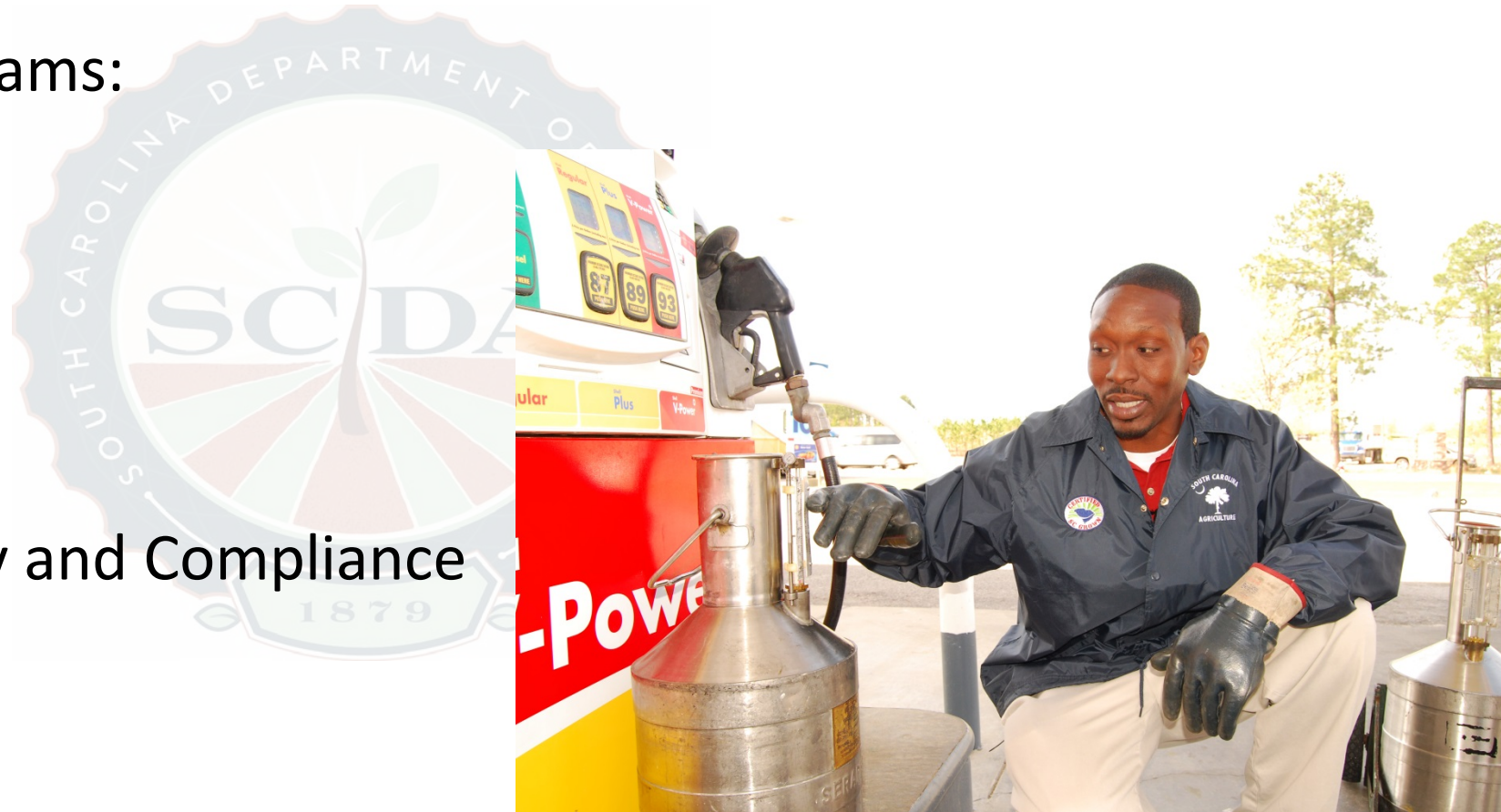


# Consumer Protection

“Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities”

## Daily Operations Programs:

- Laboratory Services
- Consumer Services
- Metrology Services
- Food and Feed Safety and Compliance



# Consumer Protection

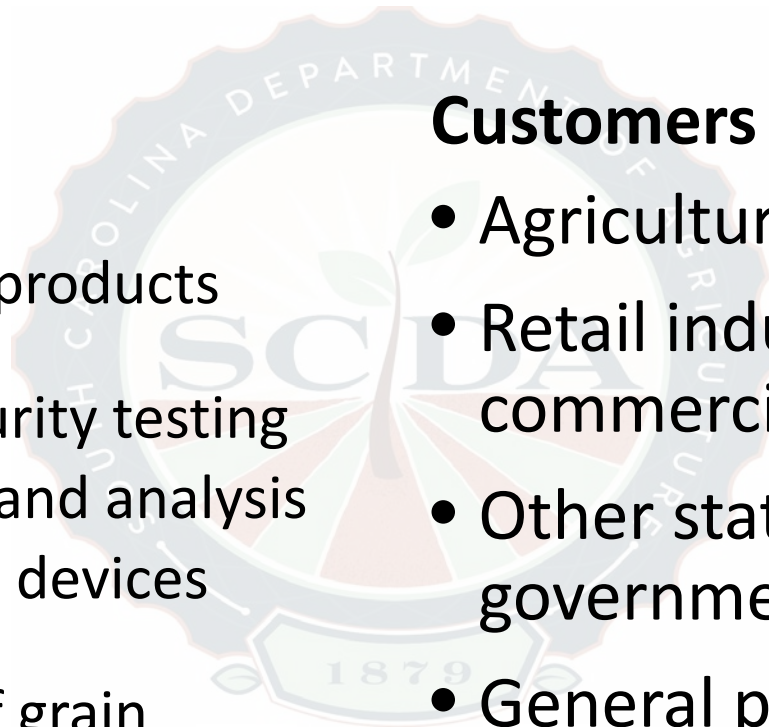
“Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities”

## Key Services/Products

- Chemical residue testing
- Gasoline and diesel fuel products inspection and analysis
- Seed germination and purity testing
- Food and feed sampling and analysis
- Weighing and measuring devices inspection
- Licensing and bonding of grain handlers and warehouses
- Calibration services

## Customers

- Agriculture industry
- Retail industry (businesses using commercial scales)
- Other state and local government agencies
- General public



# Agricultural Services

“Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products”

## Daily Operations Programs:

- State Farmers Markets
- Marketing and Promotions
- Commodity boards
- Market News Service
- Grading and Inspections



# Agricultural Services

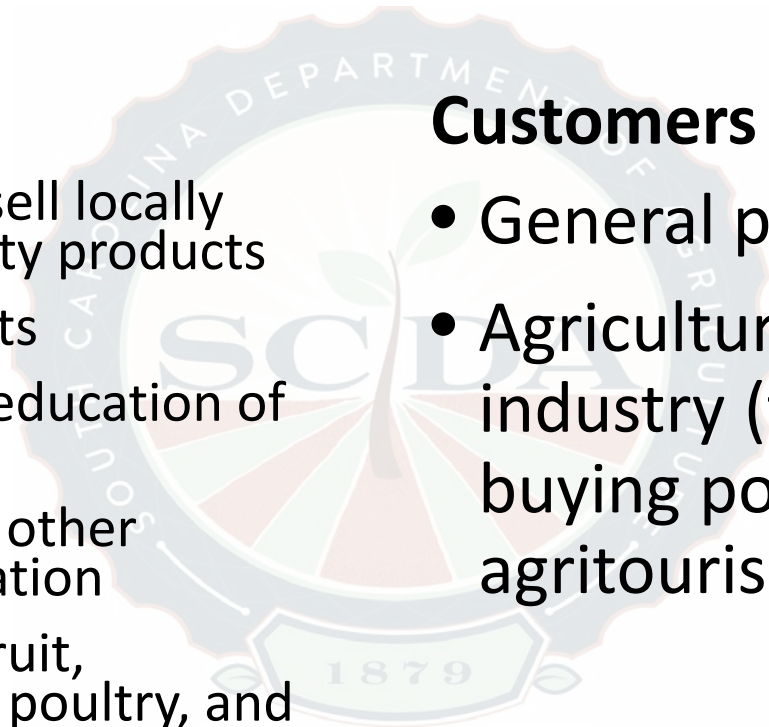
“Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products”

## Key Services/Products

- Provide places to buy and sell locally grown produce and specialty products
- Promotion of SC ag products
- Research, promotion, and education of agricultural commodities
- Provide price, volume, and other agricultural market information
- Ensure correct grading of fruit, vegetables, peanuts, grain, poultry, and eggs
- Good Agricultural Practices (GAP) certification

## Customers

- General public
- Agriculture and agribusiness industry (farmers, commodity buying points, roadside markets, agritourism, etc.)



# External Affairs and Economic Development

“Expand South Carolina’s agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders”

## Daily Operations Programs:

- Agribusiness development
- Grant coordination
- Public information



# External Affairs and Economic Development

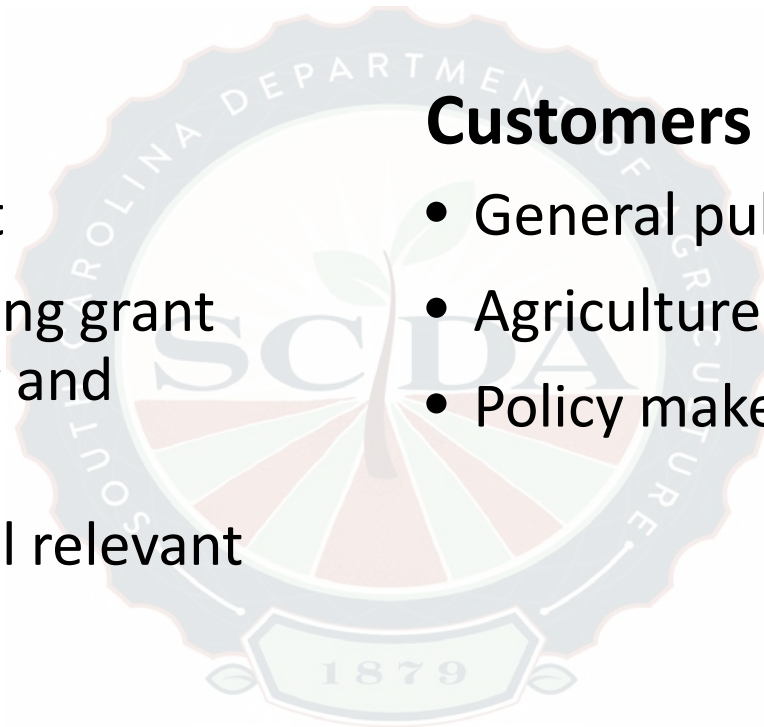
“Expand South Carolina’s agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders”

## Key Services/Products

- Agribusiness recruitment
- Securing and implementing grant resources both internally and externally
- Communication across all relevant platforms

## Customers

- General public
- Agriculture industry
- Policy makers



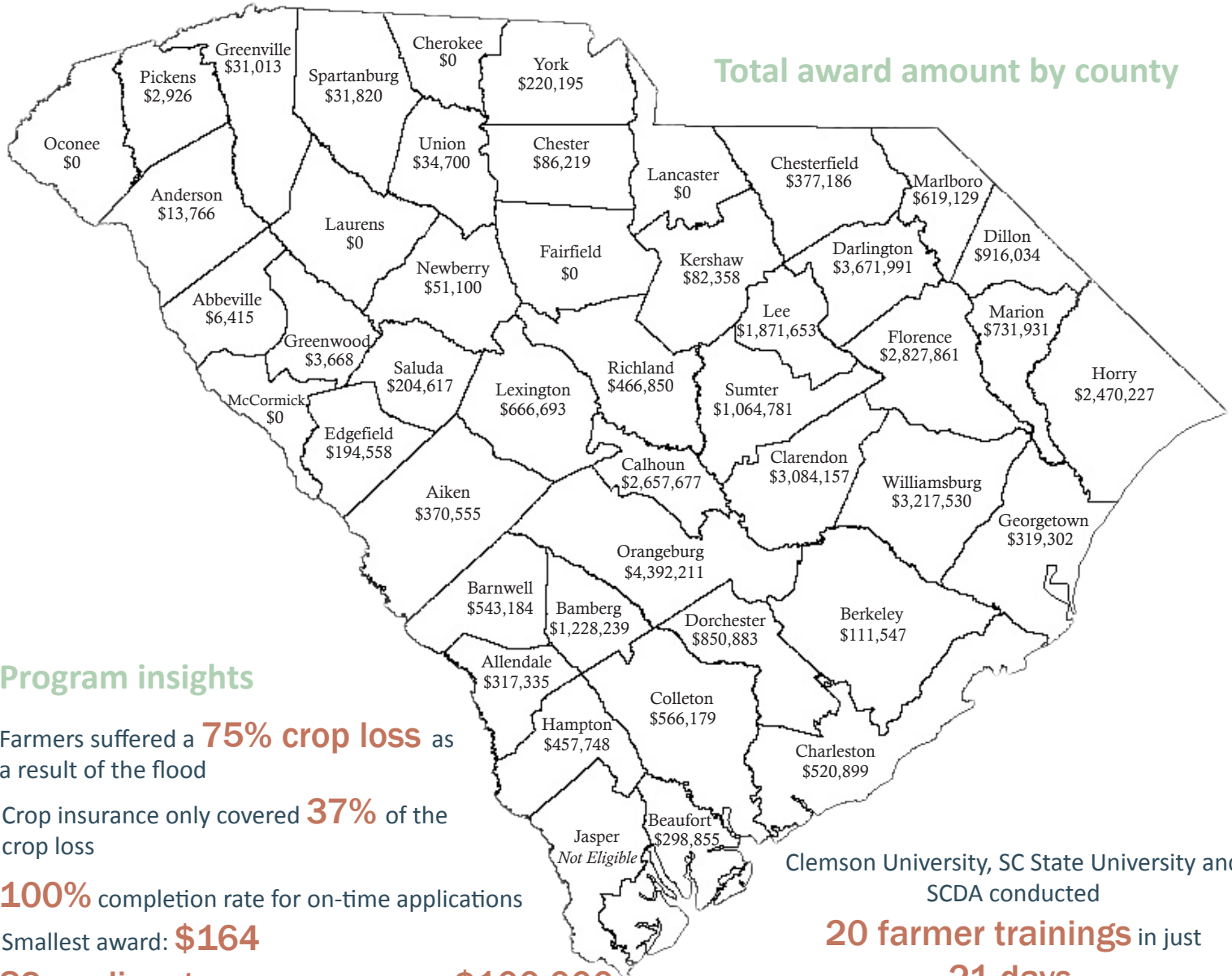


Name of Partner Entity	Description of Partnership
SC Department of Health and Environmental Control (DHEC)	Farm to School, Local Foods Access, Food Safety, Dairy
SC Department of Commerce	Agribusiness Recruitment and Project Management
SC Department of Social Services	DSS administers Supplemental Nutrition Assistance Program (SNAP); SCDA trains farmers, farmers markets, roadside markets on how to participate in, and accept, SNAP
SC Department of Education	Train cafeteria staff for Farm to School
Clemson University PSA	Agribusiness Research, Food Safety Outreach and Education, Farm to School, Farm to Food Bank, Farm Aid Grant Program, Palmetto Series
SC State University	Farmer outreach and education
University of South Carolina	Palmetto Series, Farm to School, Agribusiness Studies
SC Department of Parks, Recreation and Tourism (PRT)	Chef Ambassador Program
Governor's Office	Chef Ambassador Program
SC Department of Natural Resources	Seafood regulatory programs, Regional Licensing Office at the Columbia State Farmers Market
SC Department of Administration (Admin)	SCDA is Division of Technology customer, seeks guidance from Division of Human Resources, purchases and leases vehicles, and leases office space through General Services
SC Department of Revenue	Farm Aid Grant Program, Milk Producer's Tax Credit
SC Aeronautics Commission	SCDA inspects fuel pumps at all public airports
SC Department of Corrections	SCDA purchases is a customer for many items, including office equipment, forms, and letterhead
USDA National Agricultural Statistics Service (NASS)	NASS is a tenant at the Columbia State Farmers Market; SCDA and NASS have a cooperative agreement
USDA Agricultural Marketing Service (AMS)	Cooperative Agreements for Country of Origin Labeling (COOL), Poultry and Egg Grading, Market News, Fruit and Vegetable, Good Agricultural Practices (GAP), Organic, Specialty Crop Block Grant (SCBG),
USDA Feed Grain Inspection Service (FGIS)	Export Inspections
USDA Food and Nutrition Service (FNS)	Farm to School
US Food and Drug Administration (FDA)	Cooperative Agreements for Food and Feed Inspections, Manufactured Foods Regulatory Process Standards (MFRPS), Animal Feed Regulatory Process Standards (AFRPS), Food Safety & Modernization Act (FSMA) Produce Rule

# South Carolina Farm Aid

## By the numbers

**1245** farmers were approved for a total award amount of **\$35,583,991**



### Program insights

Farmers suffered a **75% crop loss** as a result of the flood

Crop insurance only covered **37%** of the crop loss

**100%** completion rate for on-time applications

Smallest award: **\$164**

**89 applicants** awarded maximum of **\$100,000**

Average award: **\$28,399**

Only **7** ineligible applications

Clemson University, SC State University and SCDA conducted

**20 farmer trainings** in just **21 days.**



Hugh E. Weathers, Commissioner

South Carolina Department of Agriculture • 1200 Senate Street • Columbia, SC • 29201

agriculture.sc.gov

## *Appendix I. May 2, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Amended Agenda
  - February 28, 2017 - Meeting Minutes
  - Program Evaluation Report
    - Questions from Word document
    - Daily operations programs
    - Employees available
    - General Appropriation Act programs and strategic plan objective resource allocation 2015-16
    - Employee allocation by objective 2015-16
    - Strategic spending 2015-16
    - Employee allocation by General Appropriation Act program 2016-17
    - General Appropriation Act programs and strategic plan objective resource allocation 2016-17
    - Employee allocation by objective 2016-17
    - Strategic budgeting 2016-17
  - PowerPoint - Agency successes and challenges; LAC recommendations and implementations; emerging issues; programs and objectives; and performance measures (dated April 27, 2017, but because a Subcommittee meeting was cancelled, it was not presented until May 2, 2017)
- Documents provided by agency during meeting
  - Agency's implementation of Legislative Audit Council's recommendations (April 12, 2017)
- Correspondence after meeting
  - Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)
    - Requests additional information relating to the following topics: (1) federal Food Safety Modernization Act; and (2) commodity boards and procurement.
  - Letter from Department of Agriculture to Oversight Subcommittee (June 6, 2017)
    - Responds to the Subcommittee's May 3, 2017, letter.
  - Department of Health and Environmental Control correspondence with Oversight Subcommittee on cottage law recommendation (June 14, 2017)
  - Agency's recommended statutory changes (June 15, 2017)

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Tuesday, May 2, 2017*

*9:00 a.m.*

*Room 321 -Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AMENDED AGENDA**

- I. Approval of Minutes from the February 28, 2017 Subcommittee Meeting
- II. Further discussion of the study of the Department of Agriculture
- III. Adjournment



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

February 28, 2017

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chair Ralph W. Norman on Thursday, February 16, 2017, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Neal A. Collins, Representative Robert L. Ridgeway, III, and Representative Laurie Slade Funderburk, Committee First Vice-Chair.

### **Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee's meeting on February 16, 2017. A roll call vote was held, and the motion passed.

<b>Rep. Collins's motion to approve the minutes from the February 16, 2017, meeting:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

### **Discussion of the Study of the South Carolina Transportation Infrastructure Bank**

- I. South Carolina Transportation Infrastructure Bank and Department of Transportation officials responded to Subcommittee Members' questions relating to:
- a) Agency's most recent audited financial statements year ended June 30, 2016; and
  - b) Relationship between the South Carolina Transportation Infrastructure Bank and the Department of Transportation in light of Act 275 of 2016.
- III. Representative Ridgeway moved that (1) staff draft a Subcommittee Report for presentation to the full Committee; (2) staff provide a copy of the Report to all Subcommittee members by Friday March 3, 2017; (3) staff include any Subcommittee member written statements pursuant to Standard Practice 12.4, which staff receives prior to 5:00 pm on Thursday March 9, 2017; and (4) unless the Committee receives an alternative request by 5:00 pm on Friday March 10, 2017, the Committee will provide notification pursuant to Standard Practice 12.5 that a study is available for consideration by the full Committee. A roll call vote was held, and the motion passed.

<b>Rep. Ridgeway's motion:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

- II. There being no further business, the meeting was adjourned.

- c. SC DSS: 3.3.4
  - i. SCDA trains farmers on how to accept Supplemental Nutrition Assistance Program (SNAP) and Farmers Market Nutrition Program (FMNP)
- d. SC Department of Education: 3.3.5; 3.4.4
  - i. SCDA trains school cafeteria staff and prepares nutrition information for teachers
- e. Clemson University: 2.1.3; 2.1.4; 2.4.1; 3.2.2; 3.3.3; 3.4.4; 4.2.3; 5.1.2; 5.1.4; 5.2.5
  - i. Utilize Clemson PSA's extension service county offices to provide education on various topics; and faculty to provide food safety education and agribusiness research; and evaluation component of Farm to Institution
- f. University of South Carolina: 3.3.5
  - i. USC conducts evaluation components of Farm to Institution
- g. South Carolina State University: 3.2.2; 3.3.2; 3.3.3; 3.3.4; 5.1.2
  - i. Utilize SCSU's extension presence to reach farmers and provide education
- h. SC Department of Parks, Recreation and Tourism: 3.1.1; 3.1.5
  - i. Partner to coordinate Chef Ambassador program
- i. SC Department of Natural Resources: 3.3.1; 2.1.4; 2.4.1
  - i. Coordinate seafood regulatory programs to prevent overlap while increasing efficiency of service; DNR is a tenant at the State Farmers Market
- j. Admin: Division of Technology: 1.1.2; 1.1.5; 1.2.1; 1.2.2; 1.2.3
  - i. Access DTO's expertise; standardize service and product offerings; follow lead on INFOSEC policy development and implementation

**10. Please provide the following information regarding the amount of funds remaining at the end of each year that the agency had available to use the next year (i.e. in 2011-12, insert the amount of money left over at the end of the year that the agency was able to carry forward and use in 2012-13), for each of the last five years.**

Year	Amount Remaining at end of year that agency could use the next year
2011-12	\$1,757,450
2012-13	\$2,472,562
2013-14	\$4,712,809
2014-15	\$5,426,456
2015-16	\$5,382,093

**11. How much does the agency believe is necessary to have in carryforward each year? Why?**

The amounts carried forward are necessary to support associated programs year-round. Many sources of funds do not receive a steady stream of revenue all year long, rather, the revenue may be received over a two-to-three month period, and then nothing will be received for the rest of the year (example, seed licenses, feed registrations, commodity board assessments). If the agency does not carry forward appropriate revenue, we run the risk of being unable to meet operating expenses for the portion of the year when revenue is not coming in steadily. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (soybean, peanuts, watermelon, cotton, tobacco) negatively, the boards would not receive crop assessments sufficient enough to meet the next year's operating expenses. SCDA acts as a fiduciary agent for commodity board assessments, but does not control the amount of remittances or how/when the funds are spent. Also, built into the carryforward for 2014, 2015 and 2016 are amounts for non-recurring funds received through provisos which will NOT be available after this fiscal year.

graph/chart for each performance measure) the agency believes are vital to knowing whether the agency is successful, and:

- a. Three agency, government, non-profit, or for-profit entities the agency considers the best in the country in this process or similar process and why.
  - i. New Jersey Department of Agriculture (NJDA) –“Jersey Fresh” Branding Program. NJ was the first state in the country to put resources into branding their state’s agricultural products.
  - ii. Florida Department of Agriculture & Consumer Services (FDACS) - “Fresh From Florida” Branding Program is highly visible, using vast amounts of funding and resources. Also, Florida has an excellent seafood regulatory program because of the size of the industry and many miles of coastline.
  - iii. North Carolina Department of Agriculture & Consumer Services (NDACS) – Food Safety Regulatory Programs. NDACS has the staff, resources, and a very progressive legislature that allows them to make proactive statutory changes.
- b. If the agency did not use results from another entity as a performance benchmark, why not? What did the agency choose as the benchmark, and why?
  - i. N/A

### Comparison to Others

29. Are there other agencies that have goals similar to those at this agency? If so, which agencies and which goals?

- a. Some agencies have goals in the area of administration, operations, or support services that are somewhat topically similar. However, the strategies and objectives (performance reviews, safety equipment, etc.) are unique for each agency because of size, function, capacity, etc. SCDA does network with other agencies in the Economic Development, Transportation, Natural Resources, and Regulatory arena, and often exchanges operational ideas and information.

30. For each of the agency’s goals that are similar to goals at other agencies,

- a. How are what the other agencies, and this agency, striving for the same goal?
- b. How are what the other agencies, and this agency, striving for different?
- c. Are there ways this agency and those other agencies could work together to accomplish the goals more efficiently?
- d. Are there ways this agency and those other agencies could work together to accomplish the goals more effectively?

### Looking Ahead - Agency Ideas/Recommendations

31. Please list any ideas the agency has for internal changes at the agency that may improve efficiency and outcomes. These can be ideas that are still just ideas, things the agency is analyzing the feasibility of implementing, or things the agency already has plans for implementing. For each, include the following details:

- a. Stage of analysis;
- b. Objectives and Associated Performance measures impacted and predicted impact;
- c. Costs of the objectives that will be impacted and the anticipated impact;
- d. On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted; and
- e. Anticipated implementation date.

Restructuring of the Marketing and Promotions Functional Area

- a. Complete



<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	8/24/2016

**INSTRUCTIONS:** In this Chart, the agency will find information in the second two columns which it provided in its Restructuring Report. Please do the following:

(a) Review the programs listed and make any additions or other modifications needed. Please, do not consider the General Appropriations Act programs. Instead think of what the agency considers programs in the agency's daily operations (this may not have been clear in the Restructuring Report). These may be divisions, departments, programs it is working on related to grants, etc.

(b) Regardless of whether the agency selected yes or no in the previous column, in the last column titled, "Other agencies whose mission the program may fit within," list other agencies whose mission the program may fall within based on the agency's knowledge of the program and reference to the list of all other agency missions, attached to these guidelines.

<b>Fiscal Year (i.e. 2015-16; 2016-17; or both)</b>	<b>Daily Operations Program</b>	<b>Purpose of Program</b>	<b>Other agencies whose mission the program may fit within</b>
#REF!	State Farmers Markets	The State of South Carolina owns and manages three regional state farmers markets in Columbia, Florence, and Greenville which provide consumers with a wide variety of locally grown produce and specialty products.	None
#REF!	Grading/Inspections	Under a cooperative agreement with USDA, fruit, vegetable, poultry and egg, and commodity grading and inspection services are provided. Includes Good Agricultural Practices (GAP) training.	None
#REF!	Market News Services	A contract service provided by SCDA to USDA that analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers.	None
#REF!	Marketing	Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality SC agricultural products at local, national, and international levels.	None
#REF!	Consumer Services	Protects consumers by ensuring that the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce.	None
#REF!	Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale; assures that goods meet acceptable standards of quality; and issues registrations, licenses, and permits to certain businesses. (Food Laboratory, Feed Laboratory, Seed Laboratory, Chemical Residue Laboratory, and Petroleum Products Laboratory)	DHEC
#REF!	Metrology	Provides NIST traceable calibrations for mass and volume standards, calibrates equipment for our state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.	None

#REF!	Food & Feed Safety and Compliance	Ensures that foods and feeds are manufactured under safe and sanitary conditions through routine surveillance inspections.	None
#REF!	Administration	Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management and other administrative services.	SFAA Procurement Services, Admin Division of General Services, Admin Division of Technology
#REF!	Office of the Commissioner	This office provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.	None
#REF!	Human Resources	The Human Resources Department manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development. Human Resources also ensures that SCDA personnel practices are compliant with state and federal regulations.	Admin Division of Human Resources
#REF!	Public Information / Communications	The Public Information Department communicates SCDA's mission, and the importance of SC agriculture and agribusiness, through traditional and social media, websites, and the SC Market Bulletin. Public Information also informs industry members and the general public of pertinent agricultural issues, and responds to various media inquiries.	None
#REF!	Market Bulletin	Publication issued twice a month as a marketplace for agricultural goods and services, and provide consumer interest articles; available printed and electronically.	None
#REF!	Agribusiness Development	Works to continually promote agribusiness in SC through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in SC, via the production of SC grown products or value-added services/processing. Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.	Department of Commerce
#REF!	Grants Coordination	Cooperate with the federal government to implement the Specialty Crop Block Grant (SCBG), Farm to School Grant (F2S), Manufactured Food and Regulatory Program Standards (MFRPS); pursue and secure other grants to benefit the agriculture industry and SCDA.	None

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	8/24/2016

**INSTRUCTIONS:** This chart requests the number of authorized, filled and unfilled full time equivalent (FTE) positions at the agency by general fund, other fund and federal funds during each of the last five years. It also asks for the number of temporary non-FTE and temporary grant non-FTE positions during the same time period.

General Fund Full Time Equivalent Positions (FTEs)					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	56.51	58.51	58.51	58.51	58.51
Filled	46.6	38.05	45.8	51	50.65
Unfilled	9	13.41	11	7	10

Other Fund FTEs					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	79.49	79.49	79.49	79.49	79.49
Filled	70.15	76.95	74.85	74.65	70.15
Unfilled	10	7.59	5	5	6

Federal FTEs					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	0	0	0	0	0
Filled	0	0	1	0	0.85
Unfilled	0	0	0	0	0

Total FTEs (General + Other + Federal Fund) & Non-FTEs					
	Unfilled FTEs	Filled FTEs	Temporary Non-FTEs	Temporary Grant Non-FTEs	Total
2011-12	19	116.75	13.929	3	152.679
2012-13	21	115	35.448	3	174.448
2013-14	16	121.65	29.159	1	167.809
2014-15	12	125.65	134.736	1	273.386
2015-16	16	121.65	123.212	2	262.862

The practice of delimiting seasonal temporary positions at the end of the season was discontinued in FY14-15. Creating over 100 seasonal positions in SCEIS is tedious and time-consuming.

Each year, seasonal temporary employees are hired to grade peanuts. This number fluctuates with the number of acres planted and demand from buying points. These seasonal employees are funded from other funds.

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	8/24/2016

Disclaimer: The Committee understands amount the agency spent per objective and amount of employee equivalents that are associated with costs of each program are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:** In this Chart, please do the following:

- (a) In the first two columns, the agency can copy and paste the information from the Accountability Report, "Major Programs," chart.
- (b) In the column titled, "Money Spent on Program in 2015-16," list the amount of money the agency spent on the program in 2015-16.
- (c) In the column titled, "Number of employee equivalents associated with the budget program in 2015-16," list the total number of employee equivalents working on the program in 2015-16 from the Employee Allocation by Budget Program Chart.
- (d) In the column titled, "Objective the Program Helps Accomplish," list each objective the program helps the agency accomplish. Please list only objective per row. This may require inserting additional rows between programs.
- (e) In the column titled, "Approx. amount of money spent on objective that is associated with costs from program," consider the total amount actually spent on the program and what portion of that amount was related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total amount spent on the program.
- (f) In the column titled, "Approx. amount of employee equivalents utilized on objective that are associated with the program," consider the total amount of employee equivalents utilized on the program and what portion of that time was related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total number of employee equivalents utilized on the program.

General Appropriation Act Programs (2015-16)	Description of Program	Money Spent on Program in 2015-16	Number of employee equivalents associated with this Program in 2015-16	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart)  List <b>ONLY ONE</b> strategic objective per row.	Approx. amount of money spent on each objective in 2015-16 that is associated with costs from this program (if you add up the amounts for each objective it should equal the total amount spent on the	Approx. amount of employee equivalents in 2015-16 utilized on each objective that are associated with this program (if you add up the amounts for each objective it should equal the total amount employee equivalents for the
I. Administrative Services	Provides executive leadership, support, policy development and review, financial services, information technology, facilities management and other administrative services.	\$1,286,022	15	1.1.1 Place all internal agency forms on network	\$51,440.88	0.6
				1.1.2 Replace personal computers every three years	\$77,161.32	0.9
				1.1.3 Convert Wade Hampton Office phone systems to Voice Over IP (VOIP) system	\$34,293.92	0.4
				1.1.4 Equip 100% of Consumer Protection field inspectors with 4G mobile network access	\$42,867.40	0.5
				1.1.5 Work with vendors and service providers to refine current products and offer best-in-breed technology to staff	\$60,014.36	0.7
				1.2.1 Achieve 100% completion annually of the US Department of Defense Information Security Awareness Program by 31 October	\$17,146.96	0.2
				1.2.2 Have Executive and Information Technology (IT) staff participate in State of SC INFOSEC project by attending quarterly meetings or as directed by Division of Technology	\$25,720.44	0.3
				1.2.3 Implement all 13 INFOSEC policies by 2016	\$64,301.10	0.75
				1.3.1 Encourage employees to identify relevant technical training during their yearly EPMS planning stage	\$8,573.48	0.1
				1.3.2 Expand training delivery platforms to be more convenient and offer options for different learning styles	\$25,720.44	0.3
				1.3.3 Offer in-house training at least quarterly	\$42,867.40	0.5

				1.3.4 Solicit suggestions for training on broad topics beneficial to all employees	\$8,573.48	0.1
				1.3.5 Encourage participation in trade groups and industry associations	\$4,286.74	0.05
				1.4.1 Complete planning stage documents within 2 months of the calendar year for all existing employees or within 1 month of hiring all new employees	\$60,014.36	0.7
				1.4.2 Evaluate and counsel 100% of employees by the end of annual, probationary, or trial period	\$51,440.88	0.6
				1.4.3 Include comments and/or personal development plan for 100% of employees	\$42,867.40	0.5
				1.5.1 Provide monthly financial reports to appropriate program staff	\$34,293.92	0.4
				1.5.2 Conduct annual introductory and advanced training for supervisors	\$17,146.96	0.2
				1.5.3 Encourage more frequent meetings between supervisors and subordinates	\$17,146.96	0.2
				1.5.5 Review agency and departmental policies annually; edit and/or draft new policies as necessary	\$42,867.40	0.5
				1.6.1 Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility	\$34,293.92	0.4
				1.6.2 Assistant Commissioner for Agency Operations and Director of Administration will review all agency financials monthly	\$25,720.44	0.3
				1.6.3 Expand procurement training and procedural knowledge to ensure compliance with procurement code, expand advertising scope, and diversify vendor pool	\$154,322.64	1.8
				1.6.4 Achieve a higher procurement certification to enable more in-house procurement actions and shorter processing time for new contracts	\$51,440.88	0.6
				1.7.1 Attend at least two recruitment events annually, other than those facilitated by state government	\$17,146.96	0.2
				1.7.2 Use at least three additional avenues, other than NeoGov, to advertise position vacancies over the course of the year	\$25,720.44	0.3
				1.7.3 Complete the required EEOC reporting and focus on potential areas of improvement	\$17,146.96	0.2
				1.8.1 Offer an annual health screening for all employees	\$8,573.48	0.1
				1.8.2 Certify and maintain currency for 10% of strategically placed agency employees in first aid, CPR, and use of AED machines	\$4,286.74	0.05
				1.8.3 Ensure that all agency office buildings with 10 or more employees are equipped with AED machines	\$4,286.74	0.05
				1.8.4 Purchase Personal Protective Equipment (PPE) for all field personnel	\$25,720.44	0.3

				4.1.3 Respond to 100% of website Information Requests within 2 business days	\$8,573.48	0.1
				4.4.2 Organize, clean up, and increase use of the shared network drive	\$51,440.88	0.6
				4.4.3 Establish an accurate position on key issues and create consistent messaging across the agency	\$42,867.40	0.5
				4.4.4 Increase staff professional development related to communications and hot topics	\$42,867.40	0.5
				4.4.5 Newly created Communications committee to implement, evaluate, and update communications plan	\$42,867.40	0.5
II. Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods that may be offered for public sale; assures that goods meet acceptable standards of quality; monitors labeling; registers animal and pet foods, frozen desserts, gasoline and antifreeze; issues licenses for butterfat testers and milk samplers, grants permits to salvage food operations; issues two to three thousand licenses, permits and registrations; provides assistance regarding food safety and security in the event of a natural disaster or an accidental or international emergency related to Homeland Security.	\$1,428,696	20.5	2.1.5 Make all 42 public forms able to be submitted online	\$1,359,003.51	19.5
				2.4.7 Develop and maintain Laboratory Safety Program with 100% attendance to all safety meetings and trainings	\$69,692.49	1

III. Consumer Services	Draws samples for analysis in the SCDA's laboratories; protects the people of the state, farmers and non-farmers, from fraud by ensuring the accuracy of weights and measures; inspects food and cosmetic manufacturing and storage facilities; assures farmers that they receive full and prompt payment for the products they produce and that their stored cotton and grain crops are protected in warehouse facilities; inspects gas pumps, grocery store scales, vehicle tank meters, and liquid petroleum gas measuring devices; collects official samples of petroleum, produce, meat and feeds for laboratory analysis; licenses, bonds and audits warehouses and dealers; inspects storage facilities for sanitation compliance.	\$2,580,998	34.5	1.5.4 Designate training officers for all Consumer Service programs and staff	\$14,962.31	0.2
				2.1.1 Provide advanced classroom training, on-the-job training and continuing education courses for entire food/feed inspection team	\$52,368.08	0.7
				2.1.2 Hire Feed Control Official Replacement to cover feed industry inspections in SC	\$59,849.23	0.8
				2.1.3 Participate in the Food and Drug Administration's MFRPS by 2015	\$157,104.23	2.1
				2.1.4 Create 4 working and viable Memorandum for Understanding (MOUs) with other state agencies including DHEC, DNR AND SC LPH	\$74,811.54	1
				2.2.1 Enhance lab's credibility by becoming accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)	\$149,623.07	2
				2.2.2 Establish a new Quality Manager Position to provide ongoing auditing and documentation of the quality assurance program	\$44,886.92	0.6
				2.2.3 Design and build a new metrology laboratory to meet the requirements for Echelon I metrology laboratory	\$149,623.07	2
				2.3.1 Establish a subject matter expert position for in-the-field assessments and knowledge exchange	\$44,886.92	0.6
				2.3.2 Perform routine inspections, consistent with policy, of 100% firms covered under SCDA regulatory oversight	\$1,271,796.12	17



				2.3.3 Ensure same-day follow-up communication to 100%of consumer complaints	\$149,623.07	2
				2.3.4 Continue field level supervision of Weights and Measures program for 100% of SC counties	\$149,623.07	2
				2.4.1 Collaborate and ensure open communication with other state agencies (Clemson, DOT, DHEC, DOR and APHIS, FERN, Produce Inspection) to perform routine and emergency testing	\$44,886.92	0.6
				2.4.2 Ensure technical training of 100% of new and existing staff	\$29,924.61	0.4
				2.4.3 Evaluate and track national and state organization memberships for the value gained by SCDA	\$29,924.61	0.4
				2.4.4 Develop SOPs and protocols to enhance laboratory capabilities through national and regulatory accreditation programs	\$119,698.46	1.6
				2.4.5 Increase and broaden sampling of fruits and vegetables by 10%	\$29,924.61	0.4
				2.4.6 As current positions become open, elevate prerequisites and educational level for 50% of new hires	\$7,481.15	0.1
IV. Marketing Services. A. Marketing & Promotions	Develops and implements broad-based marketing programs; provides programs and services designed to increase consumer awareness and product demand for quality South Carolina agricultural commodities; strives to improve the economic vitality of business and individuals in the industry of agriculture; encourages expansion and development of existing industries that use South Carolina agricultural commodities, both fresh and processed, to increase the marketability of locally-grown products; domestic and international marketing assistance; certifies roadside markets; promotes specialty crops and specialty products; assists small farmer and provides support for locally grown certification; promotes the green industry (nursery, greenhouse, landscape, etc); authorizes individual farmers and farmers markets to be able to accept coupons from those who are nutritionally at risk to buy fresh, unprepared produce issued in the WIC and Senior Farmers Market	\$4,558,048	12.5	3.1.1 Increase program membership participation by 10%	\$354,406.13	1
				3.1.2 Increase in-state merchandising efforts, resulting in a 5% increase in total sales of local products in retail outlets	\$337,436.12	0.9

				3.1.3 Future outreach: Grow sales in North Carolina, Virginia, and Mid-Atlantic region with key retailers by 10% in key measurable areas of fresh produce through combined radio and <del>merchandising efforts</del>	\$299,943.22	0.8
				3.1.4 Increase event attendance by 10% and adjust future direction based on <del>project utilization and evaluation</del>	\$149,971.61	0.4
				3.1.5 Increase CSC brand recognition by 10%	\$262,450.31	0.7
				3.2.4 Place more resources into export market analysis, access, and development	\$374,929.02	1
				3.2.5 Explore current and new marketing <del>events and activities</del>	\$749,858.04	2
				3.3.4 Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state during the months of November through January	\$149,971.61	0.4
				3.3.5 Continue to increase school participation in direct purchases of local product with increase in sales of 10% statewide via direct consultation and promotion efforts under Farm to School <del>programming</del>	\$149,971.61	0.4
				<b>3.4.1 Create three statewide food hubs</b>	<b>\$149,971.61</b>	<b>0.4</b>
				3.4.2 Increase the number of agritourism operations participating in SCDA <del>programming by 10%</del>	\$100,000.00	0.6
				3.4.3 Educate the general public, by written communication and social media, on the diverse opportunities of nontraditional agriculture, on a monthly <del>basis</del>	\$149,971.61	0.4
				3.4.4 Collaborate on a monthly basis with SC Department of Health and Environmental Control, Clemson University, and SC Department of Agriculture to promote farm-to-school program to current school nutrition <del>officials and food service employees</del>	\$37,492.90	0.1
				4.1.1 Develop strategies to reach consumers directly on internet channels with messaging one month out on major events and two weeks out on minor <del>events</del>	\$33,743.61	0.09
				4.1.2 Update plan for crisis management and/or regulatory enforcement events	\$3,749.29	0.01
				4.1.4 Actively use social media messaging and maintain activity level of at least two posts per day	\$18,746.45	0.05
				4.1.5 Ensure sound management of information systems used by producers in regards to market pricing in order to report at 98% accuracy	\$412,421.92	1.1
				4.2.1 Increase earned media coverage year over and above 2012-13 performance results	\$18,746.45	0.05

				4.2.2 Leverage paid media to get higher return on investment	\$18,746.45	0.05
				4.2.3 Develop relationships with media statewide for key story opportunities related to positive ag news, events, etc. as they occur	\$7,498.58	0.02
				4.4.1 Public Information Office (PIO) staff should conduct visits with different program staff at least monthly	\$7,498.58	0.02
				5.1.1 Meet with five current companies to encourage them to use more SC products in their business process	\$29,850.75	0.08
				5.1.2 Create collaborations between in-state farming operations and food processors to determine supply chain opportunities	\$11,194.03	0.03
				5.1.3 Encourage new business incentives for agribusiness	\$14,925.37	0.04
				5.1.4 Engage stakeholders in the business development community to consider opportunities and overcome obstacles related to infrastructure	\$22,388.06	0.06
				5.2.1 Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis	\$29,850.75	0.08
				5.2.2 Participate in at least 7 business events and tradeshow per year	\$26,119.40	0.07
				5.2.3 Perform an annual inventory analysis on agribusiness companies who are interested in expansion in SC & Southeast USA	\$11,194.03	0.03
				5.2.4 Engage with at least three existing industry players to identify barriers to growth, promote opportunities for expansion, and encourage additional investment	\$186,567.16	0.5
				5.2.5 Complete the "Agribusiness Development" application/online portal with Clemson University PSA	\$11,194.03	0.03
				5.3.1 Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers	\$14,925.37	0.04
				5.3.2 Be an industry voice in communicating factual information by making policy statements to elected officials at the appropriate time	\$373,134.33	1
				5.3.3 Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment	\$18,656.72	0.05

IV. Marketing Services. B. Commodity Boards	Serves as a liaison to commodity boards, associations and the state's Agriculture Commission to aid in marketing state commodities, as well as fund various research projects relevant to the commodity.	\$1,813,116	2	3.2.1 Develop commodity specific efforts to highlight crop conditions, outlooks, and timing backed up by promotional efforts to increase overall sales in-state by 5%	\$861,230.10	0.95
				3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing	\$90,655.80	0.1
				3.2.3 Increase cross-promotion of, and between, commodities	\$861,230.10	0.95
IV. Marketing Services. C. Market Services	Oversees and operates the three state farmers markets in Lexington, Florence and Greenville. These markets provide central points for farmers and producers to sell their products.	\$1,539,830	14	3.3.1 Identify and prioritize critical necessary upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality	\$1,110,877.36	10.1
				3.3.2 Recruit new farmers, identify demand for new products, and align resources to meet the needs of producers and consumers	\$428,952.64	3.9
IV. Marketing Services. D. Inspection Services	Provides quality grade standards and up-to-date first-hand market news to the allied industry through a cooperative agreement with the USDA; provides grading and inspecting of poultry products and fruits and vegetables.	\$2,491,536	26	3.3.3 Develop producer Good Agricultural Practice (GAP) training and certification schedule and outreach efforts to meet needs during pre-season and production to increase GAP certified farms by 15%	\$2,491,536.00	26
IV. Marketing Services. E. Market Bulletin	Publishes the Market Bulletin which is designed as a vehicle for farmers and non-farmers to buy and sell agricultural and agricultural-related items, a resource for economic stability especially in rural areas.	\$147,643	2.5	4.3.1 Maintain subscription of 15,625	\$117,228.54	1.985
				4.3.2 Engage staff to contribute articles and photographs for all 24 issues	\$29,528.60	0.5
				4.3.3 Reduce fixed costs, excluding postage, during FY 15	\$295.29	0.005
				4.3.4 Conduct reader interest survey every three years	\$590.57	0.01

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	8/24/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:** In this Chart, please do the following:

- Review the agency's strategic plan, which is provided in the chart based on the information from the agency's Restructuring Report.
- In the column titled, "Number of employee equivalents working on the goal or objective in 2015-16," list the number of employees working toward each objective, by totaling the amounts from the Employee Allocation by Budget Program Chart.
- The total number of employees working toward each goal should automatically sum based on the numbers you enter for the number of employees per objective.

<b>Strategic Plan Part and Description (2015-16)</b> <i>(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)</i>	<b>Number of physical employees working on the goal or objective in 2015-16</b>	<b>Number of employee equivalents working the goal or objective in 2015-16</b>
Number of FTEs Available	121.65	
Number of Temporary Non-FTEs Available	123.212	
Number of Temporary Grant Non-FTEs Available	2	
Total Number of Employees Available	262.862	
<b>Goal 1 - Improve agency operational readiness and workforce development</b>	<b>148</b>	<b>13</b>
<i>Strategy 1.1 - Evaluate new technology products and services and implement based on cost/benefit analyses</i>	<b>11</b>	<b>3.1</b>
Objective 1.1.1 - Place all internal agency forms on the network	2	0.6
Objective 1.1.2 - Replace personal computers every three years	2	0.9
Objective 1.1.3 - Convert Wade Hampton Office phone systems to Voice Over IP (VOIP) system	3	0.4
Objective 1.1.4 - Equip 100% of Consumer Protection field inspectors with 4G mobile network access	2	0.5
Objective 1.1.5 - Work with vendors and service providers to refine current products and offer best-in-breed technology to staff	2	0.7
<i>Strategy 1.2 - Prioritize information security activities</i>	<b>5</b>	<b>1.25</b>
Objective 1.2.1 - Achieve 100% completion of the US Department of Defense Information Security Awareness Program by 31 October every year	2	0.2
Objective 1.2.2 - Have Executive and IT staff participate in State of SC INFOSEC project by attending quarterly meetings or as directed by Division of Technology	1	0.3
Objective 1.2.3 - Implement all 13 INFOSEC policies by 2016	2	0.75
<i>Strategy 1.3 - Provide more professional development opportunities for employees</i>	<b>12</b>	<b>1.05</b>
Objective 1.3.1 Encourage employees to identify relevant technical training during their yearly EPMS planning stage	4	0.1
Objective 1.3.2 - Expand training delivery platforms to be more convenient and offer options for different learning styles	2	0.3
Objective 1.3.3 - Offer in-house training at least quarterly	1	0.5
Objective 1.3.4 - Solicit suggestions for training on broad topics beneficial to all employees	1	0.1
Objective 1.3.5 - Staff will participate in trade groups and industry associations	4	0.05
<i>Strategy 1.4 - Fully utilize annual Employee Performance Management System (EPMS) as a communication tool</i>	<b>87</b>	<b>1.8</b>
Objective 1.4.1 - Complete planning stage documents within 2 months of the calendar year for all existing employees or within 1 month of hiring new employees	29	0.7

Objective 1.4.2 - Evaluate and counsel 100% of employees by the end of annual, probationary, or trial period	29	0.6
Objective 1.4.3 - Include comments and/or personal development plan for 100% of employees	29	0.5
<i>Strategy 1.5 - Empower supervisors to be better decision makers and personnel managers</i>	<b>12</b>	<b>1.5</b>
Objective 1.5.1 Provide monthly financial reports to appropriate program staff	2	0.4
Objective 1.5.2 - Conduct annual introductory and advanced training for supervisors	1	0.2
Objective 1.5.3 - Encourage more frequent meetings between supervisors and subordinates	5	0.2
Objective 1.5.4 - Designate training officers for all Consumer Service programs and staff	2	0.2
Objective 1.5.5 - Review agency and departmental policies annually; edit and/or draft new policies as necessary	2	0.5
<i>Strategy 1.6- Improve financial reporting and business procedures</i>	<b>7</b>	<b>3.1</b>
Objective 1.6.1 - Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility	1	0.4
Objective 1.6.2 - Assistant Commissioner for Agency Operations and Director of Administration will review all agency financials monthly	2	0.3
Objective 1.6.3 - Expand procurement training and procedural knowledge to ensure compliance with procurement code, expand advertising scope, and diversify vendor pool	2	1.8
Objective 1.6.4 - Achieve a higher agency procurement certification from MMO	2	0.6
<i>Strategy 1.7 - Diversify agency workforce by EEOC categories, age, education, experience, and perspective</i>	<b>6</b>	<b>0.7</b>
Objective 1.7.1 - Attend at least two recruitment events annually	2	0.2
Objective 1.7.2 - Use at least three additional avenues, other than NeoGov, to advertise position vacancies over the course of the year	2	0.3
Objective 1.7.3 - Complete required EEOC reporting and focus on potential areas of improvement	2	0.2
<i>Strategy 1.8 - Emphasize employee health and safety on and off the job</i>	<b>8</b>	<b>0.5</b>
Objective 1.8.1 - Offer an annual health screening for all employees	1	0.1
Objective 1.8.2 - Certify and maintain currency for 10% of strategically placed agency employees in first aid, CPR, and AED	2	0.05
Objective 1.8.3 - Ensure that all agency office buildings with 10 or more employees are equipped with AED machines	1	0.05
Objective 1.8.4 - Purchase Personal Protective Equipment for all field personnel	4	0.3
<b>Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.</b>	<b>97</b>	<b>54.8</b>
<i>Strategy 2.1 - Provide food/feed safety oversight at SC food manufacturing and storage facilities through routine periodic inspections based on product types, inspection history, and risk analysis</i>	<b>16</b>	<b>24.1</b>
Objective 2.1.1 - Provide advanced classroom training, on-the-job training, and continuing education courses for entire food/feed inspection team	4	0.7
Objective 2.1.2 - Hire Feed Control Official replacement to cover feed industry inspections in SC	2	0.8
Objective 2.1.3 - Participate in the Food and Drug Administration's MFRPS by 2015	4	2.1
Objective 2.1.4 - Create 4 working and viable MOUs with other state agencies including DHEC, DNR, and SC LPH	2	1
Objective 2.1.5 - Make all 42 public forms able to be submitted online	4	19.5
<i>Strategy 2.2 - Maintain the accuracy of the state's measurement system by providing high precision calibration services to public and private sector customers at the SC Metrology Laboratory</i>	<b>11</b>	<b>4.6</b>
Objective 2.2.1 - Become accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)	3	2
Objective 2.2.2 - Establish a new Quality Manager Position to provide ongoing auditing and documentation of the quality assurance program	2	0.6
Objective 2.2.3 - Design and build a new metrology laboratory to meet the requirements for an Echelon I metrology laboratory	6	2

<i>Strategy 2.3 - Provide the public with assurance that commodities purchased are the correct quantity and quality, through routine inspections of gasoline/petroleum dispensers, scales, and commodity storage facilities</i>	<b>33</b>	<b>21.6</b>
Objective 2.3.1 - Establish a subject matter expert position for in-the-field assessments and knowledge exchange	3	0.6
Objective 2.3.2 - Routinely inspect 100% of regulated firms annually	20	17
Objective 2.3.3 - Ensure same-day follow-up communication on 100% of consumer complaints	4	2
Objective 2.3.4 - Continue field level supervision of Weights and Measures program for 100% of SC Counties	6	2
<i>Strategy 2.4 - Provide the public with assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i>	<b>37</b>	<b>4.5</b>
Objective 2.4.1 - Collaborate and ensure open communication with other state agencies to perform routine and emergency testing	3	0.6
Objective 2.4.2 - Ensure technical training of 100% of new and existing staff	5	0.4
Objective 2.4.3 - Evaluate and track national and state organization memberships for the value gained by SCDA	2	0.4
Objective 2.4.4 - Develop SOPs and protocols to enhance laboratory capabilities through national and regulatory accreditation programs	4	1.6
Objective 2.4.5 - Increase and broaden sampling of fruits and vegetables in the chemical residue laboratory by 10%	19	0.4
Objective 2.4.6 - As current positions become open, elevate prerequisites and educational level for 50% of new hires	2	0.1
Objective 2.4.7 Develop and maintain Laboratory Safety Program with 100% attendance at all safety meetings and trainings	2	1
<b>Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</b>	<b>117</b>	<b>52.1</b>
<i>Strategy 3.1 - Expand Certified SC (CSC) branding program</i>	<b>28</b>	<b>3.8</b>
Objective 3.1.1 - Increase program membership by 10%	3	1
Objective 3.1.2 - Use merchandising to grow sales of local products in retail outlets by 5%	3	0.9
Objective 3.1.3 - Grow sales in NC, VA and Mid-Atlantic region with key retailers by 10% in key measurable areas of fresh produce through combined radio and merchandising efforts	3	0.8
Objective 3.1.4 - Increase event attendance by 10% and adjust future direction based on project utilization and evaluation	4	0.4
Objective 3.1.5 - Increase CSC brand recognition by 10%	15	0.7
<i>Strategy 3.2 - Expand commodity board research, promotion and education</i>	<b>27</b>	<b>5</b>
Objective 3.2.1 - Develop commodity specific strategies to highlight crop conditions, outlooks, and timing, to increase overall sales in-state by 5%	3	0.95
Objective 3.2.2 - Fund research of new technologies, science and best management practices for production, packaging and processing	2	0.1
Objective 3.2.3 - Increase cross-promotion of, and between, commodities	15	0.95
Objective 3.2.4 - Devote more resources into export market analysis, access, and development	3	1
Objective 3.2.5 - Explore current and new marketing events and activities	4	2
<i>Strategy 3.3 - Expand marketing opportunities through the State Farmers Market system, community based markets, roadside markets, and agritourism operators</i>	<b>52</b>	<b>41.8</b>
Objective 3.3.1 - Identify and prioritize critical upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality	15	10.1
Objective 3.3.2 - Recruit new farmers, identify demand for new products, and align resources to meet the needs of producers and consumers	6	4.9
Objective 3.3.3 Develop producer Good Agricultural Practice (GAP) training and certification schedule and outreach efforts during pre-season and production to increase GAP certified farms by 15%	26	26
Objective 3.3.4 - Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state	2	0.4

Objective 3.3.5 - Continue to increase school participation in direct purchases of local product with increase in sales of 10% statewide	3	0.4
<i>Strategy 3.4 - Increase promotion of non-traditional agriculture</i>	<b>10</b>	<b>1.5</b>
Objective 3.4.1 - Create 3 statewide food hubs	3	0.4
Objective 3.4.2 - Increase the number of agritourism operations participating in SCDA programming by 10%	2	0.6
Objective 3.4.3 - Educate the general public on the diverse opportunities of nontraditional agriculture, on a monthly basis	3	0.4
Objective 3.4.4 - Collaborate on a monthly basis with DHEC, Clemson, USC and Department of Education to promote farm to school program to current school nutrition officials and food service employees	2	0.1
<b>Goal 4 - Provide credible and timely information to increase public awareness of the agricultural industry, and knowledge of agricultural issues</b>	<b>21</b>	<b>2.47</b>
<i>Strategy 4.1 - Ensure timely delivery of information of both producer and consumer interest</i>	<b>12</b>	<b>1.35</b>
Objective 4.1.1 - Develop strategies to reach consumers directly on internet channels with messaging one month before major events and two weeks before minor events	2	0.09
Objective 4.1.2 - Update plan for crisis management and/or regulatory enforcement events	2	0.01
Objective 4.1.3 - Respond to 100% of website information requests within 2 business days.	2	0.1
Objective 4.1.4 - Actively use social media messaging and maintain activity level of at least two posts per day	2	0.05
Objective 4.1.5 - Ensure market news reports maintain 98% accuracy	4	1.1
<i>Strategy 4.2 - Increase media coverage of agency activities and functions</i>	<b>4</b>	<b>0.12</b>
Objective 4.2.1 - Increase earned media coverage year over and above 2012-13 performance results	1	0.05
Objective 4.2.2 Leverage paid media for a higher ROI	2	0.05
Objective 4.2.3 - Develop relationships with media statewide for key story opportunities related to positive ag news and events as they occur	1	0.02
<i>Strategy 4.3 - Expand reach of Market Bulletin/Market News Service as an information vehicle and educational resource</i>	<b>10</b>	<b>2.545</b>
Objective 4.3.1 - Maintain subscription reach of 15,625	3	1.985
Objective 4.3.2 - Engage staff to contribute articles and photographs for all 24 issues	3	0.5
Objective 4.3.3 - Reduce fixed costs, excluding postage, during FY15	2	0.05
Objective 4.3.4 - Conduct reader interest survey every three years	2	0.01
<i>Strategy 4.4 - Improve internal agency communication and access to information to enhance customer service</i>	<b>11</b>	<b>2.12</b>
Objective 4.4.1 - Public Information Office staff should conduct visits with different program staff at least monthly	1	0.02
Objective 4.4.2 - Organize, clean up and increase use of the shared network drive	2	0.6
Objective 4.4.3 - Establish an accurate position on key issues and create consistent messaging across the agency	2	0.5
Objective 4.4.4 - Increase staff professional development related to communications and hot topics	2	0.5
Objective 4.4.5 - Newly created Communications committee to implement, evaluate and update communications plan	4	0.5
<b>Goal 5 - Enhance growth and expansion of the state's total agricultural product output, economic impact, and capital investment</b>	<b>28</b>	<b>2.01</b>
<i>Strategy 5.1 - Expand existing industry and increase value-added production</i>	<b>8</b>	<b>0.21</b>
Objective 5.1.1 - Help five current in-state companies use more SC products in their business process	2	0.08
Objective 5.1.2 - Create collaborations between in-state farming operations and food processors to determine supply chain opportunities	2	0.03
Objective 5.1.3 - Encourage new business incentives for agribusiness	2	0.04



Objective 5.1.4 Engage stakeholders in the business development community to consider opportunities and overcome obstacles related to infrastructure	2	0.06
<i>Strategy 5.2 - Increase agribusiness recruitment efforts</i>	<b>12</b>	<b>0.71</b>
Objective 5.2.1 - Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis	3	0.08
Objective 5.2.2 - Participate in at least 7 business events and tradeshow per year	3	0.07
Objective 5.2.3 - Perform an annual inventory analysis on agribusiness companies who are interested in expansion in SC and the Southeastern US	3	0.03
Objective 5.2.4 - Engage with at least three existing industry players to identify barriers to growth, promote opportunities for expansion, and encourage additional investment	2	0.5
Objective 5.2.5 - Complete the Agribusiness Development application/online portal with Clemson University PSA	1	0.03
<i>Strategy 5.3 - Take a leading role in advocating for sound, responsible agribusiness policies that encourage business growth and resource stewardship</i>	<b>8</b>	<b>1.09</b>
Objective 5.3.1 - Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers	1	0.04
Objective 5.3.2 - Be an industry voice in communicating factual information by making policy statements to elected officials at the appropriate time	3	1
Objective 5.3.3 - Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment	4	0.05

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	8/24/2016

Disclaimer: The Committee understands amount the agency budgeted and spent per goal and objective are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:**

Below you will find information the agency submitted in its 2016 Restructuring Report. Please update this information to reflect the information requested as of the end of fiscal year 2015-16.

**Part A: Funds Available this past Fiscal Year (2015-16)**

(a) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e., general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e., state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency had available to spend and where the agency spent the funds.

**Part B: Funds Spent this past Fiscal Year (2015-16)**

(a) The agency's objectives and unrelated purposes are listed based on the information the agency provided in the Restructuring Report. The agency will see there are new rows between "objectives" and "unrelated purposes." These new rows are intended to allow the agency to list money it spent this year that was for previously committed multiple year projects. The intent of these new rows is to separate what the agency spent toward its current objectives and what it spent toward objectives and projects from previous years, which took multiple years to pay off.

(b) Please add any information needed in the new rows (i.e., "Money previously committed for multiple years") and make any revisions necessary to ensure all unrelated purposes are listed. As a reminder, an "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e., pass through, carry forward, etc.).

(c) Finally, review and revise the amounts spent from each funding source on the agency objectives, money previously committed for multiple years and unrelated purposes so it reflects how much the agency actually spent on each and fill in the information requested in the remaining rows. Remember, in each row, you need to provide the total of all the values from the different funding sources for that row.

**PART A - Funds Available this past Fiscal Year (2015-16)**

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State & Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring
<b>§ From Last Year Available to Spend this Year</b>						
Amount available at end of previous fiscal year	\$5,424,005	\$77,693	\$259,299	\$5,058,334	\$28,679	\$0
Amount available at end of previous fiscal year that agency can actually use this fiscal year:	\$5,424,005	\$77,693	\$259,299	\$5,058,334	\$28,679	\$0
If the amounts in the two rows above are not the same, explain why :	n/a	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same
<b>§ Received this Year</b>						
Amount <u>budgeted to receive</u> in this fiscal year:	\$18,957,547	\$1,427,847	\$3,920,224	\$12,722,776	\$136,700	\$750,000
Amount <u>actually received</u> this fiscal year:	\$18,100,566	\$1,257,106	\$3,938,169	\$12,011,193	\$144,098	\$750,000
If the amounts in the two rows above are not the same, explain why :	n/a	Lower revenue for PMC rent than expected	Increased revenue for several programs.	Less Revenue received in commodity boards due to flooding of crops.	Increase in number of subscribers	N/A
<b>Total Actually Available this Year</b>						
Total amount available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount budgeted/estimated to receive this fiscal year):	\$23,524,570	\$1,334,799	\$4,197,468	\$17,069,527	\$172,777	\$750,000

Additional Explanations regarding Part A:

Insert any additional explanations the agency would like to provide related to the information it provided above.

**PART B - Funds Spent this past Fiscal Year (2015-16)**

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State & Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring
What are the external restrictions (from state or federal government, grant issuer, etc.), if any, on how the agency was able to spend the funds from this source:	n/a	No	No	No	No	No
Were expenditure of funds tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes
<b>Total amount available to spend</b>	\$23,524,570	\$1,334,799	\$4,197,468	\$17,069,527	\$172,777	\$750,000
<b>Where Agency Spent Money - Current Objectives</b>						
Goal 1: Improve agency operational readiness and workforce development:	\$1,281,482	\$881,482	\$150,000	\$250,000	\$0	\$0
Goal 2: Protect the consumers in the marketplace thorough compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing and providing community oversight of starge warehouses and facilities:	\$6,355,758	\$0	\$3,859,694	\$2,496,064	\$0	\$0
Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products and to enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:	\$4,923,902	\$0	\$0	\$4,723,902	\$0	\$200,000
Goal 4: Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry:	\$702,183	\$404,540	\$0	\$150,000	\$147,643	\$0
Goal 5: Enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:	\$4,312,562	\$0	\$0	\$3,762,562	\$0	\$550,000
<b>Total Spent on Current Objectives:</b>	\$17,575,887	\$1,286,022	\$4,009,694	\$11,382,528	\$147,643	\$750,000
<b>Where Agency Spent Money - Money previously committed for multiple years</b>						

<i>Example - Continental Tire Recruitment Grant (agreement requires State pay income taxes for the company until 2020)</i>						
<i>Insert any additional money previously committed</i>						
<b>Total Spent on previous multiple year commitments</b>						
<b>Where Agency Spent Money - Unrelated Purpose (pass through or other purpose unrelated to agency's strategic plan)</b>						
<i>Unrelated Purpose #1: Renewable Energy</i>	\$19,668	\$0	\$0	\$19,668	\$0	\$0
<i>Unrelated Purpose #2: Gateway Project</i>	\$500,000	\$0	\$0	\$500,000	\$0	\$0
<i>Unrelated Purpose #3: No More Homeless Pets</i>	\$46,922	\$0	\$0	\$46,922	\$0	\$0
<i>Insert any additional unrelated purposes</i>						
<b>Total Spent on Unrelated Purposes:</b>	\$566,590					
<b>Total Spent</b>	\$18,142,477	\$1,286,022	\$4,009,694	\$11,949,118	\$147,643	\$750,000
<b>Amount Remaining</b>						
<b>Funds budgeted for use in subsequent years (i.e. when grant or other money received all at once, but intended to be spent over multiple years)</b>						
<i>Example - WIOA 3 year funds budgeted for use in next two fiscal years</i>						
<b>Funds budgeted for use in subsequent years</b>						
<b>Cash Balance Remaining, minus funds budgeted for use in subsequent years</b>	\$5,382,093	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
<b>Additional Explanations regarding Part B:</b>	<i>Insert any additional explanations the agency would like to provide related to the information it provided above.</i>					

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	12/30/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:** In this Chart, please do the following:

(a) Consider the total number of FTE and non-FTE positions at the agency in 2015-16, which will auto-fill from the Employees Available Chart.

(b) Then, in the column titled, "Number of physical employees working on the budget program in 2015-16," list the number of physical employees working on each budget program. These employees may spend 100%, 50% or even 10% of their time working toward accomplishing the program.

(c) In the column titled, "Number of employee equivalents associated with the budget program in 2015-16," list the total number of employee equivalents working on the program in 2015-16. The agency may calculate the figure utilizing the method outlined in the Instructions and Examples for the Program Evaluation Report document.

<b>General Appropriation Act Program (2016-17)</b>	<b>Number of physical employees working on the program in 2016-17</b>	<b>Number of employee equivalents working on the program in 2016-17</b>
Number of FTEs Available	126	125.65
Number of Temporary Non-FTEs Available	132	132
Number of Temporary Grant Non-FTEs Available	2	2
Total Number of Employees Available	260	259.65
I. Administrative Services	16	15
III. Consumer Protection	56	54.5
IV. Marketing Services. A. Marketing & Promotions	14	13.15
IV. Marketing Services. B. Commodity Boards	2	2
IV. Marketing Services. C. Market Services	15	14.5
IV. Marketing Services. D. Inspection Services	26	25.5
IV. Marketing Services. E. Market Bulletin	3	2.5
V. Employee Benefits	0	0

Each year, seasonal temporary employees are hired to grade peanuts. This number fluctuates with the number of acres planted and demand from buying points. These seasonal employees are funded from other funds.

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	12/30/2016

Disclaimer: The Committee understands amount the agency spent per objective and amount of employee equivalents that are associated with costs of each program are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:** In this Chart, please do the following:

- (a) In the first two columns, the agency can copy and paste the information from the Accountability Report, "Major Programs," chart.
- (b) In the column titled, "Money Budgeted on Program for 2016-17," list the amount of money the agency is budgeting to spend on the program in 2016-17.
- (c) In the column titled, "Number of employee equivalents associated with the program," list the total number of employee equivalents the agency plans to have working on the program in 2016-17.
- (d) In the column titled, "Objective the Program Helps Accomplish," list each objective the program helps the agency accomplish. Please list only objective per row. This may require inserting additional rows between programs.
- (e) In the column titled, "Approx. amount of money budgeted on objective that is associated with costs from program," consider the total amount budgeted for the program and what portion of that amount relates to each objective. If the agency adds up the amounts for each associated objective, it should equal the total amount budgeted for the program.
- (f) In the column titled, "Approx. amount of employee equivalents planned to be utilized on objective that are associated with the program," consider the total amount of employee equivalents the agency plans to utilize on the program and what portion of that time will related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total number of employee equivalents the agency plans to utilize on the program.

General Appropriation Act Programs (2016-17)	Description of Program	Money Budgeted for the Program in 2016-17	Number of employee equivalents associated with the Program	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart)  List <u>ONLY ONE</u> strategic objective per row.	Approx. amount of money budgeted on each objective that is associated with budgeted costs from this program (if you add up the amounts for each objective it should equal the total amount spent on the program)	Approx. amount of employee equivalents planned to be utilized on each objective that are associated with this program (if you add up the amounts for each objective it should equal the total amount employee equivalents for the program)
I. Administrative Services	Provides executive leadership, support, policy development and review, financial services, information technology, facilities management and other administrative services.	\$1,248,301	15	1.1.1 Inventory and establish a replacement schedule for all agency IT equipment	\$83,220.07	1
				1.1.2 Achieve that 100% of appropriate staff complete an annual information security awareness training	\$41,610.03	0.5
				1.1.3 Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	\$104,025.08	1.25
				1.1.4 Work with Division of Information Security (DIS) to develop and implement INFOSEC policies	\$41,610.03	0.5
				1.2.1 Perform all actions related to personnel (i.e.: E-Verify, SCEIS, NeoGov, EPMS, Insurance, Retirement, documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	\$228,855.18	2.75
				1.2.2 Complete required EEOC reporting and focus on potential areas of improvement	\$20,805.02	0.25

				1.2.3 Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	\$20,805.02	0.25
				1.2.4 Offer an annual health screening for all employees and purchase Personal Protective Equipment (PPE) for all field personnel	\$20,805.02	0.25
				1.2.5 Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	\$41,610.03	0.5
				1.3.1 Provide monthly financial reports to division directors and program staff	\$41,610.03	0.5
				1.3.2 Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	\$62,415.05	0.75
				1.3.3 Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	\$78,018.81	1
				1.3.4 Set up purchase orders, post payments received, and process invoices within 2 weeks of receipt	\$187,245.15	2.25
				1.4.1 Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	\$78,018.81	0.5
				1.4.2 Complete Farm Aid application processing, review and disbursements by 1 October 2016	\$104,025.08	1.25
				1.4.3 Respond to constituent contacts within 3 business days of receipt	\$41,610.03	0.5
				1.4.4 Brief Commissioner Weathers daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner Weathers at meetings, seminars, and events	\$83,220.07	1

III. Consumer Protection	Protects consumers from unsafe, ineffective, or fraudulent goods that may be offered for public sale; assures that goods meet acceptable standards of quality; monitors labeling; registers animal and pet foods, frozen desserts, gasoline and antifreeze; issues licenses for butterfat testers and milk samplers, grants permits to salvage food operations; issues two to three thousand licenses, permits and registrations; provides assistance regarding food safety and security in the event of a natural disaster or an accidental or international emergency related to Homeland Security. Draws samples for analysis in the SCDA's laboratories; protects the people of the state, farmers and non-farmers, from fraud by ensuring the accuracy of weights and measures;	\$4,022,062	55	2.4.4 Have 100% staff attendance at all technical trainings and safety meetings	\$1,499,132.20	20.5	
				2.1.1 Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL	\$36,564.20	0.5	
				2.1.2 Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	\$73,128.40	1	
				2.1.3 Participate in regional and national food safety events by way of membership, attendance, work groups and forums	\$73,128.40	1	
				2.1.4 Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the FDA's FSMA Produce Safety Rule	\$83,220.07	1	
				2.2.1 Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program (NVLAP)	\$54,846.30	0.75	
				2.2.2 Establish a new Quality Manager position to provide ongoing quality assurance auditing and documentation	\$20,805.02	0.25	
				2.2.3 Design and build a new metrology laboratory to meet the NIST requirements for Echelon I metrology lab environments	\$146,256.80	2	
				2.2.4 Perform calibrations within 1 month of a work order	\$292,513.60	4	



				2.3.1 Procure and deploy new large mass vehicles to provide service to large scale firms	\$36,564.20	0.5
				2.3.2 Perform routine inspections, consistent with policy, of 100% of firms annually under SCDA regulatory oversight	\$1,316,311.20	18
				2.3.3 Provide follow-up communication on 100% of consumer complaints	\$109,692.60	1.5
				2.4.1 Collaborate with other government agencies (Clemson, DOT, DHEC, DOR, APHIS, FERN, FDA, USDA) to perform routine and emergency testing	\$36,564.20	0.5
				2.4.2 Develop and install a new Laboratory Information Management System (LIMS) to enhance reporting and interface with FERN and FDA compliant databases	\$109,692.60	1.5
				2.4.3 Develop SOPs and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	\$73,128.40	1
				2.4.5 Analyze official and submitted samples and communicate results within five business days	\$73,128.40	1
IV. Marketing Services. A. Marketing & Promotions	Develops and implements broad-based marketing programs; provides programs and services designed to increase consumer awareness and product demand for quality South Carolina agricultural commodities; strives to improve the economic vitality of business and individuals in the industry of agriculture; encourages expansion and development of existing industries that use South Carolina agricultural commodities, both fresh and processed, to increase the marketability of locally-grown products; domestic and international marketing assistance; certifies roadside markets; promotes specialty crops and specialty products; assists small farmer and provides support for locally grown certification; promotes the green industry (nursery,	\$5,712,256	13.15	3.1.1 Increase program membership participation and brand recognition by 5%	\$1,188,252.36	2.5
				3.1.2 Actively use social media to engage the public with at least two posts per day	\$356,475.71	0.75

				3.1.3 Grow agritourism operator participation in SC programming by 5% and consumer traffic at those venues by 10%	\$175,000.00	1.5
				3.1.4 Conduct participant evaluation at all events to determine effectiveness and utilization	\$356,475.71	0.75
				3.3.2 Provide four training meetings for producers and community based markets to expand SNAP/WIC usage of this program	\$356,475.71	0.75
				3.3.4 Provide technical assistance and funding to nine new schools and pre-schools	\$237,650.47	0.5
				3.3.5 Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	\$190,120.38	0.4
				4.1.1 Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes	\$308,945.61	0.65
				4.1.2 Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	\$118,825.24	0.25
				4.1.3 Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	\$237,650.47	0.5
				4.1.4 Participate in at least seven business events and/or trade shows per year to meet with prospective companies	\$475,300.94	1
				4.1.5 Perform an annual inventory analysis on agribusiness companies who are primed for expansion in SC or the Southeastern United States	\$118,825.24	0.25
				4.2.1 Assess all industry policies before each legislative session by gathering input from a cross section of at least 10 different producers	\$190,120.38	0.4
				4.2.2 Be an industry voice in communicating factual information to elected officials at the appropriate time	\$95,060.19	0.2
				4.2.3 Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	\$190,120.38	0.4
				4.3.1 Update agency plan for crisis management and/or regulatory enforcement events	\$47,530.09	0.1
				4.3.2 Respond to 100 percent of website information requests within two business days	\$118,825.24	0.25
				4.3.3 Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	\$356,475.71	0.75
				4.4.2 Public Information staff should conduct visits with different program staff at least monthly	\$118,825.24	0.25

				4.4.3 Establish an accurate position on key issues and create consistent messaging across the agency	\$237,650.47	0.5
				4.4.4 Leverage paid media to get a higher return on investment	\$237,650.47	0.5
IV. Marketing Services. B. Commodity Boards	Serves as a liaison to commodity boards, associations and the state's Agriculture Commission to aid in marketing state commodities, as well as fund various research projects relevant to the commodity.	\$1,884,610	2	3.2.1 Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues	\$471,152.50	0.5
				3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing	\$471,152.50	0.5
				3.2.3 Place more resources into export market analysis, access, and development	\$471,152.50	0.5
				3.2.4 Use cross-promotion of, and between, commodities to increase demand by 5%	\$471,152.50	0.5
IV. Marketing Services. C. Market Services	Oversees and operates the three state farmers markets in Lexington, Florence and Greenville. These markets provide central points for farmers and producers to sell their products.	\$1,319,198	14.5	3.3.1 Identify and prioritize critical upgrades at all 3 State Farmers Markets (SFMs) to ensure producers and consumers have safe and clean facilities	\$1,319,198.00	14.5
IV. Marketing Services. D. Inspection Services	Provides quality grade standards and up-to-date first-hand market news to the allied industry through a cooperative agreement with the USDA; provides grading and inspecting of poultry products and fruits and vegetables.	\$2,608,313	25.5	3.3.3 In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%	\$179,001.87	1.75
				3.4.1 Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	\$332,432.05	3.25
				3.4.2 Produce and publish information daily and weekly through through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	\$153,430.18	1.5
				3.4.3 Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	\$1,738,875.33	17
				3.4.4 Increase the diversity of USDA commodity certifications that SCDA inspectors can issue upon request	\$204,573.57	2

IV. Marketing Services. E. Market Bulletin	Publishes the Market Bulletin which is designed as a vehicle for farmers and non-farmers to buy and sell agricultural and agricultural-related items, a resource for economic stability especially in rural areas.	\$178,427	2.5	4.4.1 Maintain subscription of 15,000	\$178,427.00	2.5
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<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	12/30/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:** In this Chart, please do the following:

- Review the agency's strategic plan, which is provided in the chart based on the information from the agency's Restructuring Report.
- In the column titled, "Number of employee equivalents working on the goal or objective in 2015-16," list the number of employees working toward each objective, by totaling the amounts from the Employee Allocation by Budget Program Chart.
- The total number of employees working toward each goal should automatically sum based on the numbers you enter for the number of employees per objective.

<b>Strategic Plan Part and Description (2016-17)</b> <i>(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)</i>	<b>Number of physical employees working on the goal or objective in 2016-17</b>	<b>Number of employee equivalents working the goal or objective in 2016-17</b>
Number of FTEs Available	126	125.65
Number of Temporary Non-FTEs Available	132	132
Number of Temporary Grant Non-FTEs Available	2	2
Total Number of Employees Available	260	259.65
<b>Goal 1 - Improve agency operational readiness and workforce development</b>	23	15
<i>Strategy 1.1 - Prioritize and deploy Information Technology (IT) products and services</i>	5	3.25
Objective 1.1.1 - Inventory and establish a replacement schedule for all agency IT equipment	1	1
Objective 1.1.2 - Achieve that 100% of appropriate staff complete an annual information security awareness training	1	0.5
Objective 1.1.3 - Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2	1.25
Objective 1.1.4 - Work with Division of Information Security (DIS) to develop and implement INFOSEC policies	1	0.5
<i>Strategy 1.2 - Recruit and retain highly qualified and motivated employees</i>	7	4
Objective 1.2.1 - Perform all actions related to personnel (i.e.: E-Verify, SCEIS, NeoGov, EPMS, Insurance, Retirement, documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3	2.75
Objective 1.2.2 - Complete required EEOC reporting and focus on potential areas of improvement	1	0.25
Objective 1.2.3 - Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1	0.25
Objective 1.2.4 - Offer an annual health screening for all employees and purchase Personal Protective Equipment (PPE) for all field personnel	1	0.25
Objective 1.2.5 - Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1	0.5

<i>Strategy 1.3- Improve financial reporting and business procedures</i>	6	4.5
Objective 1.3.1-Provide monthly financial reports to division directors and program staff	1	0.5
Objective 1.3.2 - Ensure compliance with procurement code, enhance procedural knowledge,and diversify vendor pool	1	0.75
Objective 1.3.3 - Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1	1
Objective 1.3.4 - Set up purchase orders, post payments received, and process invoices within 2 weeks of receipt	3	2.25
<i>Strategy 1.4 - Set, execute and monitor a strategic plan towards accomplishing the agency mission</i>	5	3.25
Objective 1.4.1 - Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1	0.5
Objective 1.4.2 - Complete Farm Aid application processing, review and disbursements by 1 October 2016	2	1.25
Objective 1.4.3 - Respond to constituent contacts within 3 business days of receipt	1	0.5
Objective 1.4.4- Brief Commissioner Weathers daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner Weathers at meetings, seminars, and events	1	1
<b>Goal 2- Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities</b>	59	55
<i>Strategy 2.1- Provide food/feed safety oversight of SC food manufacturers, processors, and food distribution facilities through routine, risk-based, compliance inspections</i>	4	3.5
Objective 2.1.1 - Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL	1	0.5
Objective 2.1.2 - Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1	1
Objective 2.1.3 - Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1	1
Objective 2.1.4 - Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the FDA's FSMA Produce Safety Rule	1	1
<i>Strategy 2.2 - Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</i>	8	7
Objective 2.2.1 - Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program (NVLAP)	1	0.75
Objective 2.2.2 - Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1	0.25
Objective 2.2.3 - Build a new metrology laboratory to meet the NIST requirements for Echelon I metrology laboratory environments	2	2
Objective 2.2.4- Perform calibrations within 1 month of a work order	4	4
<i>Strategy 2.3 - Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</i>	21	20

Objective 2.3.1 - Procure and deploy new large mass vehicles to provide service to large scale firms	1	0.5
Objective 2.3.2 - Perform routine inspections, consistent with policy, of 100% of firms annually under SCDA regulatory oversight	18	18
Objective 2.3.3 - Provide follow-up communication on 100% of consumer complaints	2	1.5
<i>Strategy 2.4 - Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i>	26	24.5
Objective 2.4.1 - Collaborate and ensure open communication with other state agencies (Clemson, DOT, DHEC, DOR, APHIS, FERN, FDA, USDA) to perform routine and emergency testing	1	0.5
Objective 2.4.2 - Develop and install a new Laboratory Information Management System (LIMS) to enhance reporting and interface with FERN and FDA compliant databases	2	1.5
Objective 2.4.3 - Develop SOPs and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1	1
Objective 2.4.4 - Have 100% staff attendance at all technical trainings and safety meetings	21	20.5
Objective 2.4.5 - Analyze official and submitted samples and communicate results within five business days	1	1
<b>Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</b>	56	49.15
<i>Strategy 3.1- Expand Certified SC branding and marketing efforts</i>	7	5.5
Objective 3.1.1 - Increase program membership by 5%	2	2.5
Objective 3.1.2 - Actively use social media to engage the public with at least two posts per day	1	0.75
Objective 3.1.3 - Grow agritourism operator participation in SC programming by 5% and consumer traffic at those venues by 10%	3	1.5
Objective 3.1.4 - Conduct participant evaluation at all events to determine effectiveness and utilization	1	0.75
<i>Strategy 3.2 -Maximize Return on Investment (ROI) of producer-led commodity boards through research, promotion and education</i>	4	2
Objective 3.2.1 - Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues	1	0.5
Objective 3.2.2 - Fund research of new technologies, science and best management practices for production, packaging and processing	1	0.5
Objective 3.2.3 - Place more resources into export market analysis, access, and development	1	0.5
Objective 3.2.4 - Use cross-promotion of, and between, commodities to increase demand by 5%	1	0.5
<i>Strategy 3.3 - Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i>	20	17.9
Objective 3.3.1 - Identify and prioritize critical upgrades at all 3 State Farmers Market (SFMs) to ensure producers and consumers have safe and clean facilities	15	14.5
Objective 3.3.2 - Provide four training meetings for producers and community based markets to expand SNAP/WIC usage of this program	1	0.75
Objective 3.3.3- In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%	2	1.75
Objective 3.3.4 - Provide technical assistance and funding to nine new schools and pre-schools	1	0.5

Objective 3.3.5 - Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1	0.4
<i>Strategy 3.4 - Provide daily market news reports and USDA quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i>	25	23.75
Objective 3.4.1 - Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4	3.25
Objective 3.4.2 - Produce and publish information daily and weekly through through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2	1.5
Objective 3.4.3 - Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17	17
Objective 3.4.4 - Increase the diversity of USDA commodity certifications that SCDA inspectors can issue upon request	2	2
<b>Goal 4 - Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders</b>	17	8.5
<i>Strategy 4.1 - Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i>	5	2.65
Objective 4.1.1-Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes	1	0.65
Objective 4.1.2-Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1	0.25
Objective 4.1.3-Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1	0.5
Objective 4.1.4-Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1	1
Objective 4.1.5-Perform an annual inventory analysis on agribusiness companies who are primed for expansion in SC or the Southeastern United States	1	0.25
<i>Strategy 4.2 -Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i>	3	1
Objective 4.2.1-Assess all industry policies before each legislative session by gathering input from a cross section of at least 10 different producers	1	0.4
Objective 4.2.2- Be an industry voice in communicating factual information to elected officials at the appropriate time	1	0.2
Objective 4.2.3-Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1	0.4
<i>Strategy 4.3- Provide credible and timely information to South Carolinians to increase awareness of agriculture</i>	3	1.1
Objective 4.3.1- Update agency plan for crisis management and/or regulatory enforcement events	1	0.1
Objective 4.3.2-Respond to 100 percent of website information requests within two business days	1	0.25
Objective 4.3.3- Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1	0.75



<i>Strategy 4.4 -Continue to foster external and internal communications as educational resources and enhanced customer service tools</i>	6	3.75
Objective 4.4.1-Maintain a Market Bulletin subscription of 15,000	3	2.5
Objective 4.4.2- Public Information staff should conduct visits with different program staff at least monthly	1	0.25
Objective 4.4.3- Establish an accurate position on key issues and create consistent messaging across the agency	1	0.5
Objective 4.4.4- Leverage paid media to get a higher return on investment	1	0.5

<b>Agency Responding</b>	Department of Agriculture
<b>Date of Submission</b>	

Disclaimer: The Committee understands amount the agency budgeted and spent per goal and objective are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

**INSTRUCTIONS:**

**Part A: Funds Available in Fiscal Year 2016-17**

(a) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e., general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e., state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency had available to spend and where the agency spent the funds.

**Part B: How Agency Plans to Budget Funds in 2016-17**

(a) The agency's objectives and unrelated purposes are listed based on the information the agency provided in the Restructuring Report. The agency will see there are new rows between "objectives" and "unrelated purposes." These new rows are intended to allow the agency to list money it spent this year that was for previously committed multiple year projects. The intent of these new rows is to separate what the agency spent toward its current objectives and what it spent toward objectives and projects from previous years, which took multiple years to pay off.

(b) Please add any information needed in the new rows (i.e., "Money previously committed for multiple years") and make any revisions necessary to ensure all unrelated purposes are listed. As a reminder, an "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e., pass through, carry forward, etc.).

(c) Remember in each row, you need to provide the total of all the values from the different funding sources for that row.

**PART A - Funds Available Fiscal Year (2016-17)**

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State and Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and One-Time	Recurring and One-Time	Recurring	Recurring and One-Time
<b>§ From Last Year Available to Spend this Year</b>						
Amount available at end of previous fiscal year	\$5,382,094	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
Amount available at end of previous fiscal year that agency can actually use this fiscal year:	\$5,382,094	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
If the amounts in the two rows above are not the same, explain why :	n/a	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same
<b>§ Estimated to Receive this Year</b>						
Amount <u>requested</u> to <u>receive</u> this fiscal year:	\$16,973,167	\$1,248,301	\$4,022,062	\$10,774,377	\$178,427	\$750,000
Amount <u>actually received</u> this fiscal year:	\$16,973,167	\$1,248,301	\$4,022,062	\$10,774,377	\$178,427	\$750,000
If the amounts in the two rows above are not the same, explain why :	n/a	Same	Same	Same	Same	Same
<b>Total Available if amounts requested are received</b>						
Amount estimated to have available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount requested to receive this fiscal year):	\$22,355,261	\$1,297,078	\$4,209,836	\$15,894,786	\$203,561	\$750,000

Additional Explanations regarding Part A: *Insert any additional explanations the agency would like to provide related to the information it provided above.*

**PART B - How Agency Plans to Budget Funds in 2016-17**

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State and Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and One-Time	Recurring and One-Time	Recurring	Recurring and One-Time
What are the external restrictions (from state or federal government, grant issuer, etc.), if any, on how the agency can spend the funds from this source:	n/a	None	None	None	None	None
Will expenditure of funds be tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes
<b>Total amount estimated to have available to spend</b>	\$22,355,261	\$1,297,078	\$4,209,836	\$15,894,786	\$203,561	\$750,000
<b>Where Agency Plans to Spend Money - Current Objectives</b>						
<i>Goal 1: Improve agency operational readiness and workforce development.</i>	\$1,220,810	\$1,220,810				
<i>Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities.</i>	\$4,198,306		\$4,198,306			
<i>Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products.</i>	\$11,702,662			\$10,952,662		\$750,000
<i>Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders.</i>	\$147,643				\$147,643	
<b>Total Agency Plans to Spend on Objectives:</b>	\$17,269,421	\$1,220,810	\$4,198,306	\$10,952,662	\$147,643	\$750,000
<b>Where Agency Plans to Spend Money - Money previously committed for multiple years</b>						
<i>Example - Continental Tire Recruitment Grant (agreement requires State pay income taxes for the company until 2020)</i>						

<b>Total Agency Plans to Spend on previous multiple year commitments</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Where Agency Plans to Spend Money - Unrelated Purpose</b> (pass through or other purpose unrelated to agency's strategic plan)						
<i>Unrelated Purpose #1 - insert description:</i>						
<i>Unrelated Purpose #1 - insert description:</i>						
<i>Unrelated Purpose #2 - insert description:</i>						
<i>Insert any additional unrelated purposes</i>						
<b>Total Agency Plans to Spend on Unrelated Purposes:</b>	\$0	\$0	\$0	\$0	\$0	\$0

<b>Total Agency Plans to Spend</b> (Total on Objectives + Total on Unrelated Purposes)	\$17,269,421	\$1,220,810	\$4,198,306	\$10,952,662	\$147,643	\$750,000
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<b>Amount Remaining</b>						
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<b>Funds budgeted for use in subsequent years</b> (i.e. when grant or other money received all at once, but intended to be spent over multiple years)						
<i>Example - WIOA 3 year funds budgeted for use in next two fiscal years</i>						
<i>Insert any additional Funds bedugeted for use in subsequent years</i>						
<b>Funds budgeted for use in subsequent years</b>	\$0	\$0	\$0	\$0	\$0	\$0

<b>Cash Balance Remaining, minus funds budgeted for use in subsequent years</b>	\$5,085,840	\$76,268	\$11,530	\$4,942,124	\$55,918	\$0
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**Additional Explanations regarding Part B:** *Insert any additional explanations the agency would like to provide related to the information it provided above.*

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# South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee  
Economic Development, Transportation, and Natural Resources Subcommittee  
April 27, 2017

# Agency Successes



- Growth, popularity, and recognition of the brands under Certified SC umbrella
- The Metrology Department's national ranking
- SC Farm Aid development and execution

# Agency Challenges

- Increasing retail traffic at the State Farmers Market
- Employee recruitment and retention due to being one of the lower paying state agencies
- Balancing communications with a wide variety of consumers, customers, and target audiences



# Legislative Audit Council Recommendations and Implementations

- *SCDA should charge an admission fee or parking fee for special events hosted at the Farmers Market.*
  - Parking fee for the Plant and Flower Shows implemented in spring 2016.
  - Met with vocal resistance from the public and attendance suffered.
  - Vendor rates were successfully raised instead at the 2017 spring show.
- *Install a functioning surveillance system at the gatehouse and consider any other necessary locations.*
  - The security system at the gate house has been repaired and is serviceable.
  - Determining the need for retaining the security company currently under contract in order to save ~\$50K per year.



# Legislative Audit Council Recommendations and Implementations cont.

- *SCDA should obtain all funds due to it per the agreement between the agency and the restaurant and ensure timely payments are made going forward.*
  - The tenant is current on rent and is paying quarterly.
  - New tea room and retail outlet featuring Certified South Carolina specialty food products.
  - Discussing ways to better meet the needs of the middle to lower-income and SNAP recipients that make up much of the demographics in the surrounding area.
  - Other space in building is fully leased to DNR, who is current on rent.

# Agency Emerging Issues

- More federal work under cooperative agreement, particularly related to the Food Safety and Modernization Act (FSMA)
- The evaluation and implementation of technology products and services
- Implementation of information security policies
- The construction and opening of a new metrology laboratory



# Programs and Objectives- Administrative Services

- 1.1.1 Inventory and establish a replacement schedule for all agency IT equipment
- 1.2.5 Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy
- 1.3.2 Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool
- 1.4.2 Complete Farm Aid application processing, review and disbursements by 1 October 2016

# Programs and Objectives- Consumer Protection

- 2.1.1 Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL
- 2.2.3 Design and build a new metrology laboratory to meet the NIST requirements for Echelon I metrology lab environments
- 2.3.1 Procure and deploy new large mass vehicles to provide service to large scale firms
- 2.4.5 Analyze official and submitted samples and communicate results within five business days

# Programs and Objectives- Marketing Services-Marketing and Promotions

- 3.1.1 Increase program membership participation and brand recognition by 5%
- 3.1.4 Conduct participant evaluation at all events to determine effectiveness and utilization
- 4.1.1 Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes
- 4.3.2 Respond to 100 percent of website information requests within two business days

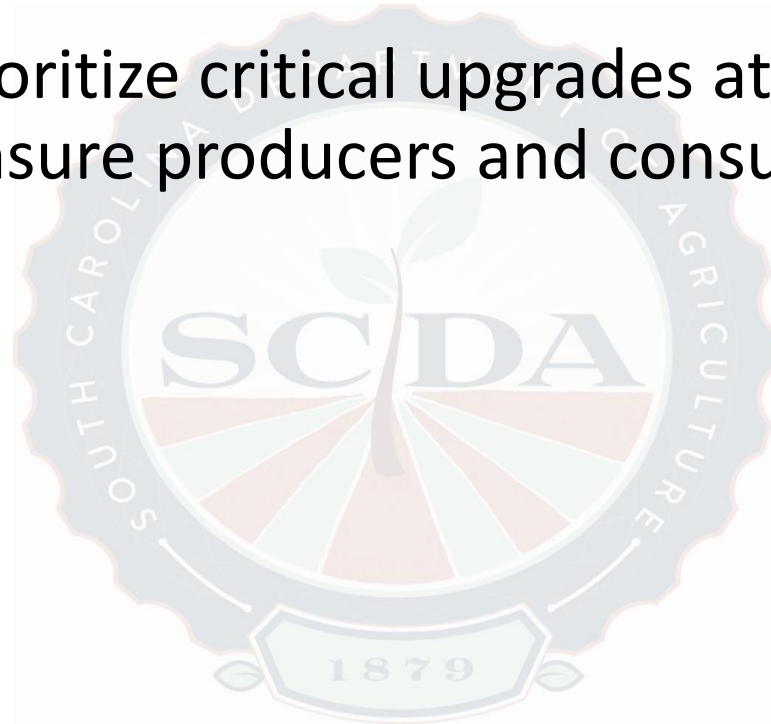
# Programs and Objectives- Marketing Services-Commodity Boards

- 3.2.1 Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues
- 3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing



# Programs and Objectives- Marketing Services-Market Services

- 3.3.1 Identify and prioritize critical upgrades at all 3 State Farmers Markets (SFM) to ensure producers and consumers have safe and clean facilities



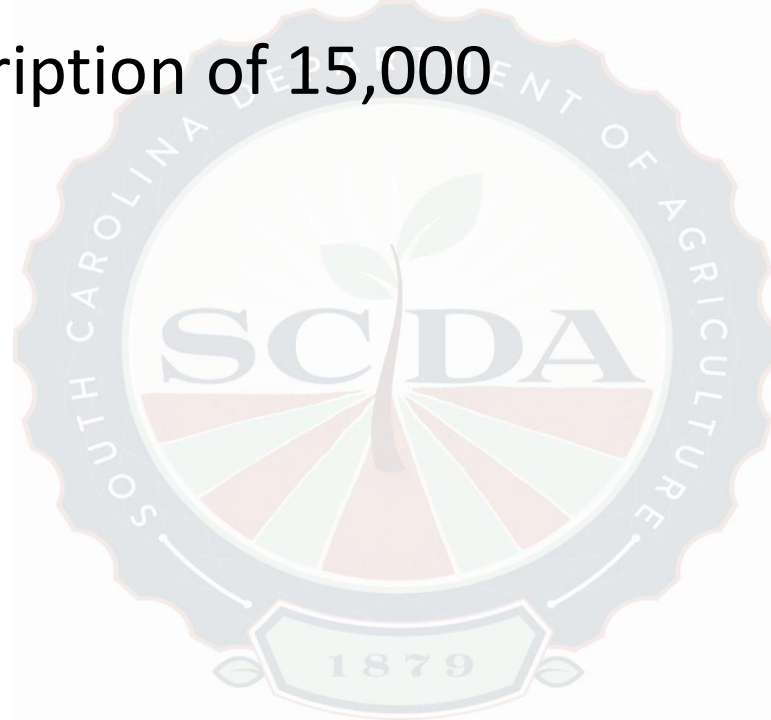
# Programs and Objectives- Marketing Services-Inspection Services

- 3.3.3 In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%
- 3.4.1 Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information
- 3.4.3 Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points



# Programs and Objectives- Marketing Services-Market Bulletin

- 4.4.1 Maintain subscription of 15,000



# Examples of Performance Measures

- CSC brand recognition
- Percent of planning staging documents completed within 2 months of the calendar year for existing employees and within 1 month of hiring new employees
- Percent of consumer protection requests and complaints with same-day follow-up communication
- Agribusinesses identified for prospective expansion or new projects
- Percent of grading and inspection staff able to provide full service to customers without restrictions

# Agency Resource Use

- Agency objectives were changed in 2017 to become better aligned with divisions and to better portray and track invested resources.
- Employee breakdown
  - Allotted 136 FTE slots but have approximately 125 FTE employees
  - Over the course of a full year, have 20-130 temporary employees
  - 4 temporary grant and 9 time-limited employees
- Seasonal temporary employees for peanut inspections
  - Number fluctuates each year with the acres planted and demand from buying points

# Agency Resource Use cont.

- Reclassifying Poultry and Egg inspectors as time-limited instead of FTE
  - Funding source is not guaranteed and has ebbed and flowed over the last couple of years as the workload of processing plants changes.
- ~60% of FTEs and 95% of temporary employees are funded by other funds.

# Strategic Plan

To ensure the South Carolina agribusiness industry has a \$50 billion economic impact by the year 2020, the South Carolina Department of Agriculture will:

- Strategic Goal 1

***Be the face of and lead the voice of the South Carolina agriculture industry.***

- Strategic Goal 2

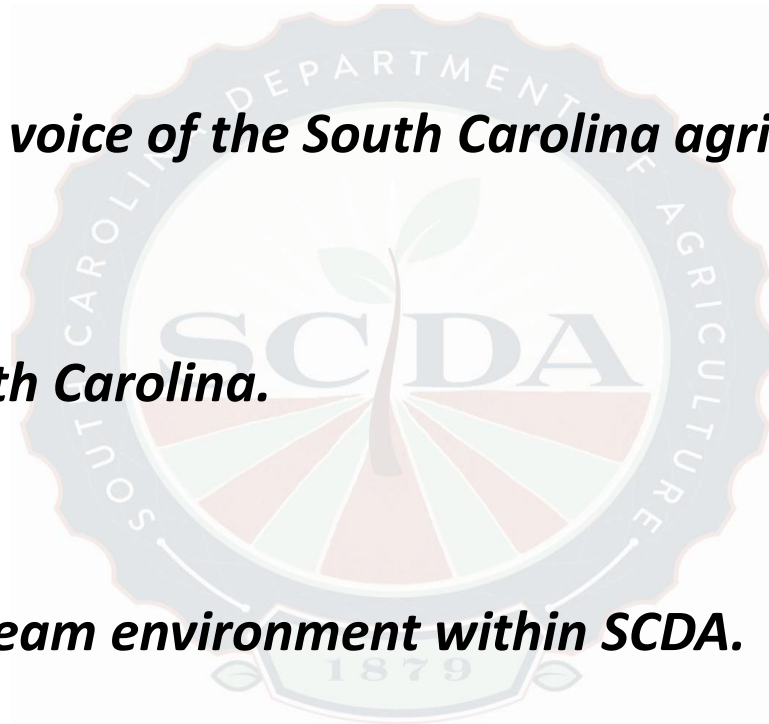
***Own the food space in South Carolina.***

- Strategic Goal 3

***Build a creative, cohesive team environment within SCDA.***

- Strategic Goal 4

***Enhance public trust in SCDA and the industry we regulate.***



LAC recommendations that have been implemented:

- 1) “When leasing property at the Farmers’ Market, the S.C. Department of Agriculture should ensure that lease agreements include specific information on when rental payments must be made and recourse for the S.C. Department of Agriculture if rental payments are not made on time.”

***Lease language has been updated and is being implemented as leases come due.***

- 2) “S.C. Department of Agriculture should install a functioning surveillance system at the gatehouse and consider any other necessary locations at the Farmers’ Market.  
***The security system at the gate house has been repaired and is serviceable. A new system for the major sheds has been ordered and is being installed prior to season. Will also determine the need for retaining the Security Company currently under contract. A decrease in hours of service or cancellation of contract will save approximately \$50K per year, depending on the need for this service once cameras are installed. This was put in motion last year but was delayed due to the departure of a staff member who was ordering and installing the new system.***

- 3) The S.C. Department of Agriculture should obtain all funds due to it per the agreement between the agency and the restaurant and ensure timely payments are made going forward.

***The tenant is current on rent that is due. He is paying quarterly and is within the 2x per year format established in the lease. Income is averaging approximately 1K per month. The restaurant owner has recently opened a new tea room and retail outlet in the old Jacobs Store space, featuring Certified South Carolina specialty food products. We are also having conversations with the restaurant owner to better meet the needs of the middle to lower-income and SNAP recipients that make up much of the surrounding demographics in the area. Other space in building is fully leased to DNR and they are current on rent.***

- 4) “The S.C. Department of Agriculture should charge an admission fee or parking fee for attendees of special events hosted at the Farmers’ Market.”

***A parking fee for the Plant and Flower Shows was implemented in Spring of 2016. This was met with resistance from the general public. They were vocal in their displeasure of having to pay to attend a public event at the state farmers market. This also resulted in traffic back up as every vehicle was required to stop upon entry. Parking generated approximately \$10.5K in receipts and did impact overall attendance. For the spring of 2017 P&F Show, we decided to raise vendor rates by \$50.00 per stall, in lieu of a parking fee. We will capture approximately \$7800.00 in additional revenue, and have less manpower cost associated with collecting a parking fee. We will cover the parking income through the fee when considering the cost of having 4 to 6 additional staff, per shift (2 per day), required each day of the four day event. This is in essence saving work time, over a weekend, that will save those associated parking costs.***

***In addition, we have expanded the area we are using for paid parking of tractor trailers. This has resulted in an additional revenue stream.***

- 5) “The S.C. Department of Agriculture should continue to maintain updated policies and procedures for the gatehouse and revenue collection at the Farmers’ Market.”  
***Have been developed for the gatehouse as recommended. Supervisors have gone over these with gatehouse staff and all is going well.***
  
- 6) “The S.C. Department of Agriculture should implement a plan to better coordinate and communicate with private property owners at the Farmers’ Market.”  
***As recommended, all private partners are provided a personal visit with information on all upcoming events. This allows them to prepare for any special activities during the event and to adjust logistics as required during high volume traffic periods.***
  
- 7) “The S.C. Department of Agriculture should ensure that covenants of privately-owned properties at the Farmers’ Market site are enforced.”  
***The department has spoken with landowners in regards to upkeep and maintenance of open areas. There has been an overall improvement in keeping grass mowed and areas free of litter.***

First Vice-Chair:  
Laurie Slade Funderburk

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Carmen J. McCutcheon Simo  
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May 3, 2017

The Honorable Hugh E. Weathers  
Commissioner, Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, thank you for your recent presentation to the Subcommittee on May 2, 2017. During this meeting, Subcommittee Members noted they would like additional information on two issues:

- A brief outline of the federal Food Safety Modernization Act and the areas of new regulation; and
- Any recommendation the agency may have for revision to the code of laws to clarify that commodity boards are exempt from the State Procurement Act.

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

Signature Redacted

Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members



State of South Carolina  
Department of Agriculture



Hugh E. Weathers  
Commissioner

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June 6, 2017

The Honorable Laurie Slade Funderburk  
SC House of Representatives  
Legislative Oversight Committee  
PO Box 11867  
Columbia, SC 29211

Dear Representative Funderburk,

This letter is in response to your request for additional information following the May 2, 2017 meeting of the Economic Development, Transportation, and Natural Resources Subcommittee.

Please see the enclosed document providing a brief outline of the federal Food Safety Modernization Act (FSMA) and the areas of new regulation.

With regards to the agency's recommendation for revisions to the code of laws to clarify that commodity boards are exempt from the State Procurement Act, I request that the subcommittee issue a finding noting the related opinion by the South Carolina Attorney General, dated April 28, 2016. The Department of Agriculture has no further request at this time.

Thank you for your work and commitment to the legislative oversight process. Please do not hesitate to contact my office if you have any additional questions or if I can be of assistance.

Sincerely,

Signature redacted -  
pp Stefanie Kitchens

Hugh E. Weathers

Enclosure



ALAN WILSON  
ATTORNEY GENERAL

April 28, 2016

The Honorable Hugh E. Weathers  
South Carolina Department of Agriculture  
PO Box 11280  
Columbia, SC 29211

Dear Commissioner Weathers:

We have received your opinion request inquiring whether commodity boards are exempt from the South Carolina Consolidated Procurement Code ("Procurement Code"), S.C. Code Ann. § 11-35-10 *et seq.* (1976 Code, as amended). Specifically, you ask whether the Agricultural Commodities Marketing Act ("Marketing Act"), S.C. Code Ann. § 46-17-10 *et seq.* (1976 Code, as amended), authorizes commodity boards to determine how and when assessments collected from farmers are spent. In your opinion request letter, you provide a thorough analysis of the Marketing Act:

[t]he South Carolina Department of Agriculture (SCDA), on behalf of all Agricultural Commodity Boards operating in South Carolina, needs an opinion from the Attorney General in regards to the powers of boards created under the Code of Laws governing the Marketing Act.

The South Carolina Commodities Marketing Act (Act) was passed by the General Assembly in the South Carolina Code of Laws in 1976, under Title 46, Agriculture, Chapter 17. The Act created the Agriculture Commission of South Carolina and charged it to oversee all aspects of Agricultural Commodity Boards. Duties assigned to the Agriculture Commission included a broad scope of responsibilities – managing legal requirements for individual board creation, hearings, referendums, election of directors, collections of assessments, and general oversight of board activities. These duties were to ensure that all business by the Commodity Boards was conducted as outlined under the Act and the by-laws of each individual board.

Commodity Board policy and procedure development goes through a rigorous process involving all producers affected. In the

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April 28, 2016

case of determining producer interest in a marketing order for a particular crop, a referendum must be held for producers of that crop. Marketing orders are thus created for each specific commodity per the wishes and voluntary financial commitment of impacted farmers. The sole purpose of marketing orders for all crops is to fund specific activities in promotion, research, and education through a farmer paid assessment. Decisions regarding these funds are granted to boards and board members as outlined in Section 46-17-290 and stated in by-laws of each commodity board. They are also provided specific powers in Section 46-17-260 and are also clearly provided the powers and authority conferred by law upon corporations.

The Agriculture Commission collects assessments for the Commodity Board and SCDA provides financial accounting services in holding funds in individual accounts and dispersing as directed by the Board of Directors. These are not state funds and they are never co-mingled with state funds. Neither the SCDA nor the State of South Carolina can expend, transfer, or use any of these funds, except as expressed under the Act and by-laws of each commodity board under the specific direction of the Commodity Boards.

Upon passage of the Act in 1976 and the creation of the Agriculture Commission, Commodity Boards were considered exempt from State Procurement Codes, as all money collected was from farm producer assessments with no public dollars appropriated to support individual commodities. Again, these are grower funded and managed commodity boards, and are provided specific powers under the Act. The Commodities Boards are also audited annually.

In the mid 1980's legislation was enacted to govern how state agencies managed funds under specific, transparent guidelines outlined under state procurement codes. At that time a proviso to the budget was passed to exempt commodity boards from procurement codes. That proviso remained in force until 2012, when it was deleted from the state budget. As a result, Commodity Boards are now treated like a state agency in terms of how they can direct the farmers' dollars. Given the responsibility of stewardship of these funds, board members from all seven active

The Honorable Hugh E. Weathers  
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Commodity Boards have taken exception to the procurement rule. Rightfully so, they say it usurps their authority as outlined under the Act, and are seeking an opinion on the matter.

In hindsight, it appears that the original proviso exempting Commodity Boards from procurement rules was not necessary, as they were already exempt when the Act was passed. However, with that proviso no longer in effect, the State Procurement Office and State Auditor do not consider them exempt. Growers are adamant that these are not state dollars, and that they are provided specific powers, with checks and balances in place outlined in the Act, to ensure transparency and compliance with their by-laws.

SCDA requests a review of the Code of Laws, Title 46, Agriculture, Chapter 17, pertaining to the powers provided to Commodity Boards and their Directors. Please provide an opinion regarding an individual commodity board's authority to determine how and when assessment dollars are spent in the conduct of business. SCDA agrees that the Boards should be exempt from state procurement guidelines when they are not dealing with state dollars. SCDA has discussed with members of the General Assembly and need clarification to resolve the matter.

#### LAW/ANALYSIS:

We begin our analysis with a brief background on statutory interpretation. In prior opinions, we have discussed the principles of statutory construction and they are:

“[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000) . . . “[C]ourts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature or that would defeat plain legislative intention.” State v. Johnson, 396 S.C. 182, 189, 720 S.E.2d 516, 520 (Ct. App. 2011). . . .

Op. S.C. Atty. Gen., September 18, 2013 (2013 WL 5494616).

Our Office has also determined that:

‘[s]ections which are part of the same statutory law of the State must be construed together. In construing statutory language, the

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statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction. Statutes pertaining to the same subject matter must be harmonized if at all possible.’ In Interest of Doe, 318 S.C. 527, 531-32, 458 S.E.2d 556, 559 (Ct. App. 1995) (citations omitted). However, ‘[w]here there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.’ Capco of Summerville, Inc. v. J.H. Gayle Constr. Co. Inc., 368 S.C. 137,142, 628 S.E.2d 38, 41 (2006).

Op. S.C. Atty. Gen., July 28, 2014 (2014 WL 3886690) (quoting Op. S.C. Atty. Gen., July 11, 2008 (2008 WL 3198122)). We stated more succinctly in Op. S.C. Atty. Gen., March 20, 2006 (2006 WL 981695) (citing Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972); Op. Atty. Gen. dated August 5, 1986) that “[i]t is a rule of statutory construction that general and specific statutes should be harmonized if possible. However to the extent of any conflict between the two, the special statute usually prevails.”

We will now review the language of the Procurement Code and the Marketing Act. The pertinent section of the Procurement Code describes its application. Section 11-35-40(2) states:

[t]his code applies to every procurement or expenditure of funds by this State under contract acting through a governmental body as herein defined irrespective of the source of the funds, including federal assistance monies, except as specified in Section 11-35-40(3) (Compliance with Federal Requirements) and except that this code does not apply to gifts, to the issuance of grants, or to contracts between public procurement units, except as provided in Article 19 (Intergovernmental Relations). It also shall apply to the disposal of state supplies as provided in Article 15 (Supply Management). . . .

S.C. Code Ann. § 11-35-40(2) (1976 Code, as amended).

The purpose and policy of the Marketing Act are described in sections 46-17-20 and 46-17-30. Section 46-17-20 states:

[i]t is declared to be the purpose of this chapter to promote the general welfare of the State by enabling producers of agricultural

The Honorable Hugh E. Weathers  
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April 28, 2016

commodities<sup>1</sup> to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the commodities they produce and in promoting and increasing the sale and proper use of such commodities. . . .

S.C. Code Ann. § 46-17-20 (1976 Code, as amended). Section 46-17-30(b) provides:

[i]t is hereby declared to be the policy of this chapter:

(b) To enable agricultural producers of this State, with the aid of the State:

(1) To develop, and engage in research and educational programs to develop better and more efficient marketing and utilization of agricultural products;

(2) To establish orderly marketing of agricultural commodities;

(3) To provide for uniform grading and proper preparation of agricultural commodities for market;

(4) To provide methods and means including, but not limited to, public relations and promotion for the maintenance of present markets and for the development of new or larger markets, both domestic and foreign, for agricultural commodities produced within this State and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(5) To eliminate or reduce economic waste in the marketing or use of agricultural commodities;

(6) To restore and maintain adequate purchasing power for agricultural producers.

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<sup>1</sup> “‘Agricultural commodity’ means a distinctive type of agricultural, horticultural, viticultural, floricultural, aquacultural, vegetable, or animal product, either in its natural or processed state. . .” S.C. Code Ann. § 46-17-40 (1976 Code, as amended).

The Honorable Hugh E. Weathers

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S.C. Code Ann. § 46-17-30 (1976 Code, as amended).

We have also reviewed the powers provided to commodity boards under the Marketing Act. The Marketing Act is to be administered under the direct control and supervision of the Agriculture Commission, including such administrative requirements of marketing orders and agreements not specifically assigned to commodity boards. See S.C. Code Ann. § 46-17-50 (1976 Code, as amended). However, the Marketing Act grants commodity boards many powers. Commodity boards can exercise the powers and authority conferred by law upon corporations.<sup>2</sup> S.C. Code Ann. § 46-17-260 (1976 Code, as amended). Commodity boards have the powers assigned to them by marketing orders and agreements, such as preparing and enforcing plans for promoting and advertising the sale of agricultural commodities; establishing research programs for control of insects or disease, economic causes and effects, harvesting, storing, transporting, handling, processing, or any other research which would benefit a commodity; and establishing educational programs designed to acquaint producers, handlers, processors, and other interested persons with the results of research. See S.C. Code Ann. § 46-17-270 (1976 Code, as amended); S.C. Code Ann. § 46-17-290 (1976 Code, as amended). Commodity boards can appoint or utilize committees and individuals to advise them or the Agriculture Commission and can fix the compensation for such services, which may be paid from the funds of the board. S.C. Code Ann. § 46-17-250 (1976 Code, as amended).

It should be noted that commodity boards and the Agriculture Commission can only use the assessments collected from farmers to pay the expenses and costs arising in connection with the administration, amendment or termination of the marketing orders and agreements. S.C. Code Ann. § 46-17-340 (1976 Code, as amended). Additionally, both the commodity boards and the Agriculture Commission are required to keep accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid-outs, monies, and other financial

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<sup>2</sup> Under the South Carolina Business Corporation Act of 1988, S.C. Code Ann. § 33-1-101 *et seq.* (1976 Code, as amended), corporations have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to . . .

(4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located. . .

(7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income. . .  
..

(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

S.C. Code Ann. § 33-3-102 (1976 Code, as amended).

The Honorable Hugh E. Weathers  
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April 28, 2016

transactions made pursuant to an order or agreement, and the records must be audited at least annually in accordance with generally accepted auditing standards. S.C. Code Ann. § 46-17-380 (1976 Code, as amended).

In a prior opinion of our Office, one of the issues was whether it was a violation of the State Procurement Code for section 23-9-430 for the South Carolina State Firemen's Association to receive a percentage of money received from the one percent tax on fire insurance for the purpose of the betterment and maintenance of skillful and efficient fire departments within the county. We determined that:

[i]t is the opinion of this Office that the State Procurement Code is inapplicable in this situation. The Legislature has mandated that the funds are to be spent through the use of the [Firemen's] Association by virtue of creating the statutory provisions that allowed the S.C. State Firemen's Association to spend the money as instructed in Title 23, Chapter 9, Article 3. The Legislature has precisely determined what must be done and specified in the statutes guidelines for how the money should be allocated. See, e.g., S.C. Code § 23-9-430. Therefore, no bidding process is necessary. One legislature is not bound by another.

Op. S.C. Atty. Gen., May 5, 2011 (2011 WL 2214073).

In that opinion, we also stated that "the Legislature, pursuant to its plenary powers, may expressly authorize the [Firemen's] Association's duties and powers, irrespective of other statutes, such as the State Procurement Code. . . ." Id.

The Legislature may exempt certain functions from the Procurement Code and we believe that the Legislature intended for commodity boards to be exempt. In sections 46-17-20 and 46-17-30, the Legislature makes it clear that the purpose and policy of the Marketing Act is to enable farmers, or to give them the power<sup>3</sup>, to help themselves with the aid of the State and its agencies with the marketing and sale of agricultural products. The Marketing Act is unique in that it is the farmers, and not the State, who benefit. Farmers of a specific agricultural product are only assessed and commodity boards only exist due to the consent and voluntary financial commitment of the farmers. See S.C. Code Ann. § 46-17-70 (1976 Code, as amended); S.C. Code Ann. § 46-17-190 (1976 Code, as amended).

In a prior opinion, we further explained how commodity boards and the assessments are unique:

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<sup>3</sup> "Enable" means "to make able; give power, means, competence, or ability to; authorize." See dictionary.com at <http://www.dictionary.com/browse/enable>



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[t]he unusual nature of a commodity board and its intended activities is borne out by the unusual nature of the commodity board assessments, in that, unlike other funds which flow into the state treasury through any of the State's boards, departments or institutions, these funds are not paid by the public-at-large in the form of a general income or sales tax nor are they collected from the recipients of various forms of government regulatory services such as the purchasers of permits or licenses. In fact, the commodity levy is assessed against a group of citizens engaged in a particular occupation who have by their voluntary expression of support elected to contribute to a fund established to help themselves to develop, expand and improve the market for their product.

As further evidence of the non-public nature of the funds, the General Assembly in 1968 directed the Agriculture Commission through Section 46-17-370 to deposit all monies collected pursuant to the Agricultural Commodities Marketing Act in separate accounts. This direction to handle these funds in a specific manner is bolstered by a direction in Section 46-17-350 that any funds remaining after the termination of a marketing order be withdrawn from the approved depository and then paid into the state treasury.

A third, but equally important, indication of the unique character of the collected assessments is found in the fact that a peanut producer may, as authorized by Section 46-17-350 and Regulation 5-164(5), apply for and receive a complete refund of all assessments which have been paid to the Commission and the commodity board during any marketing season.

It can be concluded on the basis of these statements of policy and other indicators of characteristics that the activities which the Peanut and other commodity boards could reasonably be expected to engage in are unique when compared with other types of activities ordinarily encountered in the course of the operations of the State government and, therefore, that the General Assembly intended that only specifically provided restraints be placed on the use of any collected commodity board assessments.

The Honorable Hugh E. Weathers  
Page 9  
April 28, 2016

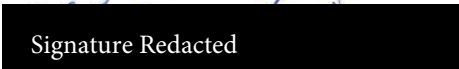
Op. S.C. Atty. Gen., May 20, 1978 (1978 WL 22577)<sup>4</sup>.

Furthermore, the Legislature has in our opinion granted the commodity boards the authority to spend the assessments by giving them the powers of a corporation to purchase, make payments, and make contracts as well as the power to pay the expenses and costs arising in connection with the marketing orders and agreements. The fact that the commodity boards are required to keep financial records and be audited also indicates that the Legislative intent was for the commodity boards to have control of the assessments. We therefore concur with our May 5, 2011 opinion that the bidding process of the Procurement Code is not necessary when the Legislature imbues a particular group with the authority to expend money. We also agree with your opinion request letter that the proviso to the budget exempting commodity boards from procurement codes was not necessary, as they were already exempt under the Marketing Act.

**CONCLUSION:**

Our opinion is that the specific provisions of the Marketing Act prevail over the general terms of the Procurement Code. Therefore, commodity boards are exempt from the Procurement Code and have the authority to determine how and when assessments collected from farmers are spent. Please be aware that this is only an opinion as to how this Office believes a court would interpret the law in this matter and that the Legislature may wish to clarify this matter.

Sincerely,

  
Signature Redacted

Elinor V. Lister  
Assistant Attorney General

REVIEWED AND APPROVED BY:

  
Signature Redacted

Robert D. Cook  
Solicitor General

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<sup>4</sup>This opinion was published prior to the enactment of the Procurement Code.

## Food Safety Modernization Act (FSMA)

- Considered to be the most significant update to federal food safety laws in 70 years.
- 4,000 farms in South Carolina will be affected by Produce Safety and FSMA rules.
  - Covers produce normally consumed raw.
- SCDA will be the leading agency for outreach and compliance.
- Comprised of 7 rules:
  - 1) ***Produce Safety Rule***
    - This is SCDA's new department and where 100% of FDA grant monies go. New Law 39-26 enables SCDA to enforce.
  - 2) ***Preventive Controls for Human Food***
    - Adopted by reference in SC Food & Cosmetic Act.
  - 3) ***Preventive Controls for Animal Food***
    - Adopted by reference in SC Food and Cosmetic Act.
  - 4) ***Sanitary Transportation of Human and Animal Food***
  - 5) ***Prevention of Intentional Contamination/Adulteration***
  - 6) ***Foreign Supplier Verification Programs***
  - 7) ***Accreditation of Third-Party Auditors/Certification Bodies***
- Implementation of Rules 2-7 will be handled by SCDA's existing Food/Feed Safety and Compliance department.
- Working in cooperation with Clemson Extension, through a memorandum of understanding, to provide outreach and educational sessions to producers.
- Compliance for Produce Safety Rule
  - ***General Compliance*** Dec 2017
  - ***Small Business*** Dec 2018
  - ***Very Small Business*** Dec 2019

**Department of Agriculture's Recommendation:**

In its Program Evaluation Report, the South Carolina Department of Agriculture (SCDA) recommended that it be removed from involvement in the "Cottage Law." (S.C. Code 44-1-143)

DHEC agrees with SCDA that 44-1-143 (H) should be removed.

Thank you for the opportunity to provide comments on this matter.

6-14-17

## SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's powers to establish policies for South Carolina Department of Agriculture (SCDA), and annually approve the agency's budget request; found in 46-5-20(1) and (2)
- Establish an appointment procedure of Agriculture Commission members after a seat has either been vacant the term expired for more than two years; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to fine businesses that habitually and willfully violate existing consumer protection labeling / quality laws
- Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers
- Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products
- Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer
- Authorize an application fee for a food business when registering for a Registration Verification Certificate (RVC)
- Authorize a tiered annual fee for RVCs
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove the exemption registration burden, found in 44-1-143 (H) from small home-based food producers
- Revise the state egg law to exempt USDA graded facilities from state licensing, add quail eggs, and remove the licensing requirement for small producers

# South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee  
Economic Development, Transportation, and Natural Resources Subcommittee  
June 15, 2017

# SC Agriculture Commission

***Delete the Agriculture Commission's powers to establish SCDA policies and annually approve SCDA's budget request***

- 46-5-20 (1) and (2)
- Agriculture Commission is currently not governing SCDA or approving any budget requests
- SC Attorney General's Opinion (May 3, 1999)



# SC Agriculture Commission

***Make a statutory change to the election procedure, or who has appointment responsibility, of Agriculture Commission members***

- 46-5-10
- Currently, vacancies take a significant amount of time to be filled
- After 1) an established period of time of a seat being vacant or term expired; 2) candidate recommendations have been provided to the legislative delegation; and 2) specified notification attempts to the legislative delegation have been made; the Commissioner of Agriculture would have authority to appoint Commission members





# SC Commissioner of Agriculture

## ***Remove the bonding requirements of the Commissioner of Agriculture***

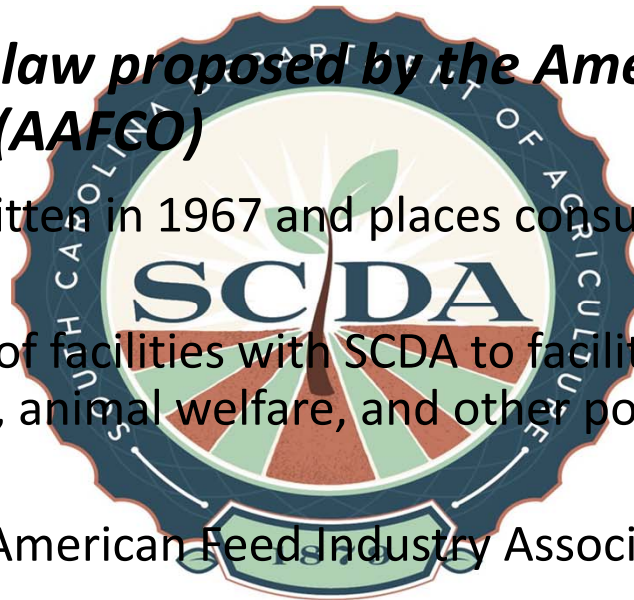
- 46-3-50
- The Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority (SFAA), provides all state agencies, departments, institutions, commissions, boards, personnel, etc. with both liability and property insurance
- Grain producers, dealers, and warehouses are covered under 46-40-10, et seq. and 46-41-10, et seq.



# Feed Law

## ***Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)***

- Current feed law was written in 1967 and places consumers and feed mills at a disadvantage
- Will require registration of facilities with SCDA to facilitate recalls and stay on top of food borne outbreaks, animal welfare, and other potential issues prior to an event
- Supported by the AFIA (American Feed Industry Association)
- Draft language provided



# Labeling & Quality violations

## ***Authorize SCDA to fine businesses that habitually violate existing consumer protection labeling / quality laws***

- Fine would escalate with number of offenses and risk to public safety/health
- Willful and habitual violators should pay the costs for duplicative laboratory analyses, additional sampling, and re-inspection
- Petroleum – octane, ethanol, distillation profile, sulfur, water/sediment
- Feed – *current law allows*
- Ground meat products – fat, extenders, preservatives, color
- Frozen Desserts – butterfat content, total solids per gallon, weight per gallon



# Petroleum Law

***Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers***

- LP, natural gas, gasoline, diesel, kerosene, jet A, avgas, home heating oil

***Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products***

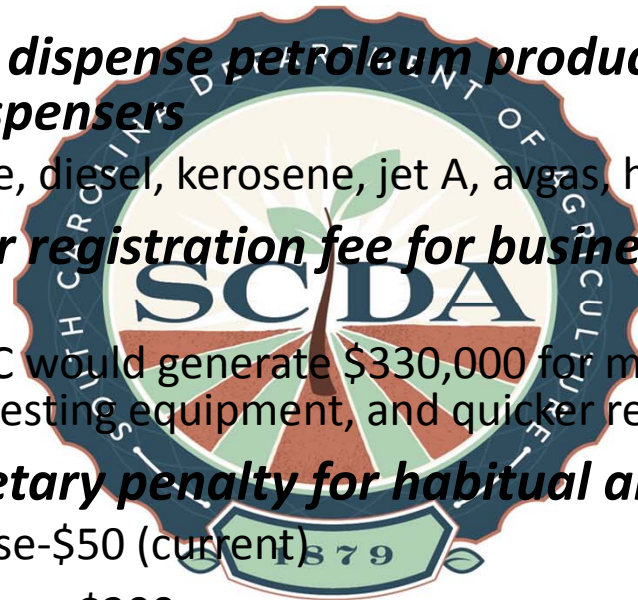
- 66,000 dispensers in SC would generate \$330,000 for more inspectors, software enhancements, more testing equipment, and quicker response time

***Enforce a scalable monetary penalty for habitual and willful offenders***

- Recommend: 1<sup>st</sup> Offense-\$50 (current)

2<sup>nd</sup> Offense-\$200

3<sup>rd</sup> Offense-\$500



# Food Manufacturers, Wholesalers, Distributors

## ***Authorize an application fee for a food business Registration Verification Certificate (RVC).***

- With an application, SCDA reviews business plan, product analysis, certifications and training requirements, and labels.
- Recommend: \$25
- Existing businesses who hold a current RVC would be exempt.

## ***Authorize a tiered annual fee for RVCs.***

- Based on risk/length of inspection and size of firm to prevent small prospective manufacturers from being burdened.
- Will allow for more inspectors, better equipment, and faster response time.
- This is similar to the current DHEC model for retail inspections.



# Salvage Permit

***Modernize salvage food regulations by eliminating salvage permit and covering under the RVC***

- Regulation verbiage needs updating to reflect modern language and terminology consistent with current food safety laws and regulations
- Will eliminate duplication of inspection and licensing/permitting
- Draft language provided



# Electronic Warehouse Receipts

***Modernize the cotton warehouse receipt law--accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number***

- **SECTION 39-22-110.** Currently requires identification tags on bales
- Allow the PBI tag to be accompanied by a sticker to assist warehouse personnel receiving cotton
- Sticker will include
  - the Brand “South Carolina”
  - palmetto tree with a bale of cotton lying at the roots
  - shield of state of SC
- Sticker must be placed in close proximity to PBI tag



## “Cottage Food” Exemption

***Remove the exemption registration burden, found in 44-1-143 (H), from small home-based food producers***

- The new food code adopted by DHEC eliminates the need for this exemption by allowing nonhazardous home based foods to be sold retail to the end consumer and is less restrictive
- SCDA does not regulate retail food sales directly to the end consumer
- ~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~



# Egg Law

***Revise the state egg law to exempt USDA graded facilities from state licensing, and allow small producers to sell off-farm.***

- This would create more marketing opportunities for small producers
- Producers could sell up to 30 dozen per week to the end consumer away from farm without license
- Adds “quail eggs”, currently not allowed to sell in SC
- USDA-graded facilities must still comply with state law, but would not be required to get a state license
- Annual license fee would be \$10





Thank You!

## *Appendix J. June 15, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - May 2, 2017 - Meeting Minutes
  - February 28, 2017 - Proposed revision to meeting minutes
  - Department of Agriculture
    - Study status
    - Recommendations from the agency
  - Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)
  - Letter from Department of Agriculture to Subcommittee (June 6, 2017)
  - April 28, 2016 Attorney General opinion - procurement code and commodity boards
  - Summary of federal Food Safety Modernization Act from Department of Agriculture
  - May 2017 preliminary assessment of the groundwater conditions
- Documents provided by agency during meeting
  - PowerPoint - Agency's recommended statutory changes (June 15, 2017)
  - Agency's proposed revisions to SC Code of Laws Title 39, Chapter 39 (Labeling and Marketing of Eggs)
  - Agency's proposed revisions to SC Code of Regulations 5-360 (Salvage Operations Dealing in Foods and Cosmetics)
- Correspondence after meeting
  - Letter from Oversight Subcommittee to Department of Agriculture (June 16, 2017)
    - Notes the agency has already provided draft language for some of its proposed law changes, and requests draft language for the other agency recommendations.

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Thursday, June 15, 2017*

*10:00 a.m.*

*427-Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes**
- II. Further discussion of the study of the Department of Agriculture**
- III. Adjournment**



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

Tuesday, May 2, 2017 at 9:00 am in Room 321

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Tuesday, May 2, 2017, in Room 321 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

### **Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee’s meeting on February 28, 2017. A roll call vote was held, and the motion passed.

<b>Rep. Collins’s motion to approve the minutes from the February 28, 2017, meeting:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

### **Discussion of the Department of Agriculture**

- I. Vice-Chair Funderburk provided an update of the Subcommittee’s work related to the Department of Agriculture. She stated the purpose of this meeting is a deeper dive into how resources are allocated to each objective, performance measures, review of laws pertaining to the agency, and any agency recommendations for the subcommittee.
- II. Commissioner of Agriculture Hugh E. Weathers presented a PowerPoint presentation over the successes, challenges, emerging issues, and objectives of the agency. The agency’s presentation is available on the Committee’s website for the public to view.
- III. Subcommittee Members asked and Commissioner Weathers answered questions on a variety of topics including:
- a. Federal Food Safety and Modernization Act;
  - b. Farming profession;
  - c. Surface water withdrawal;
  - d. State Farmers Market;
  - e. Procurement Code; and
  - f. Marketing and economic development.
- IV. Commissioner Weathers explained that the agency objectives were changed in 2017 to better align with divisions and to better portray and track invested resources.
- V. Commissioner Weathers discussed the agency’s strategic plan. He explained the agency’s goal is for by the year 2020, to be successful with the agriculture business so it flows \$50 billion through the economy each year.

### **Administrative Matters**

- I. Vice-Chair Funderburk requested that this committee receive the water study once it is finished, and staff will follow up with a letter for any other requested committee items.
- II. There being no further business, the meeting was adjourned.



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

February 28, 2017

**Proposed Amendment: Remove reference to Former Subcommittee Chair in letterhead and in attendance.**

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Representative Laurie Slade Funderburk, Committee First Vice-Chair, on Thursday, February 28, 2017, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

### **Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee's meeting on February 16, 2017. A roll call vote was held, and the motion passed.

<b>Rep. Collins's motion to approve the minutes from the February 16, 2017, meeting:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

### **Discussion of the Study of the South Carolina Transportation Infrastructure Bank**

- I. South Carolina Transportation Infrastructure Bank and Department of Transportation officials responded to Subcommittee Members' questions relating to:
- a) Agency's most recent audited financial statements year ended June 30, 2016; and
  - b) Relationship between the South Carolina Transportation Infrastructure Bank and the Department of Transportation in light of Act 275 of 2016.
- II. Representative Ridgeway moved that (1) staff draft a Subcommittee Report for presentation to the full Committee; (2) staff provide a copy of the Report to all Subcommittee members by Friday March 3, 2017; (3) staff include any Subcommittee member written statements pursuant to Standard Practice 12.4, which staff receives prior to 5:00 pm on Thursday March 9, 2017; and (4) unless the Committee receives an alternative request by 5:00 pm on Friday March 10, 2017, the Committee will provide notification pursuant to Standard Practice 12.5 that a study is available for consideration by the full Committee. A roll call vote was held, and the motion passed.

<b>Rep. Ridgeway's motion:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

- III. There being no further business, the meeting was adjourned.



Summary of key dates and actions of the study process.

## House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016 - Issues press release announcing public survey opportunity for the agency

## Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function
- January 26, 2017 - **(Meeting 4)** Holds work session to update members on status of study and obtain any questions Members may have for the agency at the next meeting
- February 16, 2017 - **(Meeting 5)** Discusses the agency's program structure in the General Appropriations Act; agency's goals and strategic plan; agency's operations; and agency's partners
- May 2, 2017 - **(Meeting 6)** Discusses the agency's successes; challenges; emerging issues; and objectives.

## Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - Submits agency's Program Evaluation Report
- December 30, 2016 - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current

## Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

## SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's power to annually approve the South Carolina Department of Agriculture's (SCDA) budget request, found in 46-5-20(2)
- Make a statutory change to the appointment procedure, or who has appointment responsibility, of Agriculture Commission members; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to charge a tiered administrative fee and/or fine for habitual violators of existing consumer protection laws (food, petroleum, weights and measures)
- Allow a \$5 registration fee for businesses that dispense petroleum products
- Authorize a \$25 application fee, along with a tiered annual renewal fee, for a food business Registration Verification Certificate (RVC)
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove SCDA regulatory responsibility from "cottage foods" governed by DHEC in state Regulation 61-25
- Revise the state egg law to exempt USDA graded facilities from state licensing
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC

First Vice-Chair:  
Laurie Slade Funderburk

## Legislative Oversight Committee



Katherine E. (Katie) Arrington  
Gary E. Clary  
MaryGail K. Douglas  
Phyllis J. Henderson  
Joseph H. Jefferson Jr.  
Mandy Powers Norrell  
J. Todd Rutherford  
Tommy M. Stringer  
Bill Taylor

William K. (Bill) Bowers  
Neal Collins  
Raye Felder  
William M. "Bill" Hixon  
Robert L. Ridgeway III  
James E. Smith Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams

## South Carolina House of Representatives

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Charles L. Appleby IV  
Legal Counsel

Carmen J. McCutcheon Simo  
Research Analyst/Auditor

May 3, 2017

The Honorable Hugh E. Weathers  
Commissioner, Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, thank you for your recent presentation to the Subcommittee on May 2, 2017. During this meeting, Subcommittee Members noted they would like additional information on two issues:

- A brief outline of the federal Food Safety Modernization Act and the areas of new regulation; and
- Any recommendation the agency may have for revision to the code of laws to clarify that commodity boards are exempt from the State Procurement Act.

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Slade Funderburk".

Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

State of South Carolina  
Department of Agriculture



Hugh E. Weathers  
Commissioner

Wade Hampton Office Building  
P.O. Box 11280  
Columbia, S.C. 29211  
Telephone: (803) 734-2190  
Fax: (803) 734-2192  
E-Mail: [hweathe@scda.sc.gov](mailto:hweathe@scda.sc.gov)

June 6, 2017

The Honorable Laurie Slade Funderburk  
SC House of Representatives  
Legislative Oversight Committee  
PO Box 11867  
Columbia, SC 29211

Dear Representative Funderburk,

This letter is in response to your request for additional information following the May 2, 2017 meeting of the Economic Development, Transportation, and Natural Resources Subcommittee.

Please see the enclosed document providing a brief outline of the federal Food Safety Modernization Act (FSMA) and the areas of new regulation.

With regards to the agency's recommendation for revisions to the code of laws to clarify that commodity boards are exempt from the State Procurement Act, I request that the subcommittee issue a finding noting the related opinion by the South Carolina Attorney General, dated April 28, 2016. The Department of Agriculture has no further request at this time.

Thank you for your work and commitment to the legislative oversight process. Please do not hesitate to contact my office if you have any additional questions or if I can be of assistance.

Sincerely,

*p.p. Stefanie Kitchen*

Hugh E. Weathers

Enclosure



ALAN WILSON  
ATTORNEY GENERAL

April 28, 2016

The Honorable Hugh E. Weathers  
South Carolina Department of Agriculture  
PO Box 11280  
Columbia, SC 29211

Dear Commissioner Weathers:

We have received your opinion request inquiring whether commodity boards are exempt from the South Carolina Consolidated Procurement Code ("Procurement Code"), S.C. Code Ann. § 11-35-10 *et seq.* (1976 Code, as amended). Specifically, you ask whether the Agricultural Commodities Marketing Act ("Marketing Act"), S.C. Code Ann. § 46-17-10 *et seq.* (1976 Code, as amended), authorizes commodity boards to determine how and when assessments collected from farmers are spent. In your opinion request letter, you provide a thorough analysis of the Marketing Act:

[t]he South Carolina Department of Agriculture (SCDA), on behalf of all Agricultural Commodity Boards operating in South Carolina, needs an opinion from the Attorney General in regards to the powers of boards created under the Code of Laws governing the Marketing Act.

The South Carolina Commodities Marketing Act (Act) was passed by the General Assembly in the South Carolina Code of Laws in 1976, under Title 46, Agriculture, Chapter 17. The Act created the Agriculture Commission of South Carolina and charged it to oversee all aspects of Agricultural Commodity Boards. Duties assigned to the Agriculture Commission included a broad scope of responsibilities – managing legal requirements for individual board creation, hearings, referendums, election of directors, collections of assessments, and general oversight of board activities. These duties were to ensure that all business by the Commodity Boards was conducted as outlined under the Act and the by-laws of each individual board.

Commodity Board policy and procedure development goes through a rigorous process involving all producers affected. In the

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case of determining producer interest in a marketing order for a particular crop, a referendum must be held for producers of that crop. Marketing orders are thus created for each specific commodity per the wishes and voluntary financial commitment of impacted farmers. The sole purpose of marketing orders for all crops is to fund specific activities in promotion, research, and education through a farmer paid assessment. Decisions regarding these funds are granted to boards and board members as outlined in Section 46-17-290 and stated in by-laws of each commodity board. They are also provided specific powers in Section 46-17-260 and are also clearly provided the powers and authority conferred by law upon corporations.

The Agriculture Commission collects assessments for the Commodity Board and SCDA provides financial accounting services in holding funds in individual accounts and dispersing as directed by the Board of Directors. These are not state funds and they are never co-mingled with state funds. Neither the SCDA nor the State of South Carolina can expend, transfer, or use any of these funds, except as expressed under the Act and by-laws of each commodity board under the specific direction of the Commodity Boards.

Upon passage of the Act in 1976 and the creation of the Agriculture Commission, Commodity Boards were considered exempt from State Procurement Codes, as all money collected was from farm producer assessments with no public dollars appropriated to support individual commodities. Again, these are grower funded and managed commodity boards, and are provided specific powers under the Act. The Commodities Boards are also audited annually.

In the mid 1980's legislation was enacted to govern how state agencies managed funds under specific, transparent guidelines outlined under state procurement codes. At that time a proviso to the budget was passed to exempt commodity boards from procurement codes. That proviso remained in force until 2012, when it was deleted from the state budget. As a result, Commodity Boards are now treated like a state agency in terms of how they can direct the farmers' dollars. Given the responsibility of stewardship of these funds, board members from all seven active

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Commodity Boards have taken exception to the procurement rule. Rightfully so, they say it usurps their authority as outlined under the Act, and are seeking an opinion on the matter.

In hindsight, it appears that the original proviso exempting Commodity Boards from procurement rules was not necessary, as they were already exempt when the Act was passed. However, with that proviso no longer in effect, the State Procurement Office and State Auditor do not consider them exempt. Growers are adamant that these are not state dollars, and that they are provided specific powers, with checks and balances in place outlined in the Act, to ensure transparency and compliance with their by-laws.

SCDA requests a review of the Code of Laws, Title 46, Agriculture, Chapter 17, pertaining to the powers provided to Commodity Boards and their Directors. Please provide an opinion regarding an individual commodity board's authority to determine how and when assessment dollars are spent in the conduct of business. SCDA agrees that the Boards should be exempt from state procurement guidelines when they are not dealing with state dollars. SCDA has discussed with members of the General Assembly and need clarification to resolve the matter.

#### LAW/ANALYSIS:

We begin our analysis with a brief background on statutory interpretation. In prior opinions, we have discussed the principles of statutory construction and they are:

“[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000) . . . “[C]ourts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature or that would defeat plain legislative intention.” State v. Johnson, 396 S.C. 182, 189, 720 S.E.2d 516, 520 (Ct. App. 2011). . . .

Op. S.C. Atty. Gen., September 18, 2013 (2013 WL 5494616).

Our Office has also determined that:

‘[s]ections which are part of the same statutory law of the State must be construed together. In construing statutory language, the

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statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction. Statutes pertaining to the same subject matter must be harmonized if at all possible.’ In Interest of Doe, 318 S.C. 527, 531-32, 458 S.E.2d 556, 559 (Ct. App. 1995) (citations omitted). However, ‘[w]here there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.’ Capco of Summerville, Inc. v. J.H. Gayle Constr. Co. Inc., 368 S.C. 137,142, 628 S.E.2d 38, 41 (2006).

Op. S.C. Atty. Gen., July 28, 2014 (2014 WL 3886690) (quoting Op. S.C. Atty. Gen., July 11, 2008 (2008 WL 3198122)). We stated more succinctly in Op. S.C. Atty. Gen., March 20, 2006 (2006 WL 981695) (citing Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972); Op. Atty. Gen. dated August 5, 1986) that “[i]t is a rule of statutory construction that general and specific statutes should be harmonized if possible. However to the extent of any conflict between the two, the special statute usually prevails.”

We will now review the language of the Procurement Code and the Marketing Act. The pertinent section of the Procurement Code describes its application. Section 11-35-40(2) states:

[t]his code applies to every procurement or expenditure of funds by this State under contract acting through a governmental body as herein defined irrespective of the source of the funds, including federal assistance monies, except as specified in Section 11-35-40(3) (Compliance with Federal Requirements) and except that this code does not apply to gifts, to the issuance of grants, or to contracts between public procurement units, except as provided in Article 19 (Intergovernmental Relations). It also shall apply to the disposal of state supplies as provided in Article 15 (Supply Management). . . .

S.C. Code Ann. § 11-35-40(2) (1976 Code, as amended).

The purpose and policy of the Marketing Act are described in sections 46-17-20 and 46-17-30. Section 46-17-20 states:

[i]t is declared to be the purpose of this chapter to promote the general welfare of the State by enabling producers of agricultural



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commodities<sup>1</sup> to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the commodities they produce and in promoting and increasing the sale and proper use of such commodities. . . .

S.C. Code Ann. § 46-17-20 (1976 Code, as amended). Section 46-17-30(b) provides:

[i]t is hereby declared to be the policy of this chapter:

(b) To enable agricultural producers of this State, with the aid of the State:

(1) To develop, and engage in research and educational programs to develop better and more efficient marketing and utilization of agricultural products;

(2) To establish orderly marketing of agricultural commodities;

(3) To provide for uniform grading and proper preparation of agricultural commodities for market;

(4) To provide methods and means including, but not limited to, public relations and promotion for the maintenance of present markets and for the development of new or larger markets, both domestic and foreign, for agricultural commodities produced within this State and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(5) To eliminate or reduce economic waste in the marketing or use of agricultural commodities;

(6) To restore and maintain adequate purchasing power for agricultural producers.

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<sup>1</sup> “‘Agricultural commodity’ means a distinctive type of agricultural, horticultural, viticultural, floricultural, aquacultural, vegetable, or animal product, either in its natural or processed state. . .” S.C. Code Ann. § 46-17-40 (1976 Code, as amended).

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S.C. Code Ann. § 46-17-30 (1976 Code, as amended).

We have also reviewed the powers provided to commodity boards under the Marketing Act. The Marketing Act is to be administered under the direct control and supervision of the Agriculture Commission, including such administrative requirements of marketing orders and agreements not specifically assigned to commodity boards. See S.C. Code Ann. § 46-17-50 (1976 Code, as amended). However, the Marketing Act grants commodity boards many powers. Commodity boards can exercise the powers and authority conferred by law upon corporations.<sup>2</sup> S.C. Code Ann. § 46-17-260 (1976 Code, as amended). Commodity boards have the powers assigned to them by marketing orders and agreements, such as preparing and enforcing plans for promoting and advertising the sale of agricultural commodities; establishing research programs for control of insects or disease, economic causes and effects, harvesting, storing, transporting, handling, processing, or any other research which would benefit a commodity; and establishing educational programs designed to acquaint producers, handlers, processors, and other interested persons with the results of research. See S.C. Code Ann. § 46-17-270 (1976 Code, as amended); S.C. Code Ann. § 46-17-290 (1976 Code, as amended). Commodity boards can appoint or utilize committees and individuals to advise them or the Agriculture Commission and can fix the compensation for such services, which may be paid from the funds of the board. S.C. Code Ann. § 46-17-250 (1976 Code, as amended).

It should be noted that commodity boards and the Agriculture Commission can only use the assessments collected from farmers to pay the expenses and costs arising in connection with the administration, amendment or termination of the marketing orders and agreements. S.C. Code Ann. § 46-17-340 (1976 Code, as amended). Additionally, both the commodity boards and the Agriculture Commission are required to keep accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid-outs, monies, and other financial

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<sup>2</sup> Under the South Carolina Business Corporation Act of 1988, S.C. Code Ann. § 33-1-101 *et seq.* (1976 Code, as amended), corporations have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to . . .

(4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located. . .

(7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income. . .  
..

(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

S.C. Code Ann. § 33-3-102 (1976 Code, as amended).

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transactions made pursuant to an order or agreement, and the records must be audited at least annually in accordance with generally accepted auditing standards. S.C. Code Ann. § 46-17-380 (1976 Code, as amended).

In a prior opinion of our Office, one of the issues was whether it was a violation of the State Procurement Code for section 23-9-430 for the South Carolina State Firemen's Association to receive a percentage of money received from the one percent tax on fire insurance for the purpose of the betterment and maintenance of skillful and efficient fire departments within the county. We determined that:

[i]t is the opinion of this Office that the State Procurement Code is inapplicable in this situation. The Legislature has mandated that the funds are to be spent through the use of the [Firemen's] Association by virtue of creating the statutory provisions that allowed the S.C. State Firemen's Association to spend the money as instructed in Title 23, Chapter 9, Article 3. The Legislature has precisely determined what must be done and specified in the statutes guidelines for how the money should be allocated. See, e.g., S.C. Code § 23-9-430. Therefore, no bidding process is necessary. One legislature is not bound by another.

Op. S.C. Atty. Gen., May 5, 2011 (2011 WL 2214073).

In that opinion, we also stated that "the Legislature, pursuant to its plenary powers, may expressly authorize the [Firemen's] Association's duties and powers, irrespective of other statutes, such as the State Procurement Code. . . ." Id.

The Legislature may exempt certain functions from the Procurement Code and we believe that the Legislature intended for commodity boards to be exempt. In sections 46-17-20 and 46-17-30, the Legislature makes it clear that the purpose and policy of the Marketing Act is to enable farmers, or to give them the power<sup>3</sup>, to help themselves with the aid of the State and its agencies with the marketing and sale of agricultural products. The Marketing Act is unique in that it is the farmers, and not the State, who benefit. Farmers of a specific agricultural product are only assessed and commodity boards only exist due to the consent and voluntary financial commitment of the farmers. See S.C. Code Ann. § 46-17-70 (1976 Code, as amended); S.C. Code Ann. § 46-17-190 (1976 Code, as amended).

In a prior opinion, we further explained how commodity boards and the assessments are unique:

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<sup>3</sup> "Enable" means "to make able; give power, means, competence, or ability to; authorize." See dictionary.com at <http://www.dictionary.com/browse/enable>

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[t]he unusual nature of a commodity board and its intended activities is borne out by the unusual nature of the commodity board assessments, in that, unlike other funds which flow into the state treasury through any of the State's boards, departments or institutions, these funds are not paid by the public-at-large in the form of a general income or sales tax nor are they collected from the recipients of various forms of government regulatory services such as the purchasers of permits or licenses. In fact, the commodity levy is assessed against a group of citizens engaged in a particular occupation who have by their voluntary expression of support elected to contribute to a fund established to help themselves to develop, expand and improve the market for their product.

As further evidence of the non-public nature of the funds, the General Assembly in 1968 directed the Agriculture Commission through Section 46-17-370 to deposit all monies collected pursuant to the Agricultural Commodities Marketing Act in separate accounts. This direction to handle these funds in a specific manner is bolstered by a direction in Section 46-17-350 that any funds remaining after the termination of a marketing order be withdrawn from the approved depository and then paid into the state treasury.

A third, but equally important, indication of the unique character of the collected assessments is found in the fact that a peanut producer may, as authorized by Section 46-17-350 and Regulation 5-164(5), apply for and receive a complete refund of all assessments which have been paid to the Commission and the commodity board during any marketing season.

It can be concluded on the basis of these statements of policy and other indicators of characteristics that the activities which the Peanut and other commodity boards could reasonably be expected to engage in are unique when compared with other types of activities ordinarily encountered in the course of the operations of the State government and, therefore, that the General Assembly intended that only specifically provided restraints be placed on the use of any collected commodity board assessments.

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Op. S.C. Atty. Gen., May 20, 1978 (1978 WL 22577)<sup>4</sup>.

Furthermore, the Legislature has in our opinion granted the commodity boards the authority to spend the assessments by giving them the powers of a corporation to purchase, make payments, and make contracts as well as the power to pay the expenses and costs arising in connection with the marketing orders and agreements. The fact that the commodity boards are required to keep financial records and be audited also indicates that the Legislative intent was for the commodity boards to have control of the assessments. We therefore concur with our May 5, 2011 opinion that the bidding process of the Procurement Code is not necessary when the Legislature imbues a particular group with the authority to expend money. We also agree with your opinion request letter that the proviso to the budget exempting commodity boards from procurement codes was not necessary, as they were already exempt under the Marketing Act.

**CONCLUSION:**

Our opinion is that the specific provisions of the Marketing Act prevail over the general terms of the Procurement Code. Therefore, commodity boards are exempt from the Procurement Code and have the authority to determine how and when assessments collected from farmers are spent. Please be aware that this is only an opinion as to how this Office believes a court would interpret the law in this matter and that the Legislature may wish to clarify this matter.

Sincerely,



Elinor V. Lister  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General

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<sup>4</sup>This opinion was published prior to the enactment of the Procurement Code.

## Food Safety Modernization Act (FSMA)

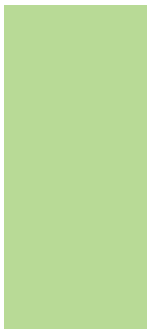
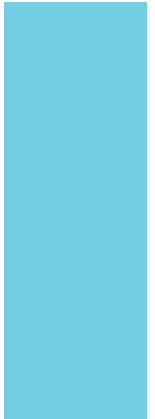
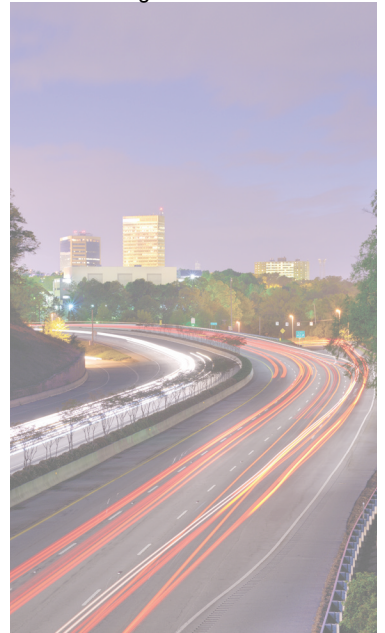
- Considered to be the most significant update to federal food safety laws in 70 years.
- 4,000 farms in South Carolina will be affected by Produce Safety and FSMA rules.
  - Covers produce normally consumed raw.
- SCDA will be the leading agency for outreach and compliance.
- Comprised of 7 rules:
  - 1) ***Produce Safety Rule***
    - This is SCDA's new department and where 100% of FDA grant monies go. New Law 39-26 enables SCDA to enforce.
  - 2) ***Preventive Controls for Human Food***
    - Adopted by reference in SC Food & Cosmetic Act.
  - 3) ***Preventive Controls for Animal Food***
    - Adopted by reference in SC Food and Cosmetic Act.
  - 4) ***Sanitary Transportation of Human and Animal Food***
  - 5) ***Prevention of Intentional Contamination/Adulteration***
  - 6) ***Foreign Supplier Verification Programs***
  - 7) ***Accreditation of Third-Party Auditors/Certification Bodies***
- Implementation of Rules 2-7 will be handled by SCDA's existing Food/Feed Safety and Compliance department.
- Working in cooperation with Clemson Extension, through a memorandum of understanding, to provide outreach and educational sessions to producers.
- Compliance for Produce Safety Rule
  - ***General Compliance*** Dec 2017
  - ***Small Business*** Dec 2018
  - ***Very Small Business*** Dec 2019



# A Preliminary Assessment of the Groundwater Conditions

in Aiken, Allendale, Bamberg, Barnwell, Calhoun,  
Lexington, and Orangeburg Counties, South Carolina







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# Executive Summary

The South Carolina Department of Health and Environmental Control (Department), in cooperation with the South Carolina Department of Natural Resources (SCDNR), has been evaluating groundwater conditions in the western Coastal Plain region of South Carolina in a series of investigations. SCDNR has previously recommended (SCDNR, 2004) the entire Coastal Plain province should be designated a Capacity Use Area in order to protect aquifer systems and ensure long-term sustainability of the groundwater resources. On July 19, 2016, Aiken County Council requested that portions of Aiken County be designated as a Capacity Use Area.

The Department has reviewed previously published reports on local groundwater conditions by the SCDNR and USGS in conjunction with reported groundwater withdrawal data for the counties of this region (Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg) to assess the current groundwater conditions in the area. This review indicates that water level declines in the aquifer systems of concern have been influenced by an increase in population, public water supply use and agricultural activities using groundwater and a series of long-standing droughts that have reduced recharge to the aquifer systems.

The preliminary data compiled in this report indicates that the entire Western Region (Figure 1 on page 3) meets the statutory requirements to be designated as a Capacity Use Area as shown in Figure 1 (the whole of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties) based on the following:

- The aquifers are interconnected beneath the counties in this region (Figure 3 on page 5).
- There is current documented increased demand and potential increases in future demand.
- Estimated declines in groundwater levels as follows:
  - ↳ Since 1998, in the Floridan/Gordon aquifers: Allendale and Barnwell Counties (8 feet).
  - ↳ Since 2001, in the Black Creek/Crouch Branch aquifer: Aiken County (< 5 feet), Allendale, Barnwell and Lexington Counties (5 feet), Bamberg County (10 feet), Calhoun and Orangeburg Counties (12 feet).
  - ↳ Since 2001, in the Middendorf/McQueen Branch aquifer: Aiken County (5 feet), Barnwell and Lexington Counties (10 feet), Allendale County (12 feet), Bamberg, Calhoun and Orangeburg Counties (15 feet).

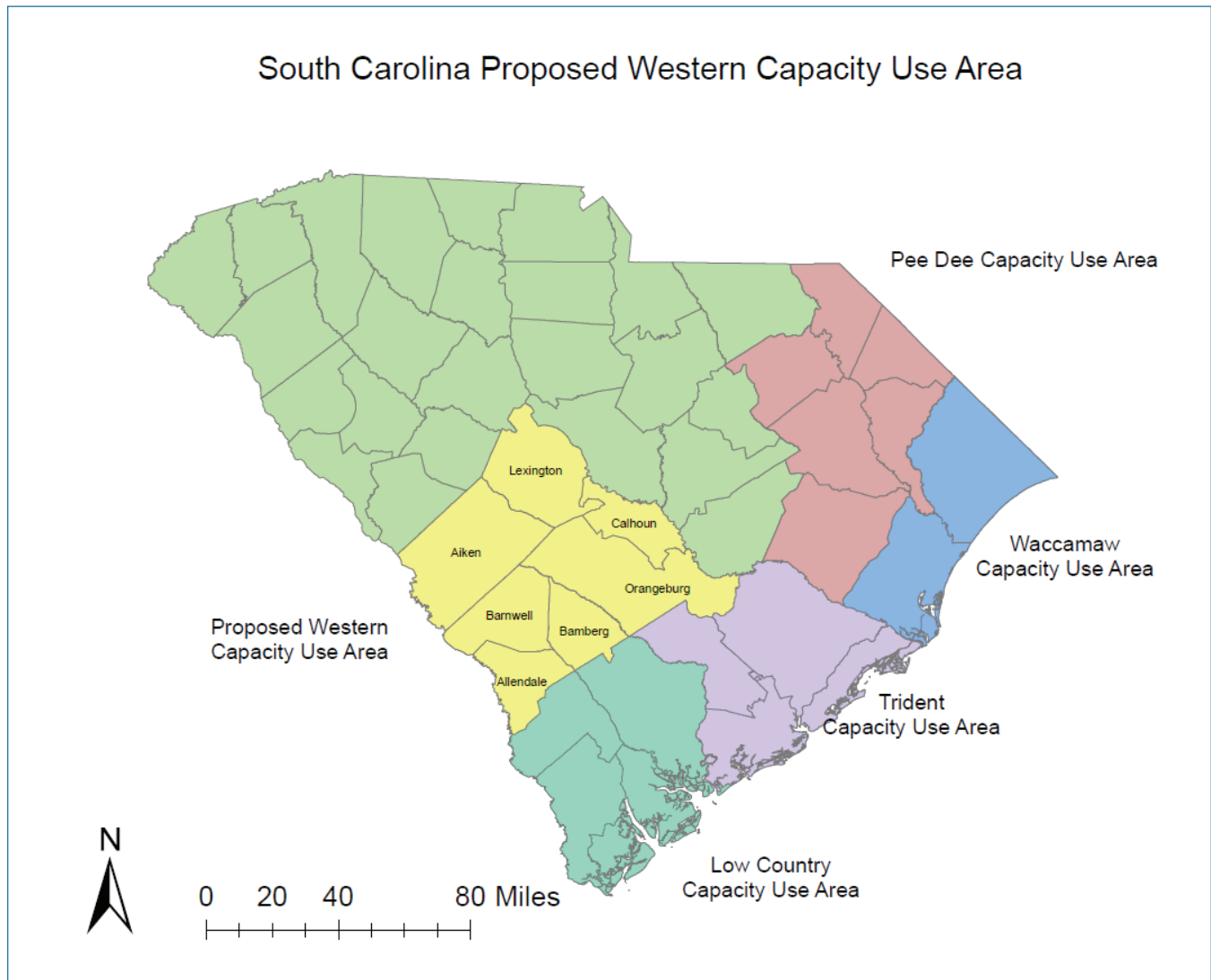
Based on the preliminary data available to the Department, which have been summarized in this report, Aiken County along with Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg counties have developed and utilized groundwater to the degree that coordination and regulation of groundwater supplies may be needed pursuant to the Groundwater Use and Reporting Act, Section 49-5-60. As such, this preliminary data is provided to facilitate the gathering of public input and any additional data or information that will help inform the potential designation of these counties as the Western Capacity Use Area.

# Introduction

The South Carolina Department of Health and Environmental Control (Department) received a formal request on July 19, 2016 from Aiken County Council to investigate and designate a Capacity Use Area within eastern Aiken County, South Carolina. Section 49-5-60 of the Groundwater Use and Reporting Act states in part that... *"In the state where excessive groundwater withdrawal present potential adverse effects to the natural resources or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source... the board, after notice and public hearing...shall designate a capacity use area."* The notice and public hearing must be conducted such that local government authorities, groundwater withdrawers, or the general public may provide comments concerning the capacity use designation process. A Capacity Use Area must be designated by the board based on scientific studies and evaluation of groundwater resources and may or may not conform to political boundaries. Designation as a Capacity Use Area requires groundwater withdrawers within the Capacity Use Area to apply for and obtain a permit from the Department.

A groundwater user is defined as *"a person withdrawing groundwater in excess of three million gallons during any one month from a single well or from multiple wells under common ownership within a one-mile radius from any one existing or proposed well."* The permitting process is intended to allow the Department to coordinate and work with users of the groundwater resource to more effectively manage withdrawals to control and minimize adverse effects on the local aquifers. Withdrawals are permitted on reasonable use requirements as outlined in the regulation and demonstrated need(s) of a particular activity or industry. Mandatory reporting of groundwater use ensures permit compliance and allows the Department, local government agencies, and all interested stakeholders to determine historical use trends and establish criteria for future planning decisions.

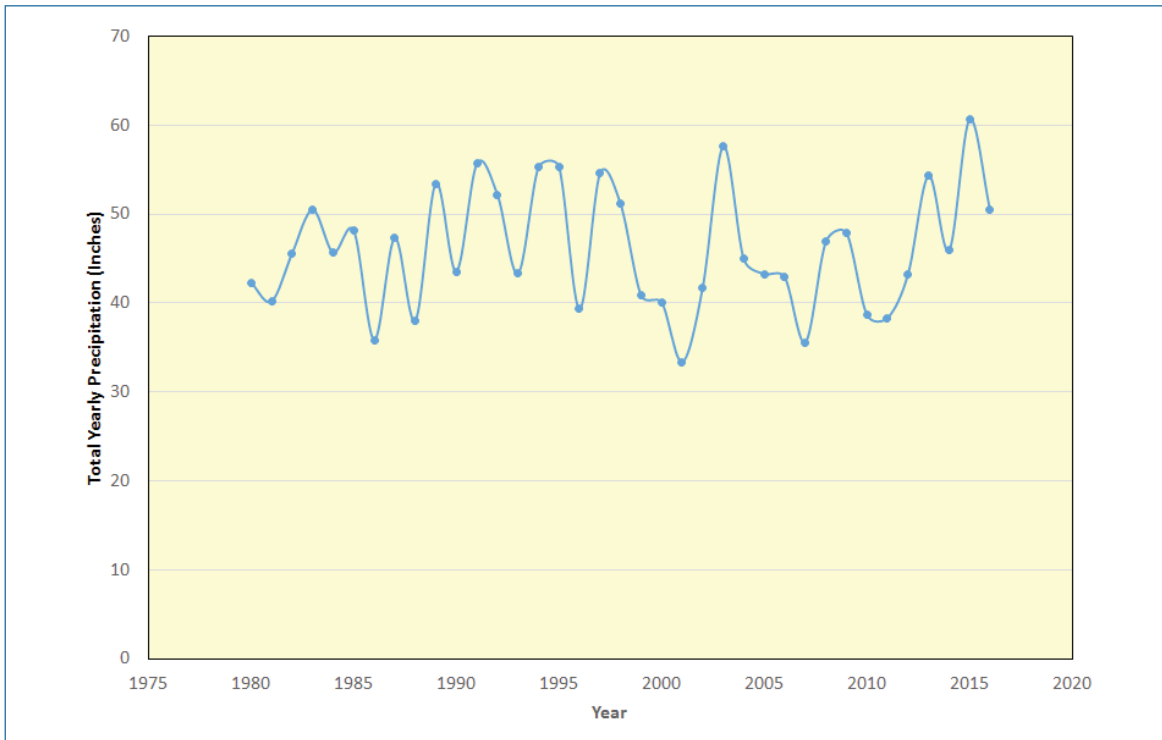
Figure 1 (on the next page) shows the proposed Western Capacity Use Area which covers Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties.



*Figure 1: Existing Capacity Use Areas and proposed Western Capacity Use Area.*

## Western Region Climate

The general climate of South Carolina is influenced by a number of factors, including its location in the mid-latitudes and proximity to the Atlantic Ocean. The mid-latitude location provides for varying intensities of solar radiation during the year, resulting in four distinct seasons (summer, fall, winter, spring). The Western Region of the state is classified as humid subtropical. Average temperature in the region is 60-65 degrees Fahrenheit. According to the State Climatologist's office, the normal annual precipitation for the Western region of the Coastal Plain is between 45-50 inches. However, this area of the State has experienced periods of drought where significantly less precipitation has occurred, in particular, 2001, 2007 and more recently 2011. Figure 2 (on the next page) shows total yearly precipitation for this area of the State from 1980 to 2015.



*Figure 2: Yearly precipitation totals for South Carolina Region 6, National Climate Data Center.*

## Geohydrologic Framework

The geology and hydrogeology of the proposed Western Capacity Use Area of South Carolina is described in detail by United States Geological Survey (USGS) professional paper (pp) by Bruce Campbell et al. (2010), which incorporated 38 core holes and 68 water wells across the South Carolina Coastal Plain. In general terms, the aquifer systems range in age from Late Cretaceous to Tertiary (McQueen Branch, Crouch Branch, Gordon, Floridan, and Surficial) and overlay crystalline bedrock between Paleozoic and Triassic age. Overall, the lithologies of the aquifers are predominantly composed of sands and silts/muds, with some limestone. These are described as being formed in a transitional depositional environment, ranging from continental to marine (Campbell, et al., 2010). The units form a sedimentary wedge that thickens from a feather edge at the Fall Line to greater than 4000 feet down dip at the coastline (**Figure 3**).

The identified confining units separating the aquifer systems are not as well defined in the proposed Capacity Use Area (i.e. little or no distinct separation between aquifer systems), while the McQueen Branch and Crouch Branch aquifers are reported to be the more productive units in this area (Campbell, et al., 2010). The recharge zone for these aquifers is at the Fall Line and the surficial aquifer discharges to surface water. Specific annual groundwater recharge rates have been calculated by USGS to be in the range of approximately 13 to 15 inches per year. In 2004, the Crouch Branch and McQueen Branch are reported to have had withdrawal rates of 1.27 and 5.41 million gallons per day (MGD), respectively, and surface discharge of the surficial aquifer at around 6.1 MGD (Campbell, et al., 2010).

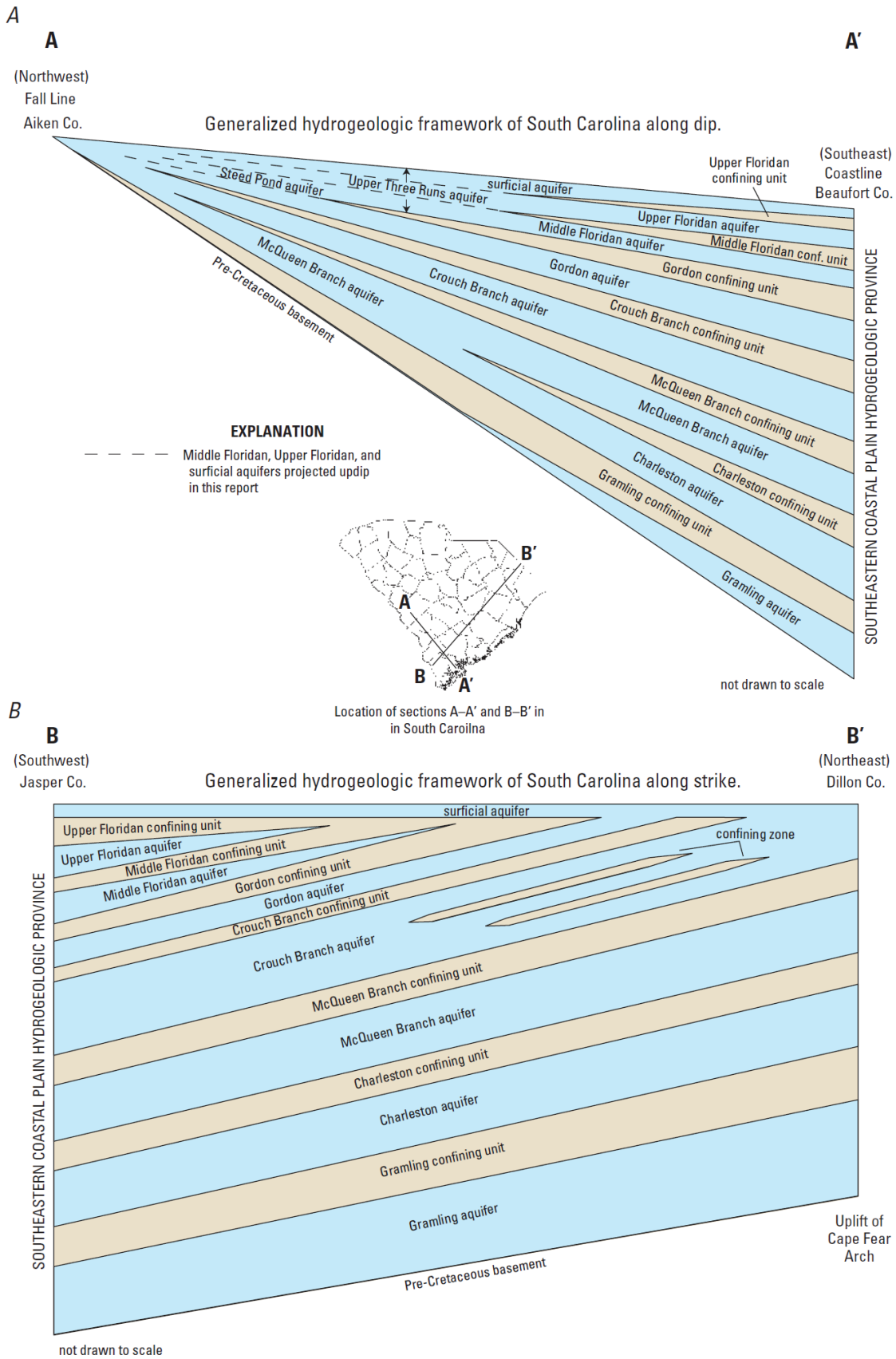


Figure 3: Hydrogeologic framework of South Carolina (Campbell, et al., 2010).

# Historical Problems

## Floridan and Gordon Aquifers

The shallower aquifer systems are hydrologically connected in the up-dip region of the proposed Capacity Use Area (see **Figure 3**), and therefore respond as unconfined aquifers in this region. Precipitation events generate the greater portion of recharge for the aquifer systems in the area, with the majority subsequently discharged through evapotranspiration and to the numerous creeks, streams, and rivers which dissect the geographical area. The groundwater flow paths in the shallow system are typically short, which in turn generate relatively high groundwater flow rates (Aucott W. R., 1988). Specific annual groundwater recharge rates have been calculated by USGS to be in the range of approximately 13 to 15 inches per year. Employing a porosity of 30 to 35 percent for the aquifers produces a water level rise (instantaneous) in the saturated thickness of the aquifer(s) of approximately 3.6 to 4.1 feet (Harrelson, Falls, & Prowell, 2002). The aquifers in the proposed Capacity Use Area respond more quickly to variations in recharge (precipitation and evapotranspiration rates) over time due to their relative shallow nature and relatively high transmissivities (Aucott W. R., 1988). Seasonal fluctuations in groundwater levels in the various aquifers are common due to increased use of groundwater for public consumption and irrigation during summer months. As use increases through spring into summer, groundwater levels decline. As use decreases in the fall and winter, the groundwater levels typically recover. An example of this response to seasonal fluctuations in groundwater demand is shown in Figure 8. While this well (AIK-0344) is screened in the Crouch Branch aquifer, this is a common response seen in the Coastal Plain aquifer systems to seasonal fluctuations in groundwater demand.

The South Carolina Department of Natural Resources (SCDNR) has collected long-term groundwater level from several locations in the Western region of the State. These include several monitoring wells in the Gordon aquifer, BRN-0352, ORG-0430, and ALL-0375. Water levels can be seen in Figures 4, 5, and 6, and all 3 of these wells indicate some degree of water level decline imprinted on seasonal variability. Previous work by SCDNR has shown water levels in the Gordon aquifer have declined in Allendale by approximately 8 feet and up to approximately 7 feet in Barnwell Counties since the mid-1990s (Harder, Gellici, & Wachob, 2012).



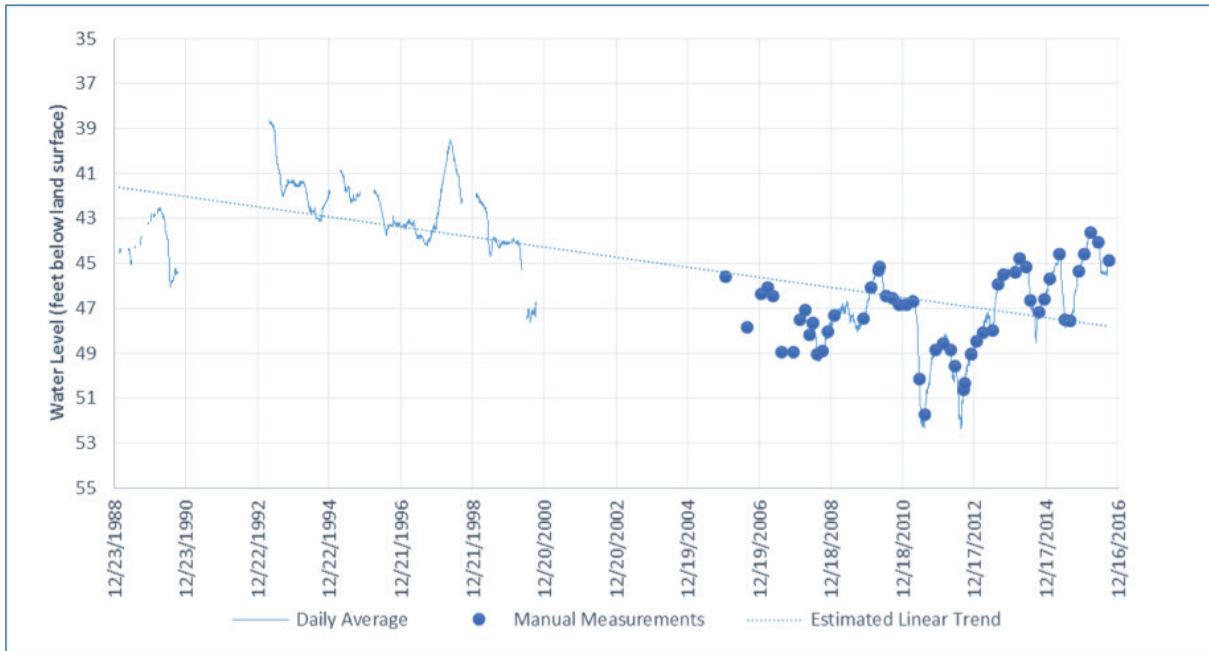


Figure 4: Barnwell County, BRN-0352 Gordon aquifer average daily groundwater levels.

ORG-0430 (Figure 5) water levels indicate temporal fluctuations which may be seasonally influenced, with measured levels from 81.53 to 97.7 feet below land surface. The probable seasonal fluctuation is observed as lows in the late summer early fall months (August-October) and its highest levels in the spring months (March-May).

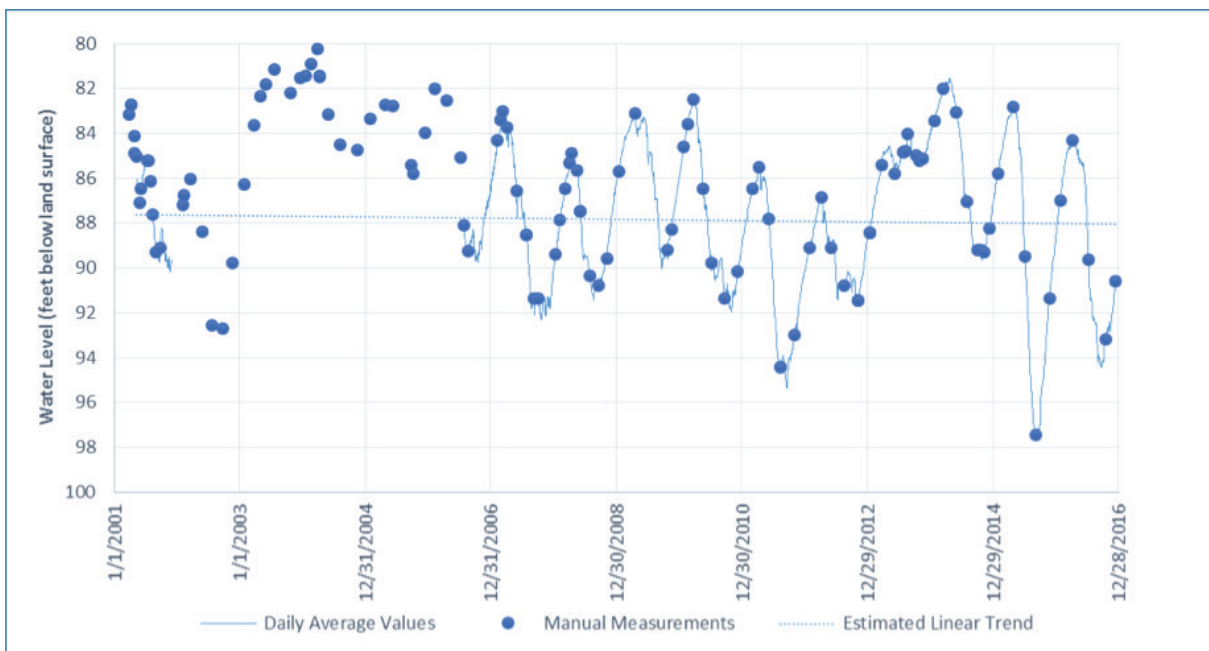


Figure 5: Orangeburg County, ORG- 0430 Gordon aquifer average daily groundwater levels.

ALL-0375 (**Figure 6**) water levels indicate a decline from June 1998 through October 2002, some recovery through May of 2004, and then another decline from December 2012 through present. The water levels range from 145.97 to 160.14 feet below land surface.

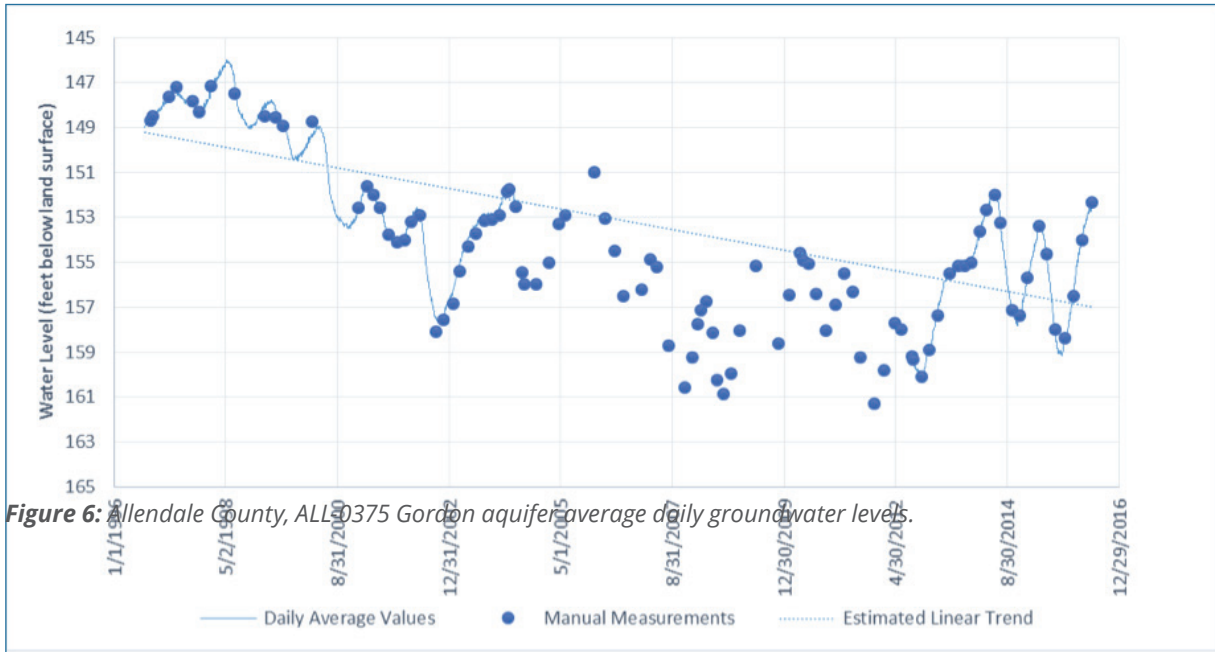


Figure 6: Allendale County, ALL-0375 Gordon aquifer average daily groundwater levels.

Figure 7 shows the most recent potentiometric map produced by DNR of the water level elevations for the Floridan and Gordon aquifers. In general, in the counties of concern, there are no real cones of depression in groundwater elevations in these upper aquifers (Wachob, Hockensmith, Luciano, & Howard, 2014). This is likely due to little use as a resource, its access to recharge, and connectivity with surface water.

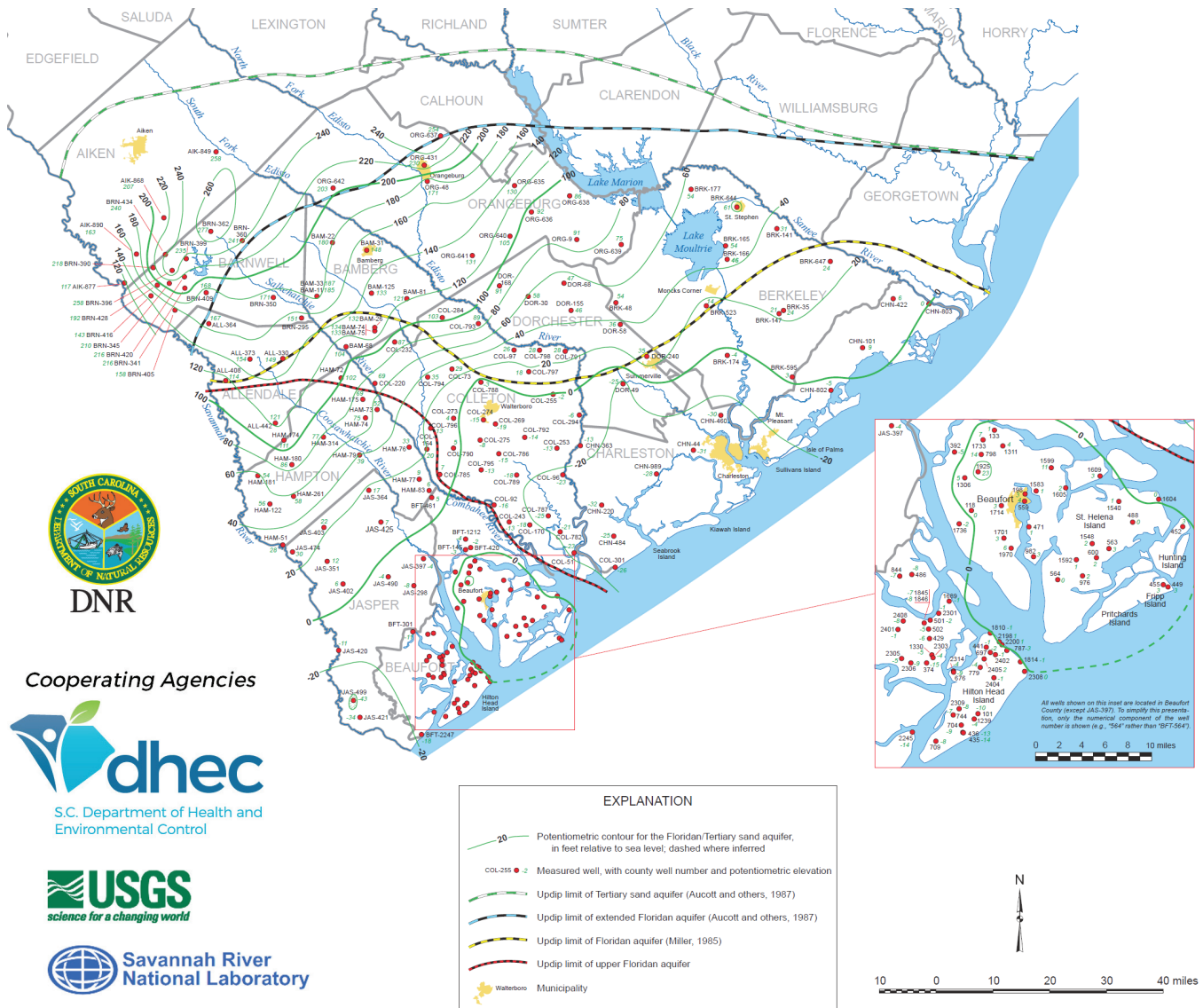
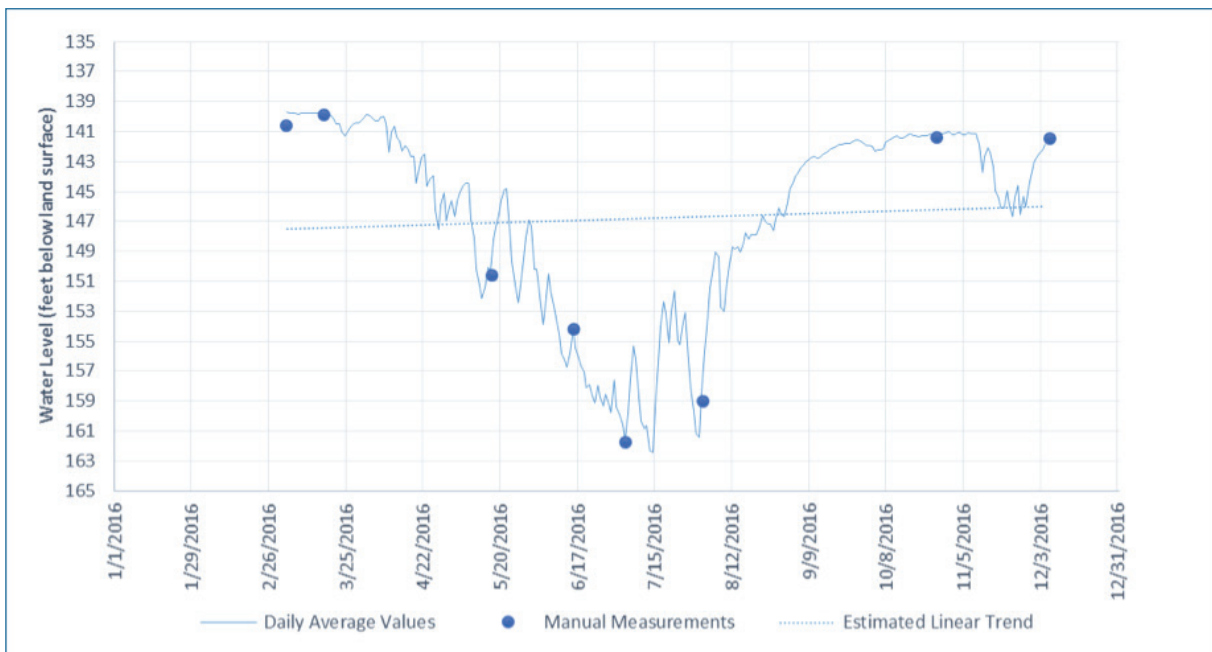


Figure 7: Floridan/Gordon aquifer potentiometric map (Wachob, Hockensmith, Luciano, & Howard, 2014).

## Crouch Branch Aquifer

The Crouch Branch aquifer, formerly Black Creek aquifer, is one of the most developed aquifers in the proposed Capacity Use Area (Campbell, et al., 2010). The Crouch Branch forms the uppermost regional Cretaceous aquifer (Aucott, Davis, & Speiran, 1987). It is characterized by fine-grained, sandy clay and calcareous clay beds in the eastern sections and is poorly sorted (Campbell, et al., 2010), but fairly uniform in permeability in the eastern region (Aucott, Davis, & Speiran, 1987). Lateral groundwater flow due to recharge is approximately 1.39 MGD (Campbell, et al., 2010). In 2004, withdrawals in the Aiken area from the Crouch Branch were approximately 1.27 MGD (Campbell, et al., 2010). Based on changes in groundwater elevations between the 2001 (Hockensmith, 2003a) and 2015 (Wachob and Czwartacki, 2016) potentiometric maps for the Black Creek/Crouch Branch Aquifer produced by SCDNR, the following declines in groundwater levels have been estimated: up to 5 feet in Aiken County, up to 5 feet in Allendale County, between 5 and 10 feet in Bamberg County, up to 5 feet in Barnwell County, up to 10 feet in Calhoun County, up to 5 feet in Lexington County and up to approximately 12 feet in Orangeburg County.

AIK-0344 (**Figure 8**) shows the seasonal fluctuations in groundwater levels in the Montmorenci area of Aiken County. While this is not long-term data, it does show the typical drop in groundwater levels during the summer months (a time of increased water use for drinking water, irrigation, etc.) and the recovery of groundwater levels towards the fall months as groundwater use declines.



**Figure 8:** Aiken County, AIK-0344 Crouch Branch aquifer average daily groundwater levels.

AIK-0824 (**Figure 9**) water levels indicate moderate fluctuations from May 1993 through February 1999, whence it begins a steady decline. Note a data gap exists from September 2000 to October 2012, with overall groundwater decline of 5.32 feet (179.94 feet to 185.26 feet). Beginning September 2012 water levels appear to be relatively stable.

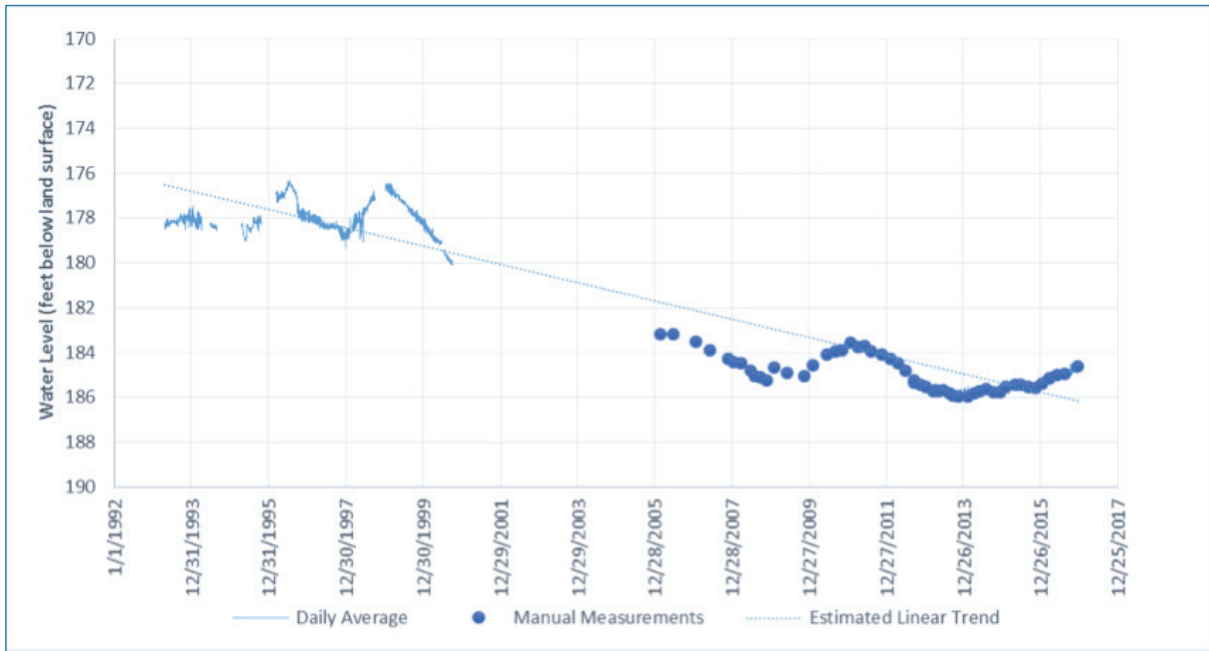


Figure 9: Aiken County, AIK-0824 Crouch Branch aquifer average daily groundwater levels.

AIK-0847 (**Figure 10**), as with AIK-0824, water levels indicate moderate fluctuations with an overall downward trend from May 1993 to September 2000 (23.31 feet to 26.91 feet). Note a data gap exists until January 2013, where the water level was 30.65 feet. The most recent data indicate greater annual variability, with a final measured depth of 28.86 feet in December 2015.

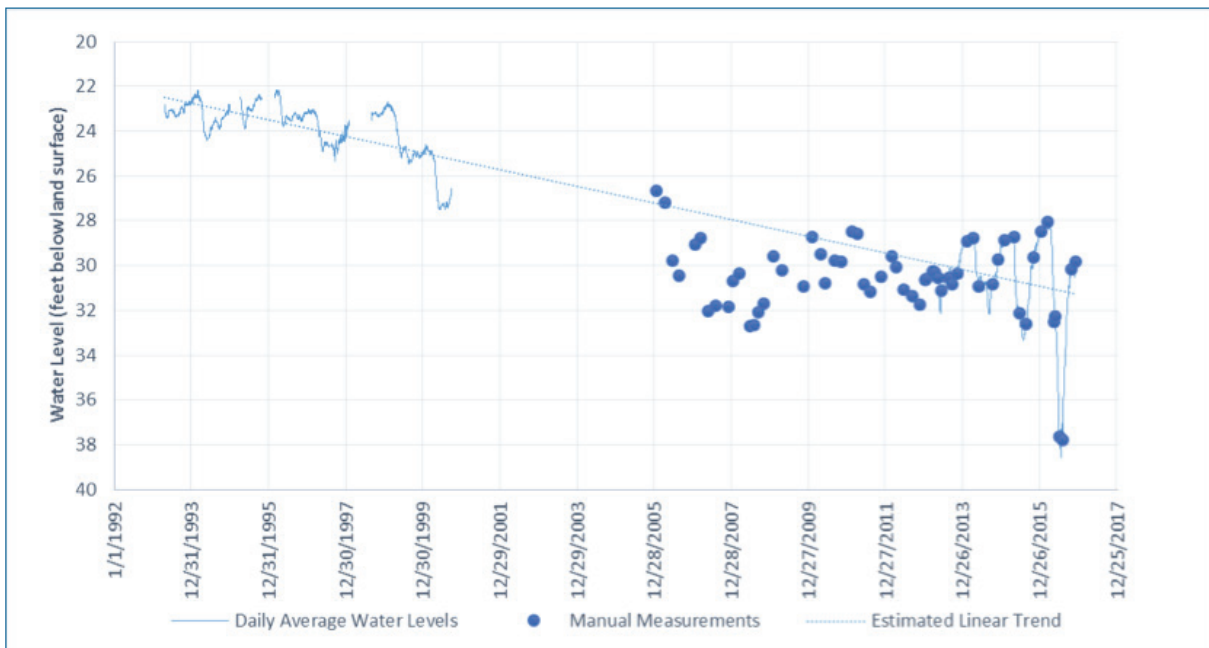
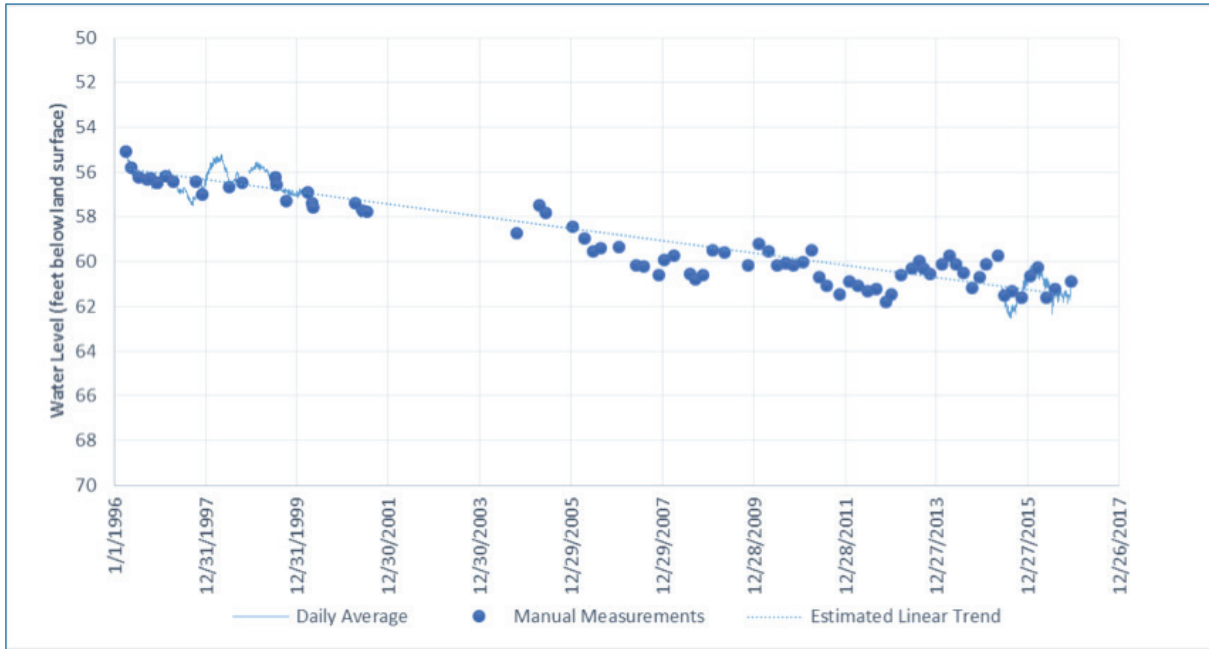


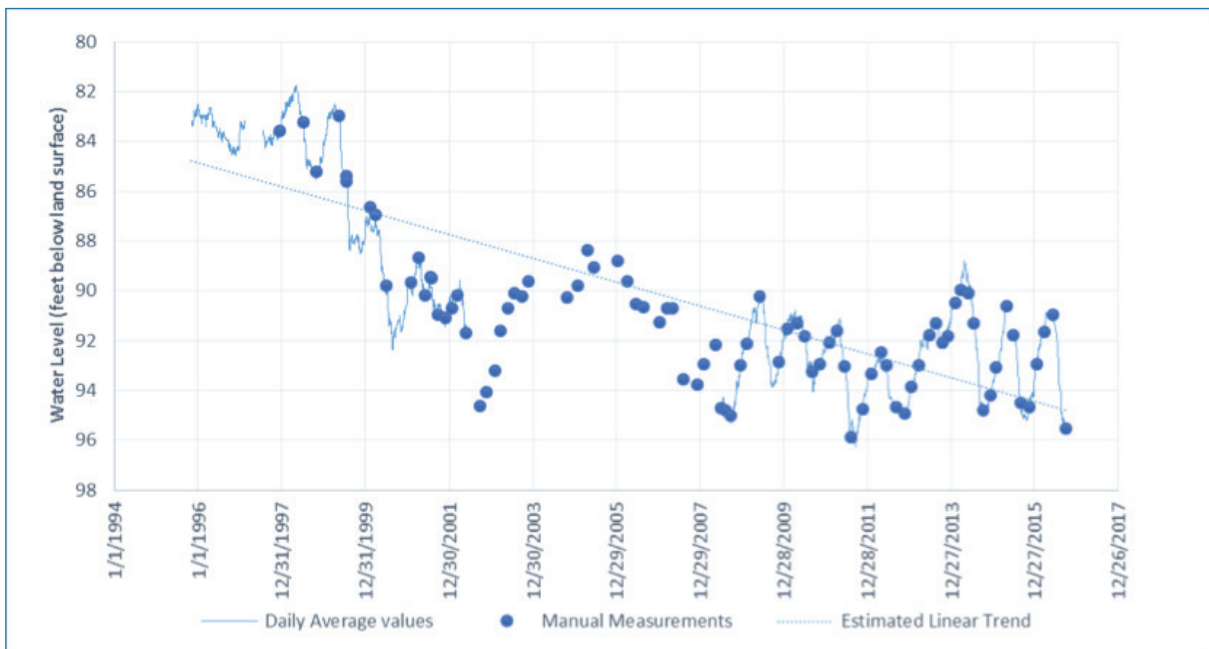
Figure 10: Aiken County, AIK-0847 Crouch Branch aquifer average daily groundwater levels.

AIK-2379 (**Figure 11**) measured water levels indicate a moderate decline through September 1997 with recovery reaching maximum in April 1998. Subsequently the measured water level has declined, with a minimum measured water level in August 2015 at 62.26 feet below land surface. This is a difference of approximately 4.4 feet from the minimum water level measured prior the noted data gap (57.91 in July 2001).



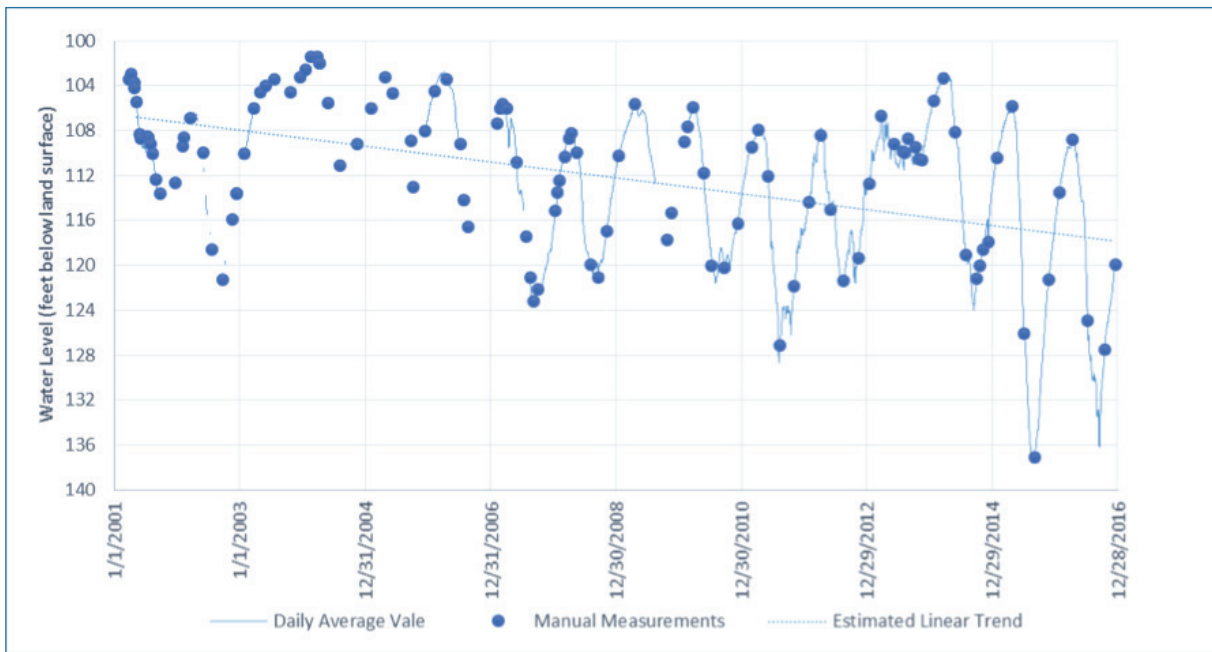
**Figure 11:** Aiken County, AIK-2379 Crouch Branch aquifer average daily groundwater levels.

ALL-0367 (**Figure 12**) has measured water levels which appear to mimic the response measured in ALL-0375. Data indicate a decline from April 1999 (82.69 feet) to May 2002 (91.21 feet). The overall trend stabilizes after 2002, but seasonal fluctuations are more exaggerated (up to 5.57 foot difference between April 2014 and October 2014).



**Figure 12:** Allendale County, ALL-0367 Crouch Branch aquifer average daily groundwater levels.

ORG-0393 (**Figure 13**) measured water levels decline over time. Seasonal fluctuations become more magnified over time with a measured range of 5.2 feet in 2001 to a measured range of over 30 feet in 2015.



**Figure 13:** Orangeburg County, ORG-0393 Crouch Branch aquifer average daily groundwater levels.

Figure 14 shows the most recent potentiometric map produced by DNR, showing the groundwater elevations in late 2015 in DNR monitoring wells for the Crouch Branch aquifer (Wachob & Czwartacki, 2016). There is one major cone of depression (sustained declines in groundwater levels centered on areas of pumping) in Georgetown County but none identified in the Western Region of the state.

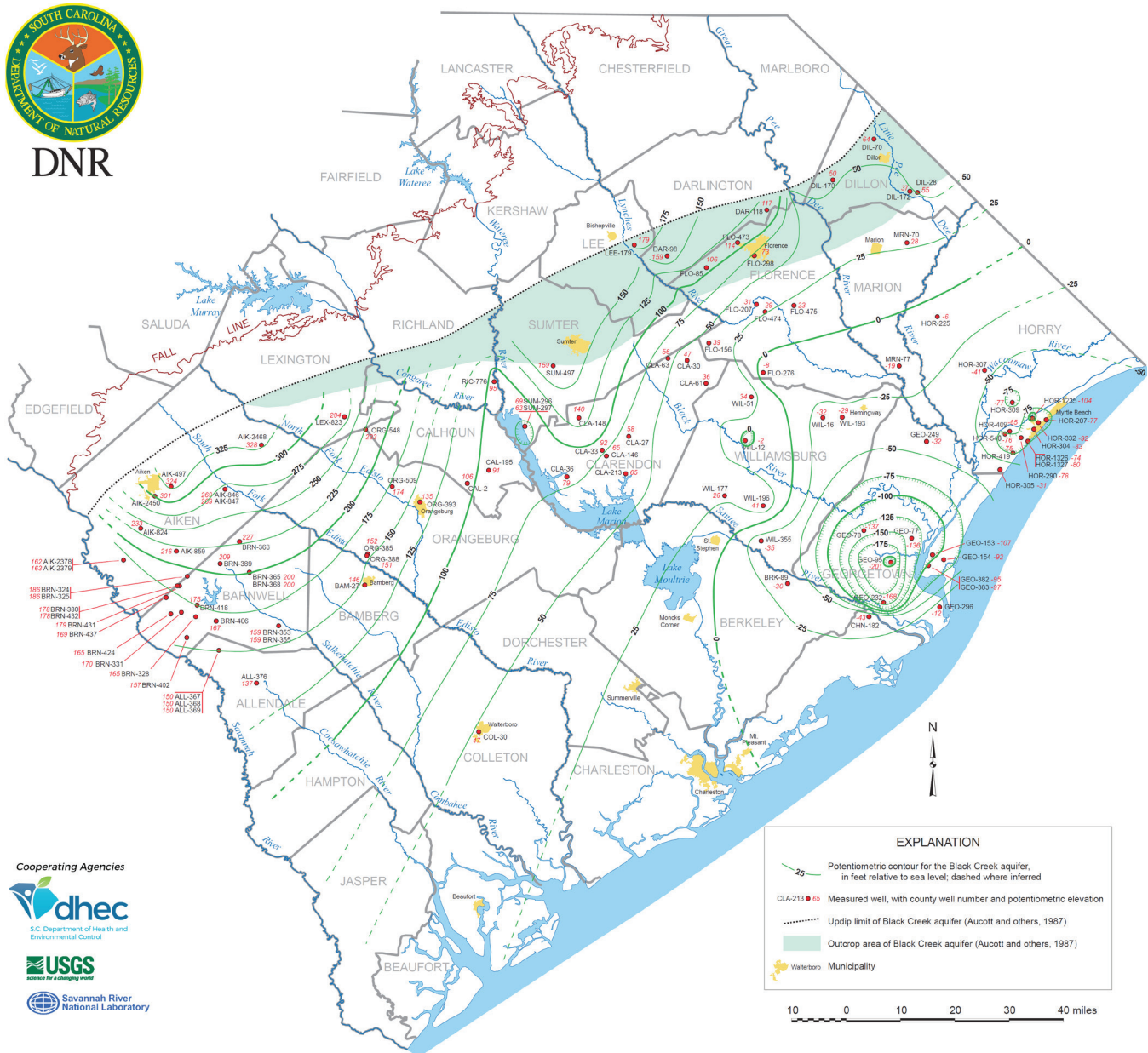


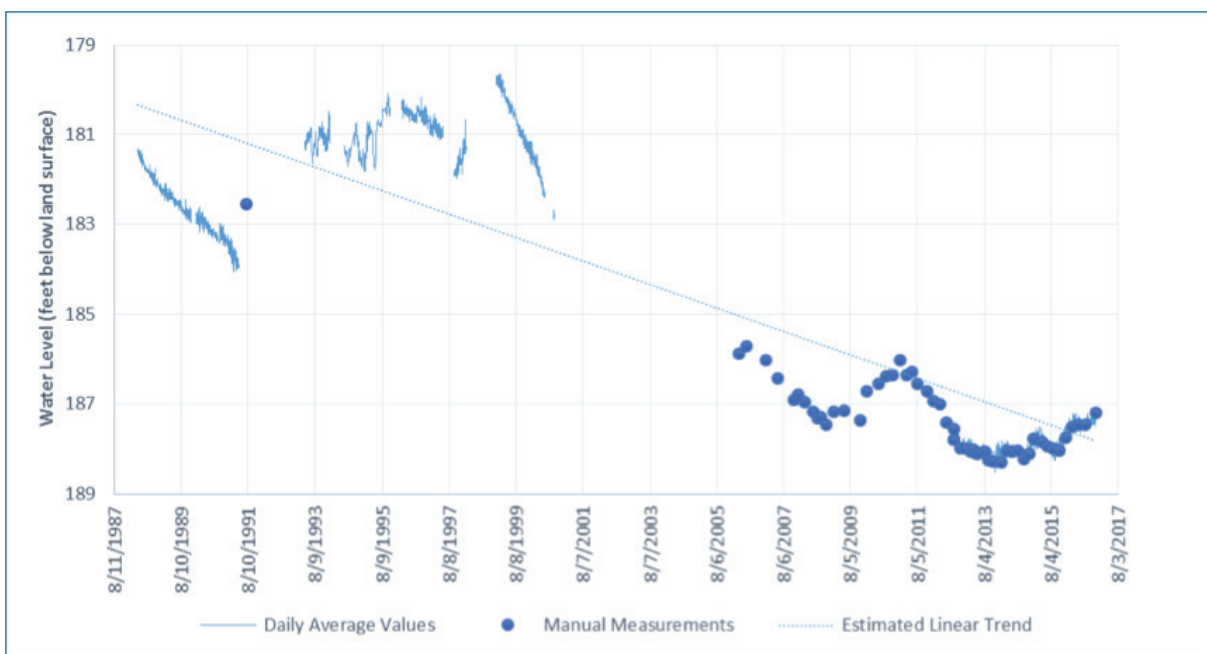
Figure 14: Black Creek/Crouch Branch aquifer potentiometric map (Wachob & Czwartacki, 2016).



## McQueen Branch Aquifer

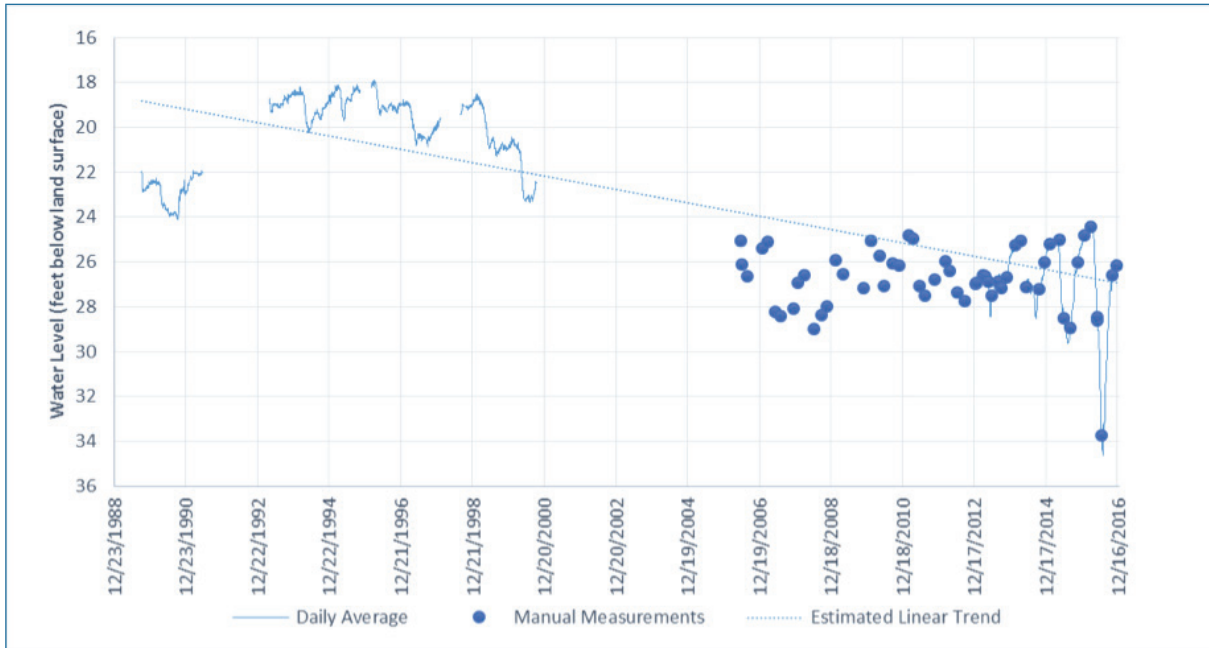
The McQueen Branch aquifer, formerly the Middendorf, along with the Crouch Branch aquifer, is the most developed aquifer in the Western Region of the state (Campbell, et al., 2010). It is characterized as unconsolidated, poorly sorted fine to coarse grained sand, and clayey sand, with some local gravel, which provides relatively constant hydraulic conductivity in the upper coastal plain area (Aucott W. R., 1988). In down-dip areas, it is confined from the top by the McQueen Branch confining unit, made up of clay beds (Campbell, et al., 2010). The confining unit is not as prevalent in the up-dip sections close to the fall line, causing the McQueen Branch and Crouch Branch aquifers to be combined in this region. Due to the coarse grained lithology, the McQueen Branch aquifer has produced wells with yields upwards of 1,500 gallons per minute, with reported withdrawals in the Aiken area of 5.41 MGD. Due to its productivity and relatively shallow nature, the McQueen Branch is an important water resource for this region, and is therefore important to preserve the integrity of the water resources within it. Based on changes in groundwater elevations between the 2001 (Hockensmith, 2003b) and 2014 (Wachob, 2015) potentiometric maps for the Middendorf/McQueen Branch aquifer produced by SCDNR, the following declines in groundwater levels have been estimated: up to 5 feet in Aiken County, up to 12 feet in Allendale County, up to 15 feet in Bamberg County, up to 10 feet in Barnwell County, up to 15 feet in Calhoun County, up to 10 feet in Lexington County and up to 15 feet in Orangeburg County.

AIK-0817 (**Figure 15**) measurements from May 1988 to April 1991 indicate a slight decline from 181.46 feet to 183.84 feet. In May 1993 water levels had recovered to original levels with subsequent measurements indicating slight temporal fluctuations and a steady measured decline until May 2000 (note data gap), whence water levels appear fairly constant, with temporal fluctuations measured.



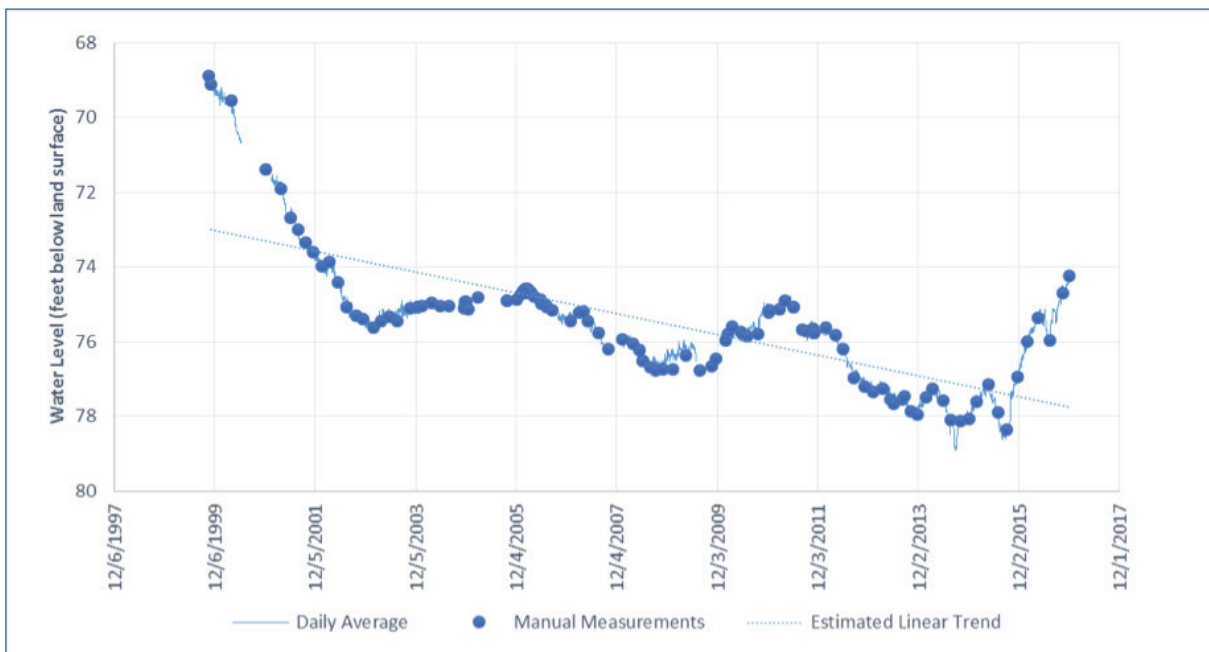
**Figure 15:** Aiken County, AIK- 0817 McQueen Branch aquifer average daily groundwater levels.

AIK-0826 (**Figure 16**) indicates an overall decline in measured water level from original data generated in October 1989 from 22.66 feet to 33.29 feet in July 2016.



**Figure 16:** Aiken County, AIK-0826 McQueen Branch aquifer average daily groundwater levels.

LEX-0844 (**Figure 17**) indicates an overall decline in measured water level from original data generated in November 1999 from 69.12 feet to 75.61 feet in January 2003. Measured water levels appear relatively stable from January 2003 through April 2012, with a slight decline until August 2015. The most recent data indicates a gradual recovery in this well.



**Figure 17:** Lexington County, LEX-0844 McQueen Branch aquifer average daily groundwater levels.

Figure 18 shows a potentiometric map constructed by SCDNR in late 2014 for the McQueen Branch aquifer (Wachob, 2015) and is a representation of the regional groundwater elevations in the McQueen Branch aquifer. In the eastern part of the state and near the coast, cones of depression (sustained declines in groundwater levels centered around areas of pumping) have developed, but no major cones of depression have been identified in the Western Region of the state. However, across Aiken, Allendale, and Barnwell Counties, groundwater elevation declines have been noted between 3 and 10 feet since the mid-1990s, with little to no recovery after drought conditions in southern Lexington County (Harder, Gellici, & Wachob, 2012).

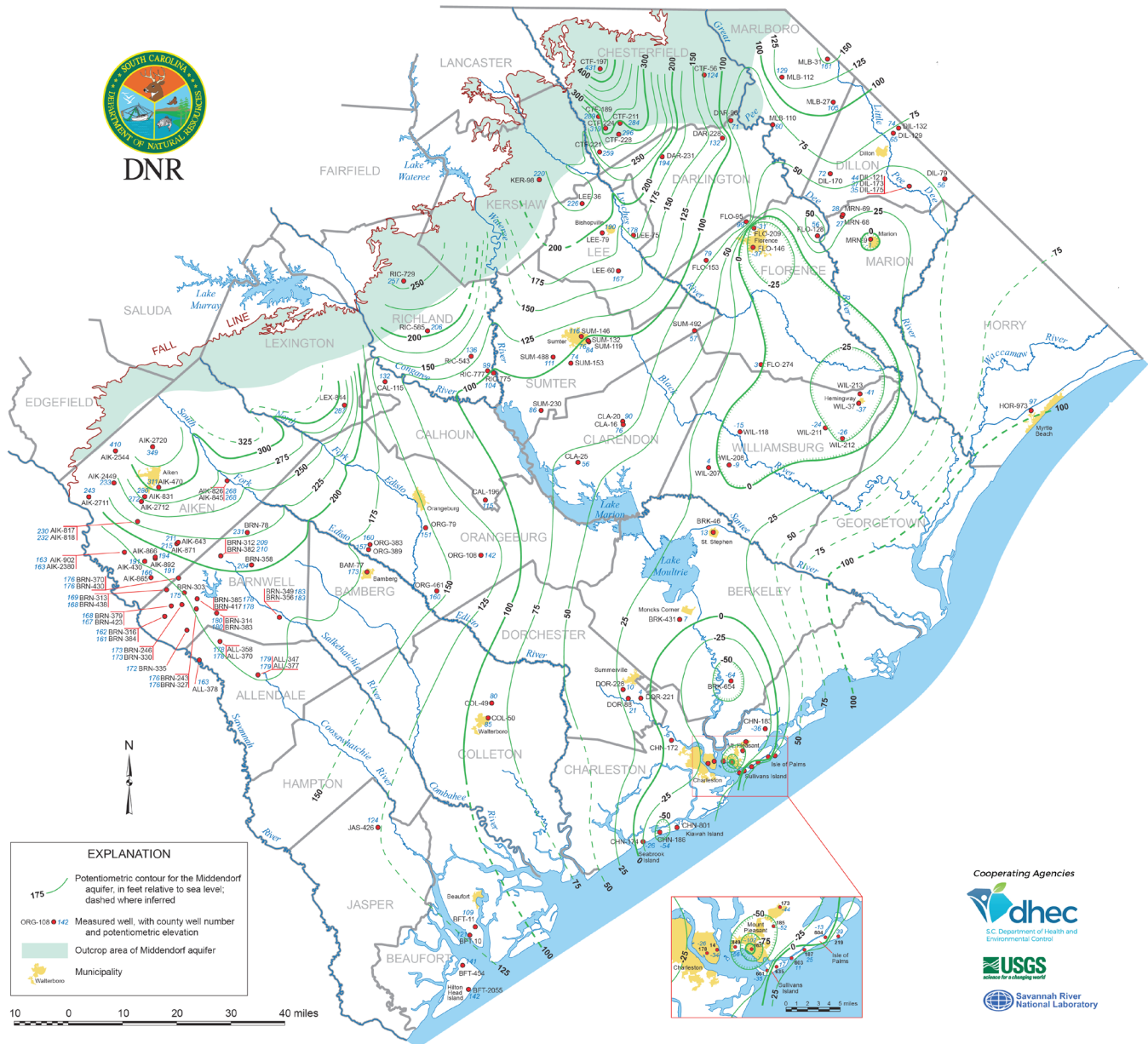


Figure 18: Middendorf/McQueen Branch potentiometric map (Wachob, 2015).

# Population and Water Use Increases

Currently Aiken County utilizes groundwater wells as the main source for drinking water supplies, but due to increasing concerns over the viability of the aquifers over time, some utilities have begun developing surface water as a supplement to the groundwater source. The population of Aiken County in 2010 was 160,099 and is expected to increase to approximately 182,500 by 2030, a 14% increase. The reported groundwater use for public water supply increased from 947.14 million gallons a year (MGY) in 1983 to 5,177.56 MGY in 2015. Lexington County is projected to increase in population by 27% between 2010 and 2030 (262,391 to 333,200). The increasing demand on water utilities to serve the expanding population will create increasing pressure on the groundwater resource in some areas of the county. Measured groundwater levels in monitor wells maintained by SCDNR have typically declined in most of the aquifers that are developed in this region of the state. Reported groundwater use by county is shown in Figure 19.

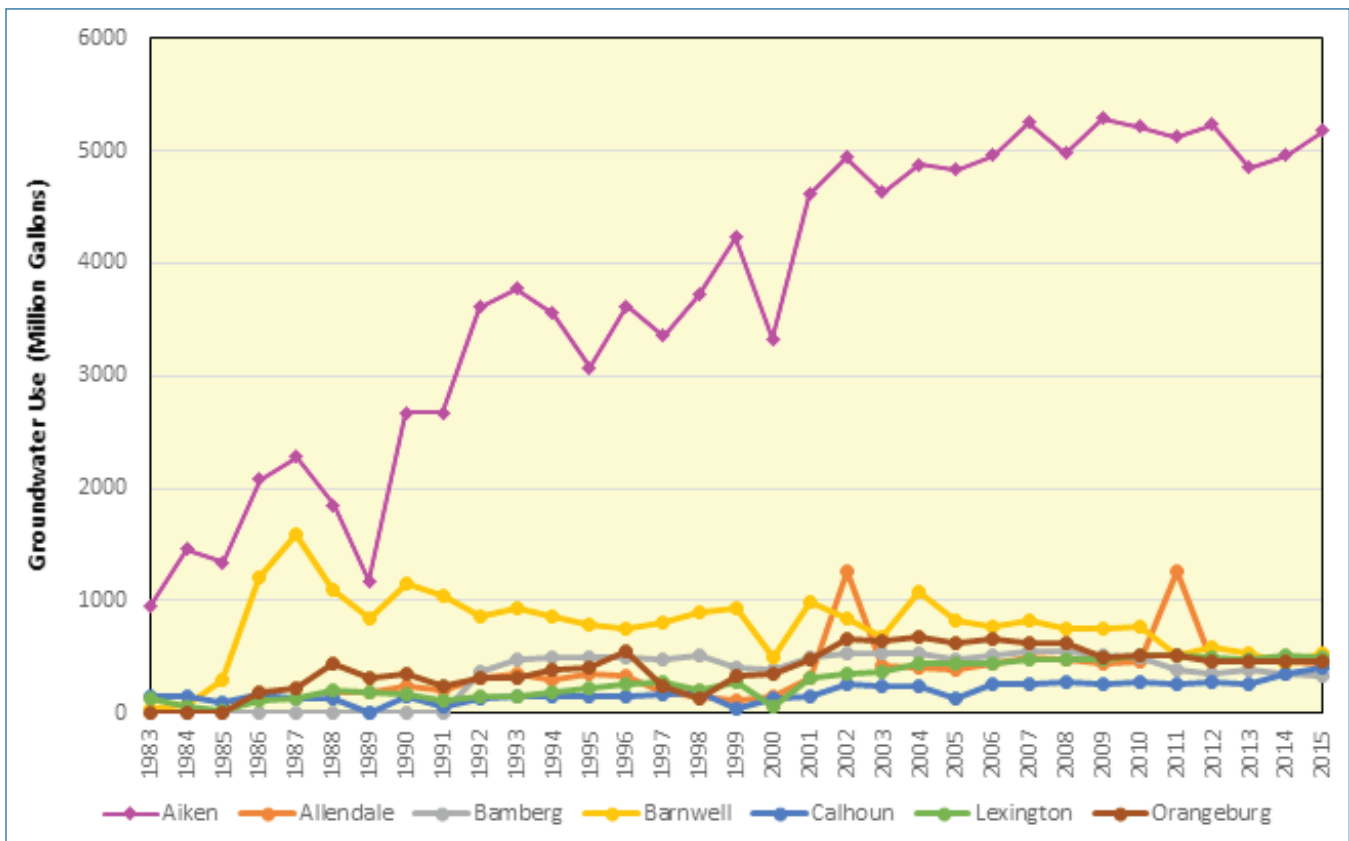


Figure 19: Reported public water supply use (groundwater) in the designated Western Region counties.

Although the population of Allendale, Bamberg, and Barnwell Counties are projected to decrease in the near future, it is anticipated that development of the aquifer systems will increase as agricultural use, as has been the case in Aiken, Calhoun, Lexington and Orangeburg Counties, which have seen upward trends in reported water use since 2009 (Figures 20 and 21).

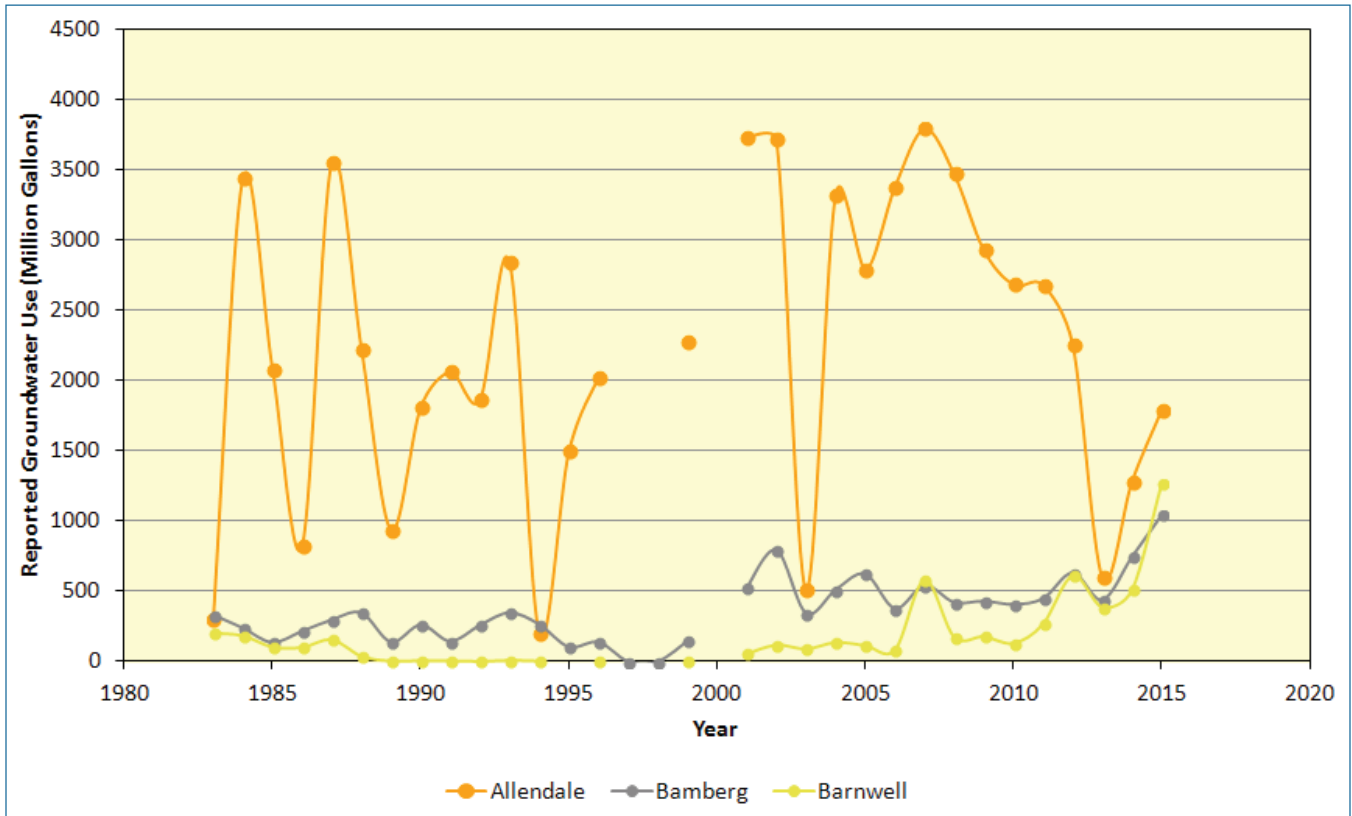


Figure 20: Reported agricultural groundwater use in Allendale, Bamberg, and Barnwell Counties.

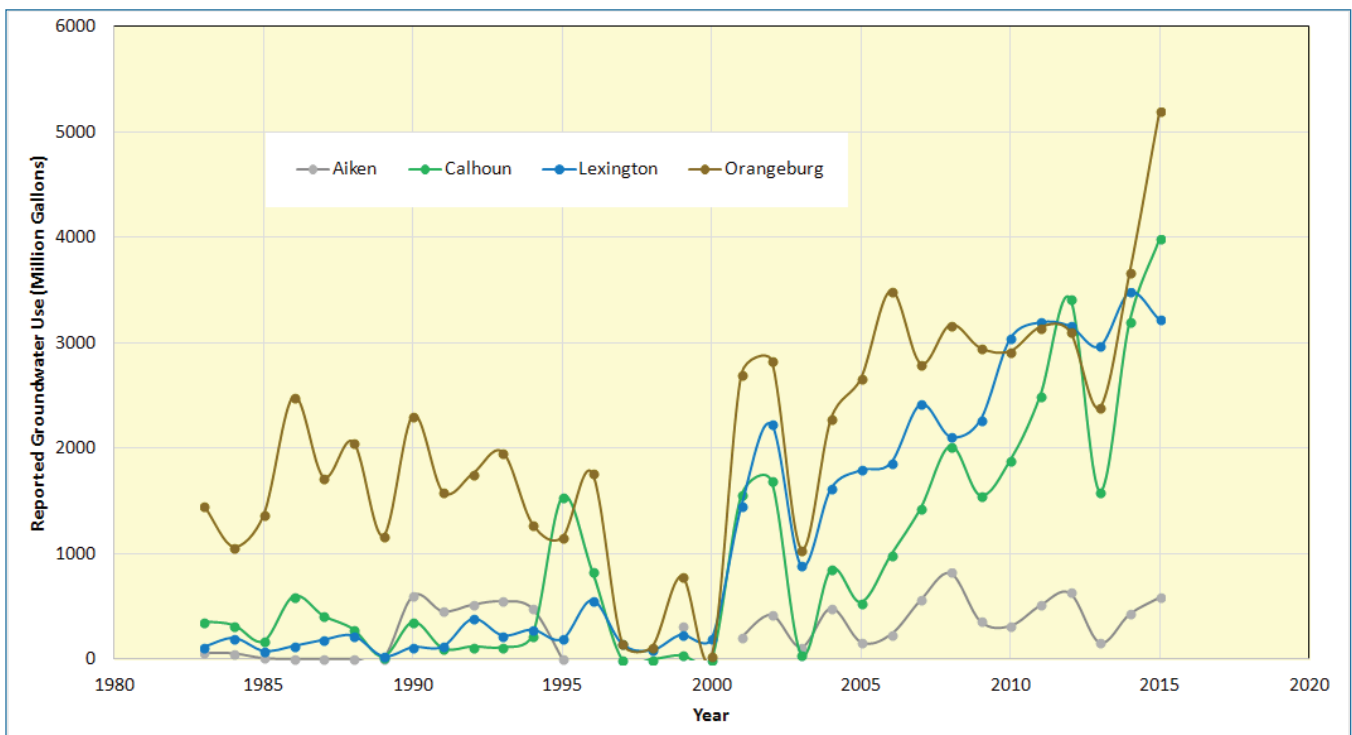


Figure 21: Reported agricultural groundwater use in Aiken, Calhoun, and Orangeburg Counties.

## Conclusions and Recommendations

The aquifers in large portions of the Western Region of South Carolina are hydrologically interconnected, indicating groundwater users within the proposed Western Capacity Use Area are utilizing the same resource. Reported groundwater withdrawals in the region have steadily increased and groundwater level declines have been observed in monitoring wells across the counties of concern. Demands on the groundwater resource will continue to increase with a growing population. As the development of the groundwater resource continues, further water level declines will be expected and the potential for adverse impacts to current and future groundwater users will become more frequent and serious over time.

As the proposed counties share the same resource in conjunction with portions of the Low Country Capacity Use Area and the Trident Capacity Use Area, it is appropriate to incorporate the counties of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg as the Western Capacity Use Area. If designated, the Western Capacity Use Area, in conjunction with the previously designated areas of the Low Country, Pee Dee, and Trident will place three quarters of the coastal plain counties under one reasonable and consistent regulatory program, thereby providing greater measures to prevent, mitigate, and abate potential unreasonable effects on the resource and those entities relying on that resource. Further, if designated, inclusion of the Western Capacity Use Area will, in part, address previous water management studies and reports produced by SCDNR requesting that the entire coastal plain become a Capacity Use Area (Badr, Wachob, and Gellici, 2004).

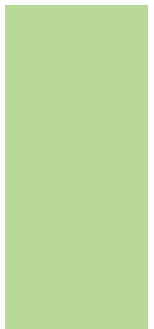
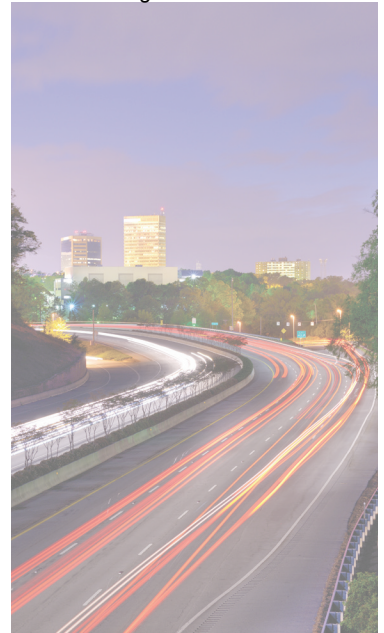
Based on the preliminary data available to the Department, which have been summarized in this report, Aiken County along with Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg counties have developed and utilized groundwater to the degree that coordination and regulation of groundwater supplies may be needed pursuant to the Groundwater Use and Reporting Act, Section 49-5-60. As such, this preliminary data is provided to facilitate the gathering of public input and any additional data or information that will help inform the potential designation of these counties as the Western Capacity Use Area.

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CHAPTER 39  
Eggs and Baby Chicks

ARTICLE 1  
Sale of Eggs and Baby Chicks Generally [Repealed]

**SECTIONS 39-39-10 to 39-39-40.** Repealed by 1994 Act No. 379, Section 2, eff May 10, 1994.

ARTICLE 3  
Provisions for the Labeling and Marketing of Eggs

**SECTION 39-39-110.** Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
  - (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
  - (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
  - (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
  - (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
  - (6) "South Carolina eggs" means eggs produced in this State.
  - (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
  - (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.
  - (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
  - (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
  - (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
  - (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.
- (New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75
- (New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-120.** Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, **producers**, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. **The license must be issued at no cost and in a form prescribed by regulations promulgated by the department. The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.**

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-121.** Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. **There is no fee for this license.**

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-122.** Maintenance of records and invoices of egg purchases and sales; facility inspections.

Wholesalers, distributors, and retailers shall maintain records and invoices of their egg purchases for a period of at least ninety days. These records and invoices must show the person or firm to whom the sale was made, the address of the person or firm, and the kind and quantity of eggs involved in the sale, except that this section does not require the filing of a copy of the invoice of a sale to a consumer. The commissioner or his authorized representative may enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks, or carriers where eggs are stored and inspected.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-130.** Shell egg standards, grades and weight classes.

The South Carolina standards, grades, and weight classes for shell eggs are the same as the United States standards, grades, and weight classes for shell eggs and their supplements and revisions as published by the United States Department of Agriculture, except as modified or rejected by regulations promulgated by the Commissioner of Agriculture.

HISTORY: 1962 Code Section 66-623; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-135.** Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg-Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-140.** Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act not less than two inches by four inches or not less than eight square inches on one end of each case. On this label must be printed or stamped, legibly in letters not less than one-fourth of an inch in size, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The name of the state of origin may be given. If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The state of origin also may be given.

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-141.** Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, not less than eight by eleven inches, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters not less than one inch in height, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin of eggs may appear on the placard.~~

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provided to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-150.** Unlawful acts.

It is unlawful to:

- (1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;  
(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.
- (2) use the word "nulaid", "country", "hennerly", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;
- (3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;
- (4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";
- (5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-160.** Enforcement; promulgation of rules and regulations.

The Commissioner of Agriculture is charged with the enforcement of this chapter and is authorized to promulgate regulations necessary to carry out its provisions and purposes.

HISTORY: 1962 Code Section 66-627; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-170. Exemptions.**

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;
- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.
- (4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.
- (5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.
- (6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-180. Penalties.**

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SUBARTICLE 6****SALVAGE OPERATIONS DEALING IN FOODS AND COSMETICS****5-360. Definitions.**

The definitions and interpretations contained in § 39-25-20 of the South Carolina Food and Cosmetic Act are applicable to such terms when used in these Regulations. The following definitions shall also apply:

- (1) "Act" means the South Carolina Food and Cosmetic Act.
- (2) "Department" shall mean the South Carolina Department of Agriculture.
- (3) "Commissioner" shall mean the Commissioner of Agriculture and/or his designated representative.
- (4) "Cosmetic" shall mean (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.
- (5) "Food" shall mean (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.
- (6) "Salvager" shall mean a person, firm or corporation engaged in the business of reconditioning, labeling, ~~relabeling~~, sorting, cleaning, culling or by other means salvaging and who sells, offers for sale, or distributes for human or animal consumption any salvaged food, feed, any salvaged cosmetic or any other products of similar nature that may have been contaminated by fire, water, smoke, chemicals, transit, or by any other means.
- (7) "Salvage Auction Firm" means a person engaged in the business of selling salvaged food or salvaged cosmetics for his own account or for others, irrespective of the manner in which he is compensated or receives consideration with respect to such sale.
- (8) "Salvage Distributor" means a person engaged in the business of selling, storing, offering for



sale, distributing, peddling, or otherwise trafficking in salvaged food, feed, or cosmetic or unsalvageable food

or cosmetics.

(9) "Hazardous substances" is a substance or mixture of substances which is toxic, corrosive, an irritant, flammable, or which generates pressure through heat, decomposition or other means; or which has been designated by the United States Product Safety Commission as a strong sensitizer, or a radioactive material or which "may cause substantial personal injury or substantial illness during or as a proximate result of any reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children."

(10) "Perishable" shall mean any food or cosmetic of such type or in such condition or physical state as it may spoil or otherwise become unfit for human consumption or use.

(11) "~~Potentially hazardous food~~" "Time/Temperature Control for Safety (TCS) Food" shall mean any perishable food which consists in whole or in part

of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(12) "Safe temperatures" as applied to potentially hazardous food means an air temperature of 45° F. or below and 140° F. or above.

(13) "Salvageable merchandise" is any food, feed, or cosmetic which can be reconditioned, labeled, ~~re-labeled~~, repackaged, ~~re-coopered~~, sorted, cleaned, culled, trimmed, or by any other means salvaged and which brings such item into compliance with requirements of the Act and Regulations under this Act and its amendments, to the satisfaction of the Commissioner, and which is not deleterious to the health of the consumer.

(14) "Salvaged merchandise" means any food or feed item or cosmetic which (or the container or label of which) may have been subject to damage, contamination, deterioration, or other adverse effect by fire, water, smoke, chemicals, impact, exposure to the elements, temperature change, or any other forces or means which may cause the same to fail to be in compliance with the South Carolina Food and

Cosmetic Act and its Regulations.

(15) “Wholesome” shall mean food, feed, or cosmetics in sound condition, clean, free from adulteration and otherwise suitable for human or animal consumption or use.

**5-361. ~~Permits.~~ Registration**

(1) No person shall act as a salvager in South Carolina unless he has a ~~permit~~ Registration Verification Certificate (RVC) as provided in these

Regulations issued by the Commissioner.

(2) There shall be five ~~permit~~ registration classifications for salvagers. These shall be designated as follows:

(a) **General Salvager**—The General Salvager is required to have proper facilities for cleaning and sanitizing food, feed, and cosmetic containers that are salvageable.

~~(b) **Railroad Salvager Only**—The Railroad Salvager may segregate and clean soiled containers resulting from unit breakage or damage, which may be done with a cloth dampened with potable water.~~

(c) **Out-of-State Salvage Distributor**—The Out-of-State Salvage Distributor may do general salvaging provided adequate facilities are made available and the salvage work is done under the supervision of the Permitting, Licensing, or regulatory agency of said state. ~~Department.~~ The Out-of-State Salvage Distributor must possess a permit, license, or certificate from the state of origin verified by the Department.

(d) **Salvage Distributor**—The Salvage Distributor may only distribute and sell salvaged food, feed, and cosmetics after they have been reconditioned. In addition, the Salvage Distributor may do a minimal amount of segregating and cleaning soiled containers resulting from unit breakage or damage, which may be done with a cloth dampened with potable water.

(e) **Salvage Auction Firm**—The Salvage Auction Firm must have a business location and address from which business is conducted. An auction firm may not recondition or reprocess foods, feeds, or cosmetics unless it also holds a General Salvager ~~Permit~~ Registration Verification Certificate.

(3) Applications for ~~permits~~ Registration Verification Certificates shall be made upon a form provided by the Commissioner. A person subject to inspection pursuant to chapter SECTION 39-25-210 may not engage in the business in any manner without first registering with the department. Registration must

be renewed annually thereafter on or before the first day of January on forms provided by the department.

**(f) – Salvage Warehouse/Storage Facility**

Application for permit renewal shall be made on or before June the first in each year for the permit year beginning

~~the following July the first. There shall be no charge for this application.~~

(4) The applicant shall satisfy the Commissioner that he has adequate physical facilities for salvaging Food, feed, and cosmetic products. If so satisfied, the Commissioner shall issue to the applicant a ~~permit~~ Registration Verification Certificate which shall be nontransferable. Where a person has more than one salvage operation, a separate ~~permit~~ Registration Verification Certificate is required for each location.

(5) The Commissioner may decline to grant a ~~permit~~ Registration Verification Certificate or may suspend or revoke a ~~permit~~ Registration Verification Certificate already granted, after due notice to the applicant by mail or otherwise, when it appears (1) that any statement in the application or upon which it was issued is or was false or misleading, (2) that the applicant or ~~permit~~ Registration Verification Certificate holder does not have adequate physical facilities for salvaging food, feed, and cosmetic products, or

(3) that the applicant has failed to comply with any of the provisions of these Regulations.

(6) The ~~permit~~ Registration Verification Certificate shall be displayed conspicuously in the place of business.

**5-362. Notification.**

A ~~permit~~ Registration Verification Certificate holder shall immediately notify the Department of any purchase of salvageable or distressed foods, feeds or cosmetics. Such notification shall be made prior to the beginning of any salvage operations. ~~Telephone numbers will be furnished to all salvagers upon request.~~

**5-363. Records.**

A record or receipt of damaged merchandise, merchandise found to be unfit, and salvaged merchandise shall be kept by salvagers and shall be kept open for inspection by the Commissioner. These records shall be kept on the premises of the salvager for a period of not less than one year following the completion of transactions involving a lot of merchandise.

**5-364. Movement of Seized Foods and Cosmetics.**

(1) It shall be unlawful for foods, feeds, or cosmetics held under seizure or embargo by the Commissioner to be moved to a different location without prior permission by the Commissioner.

(2) All movements of seized or embargoed foods, feeds, or cosmetics are to be made only under the supervision of the Commissioner.

(3) Food, feed, and cosmetic products shall be moved from the site of a fire, flood, wreck or other cause as expeditiously as possible so as not to become putrid, unwholesome, rodent or insect harborage, or otherwise a menace to public health.

(4) All seized or quarantined foods, feeds, or cosmetics, prior to reconditioning and release from seizure, shall be transported only in vehicles provided with devices to render them capable of being locked and sealed. Where highly perishable foods, feeds, or cosmetics are transported, this is to be done in vehicles provided with adequate refrigeration for product maintenance.

**5-365. Labeling and Relabeling.**

(1) All salvaged merchandise must display a proper label on the packaging unless otherwise exempted by the South Carolina Food and Cosmetic Act. Cans or packages without full labeling information shall not be sold individually or by any multiple can, package, or case sale.

(2) All labels on a closed container or package of food, whether printed, embossed, or stamped thereon, shall be easily and clearly readable and legible and shall show all data or information required under the "General Regulations for the Enforcement of the South Carolina Food and Cosmetic Act, Article IV-FOOD." Cosmetics shall comply with "Article V-COSMETICS" of the Regulations.

~~(3) Where original labels are removed from containers which are to be resold, salvager replacement labels must show the name of the salvager as the distributor.~~

**5-366. Building Exterior and Grounds.**

The grounds around a salvage operation under the control of the operator or owner shall be free from conditions which may result in the contamination of food including, but not limited to, the following:

(1) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the

immediate vicinity of the operation which may constitute an attractant breeding place, or harborage for rodents, insects, or other vermin.

(2) Inadequately drained areas and excessively dusty roads, yards, or parking lots which may constitute a source of contamination to food products by providing a breeding place for insects, microorganisms, or other vermin.

(3) Inadequate and open garbage bins, containers, pits, or cans used for disposal which may allow pilferage or which may be an attraction for insects, rodents, or other animals.

#### **5-367. Building Construction.**

All salvage operations shall be performed in buildings or structures with facilities, equipment and procedures which meet the following requirements:

(1) The exterior shall be so designed, fabricated, and finished as to ~~minimize the easy~~ prevent the entrance of

insects, birds, rodents, and other vermin.

(2) All necessary ventilation openings shall be effectively screened against insects, rodents, and birds.

(3) All service connections through the exterior wall including water, gas, electrical, and refrigerator connections, shall be grommeted or sealed to prevent the entrance of insects, birds, and rodents.

#### **5-368. Physical Layout Requirements.**

All General Salvagers must have at least the following rooms for normal operation: (1) Receiving room, (2) Reconditioning (cleaning) room and (3) Storage room for reconditioned merchandise. If retail sales are made on the premises, a separate room shall be provided for this purpose. Where frozen or refrigerated foods are handled, refrigerators, freezer rooms and/or freezer cabinets shall be provided.

(1) The Salvage Receiving room shall be separated from other rooms by a solid wall divider. All

Foods, feeds, and cosmetics which are known to be unsalvageable shall be disposed of and removed from the

receiving room as soon as possible.

(2) The Reconditioning room shall be suitably arranged and equipped, providing for the actual cleaning and reworking of the salvageable merchandise. Effective bactericidal treatment of salvageable merchandise shall be done by a method approved by the Commissioner as being effective in destroying microorganisms.

(3) The Storage room shall be used only for storage of reconditioned and undamaged foods, feeds, or cosmetics.

**5-369. Sanitation Requirements for Receiving, Reconditioning, and Storage Areas.**

(1) Floors shall be easily cleanable, smooth and of tight construction. Floors shall be of nonabsorbent material or shall be covered with a nonabsorbent coating.

(2) The joints at floor-wall junctures shall be tight and without cracks and tunnels.

(3) The floors shall be kept clean and in good repair.

(4) The surface of walls and ceilings shall be reasonably smooth and easily cleanable.

(5) All walls and ceilings shall be kept clean and in good repair.

(6) All openings to the outside shall have tight fitting doors and windows.

(7) If doors or windows are left open for ventilation, they shall be properly screened or protected to prevent ~~easy~~ entry of birds, rodents, insects, or other vermin.

(8) Reconditioning areas shall be adequately lighted so as to permit the activity for which the premises are used to be carried on safely and to permit effective cleaning and inspection of reconditioned goods.

(9) Light bulbs, fixtures, skylights, or other glass suspended over exposed foods shall be of safety type or otherwise protected to prevent food contamination in case of breakage.

(10) The water supply shall be adequate, of a safe and sanitary quality, and from a source approved by the Department.

(11) All apparatus, utensils and appurtenances used in the handling and reconditioning of salvage goods shall be so constructed and placed that they can be thoroughly cleaned. Such equipment shall be

kept clean and sanitary and in good repair.

(12) No person shall live or sleep in any building used as a salvaging plant. ~~unless the salvaging plant or work room of such salvaging plant is separated by impervious walls without doors or windows or other openings from the parts of the building used for living or sleeping quarters.~~

(13) Vats, sinks and other washing equipment, provided with hot and cold running water and proper drains, shall be available for cleaning, rinsing, and bactericidal treatment of food containers to be reconditioned. Necessary equipment for drying, buffing, relabeling and repacking shall be provided where required.

(14) All employees shall be clean at all times and shall wear clean, washable clothing and hair restraints, where the operation requires. They shall not smoke or chew tobacco where unpackaged foods, feeds, or cosmetics are handled.

(15) No person suffering from or afflicted with a contagious or infectious disease shall be employed in or about any part of a salvaging plant.

(16) The General Salvager shall provide a conveniently located toilet which shall be kept clean and in good repair. The toilet room shall be completely enclosed and well lighted. A hand washing facility shall be provided adjacent to or in the toilet room and shall be kept clean and in good repair. A sign directing employees to wash their hands before returning to work shall also be placed in all toilet rooms.

#### **5-370. General Requirements for Sales Areas.**

All foods, feeds, and cosmetics displayed in the sales area (whether for sale on a retail basis or wholesale

basis) shall be wholesome and unadulterated. The following shall also apply:

(1) Packed foods for human consumption in cloth or paper containers and packages shall not be stored directly on the floor.

(2) Canned and packaged food and cosmetic display racks and shelving shall be kept clean and in good repair.

- (3) ~~All~~ No unwrapped cereal, bakery, meat and candy products shall be on displayed ~~in a sanitary container or showcased~~ and as to protected from handling by the public.
- (4) Metal food containers shall be free of seam, rim, and severe distortions and body dents as well as leaks.
- (5) Cereal products, including but not limited to grits, flour, meal and breakfast cereals, as well as other food items packaged in paper or cloth containers, shall be free from open tears, rips, insects, and water damage.
- (6) Animal foods shall be displayed separately from human food products.
- (7) ~~Any article of food normally used for human consumption but intended by the establishment to be used other than for human consumption shall be marked by the owner in accordance with methods described by the Department in such a way as to indicate plainly that the article is not to be sold as human food.~~
- (8) Perishable and ~~potentially hazardous foods~~ Time/Temperature Control for Safety (TCS) Foods shall be stored and/or displayed at a safe temperature in keeping with good trade practices to insure that when the food reaches the consumer it is safe and fit for human consumption.
- (9) All refrigerated food shall be held at an air temperature of 45°F or lower and display cases, food storage refrigerators and walk-in coolers shall be equipped with an accurate visible thermometer located in the warmest storage area. All coolers shall be kept clean and in good repair.
- (10) All frozen food shall be held at an air temperature of 0°F. or lower. The internal product temperature shall not exceed 10°F. at any time.
- (11) If both salvaged and **non-salvaged** merchandise are offered for sale on the same premises, all salvaged merchandise must be displayed in a section separate and apart from **non-salvaged** merchandise
- or the salvaged merchandise must be stamped or marked plainly to indicate to the consumer that it is salvaged or the non-salvage merchandise must be stamped or marked plainly to indicate to the consumer that it is non-salvage merchandise. If salvaged merchandise is displayed in a separate section, such section must be designated by a placard or sign with the following wording “Salvaged Merchandise” of sufficient size and contrast to be readily seen by the consumer.

### **5-371. Waste Disposal.**



- (1) All liquid wastes resulting from cleaning equipment and floors, toilets, hand washing facilities, refrigeration devices, and air conditioners, shall be disposed of in a public sewage system or other approved method.
- (2) All garbage and rubbish containing food wastes prior to disposal, shall be kept in leak-proof, nonabsorbent, easily cleanable containers so as to be inaccessible to rodents, insects, and other vermin.
- (3) All areas in a salvage operation shall be free from unnecessary litter, rubbish, paper, empty containers and other material which might serve as a harborage for rodents, insects, or other vermin.
- (4) All garbage and rubbish shall be disposed of at regular intervals of sufficient frequency and in such a manner as to prevent objectionable conditions.
- (5) All unsalvageable merchandise must be denatured or disposed of in a manner approved by the Commissioner.

**5-372. Rodents, Insects, and Other Vermin.**

- (1) All reasonable measures shall be taken to protect against the entrance, breeding or presence of rodents, birds, flies, roaches, weevils, and other vermin in a salvage operation or establishment.
- (2) ~~Unwrapped~~ protected foods or cosmetics shall be covered or adequately protected when using aerosol or fogging methods for applying approved pesticides for vermin control.
- (3) Rodent control poisons shall be placed in covered bait boxes to prevent spillage or possible contamination of food and danger to employees. The bait boxes shall be properly labeled with a warning notice. Bait boxes containing loose poison shall not be used in the General Sales Area.
- (4) Pesticides and rodenticides used shall be subject to approval by the Department and shall be applied in accordance with the manufacturer's labeled instructions.

**5-373. Miscellaneous.**

The provisions of these Regulations are in addition to and are not in lieu of the provisions of law or regulations which otherwise or also apply to a Salvager. The Department shall take any other action or

procedure necessary to insure that only wholesome food, feed, and cosmetics are held for sale and are sold by such establishment.

*Chair Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

## **Legislative Oversight Committee**

*Katherine E. (Katie) Arrington  
Gary E. Clary  
MaryGail K. Douglas  
Phyllis J. Henderson  
Joseph H. Jefferson Jr.  
Mandy Powers Norrell  
J. Todd Rutherford  
Tommy M. Stringer  
Bill Taylor*



*William K. (Bill) Bowers  
Neal Collins  
Raye Felder  
William M. "Bill" Hixon  
Robert L. Ridgeway III  
James E. Smith Jr.  
Edward R. Tallon Sr.  
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## **South Carolina House of Representatives**

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Research Analyst/Auditor*

**Room 228 Blatt Building**

June 16, 2017

The Honorable Hugh E. Weathers  
Commissioner, Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211-1280


Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your recent presentation to the Subcommittee on June 15, 2017.

During this meeting, we discussed the agency's recommendations for law changes. It was helpful to view the draft language you kindly provided for three of the agency's recommendations: (1) model feed law proposed by the American Association of Feed Control Officials; (2) proposed revisions to Title 39, Chapter 39 (Provisions for the Labeling and Marketing of Eggs); and (3) proposed revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics). To assist discussion of the other agency recommendations, please provide the Subcommittee with similar draft language (i.e., strike through and underline format).

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

  
Signature Redacted

Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

## *Appendix K. June 22, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - June 15, 2017 - Meeting Minutes
  - Department of Agriculture
    - Letter from Oversight Subcommittee to Department of Agriculture (June 16, 2017)
    - Study status
    - Agency's recommended statutory changes (June 15, 2017)
    - PowerPoint - Agency's recommended statutory changes (June 15, 2017)
  - Human Affairs Commission
    - Study status
    - PowerPoint - Agency history and operations (June 22, 2017)
    - Fact Sheet - History, mission, goals, and deliverables
- Correspondence after meeting
  - Letter from Oversight Subcommittee to Department of Agriculture (June 27, 2017)
    - Follows up to the June 22, 2017, work session, by requesting additional information from the agency relating to its recommendations.
  - Email from Department of Agriculture about the agency's recommendations (July 10, 2017)
    - Provides information in response to the Subcommittee's June 27, 2017 letter.

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Thursday, June 22, 2017*

*10:00 a.m.*

*108-Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes
- II. Discussion of the study of the Department of Agriculture
- III. Discussion of the study of the Human Affairs Commission
- IV. Adjournment



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

Thursday, June 15, 2017 at 10:00 am in Room 427

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Thursday, June 15, 2017, in Room 427 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, and Representative Neal A. Collins.

### **Minutes**

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Norrell moved to approve the minutes from the Subcommittee’s meeting on May 2, 2017, and to approve the minutes as corrected (scrivener’s error) from the February 28, 2017, meeting. A roll call vote was held, and the motion passed.

<b>Rep. Norrell motions to approve the minutes from the May 2, 2017 meeting, and to approve minutes as corrected (scrivener’s error) for the February 28, 2017 meeting minutes:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway			✓	
Rep. Funderburk	✓			

### **Discussion of the Department of Agriculture**

- I. Vice-Chair Funderburk provides an update of the Subcommittee’s work related to the Department of Agriculture. She stated the purpose of this meeting is to discuss any agency recommendations the agency may have for the Subcommittee’s consideration.
- II. Vice-Chair Funderburk reminds everyone that has previously been sworn in that they remain under oath for any testimony before this Subcommittee or the full Committee. Vice-Chair Funderburk swears in Derrick Michael Underwood, Assistant Commissioner for the Department of Agriculture.
- III. Commissioner of Agriculture, Hugh E. Weathers, presents the agency’s thoughts on recommendations for law changes for the Subcommittee to consider. The agency’s presentation to the Subcommittee is available online for the public to view.
- IV. Members ask questions, which different representatives of the agency answer: Commissioner Weathers; Assistant Commissioner Underwood (Consumer Protection); and Assistant Commissioner Aaron Wood (Agency Operations).
- V. There being no further business, the meeting was adjourned.

*Chair Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

## **Legislative Oversight Committee**

*Katherine E. (Katie) Arrington  
Gary E. Clary  
MaryGail K. Douglas  
Phyllis J. Henderson  
Joseph H. Jefferson Jr.  
Mandy Powers Norrell  
J. Todd Rutherford  
Tommy M. Stringer  
Bill Taylor*



*William K. (Bill) Bowers  
Neal Collins  
Raye Felder  
William M. "Bill" Hixon  
Robert L. Ridgeway III  
James E. Smith Jr.  
Edward R. Tallon Sr.  
Robert Q. Williams*

## **South Carolina House of Representatives**

*Jennifer L. Dobson  
Research Director*

*Cathy A. Greer  
Administration Coordinator*

**Post Office Box 11867  
Columbia, South Carolina 29211  
Telephone: (803) 212-6810 • Fax: (803) 212-6811  
Room 228 Blatt Building**

*Charles L. Appleby IV  
Legal Counsel*

*Carmen J. McCutcheon Simon  
Research Analyst/Auditor*

June 16, 2017

The Honorable Hugh E. Weathers  
Commissioner, Department of Agriculture  
Post Office Box 11280  
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your recent presentation to the Subcommittee on June 15, 2017.

During this meeting, we discussed the agency's recommendations for law changes. It was helpful to view the draft language you kindly provided for three of the agency's recommendations: (1) model feed law proposed by the American Association of Feed Control Officials; (2) proposed revisions to Title 39, Chapter 39 (Provisions for the Labeling and Marketing of Eggs); and (3) proposed revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics). To assist discussion of the other agency recommendations, please provide the Subcommittee with similar draft language (i.e., strike through and underline format).

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

A handwritten signature in black ink that reads "Laurie Slade Funderburk". The signature is written in a cursive style with a large initial "L".

Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members



## Key Dates and Actions of the Study Process for the **Department of Agriculture**

### House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016- Issues press release announcing public survey opportunity for the agency

### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function
- January 26, 2017 - **(Meeting 4)** Hold work session to update members on status of study and obtain any questions Members may have for the agency at the next meeting
- February 16, 2017 - **(Meeting 5)** Discusses the agency's program structure in the General Appropriations Act; agency's goals and strategic plan; agency's operations; and agency's partners
- May 2, 2017 - **(Meeting 6)** Discusses the agency's successes; challenges; emerging issues and objectives
- June 15, 2017 - **(Meeting 7)** Discusses the agency's recommendations for law changes

### Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - - Submits agency's Program Evaluation Report
- December 30, 2016 - - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current

### Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage



6-14-17

## SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's powers to establish policies for South Carolina Department of Agriculture (SCDA), and annually approve the agency's budget request; found in 46-5-20(1) and (2)
- Establish an appointment procedure of Agriculture Commission members after a seat has either been vacant the term expired for more than two years; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to fine businesses that habitually and willfully violate existing consumer protection labeling / quality laws
- Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers
- Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products
- Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer
- Authorize an application fee for a food business when registering for a Registration Verification Certificate (RVC)
- Authorize a tiered annual fee for RVCs
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove the exemption registration burden, found in 44-1-143 (H) from small home-based food producers
- Revise the state egg law to exempt USDA graded facilities from state licensing, add quail eggs, and remove the licensing requirement for small producers

# South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee  
Economic Development, Transportation, and Natural Resources Subcommittee  
June 15, 2017

# SC Agriculture Commission

***Delete the Agriculture Commission's powers to establish SCDA policies and annually approve SCDA's budget request***

- 46-5-20 (1) and (2)
- Agriculture Commission is currently not governing SCDA or approving any budget requests
- SC Attorney General's Opinion (May 3, 1999)



## SC Agriculture Commission

***Make a statutory change to the election procedure, or who has appointment responsibility, of Agriculture Commission members***

- 46-5-10
- Currently, vacancies take a significant amount of time to be filled
- After 1) an established period of time of a seat being vacant or term expired; 2) candidate recommendations have been provided to the legislative delegation; and 2) specified notification attempts to the legislative delegation have been made; the Commissioner of Agriculture would have authority to appoint Commission members



# SC Commissioner of Agriculture

## ***Remove the bonding requirements of the Commissioner of Agriculture***

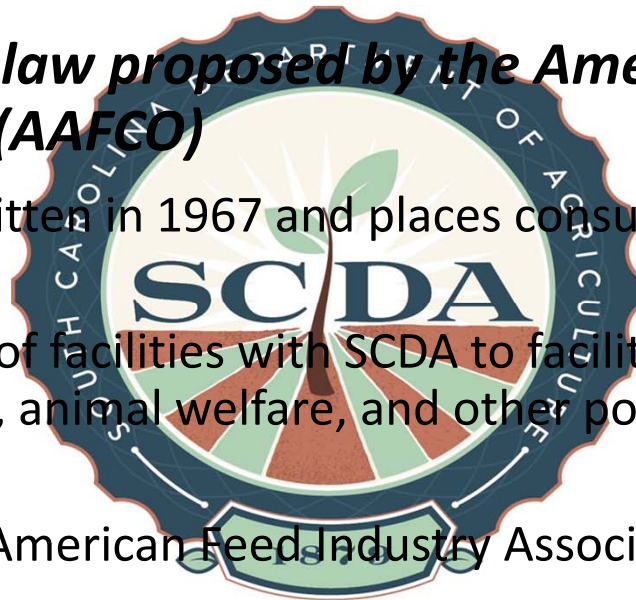
- 46-3-50
- The Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority (SFAA), provides all state agencies, departments, institutions, commissions, boards, personnel, etc. with both liability and property insurance
- Grain producers, dealers, and warehouses are covered under 46-40-10, et seq. and 46-41-10, et seq.



# Feed Law

## ***Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)***

- Current feed law was written in 1967 and places consumers and feed mills at a disadvantage
- Will require registration of facilities with SCDA to facilitate recalls and stay on top of food borne outbreaks, animal welfare, and other potential issues prior to an event
- Supported by the AFIA (American Feed Industry Association)
- Draft language provided





# Labeling & Quality violations

## ***Authorize SCDA to fine businesses that habitually violate existing consumer protection labeling / quality laws***

- Fine would escalate with number of offenses and risk to public safety/health
- Willful and habitual violators should pay the costs for duplicative laboratory analyses, additional sampling, and re-inspection
- Petroleum – octane, ethanol, distillation profile, sulfur, water/sediment
- Feed – *current law allows*
- Ground meat products – fat, extenders, preservatives, color
- Frozen Desserts – butterfat content, total solids per gallon, weight per gallon



# Petroleum Law

***Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers***

- LP, natural gas, gasoline, diesel, kerosene, jet A, avgas, home heating oil

***Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products***

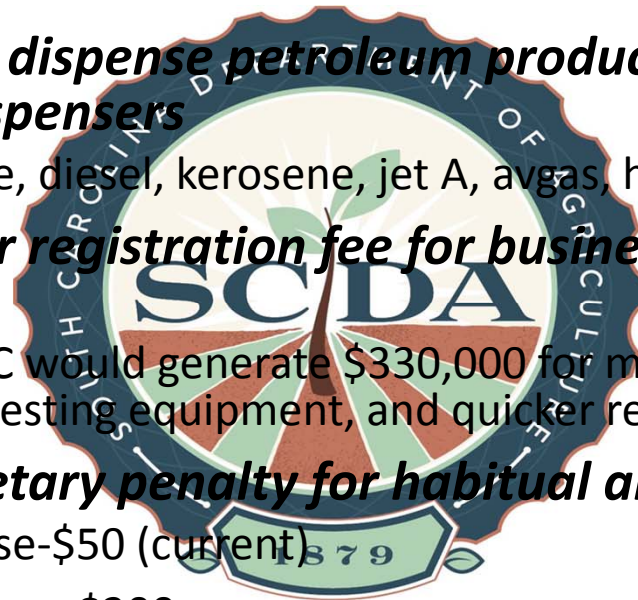
- 66,000 dispensers in SC would generate \$330,000 for more inspectors, software enhancements, more testing equipment, and quicker response time

***Enforce a scalable monetary penalty for habitual and willful offenders***

- Recommend: 1<sup>st</sup> Offense-\$50 (current)

2<sup>nd</sup> Offense-\$200

3<sup>rd</sup> Offense-\$500



# Food Manufacturers, Wholesalers, Distributors

## ***Authorize an application fee for a food business Registration Verification Certificate (RVC).***

- With an application, SCDA reviews business plan, product analysis, certifications and training requirements, and labels.
- Recommend: \$25
- Existing businesses who hold a current RVC would be exempt.

## ***Authorize a tiered annual fee for RVCs.***

- Based on risk/length of inspection and size of firm to prevent small prospective manufacturers from being burdened.
- Will allow for more inspectors, better equipment, and faster response time.
- This is similar to the current DHEC model for retail inspections.



# Salvage Permit

***Modernize salvage food regulations by eliminating salvage permit and covering under the RVC***

- Regulation verbiage needs updating to reflect modern language and terminology consistent with current food safety laws and regulations
- Will eliminate duplication of inspection and licensing/permitting
- Draft language provided



# Electronic Warehouse Receipts

***Modernize the cotton warehouse receipt law--accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number***

- **SECTION 39-22-110.** Currently requires identification tags on bales
- Allow the PBI tag to be accompanied by a sticker to assist warehouse personnel receiving cotton
- Sticker will include
  - the Brand “South Carolina”
  - palmetto tree with a bale of cotton lying at the roots
  - shield of state of SC
- Sticker must be placed in close proximity to PBI tag



## “Cottage Food” Exemption

***Remove the exemption registration burden, found in 44-1-143 (H), from small home-based food producers***

- The new food code adopted by DHEC eliminates the need for this exemption by allowing nonhazardous home based foods to be sold retail to the end consumer and is less restrictive
- SCDA does not regulate retail food sales directly to the end consumer
- ~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

# Egg Law

***Revise the state egg law to exempt USDA graded facilities from state licensing, and allow small producers to sell off-farm.***

- This would create more marketing opportunities for small producers
- Producers could sell up to 30 dozen per week to the end consumer away from farm without license
- Adds “quail eggs”, currently not allowed to sell in SC
- USDA-graded facilities must still comply with state law, but would not be required to get a state license
- Annual license fee would be \$10





Thank You!



## Key Dates and Actions of the Study Process for the **Human Affairs Commission**

*Figure. Key Dates and Actions of the Study Process for the Human Affairs Commission*

### House Legislative Oversight Committee's Actions

- January 10, 2017 - Approves the study of the agency
- January 17, 2017 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- March 9, 2017 - Meeting is to hear public testimony regarding the State Election Commission, **Human Affairs Commission**, and Law Enforcement Training Council and Criminal Justice Academy

### Economic Development, Transportation, and Natural Resources Subcommittee's Actions

### Human Affairs Commission Actions

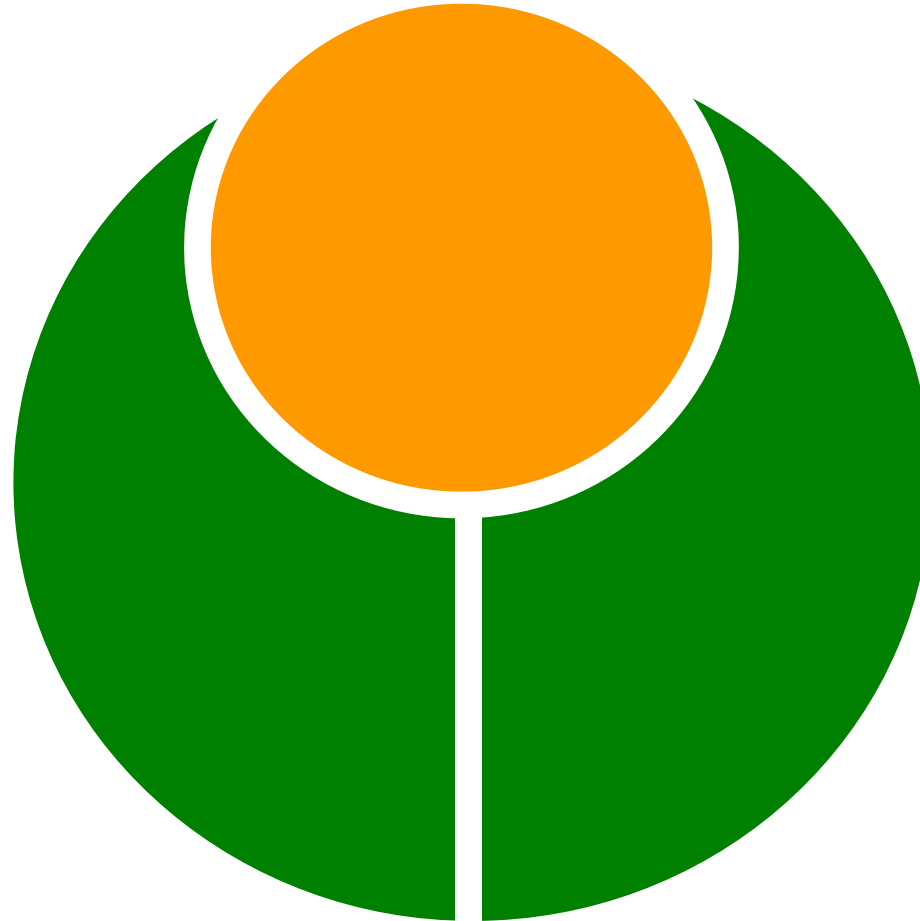
- April 14, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- April 13, 2017 - Submits its Agency Program Evaluation Report

### Public's Actions

- February 9, 2017 - March 13, 2017 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - [www.scstatehouse.gov](http://www.scstatehouse.gov))
- March 9, 2017 - Opportunity for public testimony at Legislative Oversight Committee
- Ongoing - Public may submit written comments on the Oversight Committee's webpage



# South Carolina Human Affairs Commission



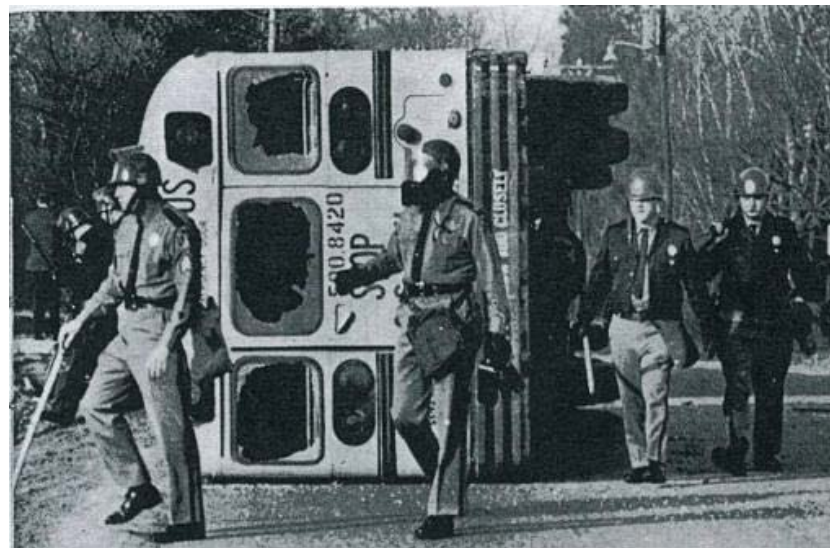
**Presentation to the House  
Legislative Oversight Committee**

# Declaration of Independence

- “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness...”



# 1972 SC HUMAN AFFAIRS COMMISSION



**The Times and Democrat**  
OF SOUTH CAROLINA PUBLISHED BY THE TIMES AND DEMOCRAT COMPANY  
PUBLISHED DAILY EXCEPT SUNDAYS AND HOLIDAYS  
FRIDAY, JULY 14, 1972

## All Hell Breaks Loose -- Three Killed, Many Wounded In College Nightmare

Officers Blast Rioting Negroes

More Photos On Page 10



The newspaper clipping includes a main headline, a sub-headline, and a small photograph showing several people, possibly police officers, in uniform standing near a building or structure. The text of the article is partially visible but mostly illegible due to the small size of the clipping.



# Legislative Mandate and Mission



## **SECTION 1-13-40**

***“There is hereby created in the executive department the South Carolina Human Affairs Commission, to encourage fair treatment for, and to eliminate and prevent discrimination against, any member of a group protected by this chapter, and to foster mutual understanding and respect among all people in this State.”***



## ***SCHAC's Mission***



To eliminate and prevent unlawful discrimination in:

***Employment*** -- on the basis of race, color, national origin, religion, sex, age and disability;

***Housing***-- on the basis of race, color, national origin, religion, sex, familial status and disability;

***Public Accommodations***-- on the basis of race, color, national origin and religion.

***and... Other Allegations*** of individual or institutional discrimination not considered unlawful (90(e) )



## *SCHAC's Vision*



*To be well known with a positive image and a mission that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained and efficient team working together effectively in a safe and supportive work environment in fulfillment of the agency's mission.*

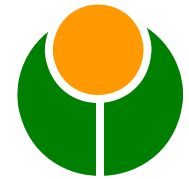
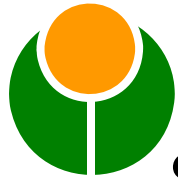




# *SCHAC Values*

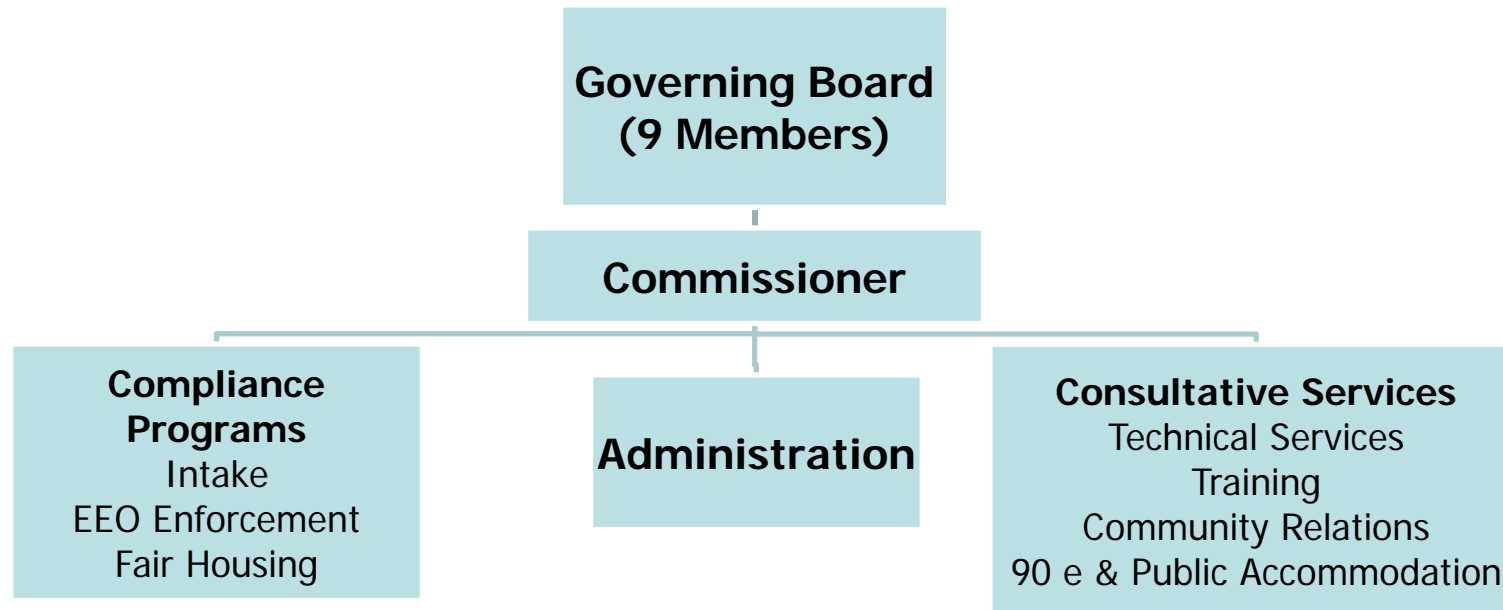


- *Accountability*
- *Customer Service*
- *Integrity*
- *Loyalty*
- *Fairness*
- *Professionalism*
- *Teamwork*



# South Carolina Human Affairs Commission

## *Organization Structure Overview*





# Laws Enforced by the Human Affairs Commission



- South Carolina Human Affairs Law
- South Carolina Fair Housing Law
- South Carolina Equal Enjoyment and Privileges to Public Accommodations
- Federal Laws Prohibiting Discrimination



# Federal Laws Enforced by The Human Affairs Commission

- Equal Employment Opportunity  
Commission (EEOC)

*Employment Discrimination*

- US Department of Housing and  
Urban Development (HUD)

*Housing Discrimination*



# EEOC LAWS ENFORCED



## **Title VII of the 1964 Civil Rights Act**

Bans discrimination in employment because of race, color, religion, sex, or national origin.

## **Age Discrimination in Employment Act (ADEA)**

Makes unlawful employment discrimination because of age against anyone 40 years of age and older.

## **Pregnancy Discrimination Act**

Amends Title VII and states that employment discrimination is prohibited when based on pregnancy, childbirth, and related medical conditions.

## **The Americans with Disabilities Act (ADA)**

Prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments.



# HUD LAWS ENFORCED



- **Title VIII of the Civil Rights Act**

Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

- **The American with Disability Act (ADA)**

Prohibits discrimination against persons with disabilities including private housing, housing that receives federal financial assistance, and state and local government housing.

- **Section 504 of the Rehabilitation Act of 1973**

Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.



# Authority of the Commission



- Contract with EEOC & HUD to investigate complaints
- Seek injunctive relief for a pending complaint
- Issue subpoenas to parties in an investigation
- Hold administrative hearings to adjudicate 'cause' cases, awarding damages and assessing penalties
- Litigate cases in court following completion of a 'cause' investigation
- Conciliate or mediate complaints
- Promulgate Regulations

# South Carolina Human Affairs Commission Organizational Chart FY 2015-2016



**Board of Commissioners**  
 John A. Oakland, Chair  
 Harold Jean Brown Ashley P. Case  
 Joe Fragale Cheryl F. C. Ludlam Rev. Willie A. Thompson  
 A C Williams

**Betty Dennis**  
 Executive Assistant

**Commissioner**  
 Raymond Buxton, II

Vicki Miller  
 EEO Admin. Coordinator

**Deputy Commissioner**  
 Dan Koon

Intake Dept.  
 Henley Ellis  
 Senior Consultant

Investigators  
 Angela D. Adams  
 Cynthia Cooke  
 Cherry Dow

Admin. Specialist  
 Davon Reaves

Intake Receptionist  
 Venisha Webber

**Compliance Division**  
 Sharon Dorn, Senior Consultant  
 Dave Smith, Senior Consultant/  
 IT Manager

**Fair Housing Division**  
 Marvin Caldwell  
 Div. Director

Investigators  
 Don Frierson  
 Deloris Jenkins  
 Luis Mendoza  
 Deborah Thomas  
 Admin Specialist  
 Tamiko Johnson

Dave Smith  
 EEO Enforcement Dept I  
Investigators  
 Brian Alston  
 Melanie Goff  
 Veronica Gonsalez  
 Lauren Mims  
 Nikki Owens  
 Taylor Rhodes  
 Abigail Sexton  
 LaTanya Whitmire

**Administration Division**  
 Administrative Manager  
 (Vacate)

Marcus Sumter  
 Fiscal Tech II

Sharon Dorn  
 EEO Enforcement Dept II  
Investigators  
 Andrew Blankenship  
 Rosemary Drake  
 Timmie Gibson  
 Reginald Green  
 Shelton Lorick  
 Alex Nelson  
 Sherrial Styles

Technical Services Dept.  
 Stephanie Price  
 EEO Senior Consultant

EEO/Training Consultant  
 Erin Wilson  
 EEO/Training Consultant  
 Sheila Gibbs

Community Relations Dept.  
 Sandra Ligon  
 Senior Consultant

Anita Dantzler  
 Consultant

**Legal Division**  
 Lee Ann Rice  
 Staff Counsel

Alex Pate  
 Attorney II

Emma Bennett-Williams  
 Attorney II

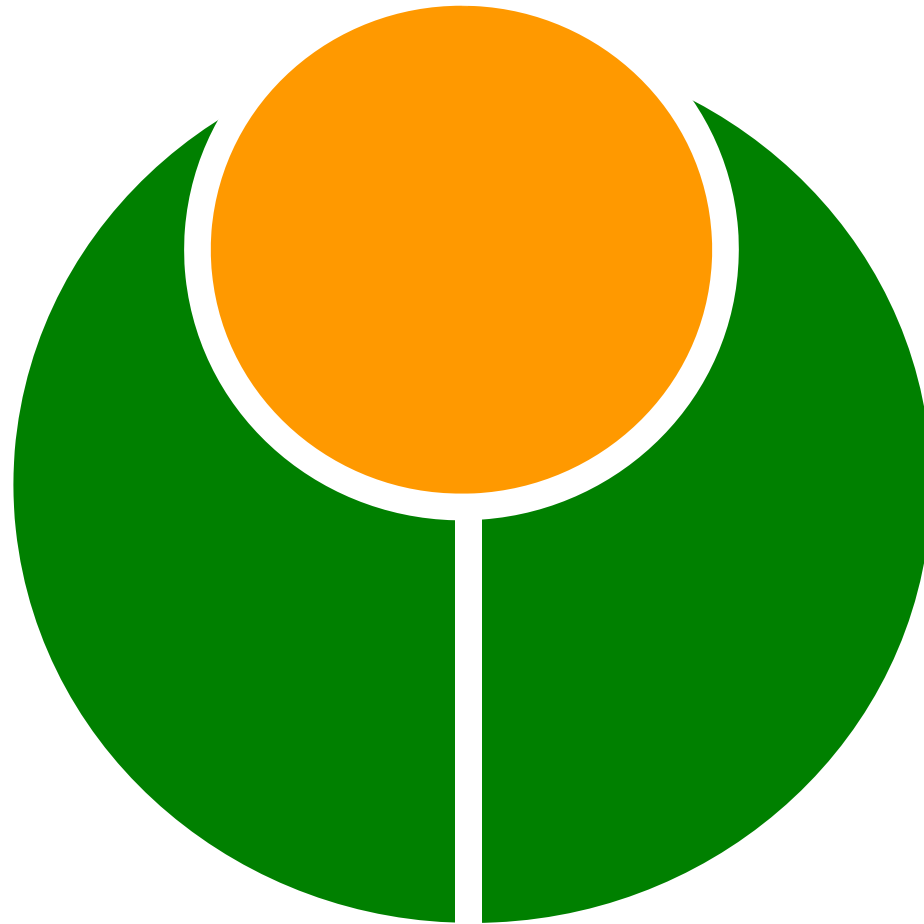
Tracie Mefford  
 Admin. Specialist

Mediation  
 Larry McBride \*  
 Chief Mediator

\* Temp/Fill-in Fund Source

Latest Revision June 7, 2017

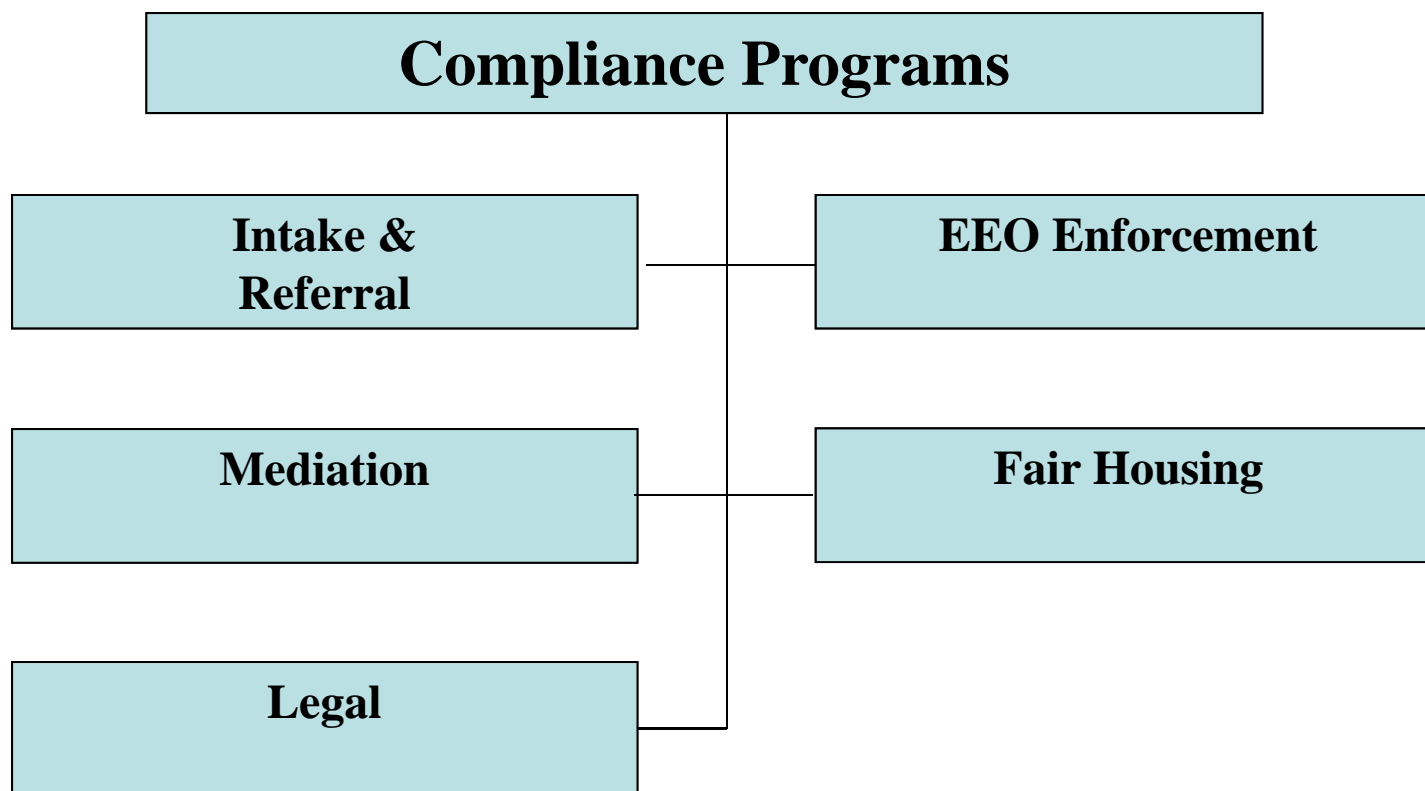


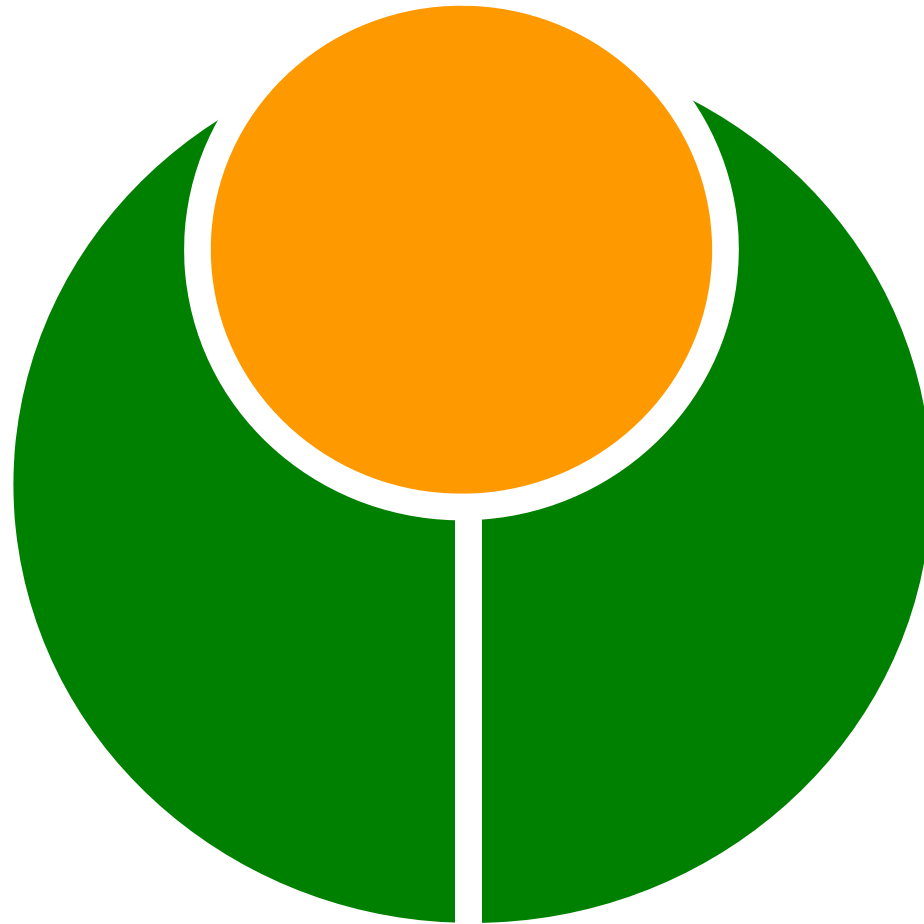


# **COMPLIANCE PROGRAMS**



## Organizational Overview: Compliance Programs





**INTAKE**



# Receiving Citizen Complaints of Discrimination (Intake)



Complaints received regarding...

- Employment
- Housing
- Public Accommodations, and,
- Other individual and institutional allegations of discrimination (90(e))

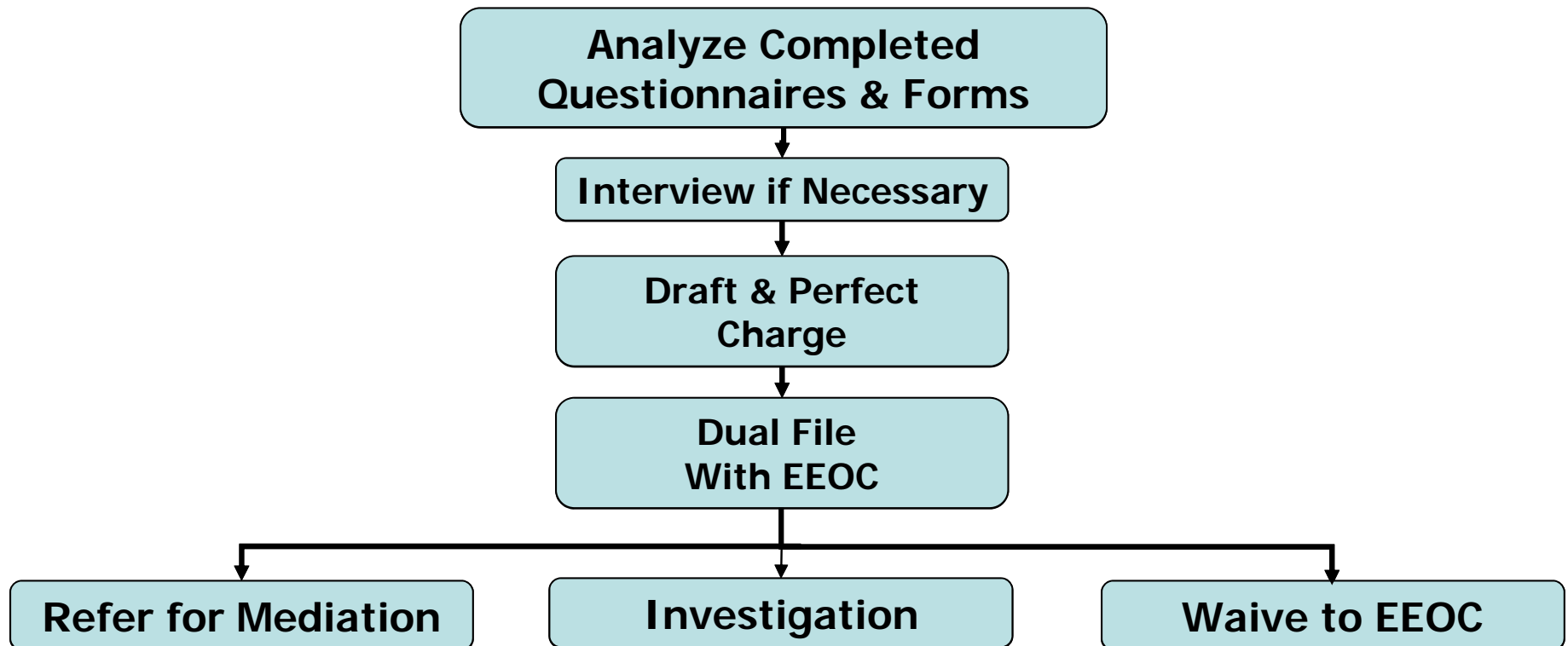


# South Carolina Human Affairs Commission



## Discrimination Complaint Intake Process

(Analysis of Accepted Complaint)





Jurisdictional information

Complainant contact information

Respondent Information

Basis of Complaint and date occurred

Issue prompting Complaint

Respondent's apparent reason for adverse action

Complainant's allegations

Complainant's declaration of discrimination and laws violated

Complainant Certifications; sworn statement, notarization and signature

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input type="checkbox"/> EEOC	
S. C. Human Affairs Commission <i>State or local Agency, if any</i>		and EEOC	
NAME (Indicate Mr., Ms., Mrs.) Ms. Jane Doe		HOME TELEPHONE (Include Area Code) (803) 737-7800	
STREET ADDRESS 2611 Forest Drive, Columbia, SC 29204		DATE OF BIRTH 10/10/1933	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME L & J Cafeteria		NUMBER OF EMPLOYEES, MEMBERS 079	TELEPHONE (Include Area Code) (803) 333-3333
STREET ADDRESS 2611 Forest Drive, Columbia, SC 29204		COUNTY 079	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input checked="" type="checkbox"/> OTHER (Specify) Feqa		EARLIEST    LATEST 08/31/2004	
		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
I. PERSONAL HARM: Through August 31, 2004 and continuing, I have been denied equal wages.			
II. RESPONDENT'S REASON(S) FOR ADVERSE ACTION(S): The Respondent has given no reason for the denial of equal wages.			
III. COMPLAINANT'S CONTENTION(S): I am employed with the Respondent as a Cook. I contend that I am being paid less than similarly-situated male employees even though we perform the same duties.			
IV. DISCRIMINATION STATEMENT: I, therefore, believe that I have been discriminated against because of my sex (female) in violation of the South Carolina Human Affairs Law, as amended, and Title VII of the United States Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date _____ Charging Party (Signature) _____		SIGNATURE OF COMPLAINANT _____	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)	

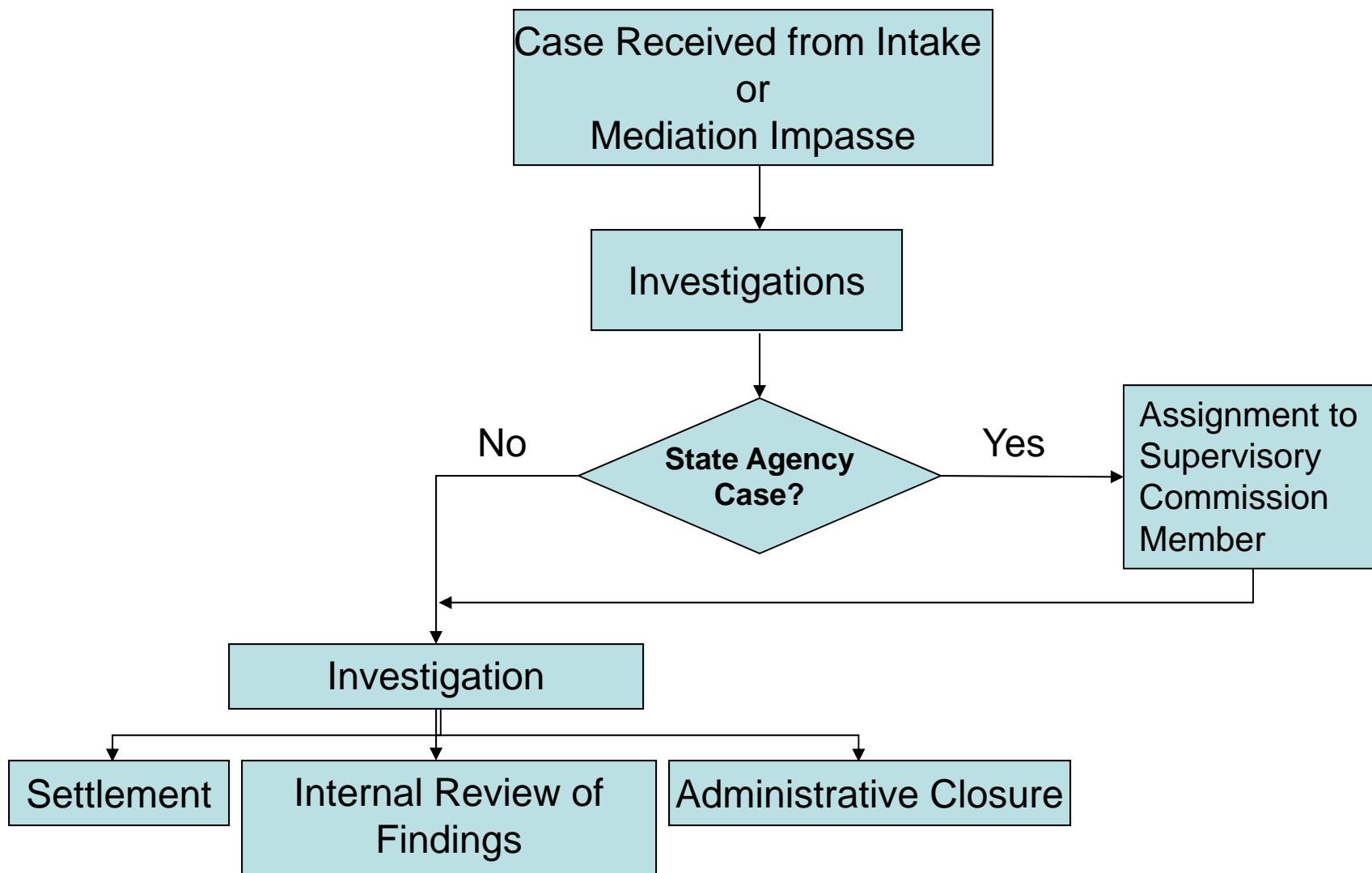
Matters subject to investigation to determine if laws were violated



# The Investigative Process



*Tracking a case from filing to final agency action*

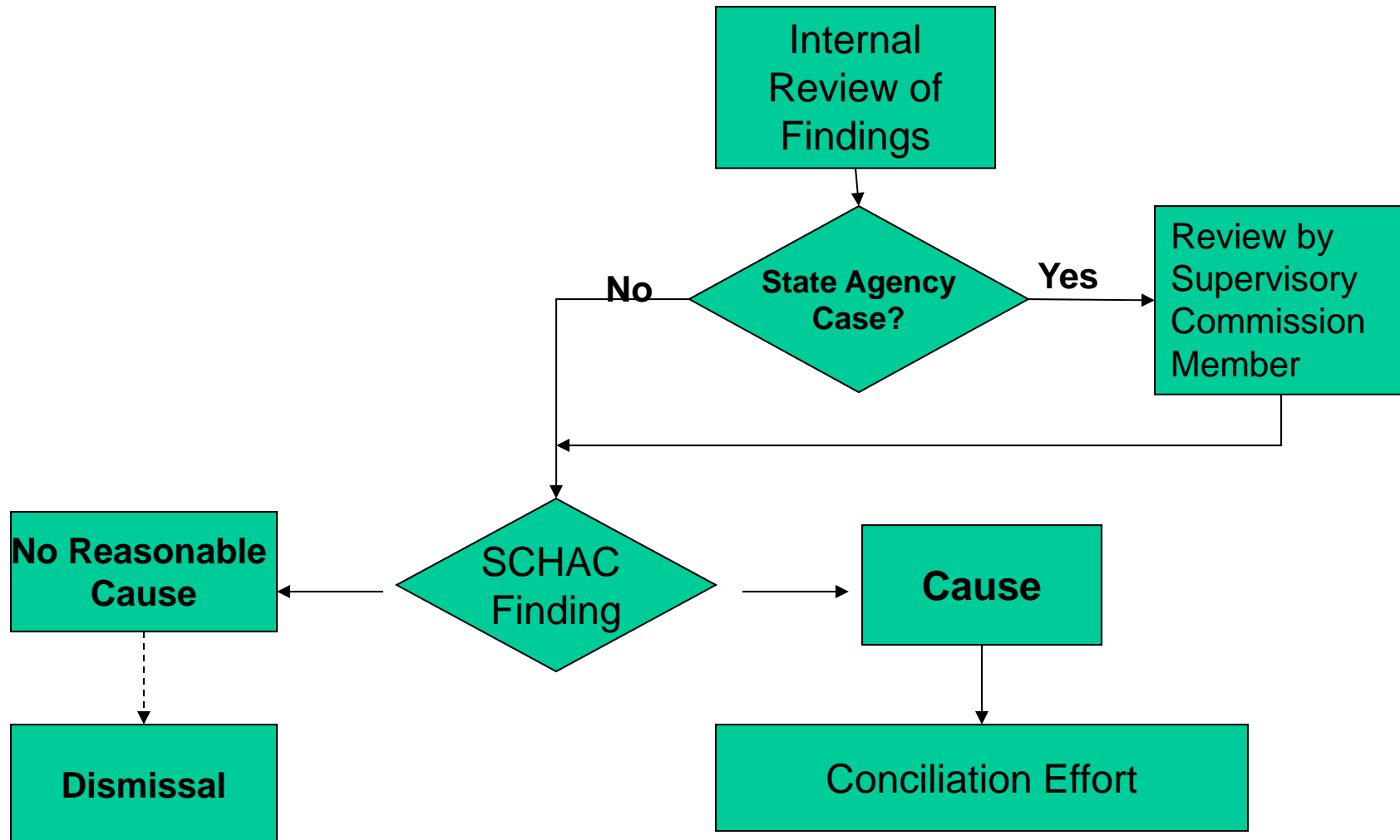




## The Investigative Process (Con't)



# Investigation Is Concluded





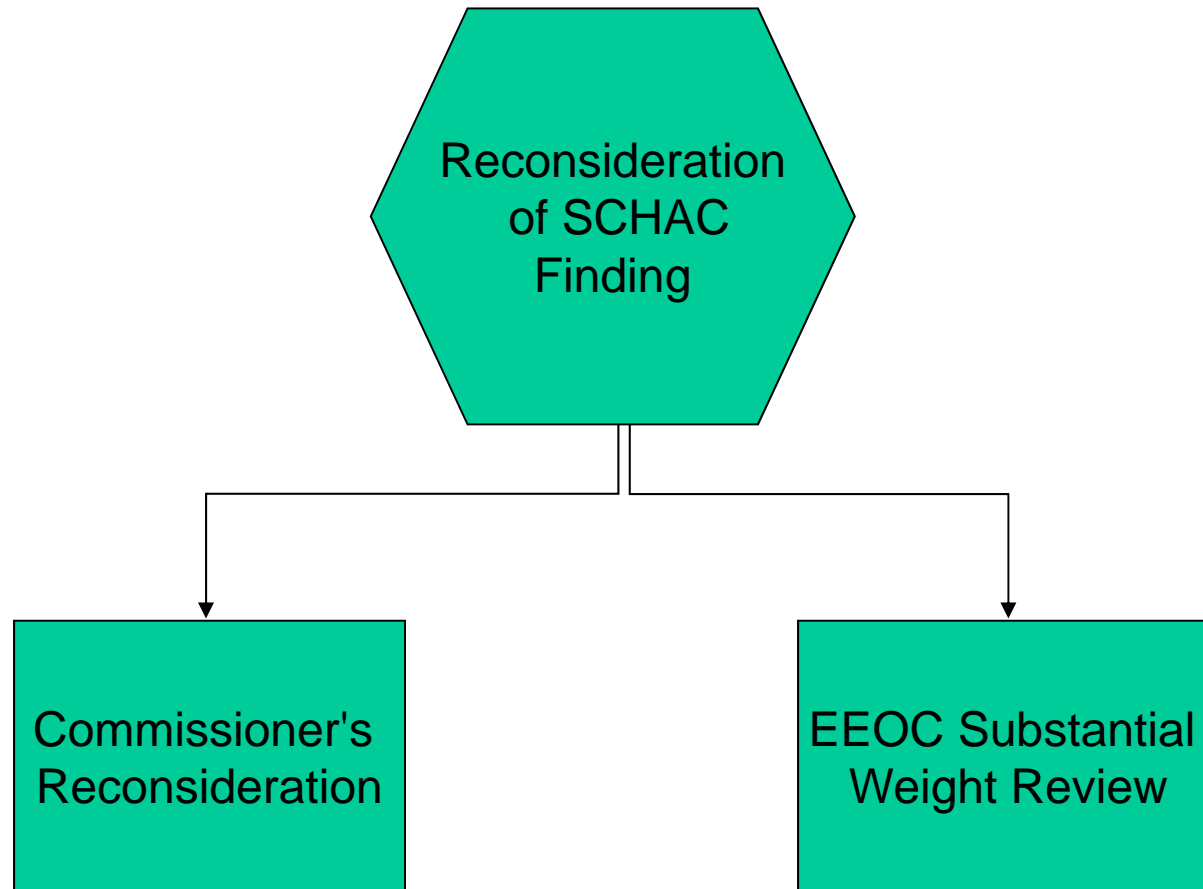


## The Investigative Process (Con't)



# No Reasonable Cause Finding

## Reconsideration Rights of Parties



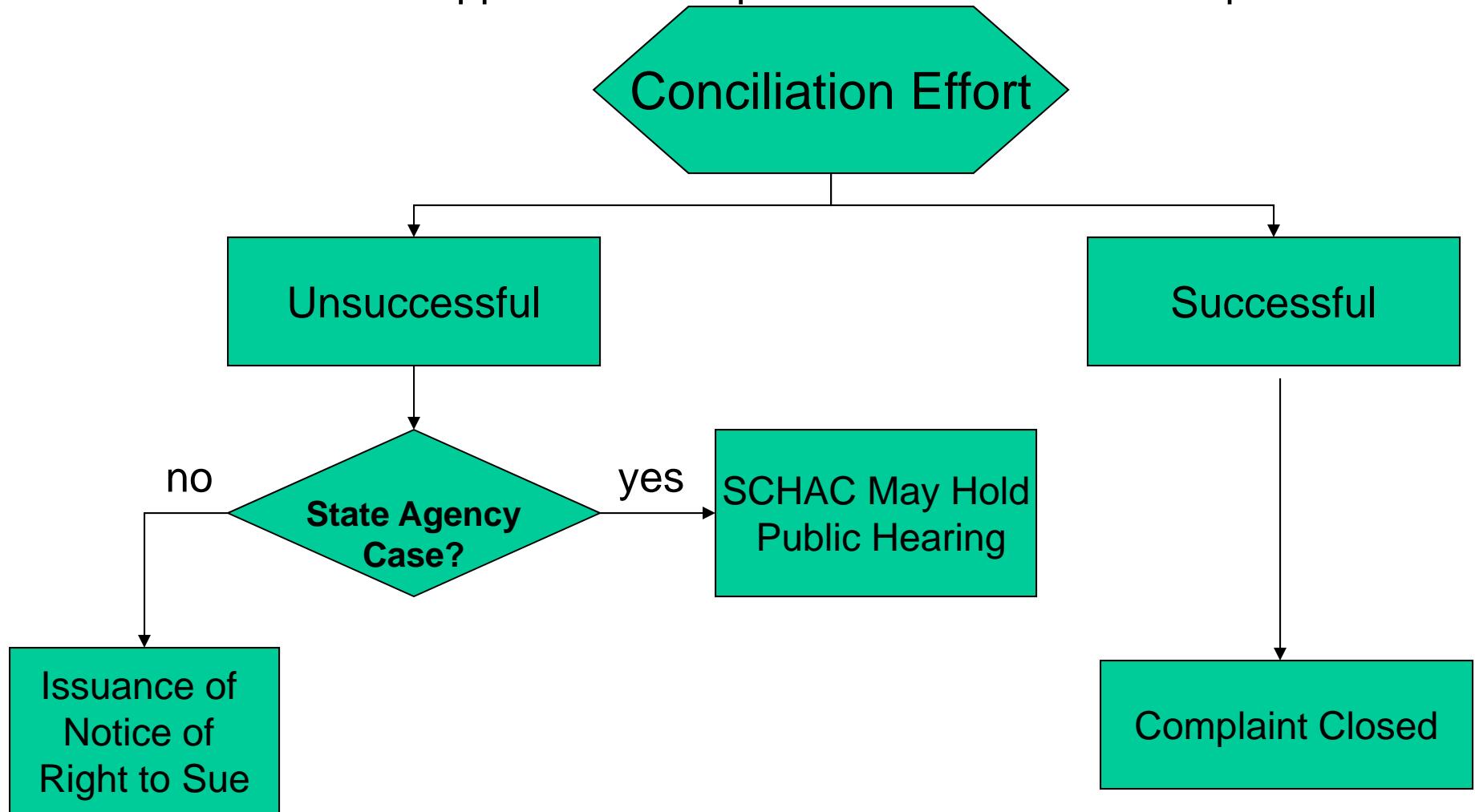


## The Investigative Process (Con't)



# Reasonable Cause Finding

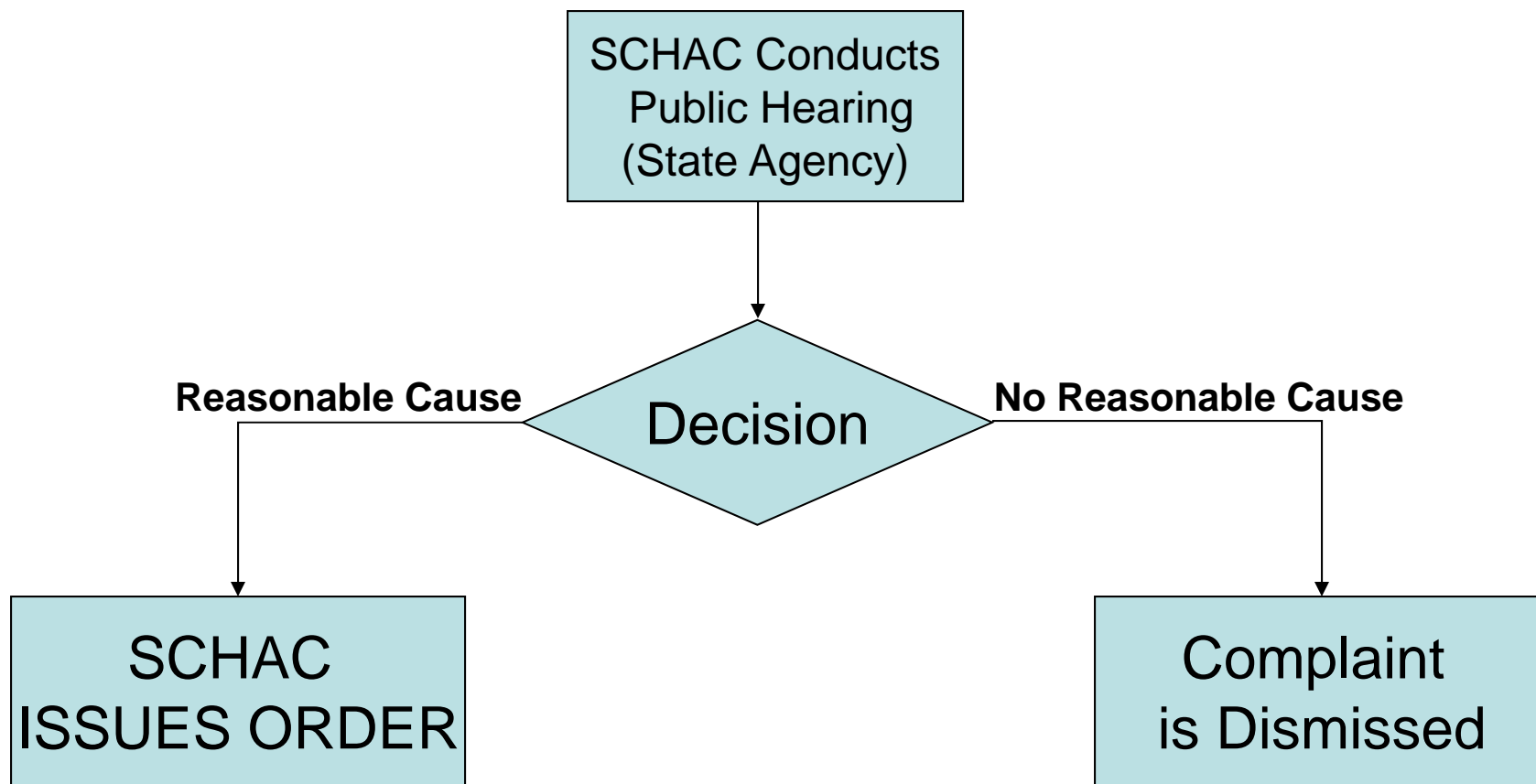
Discrimination apparent: Attempts made to reconcile the parties

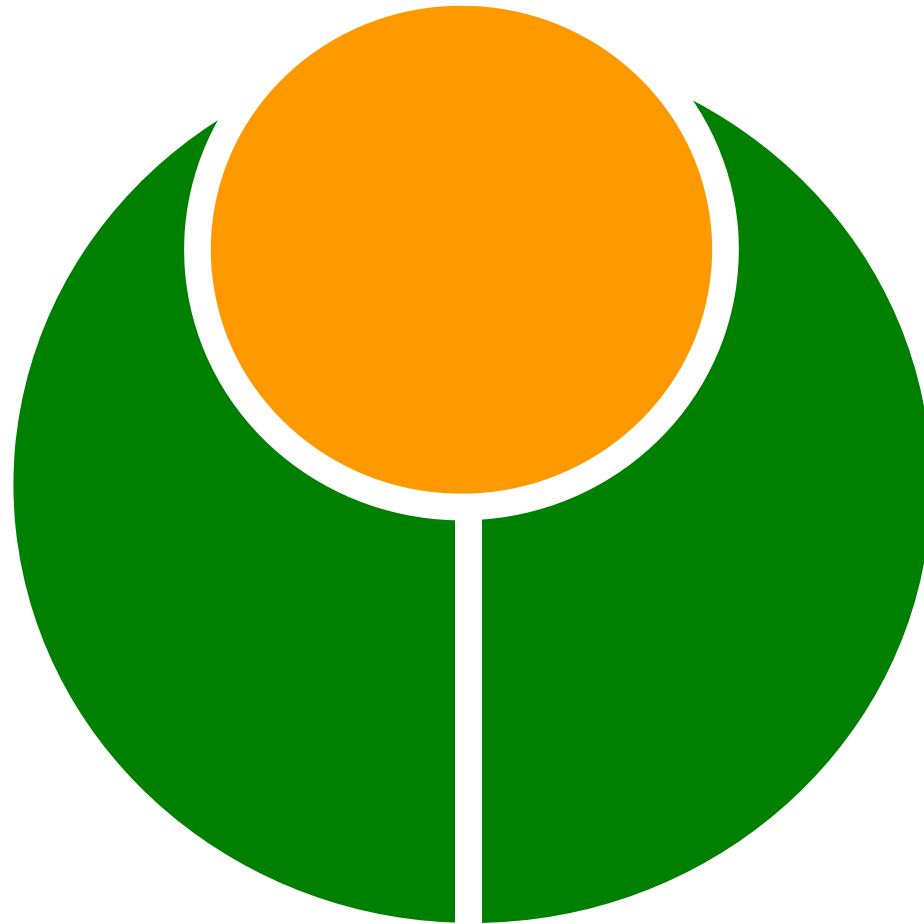




## The Investigative Process (Con't)

# SCHAC Public Hearing





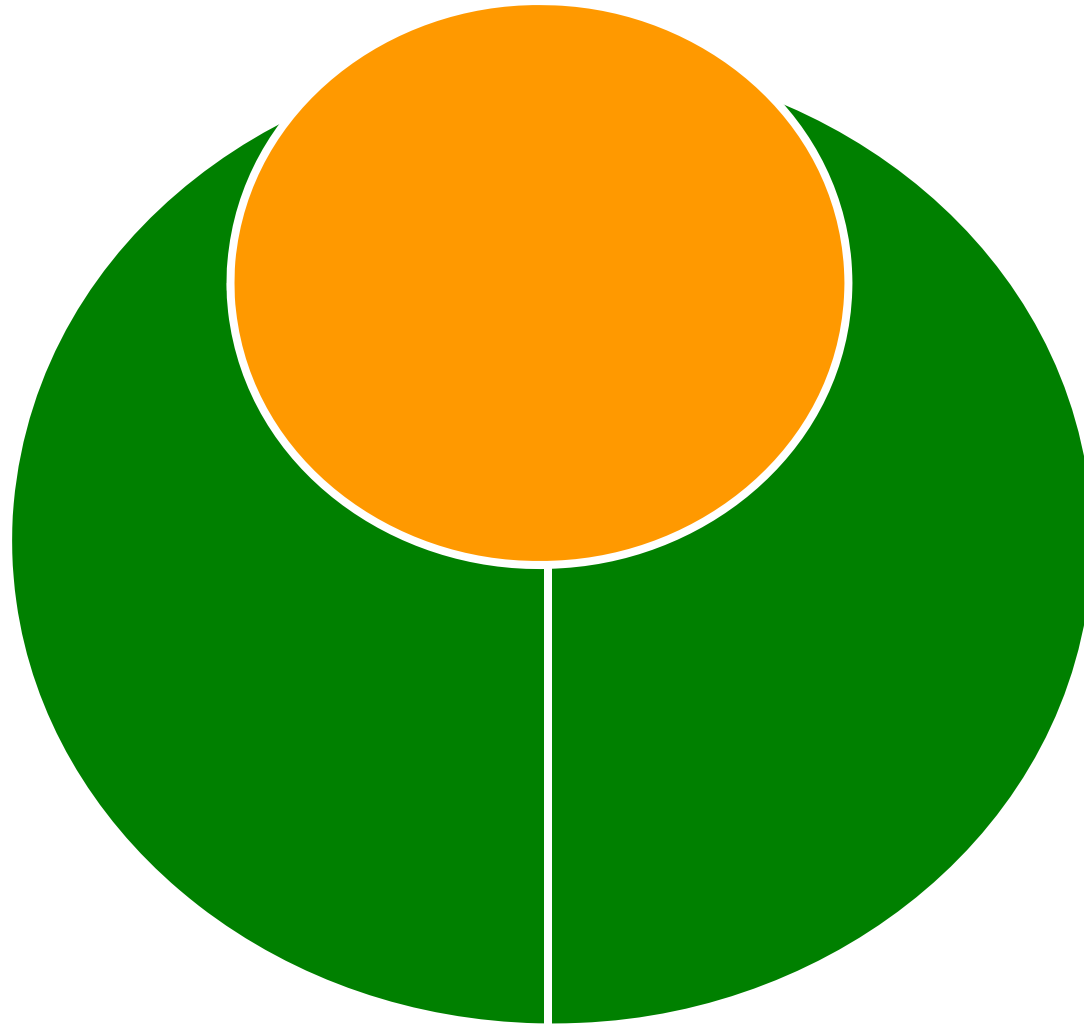
**MEDIATION**



# Benefits to Mediation



- A notice of Right to Sue is not issued
- The case does not go to court
- Saves time
- Saves money
- Resolves a complaint so that all parties are content
- Discussion can result in solving other problems and issues



# EEO Enforcement



# State Human Affairs Law



## Prohibits Employment

## Discrimination Based On:

**RACE**

**COLOR**

**RELIGION**

**NATIONAL ORIGIN**

**SEX**

**AGE**

**DISABILITY**

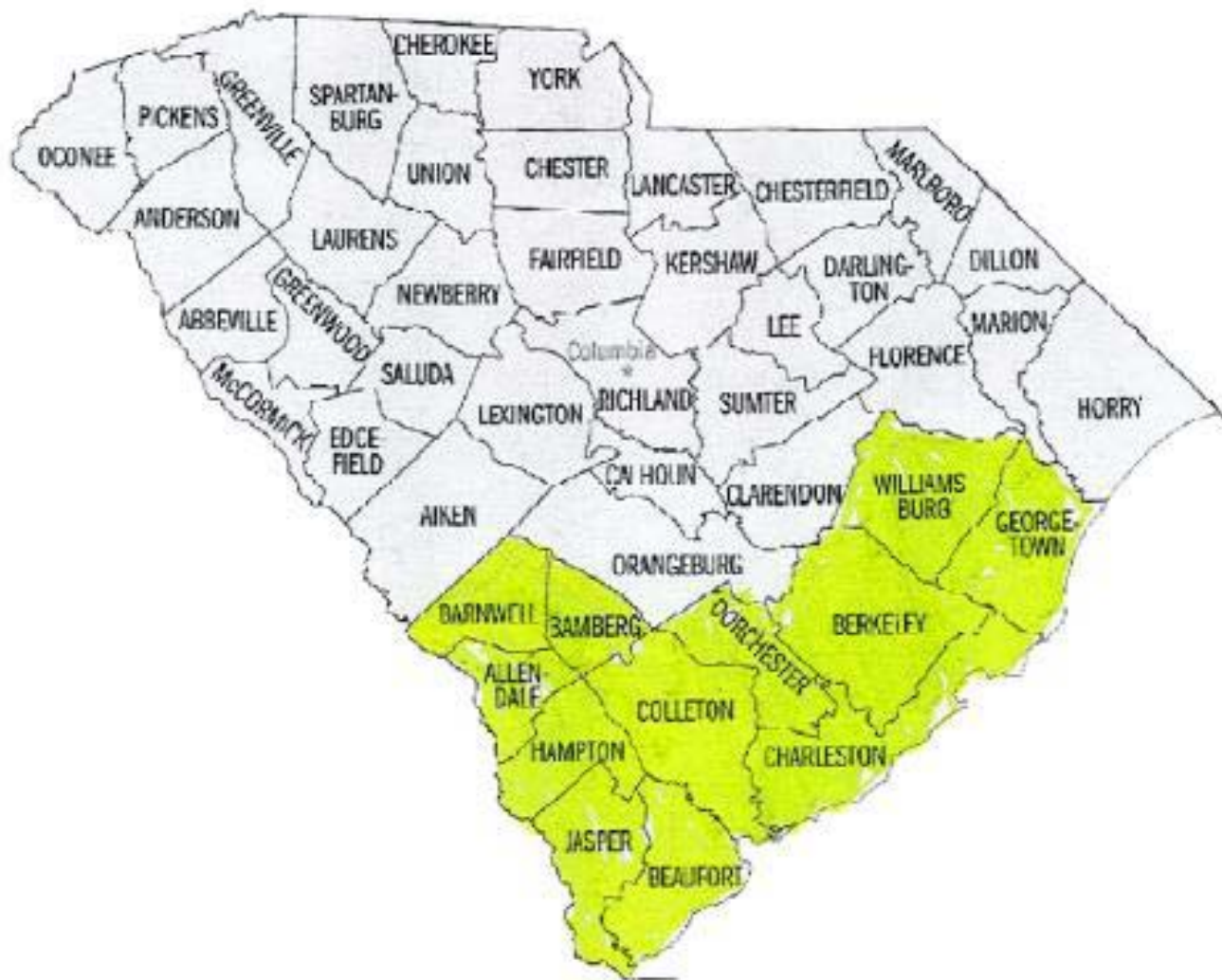


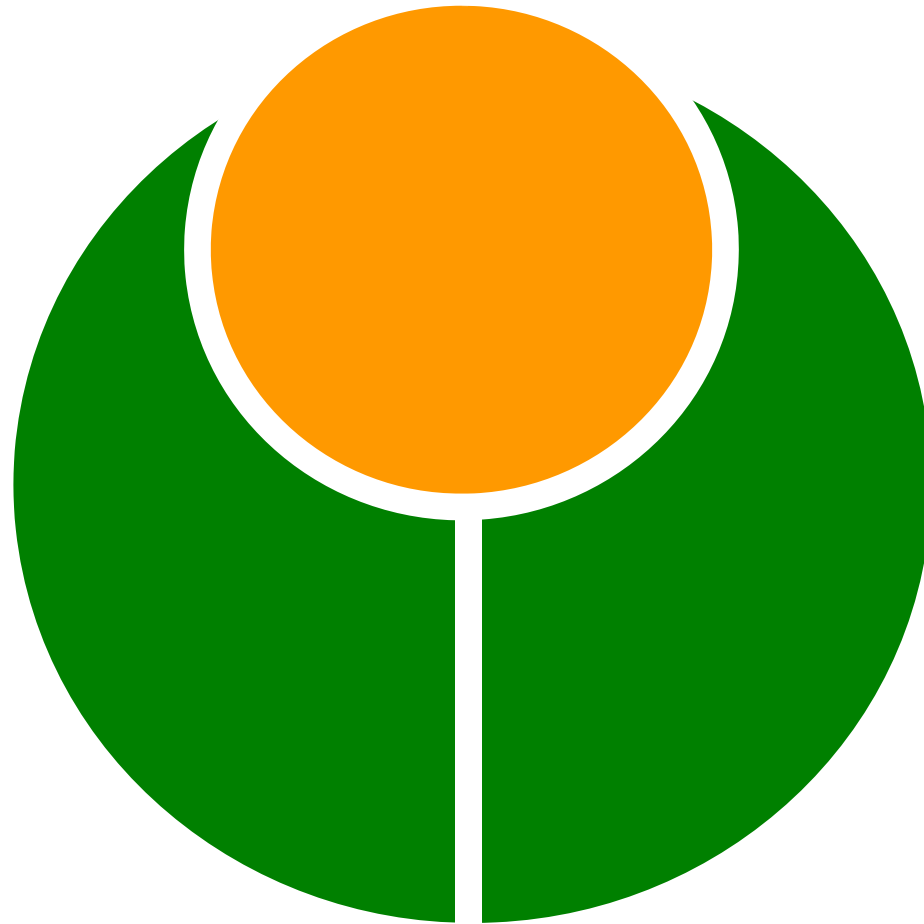
# SCHAC AND EEOC TIPS TO KEEP IN MIND



- South Carolina is divided between EEOC Districts:
- Atlanta District Office – Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Hampton, Jasper, Williamsburg
- Charlotte District Office – the other 34 counties







**HOUSING**



# SCHAC is a FHAP Agency



- FHAP is a Fair Housing Assistance Program.
- The South Carolina Fair Housing Law was enacted in 1989 and gave the Commission jurisdiction to investigate all fair housing complaints in the State. HUD recognized SHAC as substantially equivalent state agency in 1995.
- HUD provides FHAP funding annually on a noncompetitive basis to State and local agencies that enforce fair housing laws that are substantially equivalent to the Fair Housing Act.



# SCHAC and FHIP Agencies



- FHIP is a Fair Housing Initiatives Program.
- FHIP organizations assist people who believe they have been victims of housing discrimination.
- FHIP organizations partner with HUD to help people identify government agencies that handle complaints of housing discrimination.
- There are a number of FHIP agencies throughout SC that forward complaints to SCHAC for investigations.



# Housing Discrimination Basis



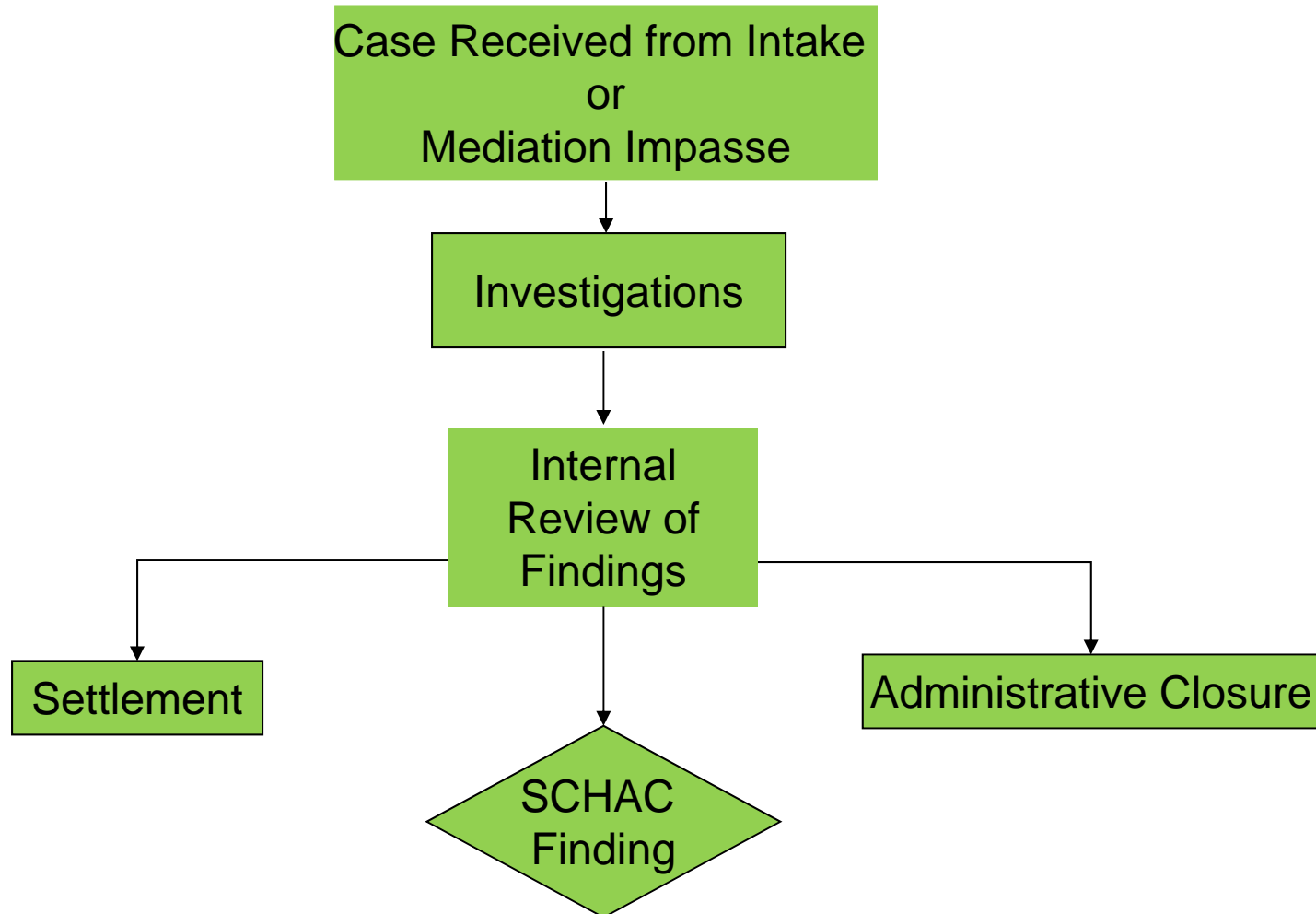
- Race
- Color
- Religion
- Sex
- National Origin
- Mental or Physical Handicap (Disability)
- Familial Status (families with children)



# The Investigative Process



*Tracking a case from filing to final agency action*

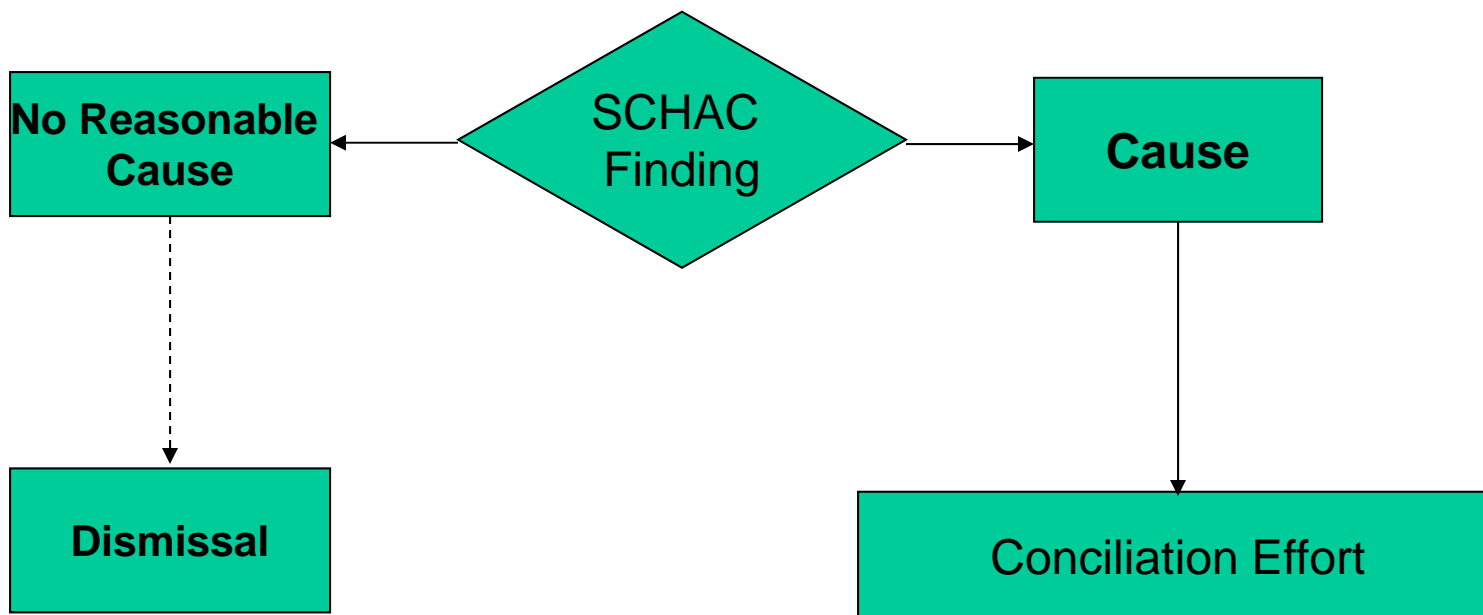




## The Investigative Process (Con't)



# Agency Finding

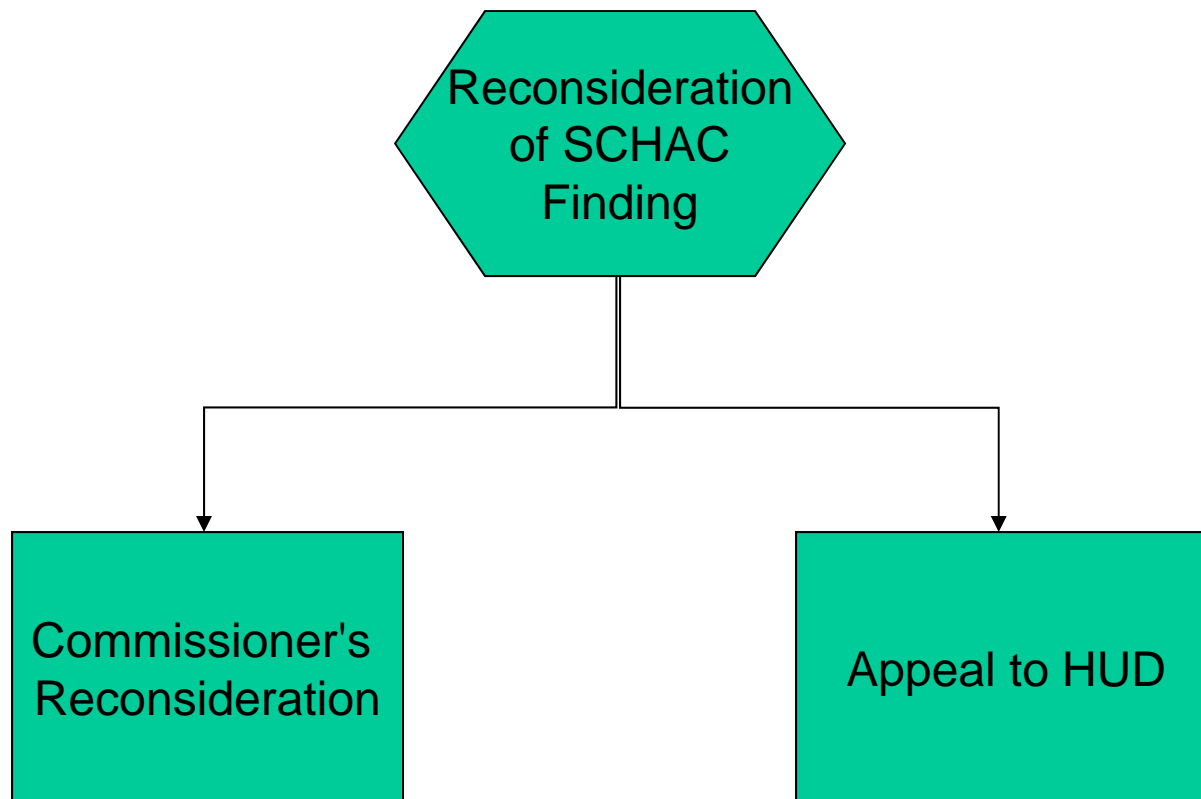




## The Investigative Process (Con't)

# No Reasonable Cause Finding

## Reconsideration Rights of Parties





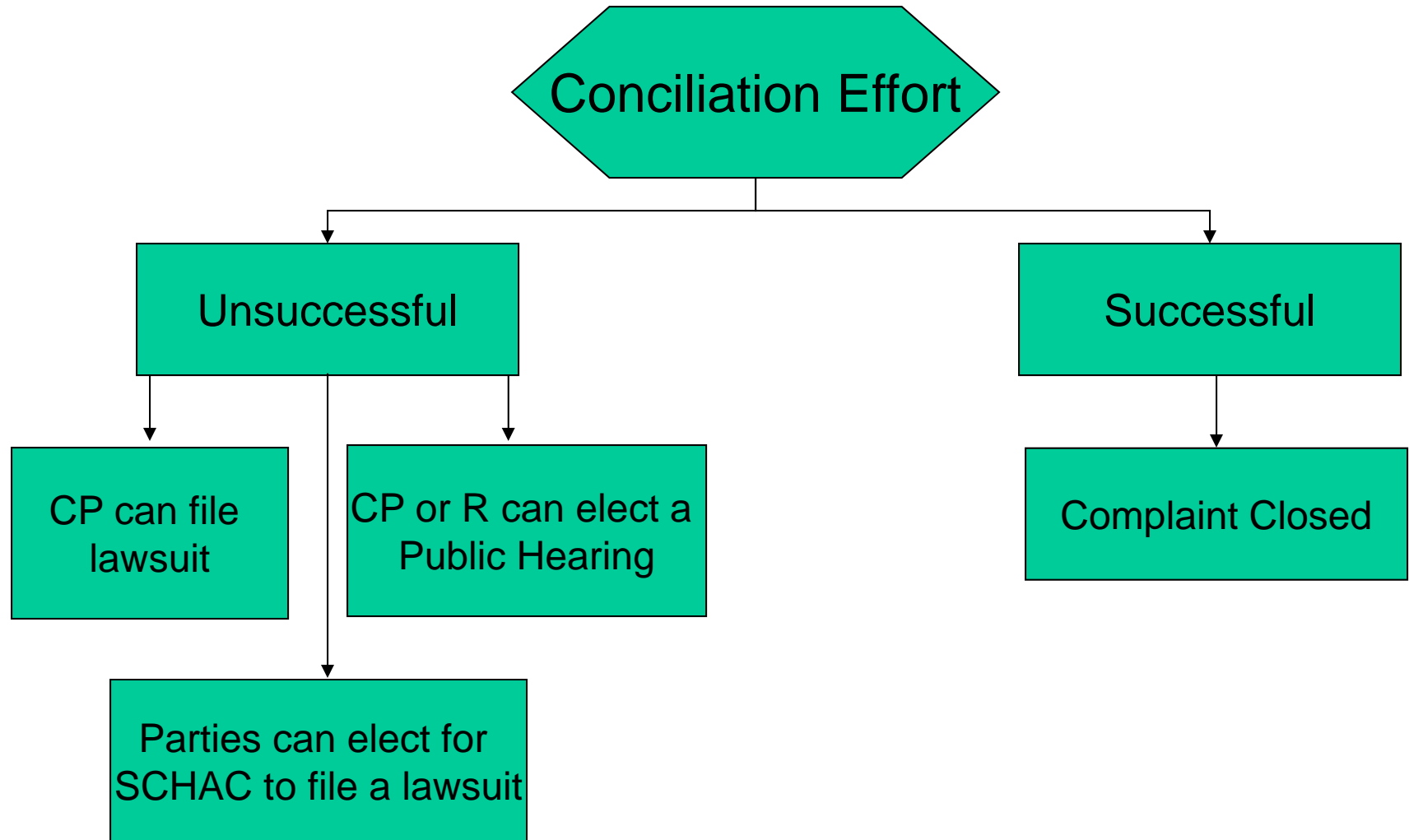


## The Investigative Process (Con't)

# Reasonable Cause Finding



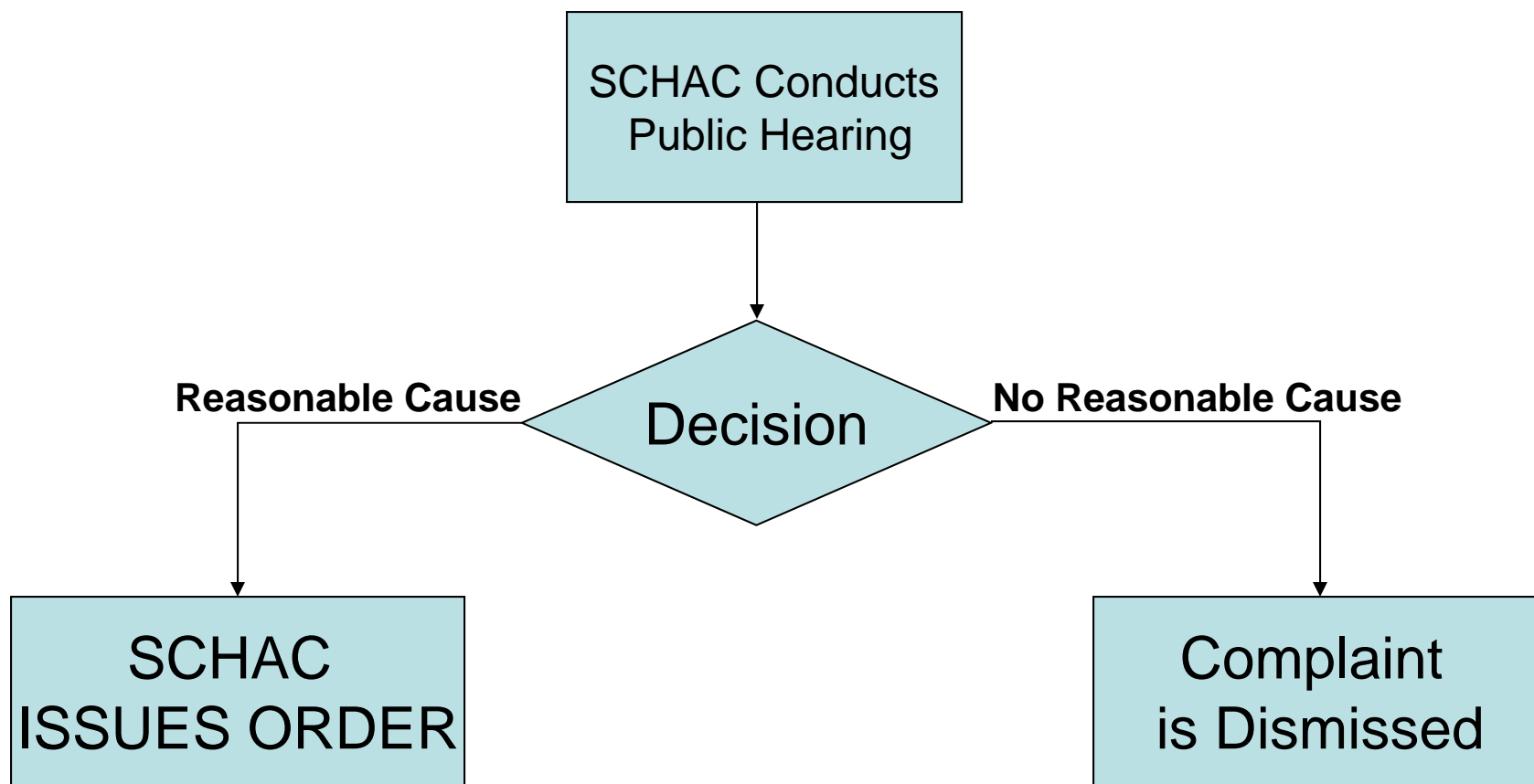
Discrimination apparent: Attempts made to reconcile the parties

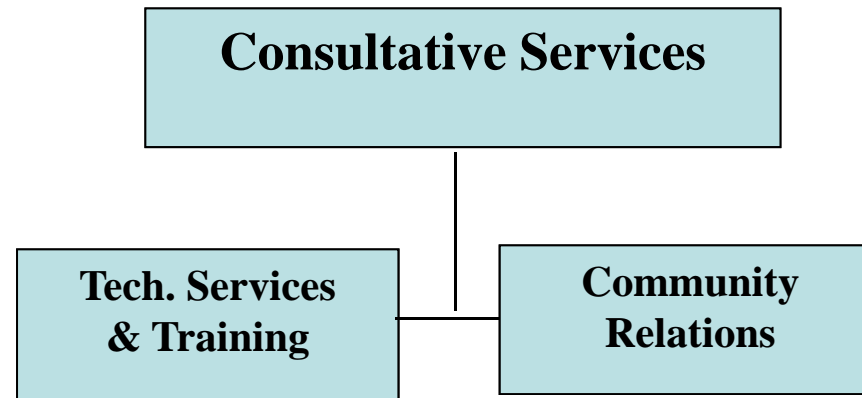




## The Investigative Process (Con't)

# SCHAC Public Hearing





**Consultative Services** provides technical assistance to state agencies and organizations in developing programs to promote the agency's legislative mandate as well as monitoring and diffusing ethnic / race relationship strife wherever it may occur in the state of South Carolina.



**TECHNICAL SERVICES  
AND TRAINING**

*(Prevention and Intervention)*



## Development of State Agency Affirmative Action Plans



- Review the Workforce Composition of State Agencies based on data describing employment trends by race and sex during the year
- Assist State Agencies in identifying areas in their workforce where race and sex groups are disproportionate (**Underutilization**)
- Assist State Agencies (*and other organizations who request services*) to identify action steps to reach goals designed to eliminate underutilization (**Affirmative Action Plan**)



# Annual Report to the South Carolina General Assembly



## “The Status of Equal Employment Opportunity in South Carolina State Government”

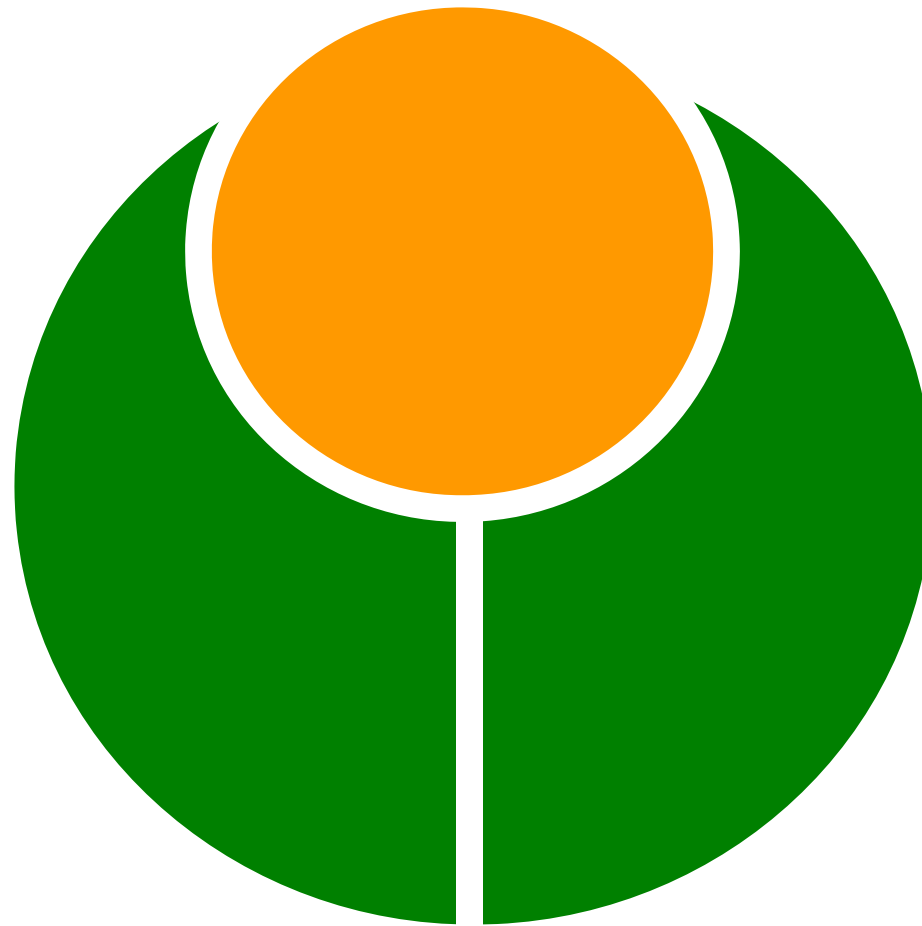
### ***South Carolina Code of Laws SECTION 1-13-110.***

“Each State agency shall develop an Affirmative Action Plan to assure equitable employment for members of minorities (race and sex) and shall present such Plans to the Human Affairs Commission. On or before February 1 of each year, the Human Affairs Commission shall submit a report to the General Assembly concerning the status of the Affirmative Action Plans of all State agencies. If any Affirmative Action Plans have been disapproved, the report shall contain the reasons for such disapproval. If the General Assembly takes no action within sixty (60) days on those Plans which have been disapproved, the action of the Human Affairs Commission shall be final.”



# SCHAC Training

- Equal Employment Opportunity
- Sexual Harassment
- Diversity
- Fair Housing
- Affirmative Action



# Community Relations





## ***What is Community Relations?***

***“Community Relations” is the fostering of better relationships within a community through organized efforts to bring together cross-sections of people to resolve mutual issues which include, but are not limited to, law enforcement, education, business practices, government, and public accommodations.***

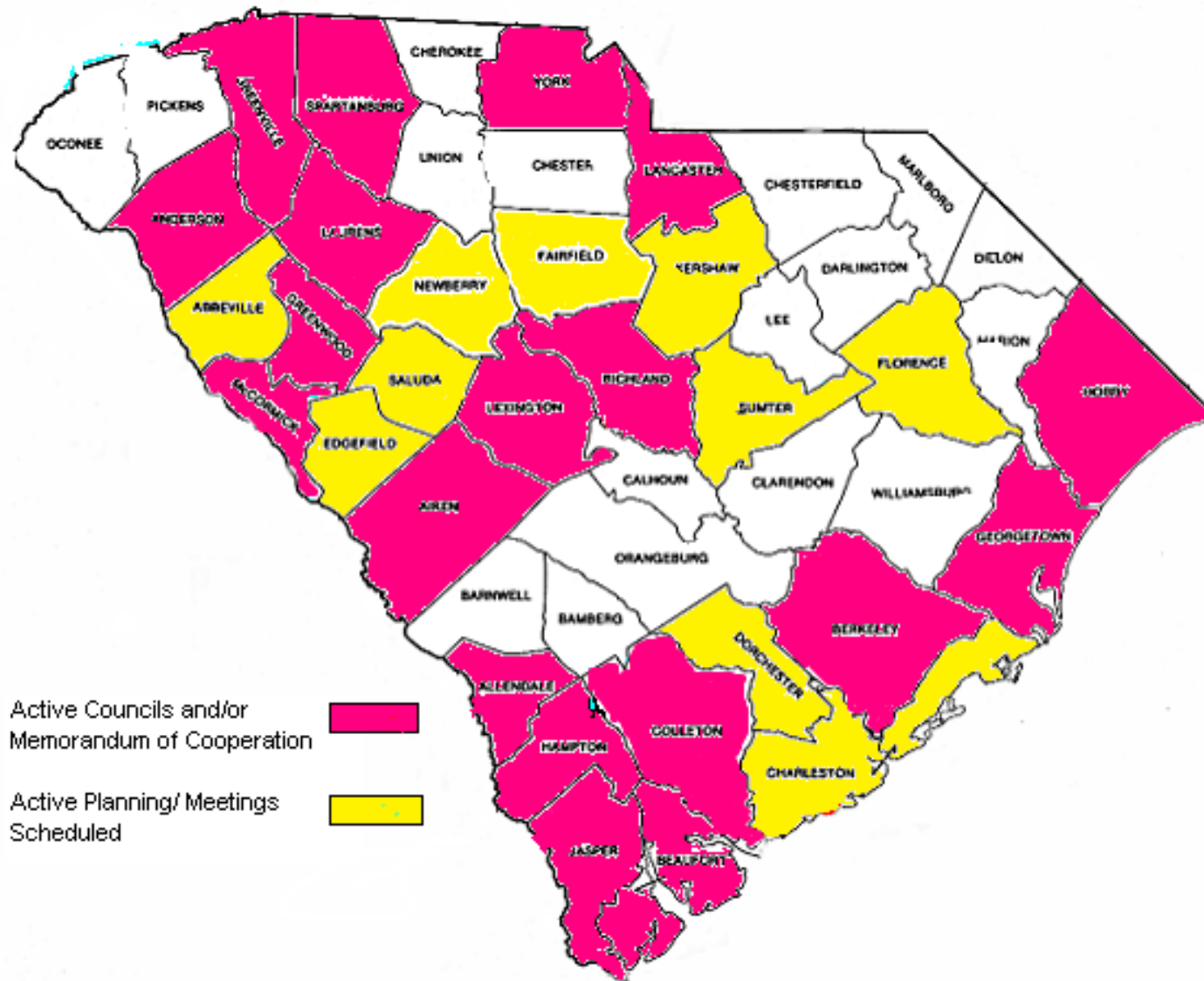


# Community Relations Councils

- Established throughout the state at local community levels to resolve problems locally
- Mission of Human Affairs Commission is to work through these councils to carry out its mandate to improve relationships among the citizens of South Carolina
- Counties considered geographical boundaries for operation of local councils



# Community Relations Councils Statewide (FY 16-17)





There still remains the unfinished goals of the civil rights movement and the civil rights movement is a critical part of the American movement and the American story. It's a movement in which every person, regardless of their skin color is treated equally under the law.

*-Former SC Governor Nikki Haley  
speech at the National Press Club*

**How to Contact the Commission**

Monday—Friday  
8:30 am—5:00 pm  
Call: (803) 737-7800 or  
(800) 521-0725

Web Address: www.schac.sc.gov 1026 Sumter Street, Suite 101 (29201)  
Email: Information@schac.sc.gov Post Office Box 4490  
Fax: (803) 737-7835 Columbia, SC 29240  
Raymond Buxton, II, **Commissioner**

**Human Affairs Fact Sheet****History:**

The South Carolina Human Affairs Law, **enacted in 1972**, created the South Carolina Human Affairs Commission.

- Its primary activities include investigating and attempting to resolve charges alleging unlawful discrimination; monitoring the employment practices and affirmative action efforts of state government agencies; providing training and technical assistance to employers and others who seek to comply with the Human Affairs Law; and conducting a study of problems which threaten the objectives of the Law, in order to promote better community relations and interracial harmony.

The South Carolina Fair Housing Law was **enacted in 1989** and gave the Commission jurisdiction to investigate all fair housing complaints in the State.

- Under the Fair Housing Law, it is unlawful to refuse to sell or rent a dwelling on the basis of

race, color, religion, sex, familial status, national origin, or handicapping condition.

The Equal Enjoyment and Privileges to Public Accommodations Act was **enacted by the State General Assembly in 1990**.

- This historic legislation provides that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodations without discrimination or segregation on the basis of race, color, religion or national origin.

**In 2013**, the agency moved locations from Forest Drive to 1026 Sumter Street.

**In 2012**, Raymond Buxton, II, becomes the **Sixth and current Commissioner** of the agency.

**As of 2016**, the Agency has investigated approximately 40,000 Discrimination complaints since inception.

**Mission:**

The Mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in: employment on the basis of race, color, national origin, religion, sex, age, and disability; housing on the basis of race, color, national origin, religion, sex, familial status, and disability; and public accommodations on the basis of race, color, national origin, and religion.

**Information:**

**Employees:** 42 FTEs

**S.C. Human Affairs Laws and Regs:** Title 1, Chapter 13 / Chapter 65, Subchapter 1

**S.C. Fair Housing Law:** Title 31, Chapter 21

**Services:** Public Accommodations, Non-Employment Complaints, Employment Discrimination, Housing Discrimination, Mediation, Community Relations, Technical Services, and Training

**Filing a Complaint:** Telephone, Mail, Walk-In, Fax, Internet

**Timeliness:** Employment Discrimination: 180-300 days; Housing Discrimination: 180 days; and Public Accommodation: 3 years

**Training Programs:** Affirmative Action, Equal Employment, Sexual Harassment, and Americans with Disabilities Act

**Governing Board:** John A. Oakland, **Chair**, Aiken County; Reverend Willie Albert Thompson, **Vice-Chair**, Greenville County; Harold Jean Brown, Georgetown County; Ashley Case, Laurens County; Joe F. Fragale, Beaufort County; Cheryl F. C. Ludlam, Charleston County; and Andrew Williams, York County

**Commissioner:** Raymond Buxton, II

**Divisions:** Administrative Division, Compliance Division, Fair Housing Division, Technical Services and Community Relations, and Legal Division

**\*\*\*all information received from SCHAC website or Program Evaluation Report**

## History

- 1968
  - Social Unrest erupts in the state with 1)1968-Orangeburg Massacre, three young African American Male students killed, 2) 1969-MUSC- Charleston Area Hospital Strike, places city of Charleston on curfew for a long period of time where unrest begins in March and issue not settled until June, 3) March, 1970- Lamar, SC- White parents turn over school buses in protest of desegregation of public schools.
- March 4, 1971
  - John C. West signs Executive Order establishing the Governor's Advisory Commission on Human Relations on March 4, 1971. JW. (Bill) Travis, CEO of Southern Bell is appointed as Chairman.
  - State Director: George Hamilton appointed as Executive Director on April 2, 1971.
- March 29, 1972
  - Through the work of the Commission, The Breger Study released a report entitled: "Black Employment in South Carolina State Government, A Study of State Employment Practices". The Study showed that there were many state agencies where Blacks were not fairly represented and notes: "Implicit discrimination in employment does not result from malicious intent, nor does it necessarily reflect racist attitudes. Instead, it is the product of decades, perhaps centuries, of social psychological conditioning to a racial environment that has always set whites before black. Its manifestations in the employment system are many and varied, often subtle and deeply ingrained."
- June 23, 1972
  - Governor West signed the bill into law creating the State Human Affairs Commission protecting citizens on the basis of race, color, religion, sex, national origin and age. The legislation gives the Commission the authority to enforce employment law and the responsibility of assisting various state agencies in setting up for affirmative action programs and equal hiring policies.
  - State Director George D. Hamilton is appointed the first Commissioner (1972-1974)
  - The SHAC Law creates a Commission made up of a 15 member board appointed by the Governor with consent and approval by the SC Senate. The Board Chair is appointed by the Governor and the Agency's Executive Director is chosen by the Board in conjunction with the approval by the Governor.
- January, 1973
  - All State Agencies with more than 15 employees are required to submit Affirmative Action Plans on an annual basis.
- October 4, 1974
  - State Director: James E. Clyburn becomes the new Commissioner (1974-1990)
  - Agency is structured in three program areas: 1)Compliance-Employment, 2) Technical Services-monitoring of State Agency Affirmative Action, 3) Community Relations
- 1975
  - Agency enters into first Contract with the US Equal Employment Opportunity Commission and becomes a Fair Employment Practicing Agency (FEPA).
- 1981
  - The Commission publishes "The Blueprint" which is a technical compliance manual that contains all the information necessary to develop and monitor Affirmative Action Plans and becomes one of the most widely used affirmative action planning manuals in the nation.

- 1983
  - The SC Bill of Rights for Handicapped Persons though weak in enforcement becomes law and is a precursor to the American with Disabilities Act.
- May 9, 1989
  - Governor Carroll A. Campbell signed into law the South Carolina Fair Housing Law that allows Human Affairs Commission for deferral status with the US Department of Housing and Urban Development. The law was amended on May 3, 1990 to enhance the deferral status with HUD and HUD Grants the agency its first contract in November 1994 and recognizes the agency for substantial equivalency status in January, 1995. The law protects citizens on the basis of race, color, religion, national origin, sex, familial status, and disability.
- April 25, 1990
  - The Equal Enjoyment of and Privileges to Public Accommodations Law is passed and signed into law by Governor Carroll Campbell as a result of an Attorney General investigation into a restaurant in September of 1989 that refused to serve black men. The law protects the rights of citizens on the basis of Race, Color, Religion and National Origin.
- 1991
  - The first Computerized Affirmative Action Management System is purchased to enhance State Agency reporting and the Commission's monitoring of all state agency plans.
- July 2, 1992
  - State Director: Willis C. Ham, PhD, becomes the new Commissioner (1992-2000)
- November, 1993
  - The Fair Housing Department is formed under Compliance-Enforcement Division
- June 13, 1996
  - Legislation is passed that allows Disability as a protected class to the Human Affairs Law, and the Human Affairs Commission is removed from any responsibility for enforcement of the SC Bill of Rights for Handicapped persons.
  - 1996- South Carolina Human and Community Relations Association (SCHACRA) was formed under the auspices of the Commission where thirteen active Community Relations Councils in the state have the goal of improving human and community relations in the state.
  - 1996- Alternative Dispute Resolution (Mediation) program is formed to provide rapid resolution to complaints without the necessity of an investigation, determination or Notice of Right to Sue being issued in a complaint.
- December, 2000
  - State Director Jesse Washington, Jr. becomes the Commissioner (2000-2010)
- 2000-2004
  - SC Human Affairs Commission from FY 1999-2000 until fiscal year 2003-2004 sustains budget cuts culminating to over 43% of the agencies state appropriations.
  - As a result, programs such as Community Relations were cut to the bare bone, reduction in staff and furloughs occurred.
- 2005-2006
  - The agency lost 9 of 43 employees to retirement. SHAC had a historically low rate of turnover of employees, now began a natural attrition of employees seeking to retire.
  - The loss of senior staff has an impact on the agency, but dedicated employees continue to keep up the pace of work to accomplish agency goals.

- 2006-2007
  - The Commission's staffing levels remain substantially below what is legitimately required to continue to deliver the services required by the legislature at qualitative and quantitative levels expected.
- 2008-2009
  - 38 FTEs are filled but in order to stay within budget, the agency endures a 10 day furlough for each employee. Employment Investigation case-loads jump from an average of 45-50 to 70 employment cases per investigator.
- 2010
  - The agency budget is cut in half. State Appropriations from 1999 to the end of the 2009- 2010 fiscal year are cut by 70%. Agencies 38 FTEs falls to 17 full time employees and one temp employee. Remaining employees all go on a 90 day voluntary furlough in order to keep the agency operating.
  - No FTEs in Community Relations Department. 90 (e) and Public Accommodation cases are no longer investigated. Technical Services Department is reduced to one FTE
- 2011
  - State Director Ralph Haile, Agency General Council, is named the fifth Commissioner, (Interim Commissioner) (2011-2012)
  - Dedicated employees at times, work without being paid and keep the agency afloat.
  - The legislature believing that State Government and not the Federal Government should be handling the problems and issues involving discrimination in South Carolina, and \$600,000 is restored to the budget to the agency budget for FY 2011-2012.
  - After Interim Commissioner Haile resigns, John Wilson, Compliance Director, takes over the leadership of the agency until a new Commissioner is hired.
- June- 2012
  - SHAC Board changes from a 15 Member Board to a 9 Member Board
- July-2012
  - State Director Raymond Buxton, II, becomes the sixth Commissioner of the agency. (2012-Present)
  - From 2012 until 2016, Funding for filled FTE positions increases from 17 to 43.
  - Community Relations Department is reinstated to create and sustain Community Relations Councils around the State.
  - 90 (E) and Public Accommodation complaints are once again investigated.
- 2013
  - Under direction from the Department of Administration, oversaw the physical move of the agency from location of agency since 1978 on Forest Drive to 1026 Sumter Street.
- 2014
  - Major upgrade for CAAMS occurs to include data from the 2010 US Census
- 2015
  - Agency increased outreach and educational activities through improvements to WEB Site, advertising, reinstating Agency Newsletter, developing a CRC Newsletter and distribution of agency brochures.
  - Increased training for the newly hired investigators to ensure better customer service for citizens and businesses in SC.
- 2016
  - SHAC entered into a contract with the College of Charleston to develop a systematic approach to create and sustain Community Relations Councils.



- SHACRA is reinstated as a no-profit group.
- As a result of the Emanuel 9 tragedy in Charleston, SC, the Commission began a three event series per year to include recognizing: a) International Day on March 21 of each year to “End Racism”, b) Began to sponsor a “Remembering the Emanuel 9 Day” for all State Agencies in SC, C) sponsoring a dialogue on race relations in late summer.
- Increased attorneys on staff to three so that the laws of the agency can be enforced and enhanced in a manner that the Commission can hold public hearings as the legislation intended.
- Agency has investigated approximately 40,000 Discrimination complaints since its inception.

**Deliverables**  
(Study Step 1: Agency Legal Directives, Plan and Resources)

Agency Responding		Human Affairs Commission										
Date of Submission		4/17/2017										
		<p><b>When adding laws under, Applicable Laws, please cite them as follows:</b></p> <p><u>State Constitution:</u> Article # . Title of Article . Section # . Title of Section (Example - Article IV. Executive Department. Section 12. Disability of Governor)</p> <p><u>State Statute:</u> ## - ## - ## . Name of Provision . (Example - 1-1-110. What officers constitute executive department.)</p> <p><u>Federal Statute:</u> Title # . U.S.C. Section # (Any common name for the statute)</p> <p><u>State Regulation:</u> Chapter # - Section # (Any common name for the regulation)</p> <p><u>Federal Regulation:</u> Title # C.F.R. Section # (Any common name for the regulation)</p> <p><u>State Proviso:</u> Proviso ## .# (Proviso Description ), 2015-16 (or whichever year is applicable) Appropriations Act Part 1B (Example - 117.9 (GP: Transfers of Appropriations), 2014-15 Appropriations Act, Part 1B.)</p>										
		Does the agency know...										
Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or proviso to charge for it? (Y/N)	cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
1	The Commission shall encourage fair treatment and eliminate and prevent discrimination.	1-13-40. Creation of South Carolina Commission on Human Affairs	Not Address	See all deliverables below								
2	The Commission shall have a full and functioning board.	1-13-40. Creation of South Carolina Commission on Human Affairs; 1-13-60. Duties of chairman and vice-chairman.	Require		No	A full and functioning board is necessary for the administration of the Agency's laws, particularly the adjudication of matters in an administrative hearing.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	No
3	The Commission shall have a paid Agency head, recommended by the Commission board, and approved by the Governor, and shall also hire other staff members for furthering the mission of the agency.	1-13-50. Commissioner and personnel.	Require		No	The mission would not be carried out because no staff would work to enforce the laws of the agency.	The Statute specifically requires this, so there is no other possibility than funding.	None	No	No	No	No
4	The Commission may adopt bylaws, publish reports and policies, and promulgate regulations to further the mission of the Agency, and deter discrimination in housing and employment across the state.	1-13-70. Powers of the Commission; 31-21-100. Powers of the Commission	Allow		No	Consumers would not have sufficient guidance on the Agency's process or legal interpretations if the Commission did not issue additional reports, policies, or regulations.	Allow the Commission to promulgate and amend its regulations, as needed.	None	No	No	No	No
5	The Commission may recognize and cooperate with Community Relations Councils across the state, provided the Council meets certain requirements.	1-13-70. Powers of the Commission; 65-40 Minimum Requirements	Allow		No	Not having a mechanism within a community to address sensitive issues or possible social unrest as it relates to matters of race, national origin, color or religion and that if not handled appropriately lead to a negative economic impact	Support the creation of local Community Relation Councils in the counties you represent to resolve problems locally at the grass roots level and not at the state level.	None	No	No	No	No
6	The Commission may contract and cooperate with Federal Equivalent Agencies (like the EEOC and HUD) in furthering the joint missions of the Agencies.	1-13-70. Powers of the Commission; 31-21-100. Powers of the Commission.	Allow		No	The Commission would lose significant funding from the Federal Agencies which rely on the Human Affairs Commission to share caseloads.	Study differences in the federal and state laws regarding employment, housing, and public accommodation discrimination so that our laws are substantially similar to our Federal Counterpart Agencies.	None	Yes	No	No	No
7	The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-2 Complaint	Require		No	Complaints of unlawful discrimination would either be investigated by the EEOC, or would not be investigated.	Maintain the compliance and legal departments at current levels. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	Yes
8	The Agency shall attempt to conciliate or mediate complaints against employers alleged to have engaged in unlawful employment discrimination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders.; 65-5 Conference Conciliation and Persuasion	Require		No	More complaints would likely result in a lawsuit in federal or state court.	Pass legislation requiring mediation for complaints lodged against State Agencies.	None	No	No	No	Yes
9	The Commission may petition a court of competent jurisdiction seeking injunctive relief regarding an employment discrimination complaint pending with the agency.	1-13-70. Powers of the Commission; 65-4. Preliminary or Temporary Relief	Allow		No	An Aggrieved Party that is not represented by a private attorney and who does not know they can file for an injunction, could potentially suffer irreparable harm.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
10	The Agency shall issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of evidence in employment investigations, and the Commission shall enforce subpoenas through a court of competent jurisdiction.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-3 Investigation and Production of Evidence	Require		No	Complaints of unlawful discrimination would not be investigated, and the federal government would likely intervene.	Permit the Agency to update its regulations with the regulation changes currently proposed; consider statutory revisions in order to streamline the process and minimize costs to the Agency when subpoena enforcements are required.	None	No	No	No	No
11	The Commission shall issue an order at the completion of an employment investigation regarding a state agency employer, either that the matter be dismissed or that a panel of commission members be designated to hear the matter.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-2 Complaint; 65-3 Investigation and Production of Evidence; 65-6 Reasonable Cause Determination	Require		No	Complainants would not have the opportunity to be heard in court or in a hearing proceeding and would not be awarded relief if their claims hold up in either of those processes.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes

**Deliverables**  
(Study Step 1: Agency Legal Directives, Plan and Resources)

Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (if deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or proviso to charge for it? (Y/N)	Does the agency know...		
										cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
12	The Commission shall hold an administrative hearing before a panel of three commission members, and shall render a decision related to the claims, when an employment investigation against a state agency has resulted in a reasonable cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-8 Procedure for Hearing as Provided by Section 1-13-90 (c)	Require		No	Viable claims of employment discrimination against state agencies would not be adjudicated in a cost-effective, timely way, and would instead result in lawsuits being filed in circuit of federal court, adding cost to the state.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes
13	The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-2 Complaints; 65-6 Reasonable Cause Determination: Procedure and Authority; 65-9 Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	Require		No	Complaints of unlawful discrimination would be incomplete, and the federal government would likely intervene.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
14	The Agency and Commission may initiate a lawsuit on behalf of an aggrieved party when an employment investigation against a non-state agency has resulted in a reasonable cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-9 Procedures for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	Allow		No	Viable claims of discrimination against non-state agencies in the employment context would not be adjudicated in a cost-effective, timely way and would instead result in personal lawsuits being filed in circuit of federal court.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
15	The Agency shall attempt to conciliate allegations of discrimination outside of the employment context.	1-13-90. Complaints, investigations, hearings, and orders	Require		No	Public would not have a neutral state entity to resolve discrimination matters and without an outlet of expression and means to resolve a complaint, this could lead to social unrest and harm economic progress.	Maintain compliance and legal departments at current levels. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	Yes
16	The Commission shall submit a report to the General Assembly each year concerning the status of the Affirmative Action Plans of all state agencies, and will work with all Agency Equal Employment Officers for preparing reports, to include each Agency's Equal Employment Opportunity Report.	1-13-110. Affirmative action plans by State agencies; approval by Commission; action by General Assembly; 65-20 Submission of Equal Employment Opportunity Reports; 65-21 Equal Employment Officer to be Designated; Proviso 117.13 (GP: Discrimination Policy)	Require		No	Not monitoring State Agency AAPs would lead to more complaints of employment discrimination being filed against State Agencies and would erode the tremendous progress that State Government has made in terms of hiring and promoting qualified individuals to State employment positions where the agency employment staff looks similar to the makeup of qualified citizens in the general population.	Continue to support the proviso that if agencies are not in compliance with the law that funding can be withheld from their agency.	None	No	No	No	No
17	The Agency shall not make public information contained within an employment investigation file unless it is being entered as evidence at a Commission hearing or court proceeding.	65-3 Complaint	Require		No	File contents would be readily available to anyone, which would include matters regarding conciliation, trade secrets, personnel data, anonymous witnesses, attorney-client privileged data, and work product, among other types of confidential information.	Assist the agency with establishing a better physical location for our office that already has sufficient privacy protections in place.	None	No	No	No	No
18	The Agency shall make certain portions of employment investigation files available to the parties involved in the investigation.	65-3 Complaint	Require		No	Parties to investigations would not be able to obtain data provided to the agency following their assistance with those investigations.	Allow the Commission to promulgate and amend its regulations, as needed.	None	Yes	Yes	No	Yes
19	In employment investigations, the Commissioner shall provide the parties the opportunity to seek reconsideration of a final determination regarding the investigation.	65-7 Reconsideration of Order of Dismissal or Order to Initiate Suit;			No	The parties would not be afforded a fresh, objective opinion following the dismissal or closure of a matter.	Maintain the legal department within the agency at its current level of staffing.	None	No	No	No	Yes
20	The Chairman or the Commissioner (Agency Head) may authorize or certify all documents or records which are a part of the files and records of the Commission.	65-10 Certification; 65- 236 Certification	Allow		No	Commission documents would not be certified.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	No
21	The Agency shall make rules and regulations of the Commission available to the public at its office and per the APA.	65-11 Availability of Rules; 65-237 Availability and Construction of Rules	Require		No	The public may not have access to Agency rules and regulations.	Allow the Commission to promulgate and amend its regulations, as needed.	None	No	No	No	No
22	The Agency may conduct general investigations into the problems of discrimination not related to housing, employment, or public accommodations, and may study and report upon the problems of the effect of discrimination on any field of human relationships.	65-13 General Investigations	Allow		No	Public would not have a neutral state entity to resolve discrimination matters, and without an outlet of expression and ability to resolve sensitive matters regarding discrimination, this could lead to social unrest and harm economic progress.	Maintain the compliance and legal departments at current levels. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	No

**Deliverables**  
(Study Step 1: Agency Legal Directives, Plan and Resources)

Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (if deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or provision to charge for it? (Y/N)	Does the agency know...		
										cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
23	The Agency shall prepare and distribute notices for other State Agencies to post in conspicuous locations for employees, which set forth excerpts from pertinent provisions of the Human Affairs Law, to include information regarding filing a complaint.	65-24 Notices to be Posted	Require		No	State employees will not be aware of their rights under the Human Affairs Law.	Provide the agency with a punishment mechanism if other State Agencies fail to comply with the requirement.	SC Dept. of Employment and Workforce, South Carolina Dept. of Consumer Affairs, SC Division of Human Resources	No	No	Yes	No
24	The Commission shall administer the provisions of the Fair Housing Law of South Carolina, but may delegate responsibilities to its paid staff.	31-21-90. Administration of Chapter.	Require		No	Fair Housing would not be enforced statewide.	The Statute specifically requires this, so there is no other possibility than funding.	None	No	No	No	No
25	The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending the a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission; 31-21-110. Investigations by the commission; subpoenas; 31-21-120. Complaints; process and handling; conciliation; effect of local laws; civil action.; 65-220 Complaints; 65-223 Investigation Procedures	Require		No	Complaints of unlawful discrimination would either be investigated by the HUD, would be filed immediately in a lawsuit, or would not be investigated.	Maintain the fair housing and legal departments within the agency at current level of staffing. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	Yes
26	The Agency shall attempt to conciliate or mediate complaints against housing providers alleged to have engaged in unlawful housing discrimination.	31-21-120. Complaints; process and handling; conciliation; effect of local laws; civil action.; 65-225 Conciliation Procedures	Require		No	More complaints would likely result in a lawsuit in federal or state court.	Maintain the fair housing and legal departments within the agency at current level of staffing. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards	None	No	No	Yes	Yes
27	The Commission may petition a court of competent jurisdiction seeking injunctive relief regarding an employment discrimination complaint pending with the agency.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission	Allow		No	An Aggrieved Party that is not represented by a private attorney and who does not know they can file for an injunction, could potentially suffer irreparable harm.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
28	The Agency shall issue a subpoena or subpoena duces tecum to compel the attendance of witnesses or the production of evidence in fair housing investigations, and the Commission shall enforce the subpoena through a court of competent jurisdiction.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission; 31-21-110. Investigations by the commission; subpoenas; 65-223 Investigation Procedures	Require		No	Complaints of unlawful discrimination would not be investigated, and the federal government would likely intervene.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required, to include providing access to using SC Law Enforcement Officers for free process service.	None	No	No	No	Yes
29	The Commission shall issue an order at the completion of a fair housing investigation, which shall state that either that the complaint be dismissed, or that a panel of commission members be designated to hear the matter based on a new complaint consisting of a short and plain written statement of the facts upon which the Commission found reasonable cause to believe that a discriminatory housing practice had occurred.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; 65-223 Investigation Procedures; 65-227 Issuance of Complaint.	Require		No	Complainants would not have the opportunity to be heard in an administrative proceeding and would not be awarded relief if their claims are meritorious.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes
30	The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; ; 65-230 General Information; 65-231 Hearing Panel; 65-232 Parties; 65-233 Pleadings, Motions and Discoveries; 65-234 Dismissal and Decisions; 65-235 Hearing Procedures	Require		No	Viable claims of discrimination in the housing context would not be adjudicated in a cost-effective, timely way and would instead result in private lawsuits being filed in circuit of federal court, adding cost to the state.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes

**Deliverables**  
(Study Step 1: Agency Legal Directives, Plan and Resources)

Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (if deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or provision to charge for it? (Y/N)	Does the agency know...		
										cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
31	The Commissioner shall maintain a civil action in the Court of Common Pleas on behalf of an aggrieved party in a fair housing matter (in lieu of holding an administrative hearing) when any party has elected to have the matter be litigated in court, following a reasonable cause determination and after conciliation efforts have failed.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; 31-21-140. Civil action; damages.; 65-227 Issuance of Complaint; 65-234 Dismissal and Decisions	Require		No	Viable claims of discrimination in the housing context would not be adjudicated in a cost-effective, timely way and would instead result in private lawsuits being filed in circuit of federal court.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
32	Before accepting a complaint, the Agency shall determine if the complainant has filed a similar complaint with the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, The Department of Housing and Urban Development, or any other agency with authority to investigate and shall avoid multiple investigations of the same complaint.	31-21-150. Coordination regarding complaint filed with multiple agencies	Require		No	Duplicate complaints would be reviewed by multiple agencies at the same time unnecessarily.	Maintain the fair housing and legal departments within the agency at current level of staffing.	None	No	No	No	Yes
33	When a fair housing complaint is received that is within the jurisdiction of a substantially equivalent local agency, the Commission will notify the agency of the filing of the housing complaint, and if a case is referred, the Commission will notify the parties to the investigation of the referral.	65-221 Referral of Complaints to State and Local Agencies	Require		No	Duplicate complaints may otherwise be filed which would be reviewed by multiple agencies at the same time unnecessarily.	Currently, there are no equivalent local agencies authorized to investigate housing discrimination complaints.	None	No	No	No	Yes
34	The Commission shall notify interested agencies of a reasonable cause fair housing determination, and any enforcement proceeding related thereto.	65-229 Other Action	Require		No	Partner agencies would be unaware of our Agency's efforts and decision to prosecute a claim of discrimination.	Maintain the fair housing and legal departments within the agency at current level of staffing.	None	No	No	No	Yes
35	After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.	45-9-40. Processing of complaints; review by State Human Affairs Commission; complaint by Attorney General.; 45-9-110. Prerequisites to action for damages; conciliation.	Require		No	Complaints of unlawful discrimination would either be investigated by the DOJ, or would not be investigated.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
36	If the commission panel reviewing the public accommodation complaint determines there is reasonable cause, then a panel of at least five Commission members will be designated by the chairman as a panel to hold a hearing on the allegations contained in the Attorney General's complaint within 60 days of its filing.	45-9-50. Hearing on complaint by Attorney General; notice of hearing.	Require		No	More complaints would likely result in a lawsuit in federal or state court.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
37	The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.	45-9-60. State Human Affairs Commission may establish rules of procedure for hearings; subpoenas; rights of persons charged; rules of evidence; scope of hearing; deliberations of panel; remedies for violation.;45-9-65. Liability of employer for acts of employee; conditions under which revocation of license not required for pattern or practice of discriminatory conduct.; 45-9-70. Right to Intervene in Action	Allow		No	Consumers would not have sufficient guidance on the Agency's process or legal interpretations if the Commission did not issue additional reports, policies, or regulations.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
38	The Commission panel must issue a written Order which includes findings of fact and conclusions of law, following a hearing under the chapter.	45-9-75. Final decision of panel; appeals.	Require		No	Commission decisions would not be able to withstand appellate review	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
39	In both employment and housing investigations, the Commission shall determine if jurisdiction exists and shall dismiss a complaint for lack of jurisdiction, and may also dismiss a complaint at the request of the complainant or if the complainant files a private lawsuit during the course of the investigation.	1-13-90. Complaints, investigations, hearings and orders. 65-2. Complaints; 65-220. Complaints; 65-223 Investigation Procedures	Require		No	The Commission would investigate cases that are not within its jurisdiction to investigate.	The Statute specifically requires this, so there is no other possibility than funding.	None	No	No	No	Yes

**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

<b>Agency Responding</b>	Human Affairs Commission
<b>Date of Submission</b>	4/17/2017

**Mission:** "The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- employment on the basis of race, color, national origin, religion, sex, age and disability;
- housing on the basis of race, color, national origin, religion, sex, familial status and disability; and
- public accommodations on the basis of race, color, national origin and religion, thereby promoting harmony and the betterment of human affairs for all citizens."

**Legal Basis:** S.C. Code Ann. § 1-13-20; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10

**Vision:** The vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens

**Legal Basis:** Legal Basis: S.C. Code Ann. § 1-13-20 et seq.; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10 et seq

Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	2015-16		2016-17		Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
		2015-16	2016-17							
<b>Goal 1 - Prevent and Eliminate Employment Discrimination</b>										
<b>Strategy 1.1 - Implement a process of hiring and training employment investigators</b>										
Objective 1.1.1 - Provide monthly training sessions related to employment law for 15 employment investigators in FY 2016-2017	Ensure staff is properly trained to complete timely investigations	DNE	\$ -	3	\$ 179,488.00	See below	Compliance	Lori Dean (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Lori Dean - Yes John Dave Smith - No Sharon Dorn - No	State Government
Objective 1.1.2 - Institute a workplace mentoring program for Investigator I employees during FY 2016-2017	Ensure staff is properly trained to complete timely investigations	3	\$ 183,329.52	3	\$ 195,150.00	Intake Calls and Initial Inquiries; Intake Calls Formalized into charges; Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements; Training - Internal	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
<b>Strategy 1.2 - Implement a reliable and measurable tracking system for the time it takes to process and investigate an employment discrimination complaint</b>	Agency will decrease time it takes to process charges to meet the goal of 180 days	3	\$ 173,873.60	3	\$ 175,310.12	See below	Compliance	Dan Koon (responsible more than 3 years) Vicki Miller (responsible more than 3 years) Margaret H Ellis (responsible more than 3 years)	Dan Koon - No Vicki Miller - No Margaret H Ellis - No	Federal Government
Objective 1.2.1 - Decrease the average amount of case processing time of 263 days to investigate a charge of discrimination from the date of filing by 20% or 210 days by June 30, 2017	Agency will decrease time it takes to process charges to meet the goal of 180 days	5	\$ 342,107.14	6	\$ 410,930.39	Employment Cases Received; Employment Cases Closed; Employment Cases Successfully Mediated; Funds Collected at Mediation; Employment: Monetary Value of Settlements	Compliance	Commissioner Raymond Buxton, II (responsible more than 3 years) Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years) Lee Ann Rice (responsible less than 3 years) Emma Bennett-Williams (responsible less than 3 years)	Commissioner Raymond Buxton - No Dan Koon - No John Dave Smith - No Sharon Dorn - No Lee Ann Rice - No Emma Bennett-Williams - No	Federal Government
<b>Goal 2 - Prevent and Eliminate Housing Discrimination</b>										
<b>Strategy 2.1 - Enhance the awareness of the Housing Division to include the awareness of the Agency in under-served counties</b>										
Objective 2.1.1 - Finalize a Fair Housing Outreach Plan by December 31, 2016	To prevent and eliminate housing in underserved counties	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.2 - Hire a Fair Housing Outreach Liaison by December 16, 2016	Education and Outreach	1	\$ 4,519.35	1	\$ 18,077.40	Housing Cases Received	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
<b>Strategy 2.2 - Implement an efficient processing system for Housing Discrimination Complaints</b>	Agency will be able to efficiently investigate complaints of housing complaints	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.2.1 - Process 60% of all Housing cases within 100 days during FY 2016-17	Agency will decrease time it takes to process charges to meet the goal of 100 days	DNE	\$ -	7	\$ 269,514.61	Housing Cases Closed; Housing Cases Conciliated	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Tamiko Johnson (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Tamiko Johnson - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government

**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Objective 2.2.2 - Conduct on-site investigations for all cases identified as problematic cases during FY 2016-2017	Agency will be able to efficiently investigate complaints of housing investigations	DNE	\$ -	6	\$ 243,649.61	Housing Cases Closed	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government
<b>Goal 3 - Educate Citizens about the use of Legal Remedies to Achieve Justice and Fairness</b>						See below				
<b>Strategy 3.1 - Empower the Legal and Mediation Departments with authority as provided by law.</b>	Provide recourses provided to charging parties	1	\$ 54,708.22	1	\$ 59,368.00	See below	Administration/Legal	Lee Ann Rice (responsible less than 3 years)	No	Federal Government
Objective 3.1.1 - Litigate probable cause cases that cannot be conciliated in the Fair Housing Division during FY 2016-17	Hold accountable discriminating respondents in SC	2	\$ 67,280.68	2	\$ 111,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years)	No	Federal Government
Objective 3.1.2 - Hold an administrative hearing for an employment or housing case by June 30, 2017	Holding accountable discriminators in Employment or Housing	DNE	\$ -	3	\$ 161,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years) Emma Williams-Bennett (responsible less than 3 years)	No	Federal Government
Objective 3.1.3 - Increase the number of mediated cases from the current level of 20% to 25% during FY 2016-17	Efficiently resolve more cases filed with the agency	2	\$ 87,538.41	2	\$ 88,905.00	Employment Cases Successfully Mediated; Funds Collected at Mediation; Housing Cases Conciliated; Public Accommodation / 90 e Cases Investigated	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Tracie Mefford (responsible less than 3 years)	No	Federal Government
<b>Strategy 3.2 - Promote legislation to update and standardize the laws and regulations of the Commission</b>	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00		\$ 104,070.00	See below	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Objective 3.2.1 - Continue to engage and educate members of the General Assembly for proposed changes to existing statues during FY 2016-17	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00	1	\$ 104,070.00	None	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
<b>Goal 4 - Foster Culturally Sensitive and Socially Inclusive Communities State Wide</b>						See below				
<b>Strategy 4.1 - Create and sustain existing Community Relations Councils in 46 counties</b>	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	See below	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.1 - Increase the number of counties with Community Relations Councils from 17 to 22 during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.2 - Sustain the current leadership in existing Community Relations Councils per minimum requirement during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	2	\$ 81,174.16	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
<b>Strategy 4.2 - Implement technology platform and external Communication campaign to expand the network of Community Relations Councils</b>	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	See below	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.1 - Distribute an electronic newsletter devoted to Community Relations Councils on a monthly basis during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 51,919.52	1	\$ 55,086.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Betty Dennis (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.2 - Develop the agency web page to communicate periodic updated information to all Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other

**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

		2015-16		2016-17							
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend						
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48						
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)		Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
<b>Strategy 4.3 - Promote the Quality of Life Initiative in all Community Relations Councils</b>	Promote best practices among Community Relations Councils		\$ 50,475.84	1	\$ 51,905.00	See below	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other	
Objective 4.3.1 - Conduct Quality of Life Initiative meetings with 5 Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	DNE	\$ -	1	\$ 51,905.00	None	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other	
<b>Goal 5 - Advocate the compliance of Agency Affirmative Action Policies within all State Agencies</b>						See below					
<b>Strategy 5.1 - Partner with all State Agencies to better monitor agency Affirmative Action policies</b>	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	See below	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government	
Objective 5.1.1 - Conduct a computer analysis of each agency's hiring and promotion practices during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government	
Objective 5.1.2 - Review all State Agency Affirmative Action Reports and provide necessary recommendations to state agencies in developing and implementing non-discriminatory employment systems during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored; Training - External	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government	
<b>Strategy 5.2 - Provide affirmative action and employment law training to all State Agencies</b>	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	See below	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government	
Objective 5.2.1 - Conduct one statewide training program for all Affirmative Action (EEO) Officers during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government	
Objective 5.2.2 - Provide 12 EEO Employment Law training sessions for supervisors of state agencies requesting assistance during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	None	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government	
Objective 5.2.3 - Organize one state-wide Affirmative Action Forum for all State Agencies during FY 2016-17.	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government	



### **Agency Mission and Vision**

#### **AGENCY MISSION**

The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- Employment on the basis of race, color, national origin, religion, sex, age and disability;
- Housing on the basis of race, color, national origin, religion, sex, familial status and disability;
- Public accommodations on the basis of race, color, national origin and religion; thereby promoting harmony and the betterment of human affairs for all citizens.

#### **AGENCY VISION**

The Vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens of SC.

*Chair Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

## **Legislative Oversight Committee**

*Katherine E. (Katie) Arrington  
Gary E. Clary  
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Legal Counsel*

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Research Analyst/Auditor*

June 27, 2017

Commissioner Huge E. Weathers  
South Carolina Department of Agriculture  
P.O. Box 11280  
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate the agency's continued cooperation during the oversight process. The Subcommittee is scheduled to meet again on Monday, July 10 at 2:00 p.m. As it is my understanding you are unable to attend the meeting on July 10, the Subcommittee will hold another work session with regards to its study of the Department of Agriculture. Please have an agency representative available to answer any potential questions. In preparation for the next work session, the Subcommittee seeks additional information from the agency, pertaining to its recommendations, on or before Friday, July 7, 2017.

*Recommendation #4 - Adopt the model feed law proposed by the American Association of Feed Control Officials*

- Please explain the difference in the tonnage fee versus the registration fee and how the agency will be able to make this change budget neutral?
- Please explain the facility registration fees.
- Please explain any other fees and if the proposed changes adds or keeps these the same.

*Recommendation #10 - Authorize an application fee (\$25) for a food business when registering for a registration verification certificate*

*Recommendations #11 - Authorize a tiered annual fee for a registration verification certificate*

- How much revenue does the agency anticipate this fee will generate?
- How many inspectors, if any, will this revenue enable the agency to hire?

Commissioner Weathers  
June 27, 2017

Previously, the Subcommittee requested draft language (i.e., strike through and underline format) of agency recommendations. We appreciate the suggested language already provided for many of the agency recommendations. It would be helpful to have that language for the remaining agency recommendations:

- Recommendation #5 - Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws
- Recommendation #6 - Requires businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
- Recommendation #7 - Authorize a \$5 per dispenser registration fee for business that dispense petroleum products
- Recommendation #8 - Enforce a scalable money penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer

In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina.

Sincerely,



Laurie Slade Funderburk  
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

## Jennifer Dobson

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**From:** Kitchen, Stefanie <skitchen@scda.sc.gov>  
**Sent:** Monday, July 10, 2017 10:48 AM  
**To:** Jennifer Dobson  
**Cc:** Wood, Aaron  
**Subject:** SCDA Additional Information Pertaining to Recommendations  
**Attachments:** Amended Petroleum Law Draft 2017 7-10-17.doc; Amended Warehouse Law 7-10-17.doc; South Carolina Commercial Feed Act a bill to amend 6-20-17.docx

Jennifer,

Please see the additional information below and attached. Please let me know if you need anything else before this afternoon.

### Recommendation #4:

- *Tonnage vs. Registration fees.* Currently law requires each and every feed/pet food product sold in SC to be registered. This is tedious to manufacturers and feed producers. A simple tonnage fee would create same revenue but allow businesses to not file multiple fees. Richard Sellers, Richard Sellers, PAS, Dipl., ACAN Sr. Vice President, Public Policy and Education American Feed Industry Association (AFIA), has a formula used in other states ( ¼ of the states in USA including Ga and NC use tonnage vs. product registration) that well calculate tonnage fee amount to maintain current revenue stream. AFIA is seeking tonnage information from their members to gain an idea of how much feed is distributed in SC. This information will show how the change will be revenue neutral.
- *Facility Registration Fee.* Similar to Food Facility Registration recommendation (#11). Food and Feed are now referred to as Human Food and Animal Food and new laws and requirements (FSMA) require more detailed and specific inspections. Firms need to be in SC Official Inventory and must register with the state prior to operation.
- *Other fees.* Included in the draft AAFCO Model Feed Law Section 46-27-840 supported by AFIA attached.

### Recommendation #10 and #11:

- Revenue to generate: Application fee (\$25) would generate approximately \$5,000 annually. Average of 200 new businesses apply yearly.
- Revenue generated by annual registration fee would be \$157,400 total.
  - o Tier 1 - 346 firms at \$100 = 34,600
  - o Tier 2 – 395 firms at \$200 = \$79,000
  - o Tier 3 – 146 firms at \$300 = \$43,800
- A total of 3 to 4 inspectors can be hired at entry level salaries (including fringe) with this new revenue source. Our current inspection staff is 5 and this would bring us to 9.

**Recommendation #5-**Draft language still in process.

**Recommendations #6-8-**Amended Petroleum Law Draft 2017 attached.

Amended Warehouse law is attached as well.

Thank you,

**Stefanie Kitchen**

*Commissioner's Office Director*

**South Carolina Department of Agriculture**

1200 Senate Street | Wade Hampton Building, 5th Floor

Columbia, South Carolina 29201

Office: 803-734-2179

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## CHAPTER 41.

## GASOLINE, LUBRICATING OILS AND OTHER PETROLEUM PRODUCTS

## ARTICLE 1.

## PETROLEUM PRODUCTS GENERALLY

**SECTION 39-41-5.** Short title; purpose.

This chapter is known as the “South Carolina Gasoline, Lubricating Oils, and Other Petroleum Products Act”. This chapter promotes and protects the public health, safety, and welfare by ensuring that petroleum products:

- (1) are labeled and posted in a manner consistent with the principal of truth-in-labeling;
- (2) meet or exceed minimum standards of quality as set out in the American Society of Testing and Materials Manual.

**SECTION 39-41-10.** “Petroleum” and “petroleum product” defined.

“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.

A. Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.

B. One dispenser registration permit shall be issued to each location for all liquid measuring devices at that location based on the total number of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be five dollars per dispenser, regardless of the number of products or hoses on that dispenser.

**SECTION 39-41-20.** [1962 Code SECTION 66-402; 1952 Code SECTION 66-402; 1942 Code SECTION 6577; 1932 Code SECTION 6577; Civ. C. ‘22 SECTION 3487; 1913 (28) 204; 1915 (29) 145; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 2][1994 Act No. 469, SECTION 3] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-20 was entitled: Commissioner shall appoint analysts, chemists and inspectors; powers of inspectors; stop-sale orders.

**SECTION 39-41-30.** [1962 Code SECTION 66-403; 1952 Code SECTION 66-403; 1942 Code SECTION 6584; 1932 Code SECTION 6584; Civ. C. ‘22 SECTION 3494; 1913 (28) 204] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-30 was entitled: Inspectors shall not be interested in products manufactured or sold.

**SECTION 39-41-40.** [1962 Code SECTION 66-404; 1952 Code SECTION 66-404; 1942 Code SECTION 6585-1; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119][1993 Act No. 181, SECTION 848] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-40 was entitled: Department of Public Safety may assist in enforcement of laws relating to inspection of petroleum products.

**SECTION 39-41-50.** [1962 Code SECTION 66-405; 1952 Code SECTION 66-405; 1942 Code SECTION 6575; 1932 Code SECTION 6575; Civ. C. '22 SECTION 3485; 1913 (28) 204; 1933 (38) 257; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 3][1994 Act No. 469, SECTION 4] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-50 was entitled: Manufacturers, wholesalers and jobbers shall file information as to petroleum products and distributors; fine for noncompliance.

**SECTION 39-41-60.** [1962 Code SECTION 66-406; 1952 Code SECTION 66-406; 1942 Code SECTION 6578; 1932 Code SECTION 6578; Civ. C. '22 SECTION 3488; 1913 (28) 204; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 4] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-60 was entitled: Notice of shipments of petroleum products.

**SECTION 39-41-70.** Inspection of petroleum products.

All petroleum products sold or offered for sale in this State and to be used in this State for power, illuminating or heating purposes, shall be subject to inspection and testing to determine their safety and value for power, illuminating or heating purposes. The Department of Agriculture may at any time or place have collected samples of any petroleum product offered for sale and have them tested and analyzed. The inspection of petroleum products as authorized in this article shall be under the direction of the Commissioner of Agriculture, who may make all necessary regulations for the inspection of such petroleum products, employ all necessary chemists and enforce standards as to safety, purity, value for power and heating purposes or absence of objectionable substances and luminosity, when not in conflict with the provisions of this article, and which he may deem necessary to provide the people of the State with satisfactory petroleum products.

**SECTION 39-41-80.** Promulgation of rules and regulations as to standards and testing methods.

The Commissioner of Agriculture is authorized to promulgate rules and regulations prescribing standards for petroleum products and methods for testing same.

**SECTION 39-41-90.** Tests of safety and value of petroleum products complained of; sale forbidden of petroleum product found unsafe or of inferior quality.

Whenever a complaint is made to the Department of Agriculture in regard to power, illuminating or heating qualities of any petroleum product sold in this State, the Commissioner shall cause a sample of such petroleum product complained of to be procured and have it thoroughly analyzed and tested as to safety or value for power or heating purposes or illuminating qualities. If such analysis or other tests shall show that the petroleum product is either unsafe or of inferior quality for power, heating or illuminating purposes, its sale shall be forbidden and reports of the result shall be sent to the person making the complaint and to the manufacturer of such petroleum product.

**SECTION 39-41-100.** [1962 Code SECTION 66-410; 1952 Code SECTION 66-410; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 7] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-100 was entitled: Sellers to keep records of shipments; delivery manifests; alteration of shipping documents a misdemeanor; penalty.

**SECTION 39-41-110.** [1962 Code SECTION 66-411; 1952 Code SECTION 66-411; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 8] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-110 was entitled: Inspection of records.

**SECTION 39-41-120.** [1962 Code SECTION 66-412; 1952 Code SECTION 66-412; 1942 Code SECTION 6578; 1932 Code SECTION 6578; Civ. C. '22 SECTION 3488; 1913 (28) 204; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 144; 1981 Act No. 130, SECTION 9] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-120 was entitled: Fee on petroleum products for funding inspection and other purposes; surety bond as prepayment pending reports and payment.

**SECTION 39-41-130.** [1962 Code SECTION 66-413; 1952 Code SECTION 66-413; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 144; 1981 Act No. 130, SECTION 10] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-130 was entitled: Refund of inspection fees.

**SECTION 39-41-140.** [1962 Code SECTION 66-414; 1952 Code SECTION 66-414; 1942 Code SECTION 6579; 1932 Code SECTION 6579; Civ. C. '22 SECTION 3489; 1913 (28) 204; 1915 (29) 145; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 11] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-140 was entitled: Payment of fees; disposition.

**SECTION 39-41-150.** Issuance of rules and regulations.

The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.

**(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.**

**Commented [WA1]:** We need to either include a definition of habitual offender; or list here, "over a XXX period." We were thinking twenty four months, but could go down to twelve.

**SECTION 39-41-160.** Penalties for fraudulent violations of article or regulations.



A person who fraudulently commits the following violations is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred nor more than one thousand dollars or imprisoned not less than thirty nor more than sixty days for each offense:

- (1) brands or labels a package, a barrel, a pump, a tank, or other vessel;
- (2) uses a label a second time;
- (3) keeps a petroleum product used for illuminating, heating, or power purposes not marked and branded in accordance with the regulations of the Commissioner of Agriculture;
- (4) violates this article or a regulation adopted by the Commissioner of Agriculture for its enforcement.

**SECTION 39-41-170.** Penalties for selling petroleum product without a label.

If any person shall sell or offer for sale any petroleum product used for illuminating, heating or power purposes, before first having it labeled and tagged as required by the regulations adopted by the Commissioner of Agriculture, he shall be guilty of a misdemeanor and, on conviction, be fined not exceeding three hundred dollars and such oils and fluids shall be forfeited and sold and the proceeds thereof shall go to the common school fund of the State.

**SECTION 39-41-180.** Penalties for altering or erasing labels.

If any manufacturer or dealer of such gasoline, illuminating or heating fluids shall, with intent to deceive or defraud, alter or erase the label or tag to indicate a different flash test, specific gravity or quantity than is indicated by the label or stamp attached to the vessel, he shall, on conviction, be fined not exceeding fifty dollars for every such offense.

**SECTION 39-41-185.** Labeling of petroleum product dispensers.

(A) A motor fuel retail dealer may not transfer, sell, dispense, or offer petroleum products for sale in South Carolina unless every dispenser is posted clearly with the complete registered brand name for the petroleum products being dispensed including the amount of alcohol, ethanol, and methanol, if any, and the octane number. The dispenser labeling must be in the same size and type lettering for all parts of the brand name including that portion of the brand name disclosing alcohol content and amount.

(B) The labeling must be conspicuous and legible to a customer when viewed from the driver's position of a motor vehicle positioned in front of the dispenser.

(C) Kerosene dispensers must be labeled as either 1-K or 2-K. 2-K dispensers must display the following in lettering at least one inch in height: "Not suitable for use in nonflue-connected heaters".

**SECTION 39-41-190.** General penalties for violation of article or rules and regulations.

A person who fails to comply with this article for which no other penalty is provided specifically, fails to comply with regulations authorized by Section 39-41-150, or hinders or obstructs the Commissioner of Agriculture or his authorized representative in the enforcement of this article is guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, must be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned not less than thirty nor more than sixty days.

**SECTION 39-41-195.** Penalties for conveyance of motor fuel in violation of this chapter.

(A) If a person or his agent or employee conveys, or offers to convey, motor fuel in violation of this chapter, the person is subject to an administrative fine or a stop-sale order, or both, in the discretion of the Commissioner of Agriculture.

(B) An administrative fine must not be assessed for an amount greater than one thousand dollars unless the violation:

- (1) threatens public health or safety;
- (2) is committed knowingly or intentionally; or
- (3) reflects a continuing and repetitive pattern of disregard for the requirements of this article.

(C) An administrative fine fully assessed by the commissioner for an amount greater than one thousand dollars may be assessed for an amount not in excess of ten thousand dollars.

**SECTION 39-41-200.** Applicability of article to retailers.

The provisions of this article shall not apply to a retail dealer in petroleum products, unless such retail dealer shall sell or offer to sell petroleum products of a manufacturer, wholesaler or jobber who refuses to comply with the provisions of this article.

**SECTION 39-41-210.** Reports.

The Commissioner of Agriculture shall include in his report to the General Assembly an account of the operations and expense under this article.

**SECTION 39-41-220.** Inspection of alcohol sold as motor fuel or sold for purpose of producing motor fuel.

Ethyl, methyl, and any other alcohol sold or offered for sale as motor fuel or to be blended with gasoline for the purpose of producing motor fuel are subject to inspection, sampling, and testing by the Department of Agriculture. Gasohol is defined as a blend of gasoline and at least ten percent ethyl alcohol. The department may limit the total oxygenates in the motor fuel blends consistent with industry practices and acceptable consumer motoring performance.

**SECTION 39-41-230.** Regulations as to alcohol used in motor fuels; alcohol to be anhydrous.

The Department of Agriculture shall promulgate regulations under the provision of SECTIONS 1-23-10 et seq. to ensure the quality of methyl or ethyl alcohol used as motor fuels or in blends with other motor fuel. Alcohol blended with gasoline to produce gasohol shall be anhydrous.

**SECTION 39-41-240.** Standards for testing petroleum products.

Quality and safety standards for testing of gasoline, gasohol, diesel fuel, kerosene, fuel oil and petroleum products shall be the specifications promulgated by the American Society for Testing and Materials unless other standards are promulgated by the Commissioner of Agriculture in accordance with SECTION 39-41-80.

**SECTION 39-41-250.** Registration of gasoline, gasohol and alcohol-gasoline mixtures by octane index; forms; use of index; octane standards.

All gasoline, gasohol and alcohol-gasoline mixtures for gasoline type engines that are sold, offered or exposed for sale or distribution in South Carolina shall be registered by each identifying brand name or grade designation and the corresponding minimum guaranteed Octane Index. Prescribed registration forms will be provided by the Department of Agriculture. The Octane Index, the average of the Research Octane Number and the Motor Octane Number, (R+M)/2, shall be the designated number for registration, delivery invoices, bills of lading, delivery tickets, posting on dispensing pumps and for advertising purposes, when so stated. The minimum Octane Index guarantee for premium grade gasoline, gasohol

and alcohol-gasoline mixtures shall be ninety-one. The minimum Octane Index guarantee for regular grade gasoline, gasohol and alcohol-gasoline mixtures shall be eighty-seven. Gasoline, gasohol and alcohol-gasoline mixtures having Octane Indices below eighty-seven must be registered and labeled as sub-standard or sub-regular.

**SECTION 39-41-255.** Retail outlets shall post self-service pump gasoline prices.

Every retail motor fuel outlet shall post in a conspicuous place the self-service pump price for each type of gasoline it has available; provided, that such posted price must include either the cash or the credit price but need not include both such prices. The manner in which the prices are posted must not conflict with any state or local laws or ordinances that regulate the size, use, or placement of billboards or signs. The posting on the pump price mechanism of the price of the type of gasoline available at that pump shall satisfy the requirement of this section.

**SECTION 39-41-260.** Aboveground storage of flammable and combustible liquids.

(A) The storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of the National Fire Protection Association Pamphlet No. 30, 1987 Edition, and all referenced publications in this pamphlet and the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, and all referenced publications in this pamphlet except for the aboveground storage of flammable and combustible liquids at service stations as provided by this section.

(B) A maximum of thirty thousand gallons aggregate capacity of flammable or combustible liquids, or both, may be stored aboveground at service stations. No single storage tank shall exceed twelve thousand gallons liquid capacity. Service stations with an aboveground storage tank in excess of twelve thousand gallons liquid capacity on June 12, 1990 are exempt from this section.

(C) All aboveground storage tanks located at service stations must be enclosed by an eight-foot high industrial type chain link fence with barbed wire barricade with a minimum of two means of emergency access located at opposite ends of the enclosure. Each access must be at least thirty-six inches wide and must be locked at all times except when entering or exiting. There must be a minimum working distance of at least five feet between the tank and the fence. The area inside the fence and diked area must at all times be clear of trash, combustible storage, and vegetation. Existing service stations on the effective date of this provision with aboveground storage tanks that are enclosed with a fence constructed as referenced above are allowed to continue operating with the existing working distance between the tanks and the fence.

(D) All aboveground storage tanks located at service stations with thirty thousand gallons aggregate storage capacity must be located a minimum of fifty feet from the nearest occupied building on the property, a minimum of fifty feet from a dispenser, a minimum of fifty feet from the nearest side of a public way, and a minimum of one hundred feet from a property line which is or can be built upon including the opposite side of a public way. All aboveground storage tanks located at service stations with twelve thousand gallons aggregate storage capacity must be located a minimum of thirty-seven feet from the nearest occupied building on the property, a minimum of thirty-seven feet from a dispenser, a minimum of thirty-seven feet from the nearest side of a public way, and a minimum of forty feet from a property line which is or can be built upon including the opposite side of a public way. Service stations with twelve thousand gallons aggregate storage capacity shall not have a storage tank in excess of four thousand gallons liquid capacity.

(E) All service stations that have aboveground storage tanks that contain flammable or combustible liquids, or both, shall have a minimum of three hundred thousand dollars of public liability insurance.

(F) Scaled plans for the renovation or construction of a service station that utilizes aboveground storage of flammable or combustible liquids, or both, must be submitted to the State Fire Marshal or his designee by registered receipt mail for approval before beginning construction. The State Fire Marshal or his designee

shall approve or deny the plans within sixty calendar days or they are automatically considered approved.

The plans must contain the following information:

- (1) site plan;
  - (2) spill containment plan;
  - (3) piping layout with valves and fitting details;
  - (4) normal and emergency ventilation design;
  - (5) tank capacity and design standard;
  - (6) electrical plan;
  - (7) tank and piping support details;
  - (8) on site fire protection equipment; and
  - (9) tank location with respect to other tanks and dike.
- (G) All feeder lines from aboveground tanks to dispensers located at service stations must be located underground and covered with a minimum of three feet of earth cover or eighteen inches of well tamped earth cover plus six inches of reinforced concrete or eight inches of asphaltic concrete.
- (H) Piping must be equipped with a fifty-two valve that cuts off the flow of liquid when the dispensing pump is not operating, as well as a quick shut-off device at the tank that will shut off the flow of product.
- (I) All horizontal tanks located at service stations must be installed on steel supports welded to the tank not to exceed six inches in height or placed on concrete support cradles, and all vertical tanks must be installed on gravel with a minimum of six inches reinforced concrete footing. Footing is to be larger than the diameter of the tank.
- (J) Two single portable tanks of six hundred sixty gallon capacity or less of Class II or Class III combustible liquid are allowed at service stations and are exempt from the requirements of this section.
- (K) All aboveground tanks located at service stations must be clearly labeled with appropriate placards as to the contents of volume and kept free of scale and painted.
- (L) A means must be provided to enable determination of liquid level in aboveground tanks located at service stations without requiring a person to climb atop the tank. Provisions must be made to either automatically shut off fuel delivery into the aboveground tank when the liquid level in the tank reaches ninety-five percent of capacity or to sound an audible alarm. This provision shall not apply to horizontal tanks of four thousand gallons or less and vertical tanks of two thousand gallons or less which must be filled with a hand held hose.
- (M) Regardless of whether a suction or submersible pump system is used, a listed emergency shut-off valve must be installed in accordance with Section 4-3.6 of the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, at each dispenser connected to an aboveground storage tank located at a service station.
- (N) Fill connections located at service stations for tank vehicle unloading operations must be located at least twenty-five feet from aboveground tanks, dispensers, building, and property lines. A check valve, gate valve, and quick connector or a dry break valve must be installed in the piping at a point where connection and disconnection is made for remote tank vehicle unloading. The devices must be protected from tampering and physical damage. Means must be provided to prevent or contain spillage during fuel delivery operations. This provision shall not apply to horizontal tanks of four thousand gallons or less, and vertical tanks of two thousand gallons or less. Fill connections at existing service stations on the effective date of this provision are exempt from the distance requirement referenced above.
- (O) Unattended service station installations in accordance with Section 8-5 of the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, are permitted only when the dispensing device is a card lock or key lock type dispenser.
- (P) Aboveground storage of flammable or combustible liquids at service stations is prohibited in municipalities with a population of twenty-five thousand persons or greater as determined by the most recent official United States Census, except as otherwise provided in subsection (J) of this section.

**SECTION 39-41-270.** Application of aboveground storage provisions.

The provisions of Section 39-41-260 of the 1976 Code, as amended by Section 1 of Act No. 582 of 1990, apply to all service stations constructed on or after the effective date of this act (June 12, 1990). Also, all existing service stations on the effective date of this act must comply with the revised provisions of Section 39-41-260 within two years of the effective date of this act, except that existing service stations with aboveground storage tanks are not required to comply with the provisions of Section 39-41-260(D) and existing service stations with an aboveground storage tank in excess of twelve thousand gallons liquid capacity on the effective date of this act are exempt from the provisions of Section 39-41-260(B). An imminent hazard to life shall be addressed immediately as referenced in Section 23-9-150 of the 1976 Code. For the purposes of this section and of Section 39-41-260, the term "service station" does not include any utility storage tank facilities which service utility operations, including vehicles, locomotives, or equipment.

**SECTION 39-41-280.** Enforcement of aboveground storage provisions.

The Division of State Fire Marshal or his designee shall enforce the provisions of Section 39-41-260 of Act 582 of 1990.

**SECTION 39-41-290.** Dispensing gasoline to disabled persons at self service gas stations.

(A) An owner or operator shall conduct the operations of a motor vehicle fuel service station so that the holder of a placard or disabled person's license plate provided for in Section 56-3-1960 shall have, upon request, gasoline or other motor vehicle fuel dispensed by an employee of the station at the self-service pump and be allowed to purchase the gasoline or other fuel at the price otherwise charged for gasoline or other fuel purchased on a self-service basis if the holder of the placard or license plate is driving the motor vehicle into which the gasoline is to be dispensed.

(B) This section applies to an owner or operator of a station which sells gasoline or other fuel at one price when an employee of the station dispenses the gasoline or other fuel into a motor vehicle and at a lower price when the customer dispenses the gasoline or other fuel on a self-service basis.

(C) This section does not apply to any motor vehicle fuel station, convenience store, or other facility that offers gasoline or other fuel for sale to the public solely by means of remotely controlled pumps operated by a cashier and does not offer refueling service or to any such facility during those business hours when the facility does not offer refueling service to the public as a continuing business practice.

(D) An owner or operator who violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars or imprisoned for a period not to exceed thirty days.

ARTICLE 3.

SALE OF LUBRICATING OILS

**SECTION 39-41-310.** Unauthorized substitution of type of lubricating oil from that ordered for motor vehicles.

It shall be unlawful for any person to fill with a spurious or substitute article an order for lubricating oil for internal combustion engines of automobiles, autotrucks or tractors, if such oil ordered is designated by a trademark or distinctive trade name unless and until it is explained to the person giving the order that the article offered is not the article that he ordered and the purchaser shall thereupon elect to take the substitute article that is being offered to him.

**SECTION 39-41-320.** Display of false trademark or trade name of lubricating oil.

It shall be unlawful for any person to display on any can, drum or other container in which lubricating oil for internal combustion engines of automobiles, autotrucks or tractors is kept for sale, or from which it is poured or drawn for sale, a trademark or trade name which is not the distinctive designation of the oil actually contained therein.

**SECTION 39-41-330.** Sale of oil specially designated from container not containing trademark or trade name.

It shall be unlawful for any person to fill any order from a consumer for a lubricating oil for internal combustion engines of automobiles, autotrucks or tractors that is designated by a trademark or distinctive trade name unless, at the time of sale, the oil is poured, drawn or taken for delivery from a can, drum or other container or bottle rack marked in such a manner as to be legible and clearly visible to the purchaser with the trademark or distinctive trade name by which the oil is designated.

**SECTION 39-41-340.** Sale of oil without trademark or trade name and which is not labeled as unbranded.

It shall be unlawful for any person to fill an order from a consumer for lubricating oil for internal combustion engines of automobiles, autotrucks or tractors with oil that is not designated by a trademark or distinctive trade name unless, at the time of sale, the oil is poured, drawn or taken for delivery from a can, drum or other container or bottle rack marked in such manner as to be legible and clearly visible to the purchaser with the words "Unbranded Lubricating Oil."

**SECTION 39-41-350.** Display of name of oil unless oil is for sale.

It shall be unlawful for any person to display any sign, label or other designating mark which describes any lubricating oil for internal combustion engines of automobiles, autotrucks or tractors not actually on sale in bona fide quantities at the place of business where such sign, label or other designated mark is displayed.

**SECTION 39-41-360.** Penalties.

Any person violating any of the provisions of this article shall, for each offense, be guilty of a misdemeanor and punishable, for the first offense, by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for not less than ten days nor more than thirty days, and for any subsequent offense, by a fine of not less than one hundred dollars nor more than three hundred dollars or by imprisonment for not less than thirty days nor more than ninety days.

## ARTICLE 5.

## DECEPTION IN SALE OF LIQUID FUELS, LUBRICATING OILS AND GREASES

**SECTION 39-41-510.** Deception in storage or sale.

No person shall store or sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other similar products in any manner whatsoever which may deceive, tend to deceive or have the effect of deceiving the purchaser of such products as to the nature, quality or quantity of the products so sold, exposed or offered for sale.

**SECTION 39-41-520.** Use of distributing devices of one manufacturer for products of another.

No person shall keep, expose, offer for sale or sell any liquid fuels, lubricating oils, greases or other similar products from any container, tank, pump or other distributing device other than those manufactured or distributed by the manufacturer or distributor indicated by the name, trademark, symbol, sign or other distinguishing mark or device appearing upon such tank, container, pump or other distributing device in which such products are sold, offered for sale or distributed.

**SECTION 39-41-530.** Imitation of recognized buildings or equipment of another.

No person shall disguise or camouflage his buildings or equipment by imitating the design, symbol or trade name of equipment under which recognized brands of liquid fuels, lubricating oils and similar products are generally marketed.

**SECTION 39-41-540.** Sale under false trademark or trade name.

No person shall expose or offer for sale or sell under any trademark, trade name, name or other distinguishing mark any liquid fuels, lubricating oils, greases or other similar products other than those manufactured or distributed by the manufacturer or distributor marketing such products under such trade name, trademark, name or other distinguishing mark.

**SECTION 39-41-550.** Mixing, blending or compounding products.

No person shall mix, blend or compound the liquid fuels, lubricating oils, greases or similar products of a manufacturer or distributor with the products of any other manufacturer or distributor or adulterate them and expose or offer for sale or sell such mixed, blended or compounded products under the trade name, trademark, name or other distinguishing mark of either of such manufacturers or distributors or as the adulterated products of either such manufacturer or distributor. But nothing herein shall prevent the lawful owner thereof from applying its own trademark, trade name or symbol to any such product or material.

**SECTION 39-41-560.** Aiding or assisting in violations of article.

No person shall aid or assist any other person in violating any of the provisions of this article by depositing or delivering into any tank, pump, receptacle or other container any liquid fuels, lubricating oils, greases or other like products other than those intended to be stored therein, as indicated by the name of the manufacturer or distributor or the trademark, trade name, name or other distinguishing mark of the product displayed in the container itself, or on the pump or other distributing device used in connection therewith or shall by any other means aid or assist another in the violation of any of the provisions of this article.

**SECTION 39-41-570.** Penalties.

Every person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars and by imprisonment not to exceed twelve months or by either or both in the discretion of the trial judge.

**SOUTH CAROLINA**  
**DEPARTMENT OF AGRICULTURE**

**STATE WAREHOUSE SYSTEM**  
**LAW AND REGULATIONS**

**SOURCE: CODE OF LAWS OF SOUTH CAROLINA, 1976**  
**(REVISED 1998)**



TITLE 39. TRADE AND COMMERCE  
CHAPTER 22  
State Warehouse System

## SECTION:

39-22-10.	Licensing.
39-22-15.	“Loss” defined.
39-22-20.	Warehouseman’s bond.
39-22-30.	Promulgation of rules and regulations.
39-22-40.	Storage of products other than cotton.
39-22-50.	“Linters” shall not be stored.
39-22-60.	Federal standards and classifications shall be authoritative.
39-22-70.	Issuance and contents of receipts for stored cotton.
39-22-80.	Requirements for warehouse receipt forms; electronic warehouse receipts exempt; notice to depositor; consent for transfers to other parties.
39-22-90.	Unlawful acts; penalties.
39-22-100.	Extent of State’s guarantee of weight, class and grade.
39-22-110.	Cotton stored shall be tagged.
39-22-120.	Insurance.
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39-22-150.	Reimbursement of depositors against losses.
39-22-160.	Annual report of Commissioner.
39-22-170.	No debt or liability of State shall be created by warehouse system.
39-22-180.	Warehousemen may make contracts to secure support prices for certain stored commodities.
39-22-190.	Records to be maintained by warehouse.
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## REGULATIONS:

5-490.	Definitions.	5-494.	Scale Tickets.
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## CHAPTER 22.

## STATE WAREHOUSE SYSTEM

Similar provisions were formerly contained in Chapter 21.

**SECTION 39-22-10.** Authority to grant licenses; minimum requirements to be met and maintained.

The department may license a qualified warehouse facility for the storage of cotton and grain or other nonperishable agricultural products as defined by regulation. A license must be granted only to those applicants who have met the minimum requirements of this chapter and whose warehouse facility is suitable for the storage of agricultural commodities for which it is intended. A license may be revoked or suspended at any time the warehouseman does not meet the minimum standards as required by this chapter.

**SECTION 39-22-15.** “Loss” defined.

For purposes of this chapter, “loss” means any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of storing a commodity in a state-licensed warehouse including, but not limited to, any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of the warehouseman’s bankruptcy, embezzlement, or fraud.

**SECTION 39-22-20.** Bonding or security requirements of applicants for warehouse license.

To safeguard the interest of holders of warehouse receipts issued under this chapter, Chapter 19 of this title, and Chapter 7 of Title 36, the department shall require a surety bond or equivalent security from the applicant for a warehouse license for the faithful performance of his duties. The bond or other security must be in an amount of twenty-five thousand dollars for each warehouse. The bond must provide that the warehouseman personally shall account for and pay over, according to law, all money and property received by him and, in cases of default, the surety shall pay all damages, costs, and expenses resulting from the default. In the event of a default, the holder of the warehouse receipt may proceed directly against the warehouseman or surety or both on the bond to recover the loss and a surety or other insurer who has been required to respond financially upon the action must be subrogated to all rights of the holder of the warehouse receipt.

The department shall assist the warehousemen in obtaining their individual bonds at the best available rate under a group plan, when possible.

**SECTION 39-22-30.** Department to promulgate regulations.

The department shall promulgate regulations to implement the provisions of this chapter.

**SECTION 39-22-40.** Term “cotton” to refer to all nonperishable farm products.

The provisions of this chapter referring to cotton also refer to all nonperishable farm products as defined by the Commissioner of Agriculture.

**SECTION 39-22-50.** Chapter inapplicable to “linters” cotton.

Cotton designated as “linters” may not be received for storage under the provisions of this chapter.

**SECTION 39-22-60.** Department to accept federal standards and classifications of cotton.

The Department of Agriculture shall accept as authoritative the standards and classifications of cotton established by the federal government.

**SECTION 39-22-70.** Receipt of lint cotton.

A receipt for lint cotton must be issued under the seal and signature of the Commissioner of Agriculture or his deputy in the name of the State, stating the location of the warehouse, the name of the manager, the tag number on the bale and the weight, grade, and staple to enable delivery on surrender of the receipt of the identical cotton for which it was given. The grade and staple may be omitted at the request of the depositor. The receipt may be issued in bearer or order form.

**SECTION 39-22-80.** Requirements for warehouse receipt forms; electronic warehouse receipts exempt; notice to depositor; consent for transfers to other parties.

The warehouse receipt forms must be designed or otherwise approved by the commissioner. All orders for the printing of warehouse receipts and bale tags must be preapproved by the department. The receipts must be numbered and the warehouse receiving the forms shall account for each receipt. The receipts may have the lithographed or engraved signature of the commissioner but they must be signed with pen and ink, indelible pencil, or mechanical device approved by the commissioner, by the authorized manager of the licensed warehouse. However, the Commissioner of Agriculture is authorized to accept and process Electronic Warehouse Receipts (EWR) from qualified providers, as defined by pertinent federal regulations governing EWR, and in so doing, is further authorized to exempt EWR from the provisions of this chapter to the extent these provisions are in conflict with pertinent federal regulations governing EWR, or to the extent that application of the provisions of this chapter renders acceptance and processing of EWR by the department impracticable. If a warehouseman elects to utilize electronic warehouse receipts, he must provide written notice to the depositor that the EWR have been issued to the depositor, the numbers of the EWR so issued and that the receipts are being held on his behalf and cannot be transferred to any other party without the depositor's written consent. The consent must be on a form approved by the commissioner and it must be signed in the presence of the warehouseman, and attested to by him. Provided, however, that a warehouseman may accept a notarized copy of the written notice form.

**SECTION 39-22-90.** Prohibited acts; penalties.

(A) It is unlawful for:

- (1) the manager or owner of a warehouse or an agent or employee to issue or aid in issuing a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;
- (2) a person to induce a warehouseman to issue a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;
- (3) a person to knowingly issue a warehouse receipt in a name other than that of the lawful owner of the commodity, or his designee, for which the receipt is given;
- (4) a person to knowingly deliver an agricultural commodity to a warehouse or dealer on which a lien is outstanding without giving written notice to the warehouseman or dealer of the lien;
- (5) a person to induce a warehouseman to deliver a commodity without first obtaining warehouse receipts issued for it;
- (6) a manager, owner, or employee of a warehouse to knowingly deliver a commodity without first obtaining warehouse receipts issued for it;

(7) a warehouse auditor who, upon the auditing of a warehouse in the state warehouse system, finds items (2) and (5) of this section to have been violated to fail to report the violation on his regular report of the inspection, regardless of whether or not the violation is corrected before the report is filed;

(8) a person to issue or aid in issuing a duplicate or additional receipt for cotton or other commodity, knowing that the former receipt or any part of it is outstanding unless a receipt has become lost or destroyed and the goods are delivered or a duplicate receipt is issued in accordance with the provisions of law covering those cases.

(9) a warehouseman to issue an electronic warehouse receipt without providing written notice to the depositor of such issuance, or for a warehouseman to transfer any such electronic warehouse receipt without the depositor having consented thereto in writing on a form provided by the commissioner.

(B) A person who violates the provisions of item (1), (2), (3), (4), or (9) of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both. Each transfer of an electronic warehouse receipt in violation of item (9) is a separate offense.

A person who violates the provisions of item (5) or (6) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

A person who violates the provisions of item (7) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each violation.

A person who violates the provisions of item (8) of this section is guilty of forgery and, upon conviction, must receive the penalty provided for a conviction of that crime.

#### **SECTION 39-22-100.** State guarantee; limitations.

The weights, classes, and grades of cotton, if shown on a warehouse receipt issued for the cotton, or other nonperishable farm products on storage are guaranteed by the State under this chapter only in favor of those who loan money on or buy cotton stored in warehouses. The State is not responsible for fluctuations in weight resulting from ordinary climatic conditions.

#### **SECTION 39-22-110.** Required identification tags on bales.

Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker that meets requirements as listed above, to the PBI tag or to bale of cotton adjacent to the PBI tag.

#### **SECTION 39-22-120.** Warehouse insurance requirements.

Each licensed warehouseman shall insure and keep insured against loss or damage by fire, theft, burglary, and other hazards which are commonly insured against, under "extended coverage" provisions, for its full value, all cotton and other products on storage unless requested by the depositor in writing not to insure the cotton or other products and in that instance when the cotton or other products are not insured a statement to that effect must be plainly and conspicuously inserted on the face of the receipt. In case of loss, the warehouseman shall collect the insurance due and pay it ratably to those lawfully entitled to payment. The warehouseman may accept contracts for the storage of cotton submitted by the Commodity Credit Corporation and other United States governmental agencies without being required to carry insurance on the cotton. As a condition of license, each warehouseman shall maintain on file with the

department a current certificate of insurance setting forth the policy number, the agent and underwriter, the provisions and limits of coverage, and the date the policy expires.

**SECTION 39-22-130.** Inspection of warehouses; inventory.

Each warehouse must be inspected, the inventory taken, and the records checked at least once in every three months.

**SECTION 39-22-140.** Sums collected under this chapter to be deposited annually.

All sums collected under this chapter must be transferred annually to a special account in the State Treasury according to the provisions of Section 39-22-150.

**SECTION 39-22-150.** Disposition of net revenues derived from operation of state warehouse system; additional fee on items for which warehouse receipts have been issued; use of funds generated by fee; guaranty fund; claims against fund.

All net revenues derived from operation of the state warehouse system must be transferred annually to a special account in the State Treasury until the sum of three million dollars accrues. When the fund reaches three million dollars, these transfers shall cease; however, all interest and investment revenue shall accrue solely to the fund and be returned annually to the fund. In order to support the increase of this fund, the funds must be invested at interest by the State Treasurer who shall credit the interest earned on the funds to the increase of the fund up to and above three million dollars. In addition to the interest, the commissioner shall assess an amount ratably against each warehouseman in this State issuing warehouse receipts a special additional fee not to exceed ten cents a bale of cotton or one cent a bushel of soybeans and one-half cent a bushel of any other stored feed grains or oil seeds for which warehouse receipts have been issued. The additional assessment may be charged not more than once for each receipt issued on a bale of cotton or bushel of grain. When the fund has reached the total sum of one million five hundred thousand dollars, the special additional assessment must be discontinued. If the fund is reduced to below one million dollars, the assessment must be resumed. The funds must be used to guarantee state warehouse receipts in excess of an amount recovered from the bonds required by this chapter, and to protect and reimburse depositors against losses as defined in Section 39-22-15. If there is an insufficient amount of money in the fund to cover all claims against the fund, payments must be made on a pro rata basis up to one hundred percent of the total loss of each claimant. If payment is not received in the amount of one hundred percent, then additional amounts must be paid as funds become available until payment of one hundred percent of the total is attained. The state's guarantee of warehouse receipts is based on monies available through the required bonds and the fund. Upon approval of a claim to the fund and before payment from the fund, the claimant shall subrogate his interest, if any, to the department in a cause of action against all parties relating to the claim. In no event may the funds be available for the reimbursement of an insurer or surety on the bonds required by this chapter, Chapter 19 of this title, or Chapter 7 of Title 36, who has paid a loss under this chapter. All income, interest, or otherwise, derived from this guaranty fund must be reinvested in the fund. Fifty thousand dollars of the income must be paid into the general fund of the State. Any of the funds not appropriated for the employment of additional auditors for the warehousemen and Dealers and Handlers Division of the Department of Agriculture must be returned to the fund.

**SECTION 39-22-160.** Annual report of commissioner.

The Commissioner of Agriculture shall make an annual report to the General Assembly setting forth (1) the number and location of each warehouse where cotton has been received for storage, (2) the cotton on storage and that delivered on presentation of receipts, and (3) monies received and disbursed.

**SECTION 39-22-170.** State's liability limited.

The extent of the state's liability is limited to the amount of monies available through the guaranty fund and, therefore, no debt or other liability may be created against the State by reason of the licensing of a warehouse under this chapter except as provided by this chapter.

**SECTION 39-22-180.** Warehouseman authorized to enter into agreement required by Commodity Credit Corporation; resolution of conflicting provisions.

It is lawful for a warehouseman licensed by the commissioner to operate a state warehouse to execute and enter into an agreement or contract required by the Commodity Credit Corporation or other agency of the United States government when the agreement or contract is necessary to secure the support price for certain stored commodities. Whenever the contract or agreement conflicts with the provisions of the state warehouse system or the Uniform Commercial Code - Documents of Title the conflicting provisions are suspended, but only to the extent that the suspension of the conflicting provisions is a minimum requirement of the agency of the United States government.

**SECTION 39-22-190.** Record keeping requirements for warehousemen.

All warehousemen licensed to store grain shall maintain current and complete records at all times with respect to all feed grains and oil seeds on forms approved by the Department of Agriculture pursuant to regulations promulgated by the department including grain owned by him as well as other feed grains or oil seeds not subject to the terms of the state warehouse system, stored in or handled through the warehouse. The records must include, but not be limited to, a daily record showing:

(1) the total quantity of each kind and class of feed grains or oil seeds received and delivered and the quantity of each kind and class of feed grains or oil seeds remaining in the warehouse at the close of each business day;

(2) the warehouseman's total storage obligations for each kind and class of feed grains or oil seeds at the close of each business day.

Incoming feed grains or oil seeds must be documented as to ownership and as to whether the feed grains or oil seeds are owned by the warehouseman or someone else. Feed grains or oil seeds received may be purchased by the warehouse before or upon arrival at the elevator or warehouse and after they have been in storage for a time. All operations must be documented properly to reflect ownership, quantity of feed grains, or oil seeds received, quantity delivered, and quantity in storage in the warehouse.

**SECTION 39-22-200.** Issuance of receipts; receipts not to be issued in name of warehouse; exceptions.

A state warehouse receipt must be issued by the warehouseman to a person storing commodities who requests it. If no receipt is issued to the storing party directly, one must be written to show ownership and held at the warehouse office properly locked and secured. No receipt may be issued in the name of the storing warehouse, or its owners, on commodities being purchased by the warehouse until the commodity has been paid for in full, even if a contract has been executed establishing that the title to the commodity has passed to the warehouse or its owners unless the buyer and seller execute an affidavit within the contract stating that the seller conveys title and ownership of the commodity and forfeits all of his rights under the Grain Producers Guaranty Fund. The affidavit must be in bold print on the face of the contract and must further state that the seller has read the contract in full, understands it, and waives all rights to contest his knowledge of any part of the contract. Those provisions do not reduce the responsibility of the warehouseman to keep proper records as required by Section 39-22-190.

## REGULATIONS

### 5-490. Definitions.

- (a) "Commissioner" means the South Carolina Commissioner of Agriculture.
- (b) "Inspector" means the field representative duly appointed by the Commissioner and bonded for faithful performance of duty.
- (c) "Manager" means the person authorized by the warehouseman to issue warehouse receipts.
- (d) "Warehouseman" shall mean the individual, partnership or corporation which made application to place warehouse in the State System.
- (e) "Warehouse" means an individual unit in the System.
- (f) "Non-perishable farm product" means any seed, grain, or other product of agricultural endeavor which by its nature and low moisture content may be stored in a conventional type warehouse for a period of at least twelve months without deteriorating, nor having been manufactured or processed in any way other than harvesting, thrashing, shelling, ginning, curing, drying and bagging.
- (g) "Commodity" means:
  - (1) Cotton.
  - (2) "Non-perishable farm product" as defined by definition (f) or which may hereafter be included in this special definition.

### 5-491. Inspectors, Warehousemen.

- (a) An adequate number of inspectors shall be employed for the proper inspection of all warehouses and the commodities stored therein at least once every three months.
- (b) Each inspector shall make a thorough study of the statutes, rules and regulations relating to the administration of State Warehouses. He shall also acquaint himself with the duties and responsibilities imposed on him by law.
- (c) The inspector shall promptly render a detailed written report of inspections, inventories and physical condition of same to the Director of the Warehouse Division who shall analyze it and report any discrepancies to the Commissioner. The Director shall keep a record of the inspection dates of each warehouse which shall be available to the Commissioner at any time.
- (d) When an inspector has reason to believe that the moisture content of grain on storage is too high for safe keeping, he shall take a sample of same and submit it to the Department of Agriculture laboratory for analysis and opinion. If in the opinion of the said laboratory, the moisture of said grain is too high for safe keeping, the inspector shall advise the manager of said warehouse to recall the receipts issued therefor and send them to the office of the Commissioner for cancellation.
- (e) When an inspector has reason to believe that grain classified as seed does not come up to the standard required for such seed, he shall take a sample of same and submit it to the Department of Agriculture laboratory for analysis and opinion. If, in the opinion of the said laboratory, the sample is below the standard for seed, the inspector shall advise the manager of said warehouse to recall the receipts issued therefor and send them to the office of the Commissioner for cancellation.
- (f) When an application for license to operate a warehouse in the State System is received, it shall be referred to the appropriate inspector who shall, after investigation, make a positive YES or NO recommendation to the Commissioner in writing. He shall constantly be alert to infractions by warehousemen and immediately report in writing any violations to the Warehouse Division.

- (g) No warehouseman shall be licensed until he shall have given bond as prescribed by Section 39-22-20.
- (h) No warehouseman shall receive for storage in any warehouse any commodity upon which any mortgage or lien exists unless the owner and holder of said mortgage or lien shall agree to the same in writing, or shall release the same from the effect of lien or mortgage for the purpose of storage; in such case the receipt for the commodity so stored shall be transferred in writing thereon to the owner and holder of the lien or mortgage by the owner of the commodity in the presence of the warehouseman who shall sign such transfer as a witness before the delivery of said receipt.
- (i) It shall be the duty of every warehouseman licensed by the Commissioner to properly account for every commodity stored in his warehouse so that the same can be released to the lawful owner upon surrender of the warehouse receipt covering the commodity. He shall see to it that same is properly weighed and graded. He shall fill out all the necessary receipts and enter same upon the books furnished him for this purpose. He shall forward a copy of same to the Commissioner by depositing same in his post office on the day the transaction is made. He shall furnish such other certificates and proofs as to weighing and grading as the Commissioner shall require.
- (j) Each warehouseman must file a financial statement annually with the Commissioner. The statement must be submitted within 90 days of the company's fiscal year end. The statement must be an audited or reviewed level statement prepared by an independent accounting firm in accordance with standards established by the American Institute of Certified Public Accountants and shall include, but not be limited to, a balance sheet, a statement of income (profit or loss), a statement of retained earnings and a statement of changes in financial position. A minimum allowable net worth of twenty-five thousand dollars shall be required of each warehouseman. The allowable net worth shall not be less than twenty-five cents per bushel of capacity for grain warehouses and twelve dollars and fifty cents per bale of capacity for cotton warehouses. A deficiency in net worth may be supplied by an increase of the bond or equivalent security.
- (k) In case of fire or other hazard resulting in damage to the stored commodities, the warehouseman must immediately notify the Department.
- (l) If authorized by agreement or custom, a warehouseman may mingle fungible commodities of the same kind and grade. In such case the various depositors of the mingled commodities shall own the entire mass in common and each depositor shall be entitled to such portion thereof as the amount deposited by him bears the whole. The warehouseman shall be severally liable to each depositor for the care and delivery of his share of such mass to the same extent and under the same circumstances as if the commodities had been kept separate.
- (m) Commodities must be stored in such manner as will permit rapid and accurate count. Commodities in bags shall be clearly identified and of equal weight. Commodities in bulk shall be stored in bins of convenient size for measuring and calculation of quantity. No commodity shall be left lying in or around any warehouse in a promiscuous and careless manner.
- (n) No person shall be allowed to loiter around any warehouse and as far as possible the manager shall prevent matches or firelighting devices from being carried on the premises; and no fireworks of any kind shall be allowed about the warehouse, nor shall any intoxicated person be permitted on the grounds.
- (o) All bills presented by the Commissioner shall be paid monthly. The bond of the warehouseman and a lien against the goods on storage shall be responsible for the charges dating from the issuance of the receipt.
- (p) No warehouseman shall make partial delivery of commodities listed on a warehouse receipt. If the depositor requests partial delivery, the warehouse receipt must be surrendered and cancelled and a new receipt issued for the balance.
- (q) All licensed warehousemen storing cotton shall adopt the United States Government Standard of grades and staple to govern the grade and staple entered on each receipt and he shall be responsible for same; provided the grade and staple may be omitted from the receipt at the request of the depositor.
- (r) It shall be the duty of the warehouseman to look carefully after the physical condition of the house in which commodities evidenced by state receipts are stored so that none of the commodities will become damaged (by leaky roofs, by overflow of water or by excessive moisture, etc.). All warehousemen will be held responsible for the condition, weight and grade of the commodity while in their charge and for



delivery of same upon presentation of receipts. Provided, the weights shall not be guaranteed against fluctuations arising from climatic conditions and the grades are subject to such changes as are affected by the nature of such product during the lapse of time.

(s) No warehouseman shall allow a warehouse to remain open or doors unlocked except when receiving or delivering commodities from the warehouse and no person or persons shall have access to a warehouse except as authorized by the warehouseman.

(t) It shall be the duty of every warehouseman to insure and keep insured against loss or damage all commodities in his custody, whether receipted or not, in accordance with Section 39-22-120. If the insurance coverage is terminated, the Department shall obtain the necessary coverage to protect the depositors until such time as the commodities can be relocated to an approved facility. The Department shall proceed against the warehouseman for payment of the insurance premium and cost of transportation and any other costs involved in relocating the commodities.

#### **5-492. Warehouses.**

(a) No building shall be licensed as a State Warehouse except upon a survey duly filled out by the person in charge of the same, showing the location, nearest post office, the County and State, and giving the construction, size, approximate capacity, together with any exposures and the nature of same.

(b) No warehouse shall be licensed as a State Warehouse except upon written application by the owner thereof, upon forms provided by the Department.

(c) Every warehouseman shall file with the Commissioner a tariff of his charges to be made by the warehouse and the said tariff must be filed on or before September 1 of each year. Any revision in the tariff must be filed with the Commissioner.

(d) Each warehouseman operating under these regulations and storing commodities for the public is required to have notice posted on the outside door of the warehouse showing the telephone number and address of the warehouseman when he is not in the warehouse.

(e) Each warehouse must be equipped or have access to suitable scales approved by the Commissioner. The scales shall be inspected by the Department.

(f) Cotton received direct from the gin shall be segregated from the other cotton for at least forty-eight hours.

(g) All warehouses shall have safe and convenient access to each individual storage bin or compartment for the purpose of inspecting and counting or measuring the commodity stored therein.

(h) Cotton warehouses shall contain sprinkler systems which shall be carefully maintained in good working order. All warehouses shall contain fire extinguishers, fire hoses or other fire-fighting equipment which shall be carefully maintained in good working order. Sufficient "no smoking" signs shall be displayed and the premises generally shall be kept clean and free of trash and combustible matter so that the building and commodity stored therein shall be protected from outside fire.

(i) No commodity shall be moved from one warehouse to another without written notification and permission of the Department of Agriculture.

(j) When a shortage of inventory is detected at a warehouse or other loss or insolvency is determined, the Department, to safeguard the interests of the holders of the outstanding warehouse receipts, shall secure the warehouse and take charge of the inventory which shall be liquidated on behalf of or returned pro rata to the various lawful holders of the warehouse receipts issued therefore.

#### **5-493. Receipts.**

(a) All receipts for commodities stored in a State Warehouse shall be made out with pen and ink or indelible pencil and shall be signed by the authorized manager with pen and ink, indelible pencil or with a mechanical device approved by the Commissioner. Computer printing of the authorized manager's name is acceptable unless objected to by the depositor to whom the receipt is written.

(b) All receipts together with copies forwarded to the Commissioner for investigation and issuance shall

be accompanied in the same package or envelope by a daily report of the identical commodity covered by the receipts with a full description of same, and the totals fully carried out, and with the date and signature of the manager.

(c) No commodity shall be delivered from any warehouse until the receipt covering the same shall be presented to the manager of the warehouse and until all charges against the same shall have been paid and all receipts for commodities so delivered shall at once be forwarded by the manager to the Commissioner for cancellation, same being marked for such purpose. Provided, that in case of fire or other insured hazard, salvage from said commodity may be released to representatives of authorized salvage companies representing the insurance company or Commodity Credit Corporation.

(d) Commodities which are attractive to rats and insects shall have written or stamped on the receipt issued therefor the following: "Not responsible for ramage or insect damage." Commodities which are classified as seed shall have written or stamped on the receipt issued therefor the following: "Germination and purity not guaranteed." Provided, that this regulation shall not apply to receipts issued for commodities stored in elevators or warehouses approved as depositories for commodities eligible for United States Government loans.

(e) Any commodity that is delivered to a licensed State Warehouse for which payment is not received or a written contract issued, specifying the terms of sale, at the time of delivery shall be considered deposited for storage. The owner of such commodity shall be issued a State Receipt for his commodity upon his request or if not requested no later than 30 days from the date of delivery.

(f) The manager shall issue a State Warehouse Receipt for all stored commodities to the proper and lawful owner as required in Section 39-22-200. The manager of the licensed warehouse is not required to issue a receipt on warehouse owned commodities.

(g) A warehouse receipt shall not be issued in the name of the purchaser of any commodity being purchased on a deferred-price, delayed payment or similar credit-type sale arrangement until the seller has received payment for the commodity in full unless he has executed the affidavit relinquishing title and ownership to the buyer and forfeiting his rights under the Grain Producers Guaranty Fund and has fully complied with the requirements set out in Section 39-22-200.

#### **5-494. Scale Tickets.**

(a) The manager shall have issued a scale ticket for each movement of grain in or out of the licensed State warehouse. Where grain is received or shipment is made by rail car, ship, or other means and the issuance of weigh or scale tickets is not feasible, the warehouse manager shall estimate the amount in question and adjust all warehouse records to reflect the movement of such grain. The warehouse manager shall be required to obtain and keep on file all documents pertaining to the receiving or shipping of said grain for inspection by this Department.

(b) All scale or weigh tickets shall be on forms approved by the Commissioner of Agriculture. Each ticket shall show and include the following –

- (1) Be consecutively numbered;
- (2) Be filed numerically at the warehouse and held for inspection;
- (3) Date;
- (4) Name and address of the dealer and handler and his public weighmaster number;
- (5) Owner of commodity;
- (6) Vehicle identity;
- (7) Gross, tare and net weight or in case of hopper weighing, net weight of load;
- (8) Type commodity;
- (9) Percentage of moisture and other factors, if determined (specify);
- (10) Grade, if one is assigned;

- (11) Disposition of commodity (in or out, stored, contracted, etc.);
- (12) Signature of person weighing and/or grading;
- (13) May be used as a contract only if it meets the requirements of a contract as set forth in the Dealers and Handlers regulation 5-581-03.
- (c) A sample of the scale or weigh ticket shall be presented to the South Carolina Department of Agriculture for approval before said scale or weigh ticket shall be used.
- (d) All scale or weigh tickets shall also comply to the Public Weighmaster Law.

#### **5-495. Daily Records.**

- (a) Each warehouseman shall maintain a daily account or settlement sheet to show the movement of grain for each depositor of grain to the licensed State warehouse. Such records shall be kept on forms approved by and as directed by the South Carolina Department of Agriculture.
- (b) The warehouseman shall keep available for examination all books, records, and accounts required by this chapter and any other books, records and accounts relevant to the operation of the licensed State warehouse.
- (c) Any licensed warehouseman who desires to operate, maintain, or use a computer or other recording device as part of his normal business record keeping, shall be allowed the use of such equipment if:
  - (1) The readout or information provided as print out conforms to all record keeping requirements as stated by the State Warehouse System Law, and
  - (2) Such readout or information provided as print out is in the form or format as required by this Department.
- (d) Any manager, employee, agent, officer, partner, director, or shareholder of the licensed State warehouse who keeps or files false records or accounts, or who alters records of commodities received for storage or to mislead Department Auditors or Officials shall be grounds to void all warehouse licenses and to apply the appropriate penalty as prescribed by law.

#### **5-496. General.**

- (a) If a State Licensed Warehouse purchases or contracts for purchase any grain as it is deposited or before said grain is delivered to the warehouse, the manager or owner(s) of the licensed warehouse shall make application to the South Carolina Department of Agriculture for a Dealer and Handler of Agriculture Products License.
- (b) The manager, employees, agents, officers, partners, directors, and shareholders of the licensed State Warehouse shall cooperate and hold themselves available to assist in the examination of the warehouse.

#### **5-497. Procedures for Filing Claims.**

- (a) When the Department has been notified or otherwise determines that a default or other loss or insolvency has occurred, it shall notify all potential claimants within fifteen days of the determination of loss or default and provide them with forms and instructions for filing claims.
- (b) The claimant must file his/her claim within sixty days of notification by the Department. The warehouse receipt(s) held by the claimant must be submitted along with the claim form.
- (c) Upon approval of the claim, the claimant shall subrogate his/her interest in said claim to the Department on forms supplied by it.
- (d) The Department shall proceed against the surety on the warehouseman's bond or other security and disperse the proceeds therefrom pro rata to the various claimants. Any remaining amount will be paid from the Warehouse Receipts Guaranty Fund in accordance with Section 39-22-150.

(e) All approved claims must be paid within ninety days of the date the Department approves them either from the bond, the Guaranty Fund or a combination thereof.

CHAPTER 27  
A bill to amend the  
 South Carolina Commercial Feed Act

ARTICLE 1  
 General Provisions

**SECTION 46-27-10.** Short title.

This chapter shall be known and cited as the "South Carolina Commercial Feed Act."

HISTORY: 1962 Code Section 3-601; 1952 Code Section 3-601; 1942 Code Section 6588; 1932 Code Section 6588; Civ. C. '22 Section 3498; Civ. C. '12 Section 2421; 1910 (26) 613; 1965 (54) 568; 1979 Act No. 155 Section 1.

**SECTION 46-27-20.** Definitions.

- (a) The term "brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant/licensee and distinguishing it from that of others.
- (b) The term "commercial feed" means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 47-26-XXX [Adulteration] of this Act, are exempt. The Commissioner by rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 47-26-XXX [Adulteration] of this Act.
- (c) The term "contract feeder" means a person who is an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.
- (d) The term "customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.
- (e) The term "distribute" means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.
- (f) The term "distributor" means any person who distributes.
- (g) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than commercial feed intended to affect the structure or any function of the animal body.
- (h) The term "feed ingredient" means each of the constituent materials making up a commercial feed.
- (i) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed.
- (k) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.
- (l) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

**Deleted:** (1) The term "commercial feed" means all materials distributed for use as feed or for mixing in feed except (a) whole hays, straw, cottonseed hulls, corn stover and ground corn cob and shuck; (b) raw and unprocessed fresh or frozen fish, beef, horse meat, poultry and by-products of these items, together with and including limestone and granite or similar substance, when they are not mixed with other materials; (c) unmixed whole seeds or grains of cereals when not mixed with other materials and when not in such damaged condition as to be unfit for feed purposes as determined by inspection.¶

(2) The term "pet" means any domesticated animal normally maintained in or near the household of the owner.¶

(3) The term "pet food" means any commercial feed prepared and distributed for consumption by pets.

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(m) The term “official sample” means a sample of commercial feed taken by the xxx or their agent in accordance with the provisions of Section 46-27-410 of this Act.

(n) The term “percent” or “percentages” means percentages by weights.

(o) The term “person” includes individual, partnership, corporation, and association.

(p) The term “pet food” means any commercial feed prepared and distributed for consumption by dogs or cats.

(q) The term “pet” means dog or cat.

(r) The term “product name” means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.

(s) The term “quantity statement” means the net weight (mass), liquid measure or count.

(t) The term “raw milk” means any milk or milk product, exclusive of United States Department of Agriculture licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the United States Food and Drug Administration.

(u) The term “specialty pet” means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(v) The term “specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.

(w) The term “ton” means a net weight of two thousand pounds avoirdupois.

HISTORY: 1962 Code Section 3-602; 1952 Code Section 3-602; 1942 Code Section 6593-1; 1932 Code Section 1367; Cr. C. '22 Section 267; Cr. C. '12 Section 480; 1910 (36) 613; 1922 (32) 843; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 290; 1979 Act No. 155 Section 1.

#### **SECTION 46-27-40.** Certain sales unlawful.

It shall be unlawful for any manufacturer, importer, jobber, agent or dealer to (1) sell or offer or expose for sale or distribution in this State any commercial feed without complying with the requirements of Articles 1 to 11 of this chapter or (2) sell or offer or expose for sale or distribution any commercial feed which contains substantially a smaller percentage of guarantees as stated on the product label.

HISTORY: 1962 Code Section 3-605; 1952 Code Section 3-605; 1942 Code Section 6602-1; 1937 (40) 532; 1979 Act No. 155 Section 1.

#### **SECTION 46-27-70.** Rules and regulations of Commissioner.

(a) The Commissioner is authorized to promulgate such rules and regulations for commercial feeds (which includes pet and specialty pet foods) as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this Act. In the interest of uniformity the Commissioner may by regulation adopt, unless the Commissioner determines that they are inconsistent with the provisions of this Act or are not appropriate to conditions which exist in this State, the following:

(1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and

(2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and

**Deleted:** SECTION 46-27-30. Unmixed crushed or ground ear corn is a commercial feed.¶

Crushed or ground ear corn when sold by itself is a commercial feed and the sale thereof within this State shall be governed by the provisions of Articles 1 to 9 of this chapter and the regulations prescribed by the Commissioner of Agriculture.¶

**Deleted:** HISTORY: 1962 Code Section 3-603; 1952 Code Section 3-603; 1942 Code Section 6597-1; 1932 Code Section 1368; Cr. C. '22 Section 268; Cr. C. '12 Section 481; 1906 (25) 101; 1910 (26) 613; 1920 (31) 853; 1923 (33) 93; 1954 (48) 1471; 1979 Act No. 155 Section 1.¶

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**Deleted:** crude protein, crude fat or carbohydrates or a larger percentage of crude fiber

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**Deleted:** SECTION 46-27-50. Seeds shall not be treated with poisons if destined for manufacture into commercial feed.¶

It shall be unlawful for any person to offer for sale any seeds which have been treated with poisons if destined to be manufactured into commercial feeds.¶

**Deleted:** HISTORY: 1962 Code Section 3-607; 1952 Code Section 3-607; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1979 Act No. 155 Section 1.¶

**Deleted:** SECTION 46-27-60. Standard weights of bags and packages.¶

All commercial feeds shall be packed in standard weight bags or packages of twenty-five, fifty, seventy-five, one hundred, one hundred twenty-five, one hundred fifty, one hundred seventy-five or two hundred pounds. The Commissioner may prescribe other standard bag or package weights if they are in the consumer's interest or if they are to promote uniformity or are consistent with good trade practices.¶

**Deleted:** HISTORY: 1962 Code Section 3-608; 1952 Code Section 3-608; 1942 Code Section 6596; 1932 Code Section 6596; Civ. C. '22 Section 3506; Civ. C. '12 Section 2429; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

**Deleted:** The Commissioner shall from time to time prescribe and publish regulations for carrying out the provisions of Articles 1 to 9 of this chapter.

Cosmetic Act: Provided, that the Commissioner would have the authority under this Act to promulgate such regulations.

(b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the Commissioner shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the Commissioner pursuant to the authority of this Act, adopts the Official Definitions of Feed Ingredients and Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the United States Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the by order specifically determines that said amendment of modification shall not be adopted.

(c) Federal regulations contained in Title 21, Code of Federal Regulations, part 507, not otherwise adopted herein, may also be adopted by the Commissioner.

HISTORY: 1962 Code Section 3-609; 1952 Code Section 3-609; 1942 Code Section 6597; 1932 Code Section 6597; Civ. C. '22 Section 3507; Civ. C. '12 Section 2430; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-xx Certificates.**

To facilitate continued access to markets for commercial feed and feed ingredients, the Commissioner may:

- (a) Inspect, audit or certify commercial feed manufacturer or distributor facilities at the request of the manufacturer or distributor to the extent authorized by this Act, or on the basis of other records voluntarily supplied by the manufacturer or distributor;
- (b) Issue certificates pursuant to subsection (a), such as, but not limited to, certificates of export from the state;
- (c) Promulgate, amend or adopt rules to inspect, audit or certify and issue certificates pursuant to this Section; and
- (d) Include a schedule of fees that addresses all activities required under this section. Such fees shall not duplicate those set forth in other sections of this Act.

**Deleted:** SECTION 46-27-80. Rules and regulations as to grading.¶  
The Commissioner may prescribe regulations governing the grading of any and all commercial feeds.¶

**Deleted:** HISTORY: 1979 Act No. 155 Section 1.¶

ARTICLE 3

Licensing

(a) **SECTION 46-27-210. Facilities must be licensed to distribute feed.** Any person:  
 1) Who manufactures a commercial feed within the state; or  
 2) Who distributes a commercial feed in or into the state; or  
 3) Whose name appears on the label of a commercial feed as guarantor,  
 shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under Section 46-27-840 is not required to obtain a license.

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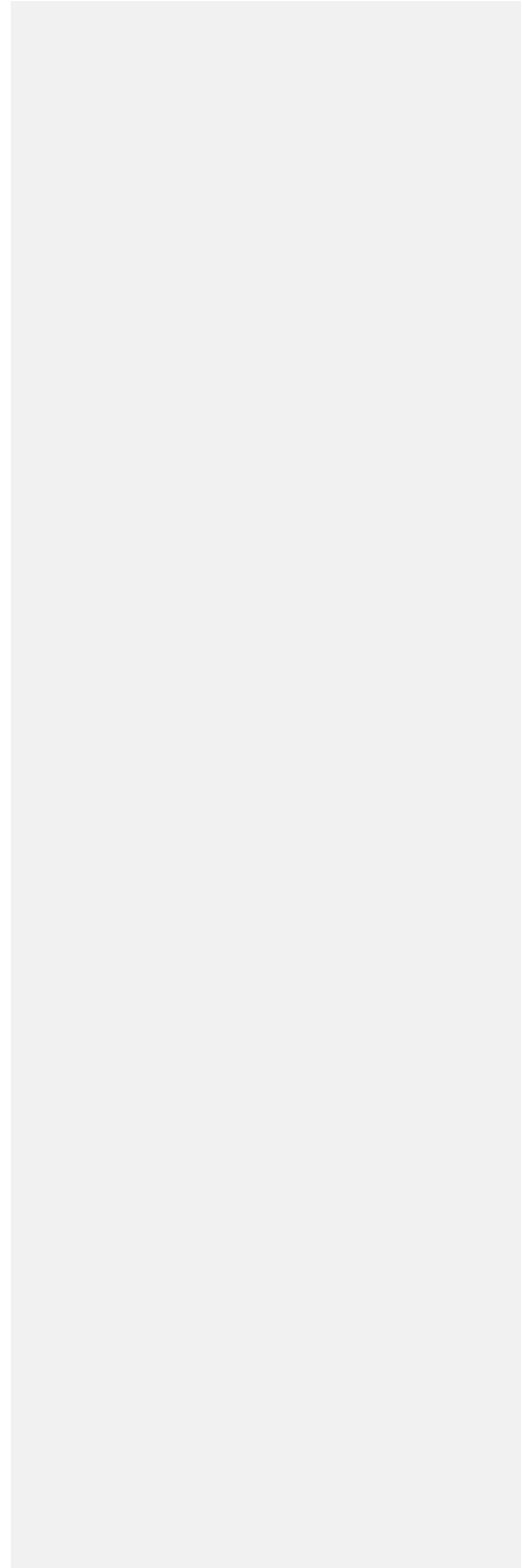
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Each manufacturer, importer, jobber, agent or seller before selling or offering or exposing for sale in this State any commercial feed shall, for each and every feed bearing a distinct name or trademark, file for registration with the Commissioner a copy of the statement required in Section 46-27-310 and accompany the statement, on request, by a sealed container of at least one pound of the commercial feed. The sample shall correspond within reasonable limits to the feed which it represents in the percentages of crude protein, crude fat and crude fiber which it contains.¶

| [\(b\) Any person who is required to obtain a license shall submit an application on](#)





a form provided or approved by the Commissioner accompanied by a license fee of \$50 for each facility paid to the Commissioner who shall deposit it into the Department of Agriculture fund, of which the State Treasurer is the custodian, for the express purpose of enforcement of this Act. The license year shall be July 1 to June 30 of the succeeding year. Each license shall expire on the 30<sup>th</sup> day of June each year; provided that any license shall be valid through September 30<sup>th</sup> of the same year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the Commissioner on or before June 30<sup>th</sup> of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a late fee \$25 in addition to the license fee.

(c) The form and content of the commercial feed license application shall be established by a rule adopted by the Commissioner.

(d) The Commissioner may promulgate rules defining when the Commissioner may request, at any time, from a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act. The Commissioner may to refuse to issue a license to any person not in compliance with the provisions of this Act. The Commissioner may suspend or revoke any license issued to any person found not in compliance with any provision of this Act. The Commissioner may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the Commissioner in order to comply with the requirements of this Act.

**HISTORY:** 1962 Code Section 3-611; 1952 Code Section 3-611; 1942 Code Section 6589; 1932 Code Section 6589; Civ. C. '22 Section 3499; Civ. C. '12 Section 2422; 1910 (26) 613; 1936 (39) 1592, 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

## ARTICLE 5

### Labeling, Misbranding and Adulteration

#### SECTION 46-27-310. Labeling of commercial feeds.

A commercial feed shall be labeled as follows:

(a) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information.

(1) The quantity statement.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis, expressed on an "as-is" basis, stated in such terms as the by regulation determines is required to advise the user of the composition of the commercial feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International or other recognized methods.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed, provided, that the Commissioner by regulation may permit the use of a collective term for a group of ingredients which perform a similar function, or the Commissioner may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the Commissioner finds that such statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for

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Deleted: SECTION 46-27-220. If manufacturer files statement, seller need not.¶

Whenever a manufacturer, importer or jobber of any commercial feed shall have filed a statement, as required by Section 46-27-210, no agent or seller of such manufacturer, importer or jobber shall be required to file such statement.¶

Deleted: HISTORY: 1962 Code Section 3-612; 1952 Code Section 3-612; 1942 Code Section 6590; 1932 Code Section 6590; Civ. C. '22 Section 3500; Civ. C. '12 Section 2423; 1910 (26) 613; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-230. Refusal or cancellation of registration.¶

The Commissioner may refuse the registration of any commercial feed under a name which would be misleading as to the materials of which it is composed or when the names of all ingredients of which it is composed are not stated. Should any commercial feed be registered and it is afterward discovered that it does not comply with the provisions of Articles 1 to 9 of this chapter, the Commissioner shall notify the registrant of the noncompliance. The notice shall apprise the registrant that he may request a hearing within thirty days of receipt of the notice. If such request for a hearing is made within the time allowed, the Commissioner shall schedule a hearing within thirty days after receipt of the request and shall allow the registrant to refute the allegations of noncompliance. If, after the hearing, the Commissioner is still convinced that the commercial feed does not comply with the provisions of Articles 1 to 9 of this chapter he may cancel such registration.¶

¶  
HISTORY: 1962 Code Section 3-613; 1952 Code Section 3-613; 1942 Code Section 6591; 1932 Code Section 6591; Civ. C. '22 Section 3501; Civ. C. '12 Section 2424; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Deleted: Every lot or parcel of commercial feed sold or offered or exposed for sale within this State shall have affixed thereto or printed thereon in a conspicuous place on the outside a legible and plainly printed statement in the English language clearly and truly certifying:¶

(1) The weight of the package;¶

(2) The name, brand or trademark under which the article is sold;¶

(3) The name and address of the manufacturer, jobber or importer;¶

(4) The name of each and all ingredients of which the article is composed; provided, that the Commissioner by regulation may permit the use of a collective term for a group of ingredients which perform a similar function or he may exempt such commercial feeds or any group thereof from this requirement of an ingredient statement if he finds that such statement is not required in the interest of consumers;¶

(5) A statement of the minimum percentage of crude protein, the minimum percentage of crude fat and the maximum percentage of crude fiber.

distributing the commercial feed.

(6) Adequate directions for use for all commercial feeds containing drugs and for such other commercial feeds as the Commissioner may require by regulation as necessary for their safe and effective use.

(7) Such precautionary statements as the Commissioner by regulation as determines are necessary for the safe and effective use of the commercial feed.

(b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and quantity statement of each commercial feed and each other ingredient used in the mixture.

(5) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Commissioner may require by regulation as necessary for their safe and effective use.

(6) The directions for use and precautionary statements as required by rules promulgated by the Commissioner.

(7) If a drug containing product is used:

I. The purpose of the medication (claim statement)

II. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules promulgated by the Commissioner.

HISTORY: 1962 Code Section 3-621; 1952 Code Section 3-621; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1954 (48) 1696; 1971 (57) 261; 1979 Act No. 155 Section 1.

#### Section 46-27-XX. Misbranding.

A commercial feed shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If it is distributed under the name of another commercial feed.

(c) If it is not labeled as required by this Act or rule promulgated under this Act.

(d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the Commissioner.

(e) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

#### Section 47-26-XX Adulteration.

A commercial feed shall be deemed to be adulterated:

(a)

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or

(2) If it bears or contains any added poisonous, added deleterious, or added non- nutritive

**Deleted: SECTION 46-27-320.** Labels shall not be fastened to bag by metal holders.¶

. No tags, cards or descriptive matter shall be fastened by metal holders to bags containing commercial feed, including sacked cottonseed meal and hulls.¶

**Deleted:** HISTORY: 1962 Code Section 3-622; 1952 Code Section 3-622; 1942 Code Section 6592; 1932 Code Section 6592; Civ. C. '22 Section 3502; Civ. C. '12 Section 2425; 1910 (26) 613; 1915 (29) 142; 1936 (39) 1592, 1615; 1937 (40) 532; 1941 (42) 119; 1948 (45) 1815; 1979 Act No. 155 Section 1.¶

**Deleted: SECTION 46-27-330.** Cards for sales in bulk.¶

. Whenever any commercial feed is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping it for sale shall keep cards of proper size upon which the statement required by Section 46-27-310 shall be plainly printed; and if the commercial feed is sold at retail in bulk or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber or importer shall furnish the purchaser with one of the cards upon which is printed the statement required by Section 46-27-310.¶

HISTORY: 1962 Code Section 3-623; 1952 Code Section 3-623; 1942 Code Section 6592; 1932 Code Section 6592; Civ. C. '22 Section 3502; Civ. C. '12 Section 2425; 1910 (26) 613; 1915 (29) 142; 1936 (39) 1592, 1615; 1937 (40) 532; 1941 (42) 119; 1948 (45) 1815; 1979 Act No. 155 Section 1.¶

**Deleted: SECTION 46-27-340.** How percentages are determined.¶

. The percentages of crude protein, crude fat and crude fiber required to be stated under the provisions of Section 46-27-310 shall be determined by the methods in use at the time by the Association of Official Analytical Chemists of the United States.¶

HISTORY: 1962 Code Section 3-624; 1952 Code Section 3-624; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1971 (57) 261; 1979 Act No. 155 Section 1.¶

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substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or

(6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or

(7) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(9) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or

(10) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.

(b) If any valuable constituent has been in whole or in part omitted or abstracted there from or any less valuable substance substituted therefore.

(c) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(d) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the to assure that the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the Commissioner shall adopt the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the Commissioner determines that they are not appropriate to the conditions which exist in this State.

(e) If it contains viable weed seeds in amounts exceeding the limits which the shall establish by rule.

## ARTICLE 7

### Inspection, Samples and Analyses

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**SECTION 46-27-410.** Commissioner may inspect, take samples and perform analyses.

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (2) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of records, and production and control procedures related to the manufacture, distribution, storage, handling, use or disposal of commercial feed as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.
- (c) If the Commissioner or his agent making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the inspector/ sampler shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (d) If the owner of any factory, warehouse, or establishment described in paragraph (a), or their agent, refuses to admit the Commissioner, officers or employees to inspect accordance with paragraphs (a) and (b) of this section, the Commissioner is authorized to obtain from any State Court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.
- (e) For the enforcement of this Act, the Commissioner or duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.
- (f) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (g) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within 30 days following the receipt of the analysis the Commissioner shall furnish to the licensee a portion of the sample concerned.
- (h) The Commissioner in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in (n) of Section 46-27-20 and obtained and analyzed as provided for in this Act.

HISTORY: 1962 Code Section 3-631; 1952 Code Section 3-631; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-430.** Publication.

The Commissioner may publish annually, in such forms as the Commissioner may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the Commissioner may consider advisable, and a report of the results of the analyses of official

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**Deleted:** The Commissioner, together with his deputies, agents and assistants shall have access to all places of business, mills and storage facilities used in the manufacture, importation or sale of any commercial feed and may open any package containing or supposed to contain any commercial feed during the normal operating hours of business and upon tender and payment of the selling price of samples, take therefrom, in the manner prescribed in this article, samples for analysis.¶

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**Deleted:** SECTION 46-27-420. Analysis of samples; how samples are taken.¶  
The Commissioner shall annually cause to be analyzed at least one sample so taken of every commercial feed that is found, sold or offered or exposed for sale in this State under the provisions of Articles 1 to 9 of this chapter. The samples, not less than one pound in weight, shall be taken from not less than ten bags or packages, or if there be less than ten bags or packages, then from each bag or package, if it be in bag or package form, or if such commercial feed be in bulk, then from ten different places of the lot.¶  
HISTORY: 1962 Code Section 3-632; 1952 Code Section 3-632; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

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**Deleted:** The Commissioner may publish from time to time in reports or bulletins the results of the analyses of such samples, together with such additional information as circumstances advise; provided, however, that if such a sample as analyzed by the Commissioner differs from the statement prescribed in Section 46-27-310, then at least thirty days before publishing the results of such analysis the Commissioner shall give written notice of such results to the manufacturer, importer, agent or jobber of such stock, if the name and address of such manufacturer, jobber or importer be known; provided, further, that if the analysis of any such sample does not differ substantially from the statement prescribed by Section 46-27-310, appearing upon the goods, the manufacturer may be considered as having complied with the requirements of Articles 1 to 9 of this chapter.¶

samples of commercial feeds sold within the State as compared with the analyses guaranteed in the registration and on the label; Provided, That the information concerning production and use of commercial feed shall not disclose the operations of any person or licensee.

HISTORY: 1962 Code Section 3-634; 1952 Code Section 3-634; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-450.** Analysts, chemists, and inspectors.

The Commissioner may appoint such analysts, chemists and inspectors as may be required to carry out the provisions of Articles 1 to 11 of this chapter.

HISTORY: 1962 Code Section 3-636; 1952 Code Section 3-636; 1942 Code Section 6600; 1932 Code Section 6600; Civ. C. '22 Section 3510; Civ. C. '12 Section 2433; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-460.** Certificate of analyst as prima facie evidence.

In all prosecutions in the courts of this State arising under the provisions of Articles 1 to 11 of this chapter and the regulations made in accordance therewith, the certificate of the analyst or other officer making the analysis or examination when duly sworn to and subscribed by such analyst or officer shall be prima facie evidence of the facts therein certified.

HISTORY: 1962 Code Section 3-637; 1952 Code Section 3-637; 1942 Code Section 6598-1; 1932 Code Section 1372; Cr. C. '22 Section 272; Cr. C. '12 Section 485; 1906 (25) 101; 1910 (26) 613; 1979 Act No. 155 Section 1.

#### ARTICLE 8 Prohibited Acts

**SECTION 46-27-xxx.** Prohibited acts are defined.

The following acts and the causing thereof within the State of are hereby prohibited.

- (a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
- (b) The adulteration or misbranding of any commercial feed.
- (c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of 47-26-XX [Adulteration] of this Act.
- (d) The removal or disposal of a commercial feed in violation of an order issued by the Commissioner or his agent for violations of this Act.
- (e) The failure or refusal to obtain a license in accordance with Section 46-27-210 of this Act.
- (f) The failure to pay inspection fees or file reports as required by Section 47-26-840 of this Act.
- (g) Re-use of bags or totes used for commercial feeds (including customer-formula feed) that have not been appropriately cleaned. A firm that intends to re-use bags or totes must document its cleanout procedures.
- (h) The distribution of raw milk for use as commercial feed for any species:
  - (1) If it has not been decharacterized using a sufficient quantity of food coloring as designated by Commissioner;
  - (2) If it has been decharacterized using food coloring unless the food coloring has been approved by the US Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;
  - (3) If it has been decharacterized and the nutritive value of the milk has been adversely affected by the decharacterization;
  - (4) That is packaged in containers that are or resemble those used for the packaging of milk

**Deleted: SECTION 46-27-440.** Obstructing inspection of feed.¶  
Any manufacturer, importer, jobber or dealer who refuses to comply with the requirements of the provisions of Articles 1 to 9 of this chapter or any manufacturer, importer, jobber or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of such articles shall be guilty of a violation of the provisions of such articles.¶

¶  
HISTORY: 1962 Code Section 3-635; 1952 Code Section 3-635; 1942 Code Section 6597-3; 1932 Code Section 1370; Cr. C. '22 Section 270; Cr. C. '12 Section 483; 1906 (25) 101; 1910 (26) 613; 1979 Act No. 155 Section 1.¶

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- for human consumption;
- (5) That is stored at retail with, or in the vicinity of, milk or milk products intended for human consumption;
- (6) If it does not comply with Section 47-26-XX [Adulteration] of this Act.

ARTICLE 9

Detained Commercial Feeds and Penalties

**SECTION 46-27-610.** Commissioner may suspend sales of feed and seek enforcement remedies.

“Withdrawal from distribution” orders: When the Commissioner or duly authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Act or any of the prescribed rules under this Act, the Commissioner or agent may issue and enforce a written or printed “withdrawal from distribution order,” warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Commissioner or a court of competent jurisdiction. The Commissioner may release the lot of commercial feed so withdrawn when said provisions and rules have been complied with upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.

(a) If compliance is not obtained within 30 days, the Commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) “Condemnation and Confiscation”: Any lot of commercial feed not in compliance with the provisions of this Act and rules promulgated pursuant to the Act may be subject to seizure on complaint to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the Court finds the said commercial feed to be in violation of this Act and orders the condemnation of said commercial feed, it shall be disposed of or sold as described in section 47-26-630: provided, that in no instance shall the disposition of said commercial feed be ordered by the Court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with this Act.

HISTORY: 1962 Code Section 3-653; 1952 Code Section 3-653; 1942 Code Section 6594; 1932 Code Section 6594; Civ. C. '22 Section 3504; Civ. C. '12 Section 2427; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-630.** How sales are made.

Such seizure and sale shall be made by the Commissioner or under the direction of any officer of his appointment. The sale shall be made at the courthouse door of the county in which the seizure is made; provided that whenever, for sufficient reasons appearing to the Commissioner or his representative, another place of sale is more convenient and more desirable, such place of sale may be selected. The sale shall be advertised for thirty days in a newspaper published in the county in which the seizure is made or in an internet commerce website. The advertisement shall state the brand or name of the goods, the quantity, why seized and offered for sale and the time and place of sale.

HISTORY: 1962 Code Section 3-655; 1952 Code Section 3-655; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-650.** Commissioner to notify dealer and solicitor of violations; prosecution.

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Deleted: If at any time the Commissioner or his duly authorized representative shall have reason to believe that any commercial feed offered or exposed for sale in this State does not comply with the requirements of Articles 1 to 9 of this chapter, as to the ingredients or substances of such commercial feed, he shall by written order suspend the sale of it until he shall have satisfied himself that such commercial feed is made up or compounded as required by such articles. If he shall find that such commercial feed does not comply with such articles, then he is authorized to proceed with regard to it as provided in Sections 46-27-620 to 46-27-640.¶

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Deleted: SECTION 46-27-620. Forfeiture for violation of Section 46-27-40.¶

. If any manufacturer, importer, jobber, agent or dealer shall be guilty of a violation of Section 46-27-40, the lot of commercial feed in question shall be seized and condemned, sold or destroyed by the Commissioner, or his duly authorized representative, and the proceeds from such sales shall be covered into the State Treasury for the use of the Department of Agriculture.¶

¶ HISTORY: 1962 Code Section 3-654; 1952 Code Section 3-654; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

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Deleted: if no newspaper is published in such county, then it shall be advertised in a newspaper published in the nearest county having a newspaper

Deleted: SECTION 46-27-640. When seized feed may be released.¶

. The Commissioner, however, may in his discretion release the commercial feeds so withdrawn when the requirements of the provisions of Articles 1 to 9 of this chapter have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.¶

¶ HISTORY: 1962 Code Section 3-656; 1952 Code Section 3-656; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Whenever the Commissioner, or his duly authorized representative, becomes cognizant of any violation of the provisions of Articles 1 to 11 of this chapter, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known.

**HISTORY:** 1962 Code Section 3-657; 1952 Code Section 3-657; 1942 Code Section 6598; 1932 Code Section 6598; Civ. C. '22 Section 3508; Civ. C. '12 Section 2431; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-660. Penalties.**

(a) Any person convicted of violating any of the provisions of this Act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said Commissioner or their duly authorized agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than \$\$ or more than \$\$ for the first violation, and not less than \$\$ or more than \$\$ for a subsequent violation.

(b) Nothing in this Act shall be construed as requiring the Commissioner or his agent to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the Act, or when the Commissioner believes the public interest will best be served by suitable notice of warning in writing.

(c) It shall be the duty of each circuit attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present their view to the Commissioner.

(d) The Commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the [here name the particular Court in the county where the enforcement official has his office] for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this State to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

(f) Any person who uses to their own advantage, or reveals to other than the Commissioner, or officers of the appropriate departments of this State, or to the Courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any methods, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction thereof be fined not less than \$\$ or imprisoned for not less than XX year(s) or both; provided, that this prohibition shall not be deemed as prohibiting the Commissioner, or their duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

(g) In any action to compel performance of an order of the Commissioner to enforce this Act, the Court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

(h) The civil penalties and payments provided for in this section may be recovered by a civil action brought by the Commissioner in the name of the State.

**HISTORY:** 1962 Code Section 3-658; 1952 Code Section 3-658; 1942 Code Section 6597-4; 1932 Code Section 1371; Cr. C. '22 Section 271; Cr. C. '12 Section 484; 1906 (25) 101; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-670. Use of fines.**

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Deleted: Any manufacturer, importer, jobber, agent or dealer who shall be convicted of violating any of the provisions of Articles 1 to 9 of this chapter or the regulations adopted by the Commissioner shall be fined not exceeding two hundred fifty dollars for the first offense nor more than five hundred dollars for each subsequent offense.¶

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The proceeds from such fines shall be covered into the State Treasury for use of the Department of Agriculture.

HISTORY: 1962 Code Section 3-659; 1952 Code Section 3-659; 1942 Code Section 6597-4; 1932 Code Section 1371; Cr. C. '22 Section 271; Cr. C. '12 Section 484; 1906 (25) 101; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-840. Inspection fees and reports.**

(a) An inspection fee at the rate of 15 cents per ton shall be paid on commercial feeds distributed in this State by the person whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the inspection fee, subject to the following:

- (1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
- (2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
- (3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.
- (4) In the case of a commercial feed which is distributed in the State only in packages of ten pounds or less, an annual fee of \$15 shall be paid in lieu of the inspection fee specified above.
- (5) The minimum tonnage inspection fee shall be \$50 per year.
- (6) In the case of specialty pet food which is distributed in the state only in packages of one pound or less, an annual fee of \$10 per product shall be paid up to a maximum annual fee of \$250 per manufacturer in lieu of an inspection fee.
- (7) The inspection fee reporting periods shall be July 1 to December 31 and January 1 to June 30 of each year.

(b) Each person who is liable for the payment of such fee shall:

- (1) File, on or before the last day of the month following the inspection fee reporting period, setting forth the number of net tons of commercial feeds distributed in this State during the preceding reporting period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section. Inspection fees which are due and owing and have not been remitted to the within 15 days following the date due shall have a penalty fee of \$25 or 10 per cent added to the amount due, whichever is greater when payment is finally made. The assessment of this penalty fee shall not prevent the Commissioner or his agent from taking other actions as provided in this chapter.
- (2) Keep such records as may be necessary or required by the Commissioner to indicate accurately the tonnage of commercial feed distributed in this State, and the Commissioner shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this section shall constitute sufficient cause for the cancellation of a firm's feed license.

(c) Fees collected by the Commissioner shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this Act and shall be deposited to the Department of Agriculture fund, with the State Treasurer as custodian.

(d) Records or reports maintained or filed under this section, are confidential and not subject to disclosure under applicable public records acts.

**Deleted:** SECTION 46-27-680. Schedule of penalties; payment.¶  
If the analysis of an official sample shows a deviation from permitted analytical variation established by the Commissioner, the registrant or other responsible person shall be penalized according to the following schedule:¶

**Deleted:** SECTION 46-27-690. "Permitted analytical variation" defined.¶  
The term "permitted analytical variation", as stated in Section 46-27-680, means allowance for the inherent variability in sampling and laboratory analysis in guaranteed components. Manufacturing variations and their effect on the guaranteed components are not included in such values.¶  
HISTORY: 1979 Act No. 155 Section 1.¶

**Deleted:** ARTICLE 11¶  
Stock or Poultry Preparations¶  
**SECTION 46-27-810.** Declaration of purpose.¶  
This article is designed to fully cover all preparations commonly known as condimental, patented, proprietary or trademarked stock or poultry tonic, stock or poultry regulators, stock or poultry conditioners, stock or poultry remedies and all similar preparations used for tonic, regulative, remedial or conditional purposes, and to protect the public from deception and fraud in the sale of these specific products.¶  
HISTORY: 1962 Code Section 3-678; 1952 Code Section 3-678; 1942 Code Section 6609; 1932 Code Section 6609; Civ. C. '22 Section 3519; 1914 (28) 700; 1979 Act No. 155 Section 1.¶

**SECTION 46-27-820.** Prerequisites to sale of patent stock or poultry preparations.¶  
Before any condimental, patented, proprietary or trademarked preparation called a "stock or poultry tonic", "stock or poultry regulator", "stock or poultry conditioner", or "stock or poultry remedy", or any similar preparation, regardless of how it may be called or the specific name or title under which it is sold, which is represented as containing tonic, remedial or other medicinal properties, is sold or offered or exposed for sale in the State, the manufacturer, importer, dealer, agent or person who causes it to be sold or offered or exposed for sale, by sample or otherwise, within this State, shall file with the Commissioner:¶  
(1) A statement that he desires to offer such preparation for sale in this State;¶  
(2) A certificate, the execution of which shall be sworn to before a notary public or other proper official for registration, stating¶  
- - (a) the name of the manufacturer,¶  
- - (b) the location of the principal office of the manufacturer,¶  
- - (c) the name, brand or trademark under which the preparation will be sold;¶  
(3) A guaranty that¶

**Deleted:** Registration

**Deleted:** For the expense incurred in registering, inspecting and analyzing the preparations referred to in Section 46-27-820, a registration fee of ten dollars for each separate brand or, in lieu thereof, a maximum fee of fifty dollars per annum covering all brands made by a single manufacturer shall be paid by the manufacturer or seller of such preparations to the Commissioner during the month of January in each year.¶

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HISTORY: 1962 Code Section 3-673; 1952 Code Section 3-673; 1942 Code Section 6604; 1932 Code Section 6604; Civ. C. '22 Section 3514; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**SECTION 46-27-880.** Fines and other moneys paid to general fund of state.

All money, including fines received under the provisions of this article, shall be paid to the general fund of the State. Payment to the general fund shall be made in conformance to procedures established by the State Fiscal Accountability Authority.

HISTORY: 1962 Code Section 3-677; 1952 Code Section 3-677; 1942 Code Section 6608; 1932 Code Section 6608; Civ. C. '22 Section 3518; 1914 (28) 700; 1915 (29) 155; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

**Deleted: SECTION 46-27-850.** Penalty.¶

. Any person who shall offer or expose for sale any package, sample or quantity of any preparation referred to in Section 46-27-820 which has not been registered or which, though registered, is subsequently found by an analysis or examination made by or under the direction of the Commissioner to contain harmful or injurious substances or to be labeled with false or misleading statements regarding its contents or curative properties shall be guilty of a misdemeanor and upon conviction shall be fined fifty dollars for the first offense and one hundred dollars for each subsequent offense.¶

¶  
HISTORY: 1962 Code Section 3-674; 1952 Code Section 3-674; 1942 Code Section 6605; 1932 Code Section 6605; Civ. C. '22 Section 3515; Cr. C. '22 Section 286; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

**Deleted: SECTION 46-27-860.** Commissioner shall enforce article.¶

. Whenever the Commissioner becomes cognizant of any violation of any of the provisions of this article, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known. Any party so notified shall be given an opportunity to be heard under such regulations as may be prescribed by the Commissioner. If it appears that any of the provisions of this article have been violated, the Commissioner shall certify the facts to the solicitor in the district in which the sample was obtained and furnish that officer with a copy of the result of the analysis or other examination of the article, duly authenticated by the analyst or other officer making such examination under the oath of such officer. In all prosecutions arising under this article the certificate of the analyst or other officer making the analysis or examination, when duly sworn to by such officer, shall be prima facie evidence of the facts therein certified.¶

¶  
HISTORY: 1962 Code Section 3-675; 1952 Code Section 3-675; 1942 Code Section 6606; 1932 Code Section 6606; Civ. C. '22 Section 3516; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

¶  
**SECTION 46-27-870.** Solicitors shall prosecute violations.¶  
. Every solicitor to whom the Commissioner shall report any violation of this article shall cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases prescribed.¶

¶  
HISTORY: 1962 Code Section 3-676; 1952 Code Section 3-676; 1942 Code Section 6607; 1932 Code Section 6607; Civ. C. '22 Section 3517; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

**Deleted: ¶**

## *Appendix L. July 10, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - June 22, 2017 - Meeting Minutes
  - Human Affairs Commission
    - Letter from Oversight Subcommittee to Human Affairs (June 27, 2017)
    - Organizational chart
    - Organizational units
    - Strategic plan summary
    - Agency recommendations
  - Department of Agriculture
    - Letter from Oversight Subcommittee to Department of Agriculture (June 27, 2017)
    - Agency recommendations
- Correspondence after meeting
  - Letter from Oversight Subcommittee to Department of Agriculture (July 12, 2017)
    - Follows up to the July 10, 2017, work session, by informing the agency the Subcommittee is in the process of drafting its study of the agency for submission to the full Committee for its consideration.

South Carolina  
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,  
AND NATURAL RESOURCES SUBCOMMITTEE*

*The Honorable Neal A. Collins*

*The Honorable Mandy Powers Norrell*

*The Honorable Robert L. Ridgeway III*

*Monday, July 10, 2017*

*2:00 p.m.*

*110-Blatt Building*

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming  
whenever technologically feasible.*

**AGENDA**

- I. Approval of Minutes
- II. Discussion of the study of the Human Affairs Commission
- III. Discussion of the study of the Department of Agriculture
- IV. Adjournment



## Economic Development, Transportation and Natural Resources Subcommittee

Thursday, June 22, 2017 at 10:00 am in Room 108

### Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access 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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Thursday, June 22, 2017, in Room 108 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, Representative Robert L Ridgeway, and Representative Neal A. Collins.

### Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Norrell moved to approve the minutes from the Subcommittee's meeting on June 15, 2017. A roll call vote was held, and the motion passed.

Rep. Norrell motions to approve the minutes from the June 15, 2017 meeting:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

### Discussion of the Human Affairs Commission

- I. Vice-Chair Funderburk provides an update of the Subcommittee's work related to the Human Affairs Commission. She stated the purpose of this meeting is to discuss the agency's history, mission, and the services it provides to citizens.
- II. Vice-Chair Funderburk reminds everyone that has previously been sworn in that they remain under oath for any testimony before this Subcommittee or the full Committee. Vice-Chair Funderburk swears in the following agency representatives:
  - a. John A. Oakland, Chair of the Governing Board, Aiken County
  - b. Lee Ann Rice, Staff Counsel
  - c. Stephanie Price, EEO Consultant
  - d. Marvin Caldwell, Director of Fair Housing Division
  - e. Dan Koon, Deputy Commissioner
- III. Chair John A. Oakland gives an overview of the functions and responsibilities of the Governing Board of Commissioners. (00:07:20)
- IV. Commissioner Raymond Buxton II presents information on the agency's history, mission, and major programs, while other agency representatives provide information on the services it provides to citizens under the major programs. (00:12:00)
- V. Lee Ann Rice, staff counsel, gives an overview of the three state laws related to the agency and the federal laws enforced by the agency (00:19:10):
  - a. South Carolina Human Affairs Law: Title 1, Chapter 13
  - b. South Carolina Fair Housing Law: Title 31, Chapter 21
  - c. South Carolina Equal Enjoyment and Privileges to Public Accommodations: Title 45, Chapter 9
  - d. Federal Laws Prohibiting Discrimination: Title VII of the 1963 Civil Rights Act, Age Discrimination in Employment Act, Pregnancy Discrimination Act, and the Americans with Disabilities Act

Further, Ms. Rice discussed the mediation process. (00:30:45)

- VI. Dan Koon, Deputy Commissioner, gives an overview of how the employment law is administered, including the intake process and the investigation process. (00:24:45)

Further, Mr. Koon discussed Community Relations. (00:40:25)

- VII. Marvin Caldwell, Director of Fair Housing Division, gives an overview of the Fair Housing Department at the Human Affairs Commission. (00:34:10)

- VIII. Stephanie Price, EEO Consultant, gives an overview of the Technical Service Department (00:38:00), including:

- a. Consultative Services
- b. Affirmative Action Plan
- c. Training

### Discussion of the Department of Agriculture

- IX. Vice-Chair Funderburk explains that since agency representatives could not attend today's meeting, this meeting would be a work session to further identify questions Subcommittee members may have for the agency and to discuss the agency's recommendations to the Subcommittee.

- X. Various motions are made by Subcommittee members to approve agency recommendations:

- a. Vice-Chair Funderburk moved to approve the agency's recommendation, based on the draft language, to remove bonding requirements of the Commissioner of Agriculture. A roll call vote was held, and the motion passed.

<b>Vice-Chair Funderburk motions to approve the agency's recommendation, based on the draft language, to remove bonding requirements of the Commissioner of Agriculture:</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- b. Representative Collins moved to approve the agency's recommendation, based on the draft language, to remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget. A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- c. Representative Collins moved to approve the agency's recommendation, based on the draft language, to revise the appointment procedure of Commission of Agriculture to address a seat that has either been vacant or the term has expired, so that a Commissioner shall continue to serve until their successor is elected and qualified, and may only serve until their successors are elected and qualified, and provided a commissioner may only serve in a hold over capacity for a period not to exceeding six months, and to correct the scrivener's spelling error in the drafted language. A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to revise the appointment procedure of Commission of Agriculture to address a seat that has either been vacant or the term has expired, so that a Commissioner shall continue to serve until their successor is elected and qualified, and may only serve until their successors are elected and qualified, and provided a commissioner may only serve in a hold over capacity for a period not to exceeding six months, and to correct the scrivener's spelling error in the drafted language:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- d. Representative Collins moved to approve the agency's recommendation, based on the draft language, to modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). A roll call vote was held, and the motion passed.

<b>Rep. Collins motions to approve the agency's recommendation, based on the draft language, to modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number):</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- e. Rep. Collins moved to approve the agency's recommendation, based on the draft language, to remove the agency involvement with the "cottage bill" - (i.e., remove the exemption registration burden from small home-based food produces). A roll call vote was held, and the motion passed.

<b>Rep. Collins motions to approve the agency's recommendation, based on the draft language, to remove the agency involvement with the "cottage bill" - (i.e., remove the exemption registration burden from small home-based food produces):</b>	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- f. Rep. Collins moved to approve the agency's recommendation, based on the draft language, to revise state egg law (i.e., Exempt United State Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers). A roll call vote was held, and the motion passed.



Rep. Collins motions to approve the agency's recommendation, based on the draft language, to revise state egg law (i.e., Exempt United State Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers):	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

XI. There being no further business, the meeting was adjourned.

# HUMAN AFFAIRS COMMISSION



June 27, 2017

Chairman John Oakland  
Commissioner Raymond Buxton, II  
South Carolina Human Affairs Commission  
1026 Sumter Street  
Columbia, SC 29201

Dear Chairman Oakland and Commissioner Buxton:

On behalf of the entire Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your presentation to the Subcommittee on June 22, 2017. In preparation for the next meeting scheduled for July 10, 2017, at 2:00 p.m., the Subcommittee seeks additional information from the agency. To allow the Subcommittee time to review the information prior to the next meeting, please provide the information requested below on or before Friday, July 7, 2017.

#### *Discrimination Complaints*

For calendar years 2016 and 2017, please provide a statistical breakdown, each month statewide and by county of the complaints the agency has received through its intake division including: (a) category of alleged discrimination, (b) number of cases dismissed without investigation overall and by category of alleged discrimination, and (c) number of cases investigated overall and by category of alleged discrimination. For the number of cases investigated, please note how many have resulted in a finding and how many are still under investigation. Please coordinate with Committee staff to determine an appropriate format to provide this information.

#### *Interaction with Federal Government*

- What percentage of the agency's budget is federal funds?
- Please explain how the agency is reimbursed by the federal government for both housing and employment cases

Chairman Oakland  
Commissioner Buxton  
June 27, 2017

- Please provide a list of agencies required to provide the state with an affirmative action plan and annotate this list to indicate which agencies are required to provide the federal government with an affirmative action plan.

*Finances*

- Please provide the Subcommittee with the amount of the agency's carryforward funds for fiscal year 2016-17.

If the agency has any concerns about the format of these questions yielding answers that do not provide an accurate reflection of the agency, please express those concerns, prior to the meeting, in a written letter to me with a copy to Committee staff. In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

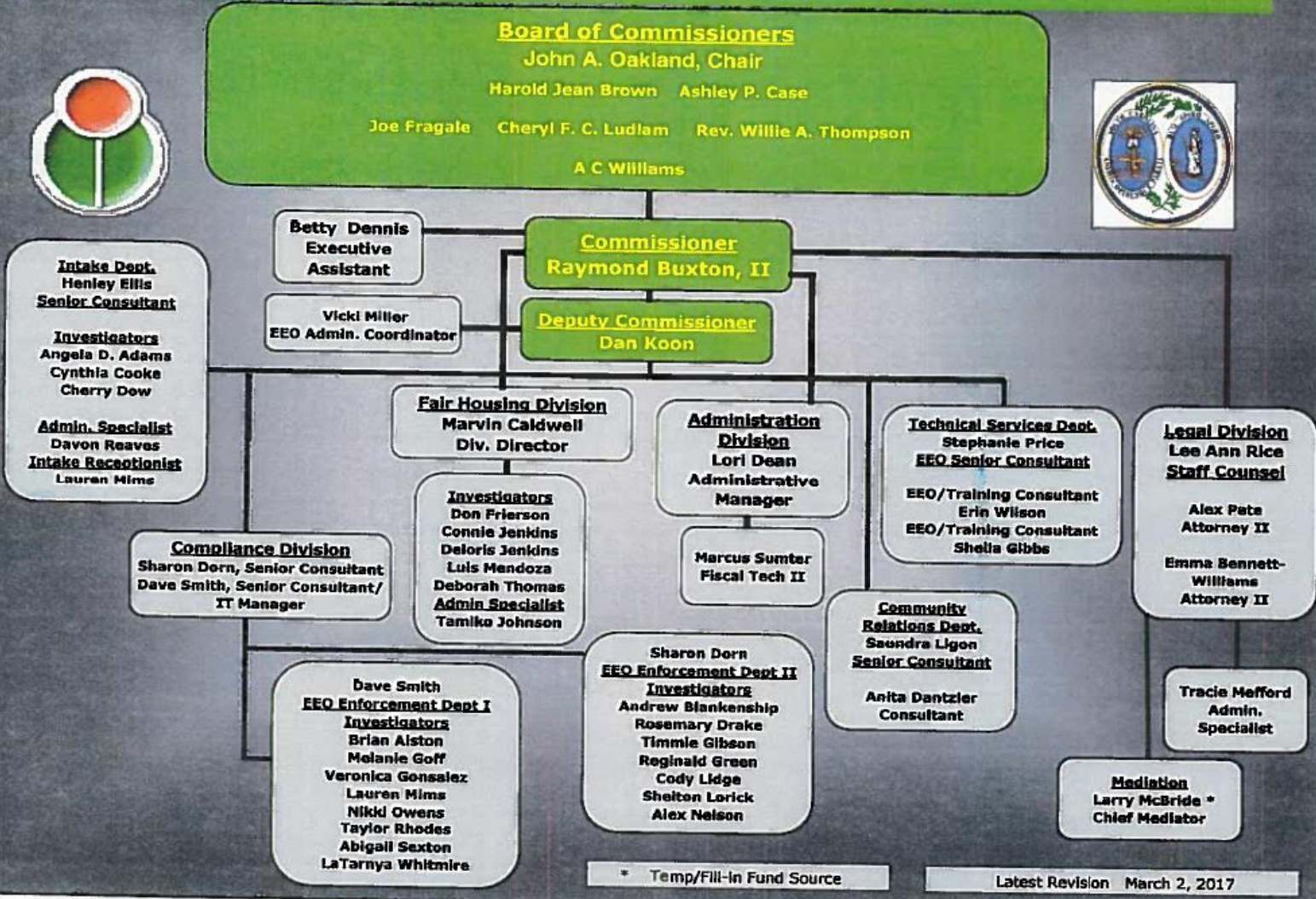
Sincerely,



Laurie Slade Funderburk  
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee

# South Carolina Human Affairs Commission Organizational Chart FY 2015-2016



\* Temp/Fill-in Fund Source

Latest Revision March 2, 2017

**Organizational Units**

(Study Step 1: Agency Legal Directives, Plan and Resources)

<b>Agency Responding</b>	Human Affairs Commission					
<b>Date of Submission</b>	4/17/2017					
<b>Did the agency have an exit interview and/or survey, evaluation, etc. when employees left the agency in 2013-14; 2014-15; or 2015-16? (Y/N)</b>	2013-2014: No 2014-2015: No 2015-2016: Yes					
<b>Organizational Unit</b>	<b>Purpose of Unit</b>	<b>Turnover Rate in the organizational unit in 2013-14; 2014-15; and 2015-16 (DNE = Unit did not exist)</b>	<b>Did the agency evaluate and track employee satisfaction in the organizational unit in 2013-14; 2014-15; and 2015-16? (Y/N)</b>	<b>Did the agency allow for anonymous feedback from employees in the organizational unit in 2013-14; 2014-15; and 2015-16? (Y/N)</b>	<b>Did any of the jobs in the organizational unit require a certification (e.g., teaching, medical, accounting, etc.) in 2013-14; 2014-15; and 2015-16? (Y/N)</b>	<b>If yes, for any years in the previous column, did the agency pay for, or provide in-house, classes/instruction/etc. needed to maintain all, some, or none of the required certifications?</b>
Administration	To provide administrative direction, control, and support of the agency	2013-2014: DNE 2014-2015: 2% 2015-2016: 2%	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	All
Consultative Services	To provide technical services, training, and equal opportunity, community relations and consulting services	2013-2014: DNE 2014-2015: DNE 2015-2016: DNE	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	None
Compliance Programs	To enforce state laws prohibiting employment, housing and public accommodation discrimination	2013-2014: 6% 2014-2015: 17% 2015-2016: 3%	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	Some

**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

<b>Agency Responding</b>	Human Affairs Commission
<b>Date of Submission</b>	4/17/2017

**Mission:** "The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- employment on the basis of race, color, national origin, religion, sex, age and disability;
- housing on the basis of race, color, national origin, religion, sex, familial status and disability; and
- public accommodations on the basis of race, color, national origin and religion, thereby promoting harmony and the betterment of human affairs for all citizens."

**Legal Basis:** S.C. Code Ann. § 1-13-20; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10

**Vision:** The vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens

**Legal Basis:** Legal Basis: S.C. Code Ann. § 1-13-20 et seq.; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10 et seq

Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	2015-16		2016-17		Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
		2015-16	2016-17							
# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted							
<b>Goal 1 - Prevent and Eliminate Employment Discrimination</b>										
<b>Strategy 1.1 - Implement a process of hiring and training employment Investigators</b>										
Agency will be able to efficiently investigate complaints of employment investigations		DNE	\$ -	3	\$ 179,488.00	See below	Compliance	Lori Dean (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Lori Dean - Yes John Dave Smith - No Sharon Dorn - No	State Government
Objective 1.1.1 - Provide monthly training sessions related to employment law for 15 employment investigators in FY 2016-2017	Ensure staff is properly trained to complete timely investigations	DNE	\$ -	3	\$ 195,150.00	Intake Calls and Initial Inquiries; Intake Calls Formalized into charges; Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements; Training - Internal	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
Objective 1.1.2 - Institute a workplace mentoring program for Investigator I employees during FY 2016-2017	Ensure staff is properly trained to complete timely investigations	3	\$ 183,329.52	3	\$ 195,150.00	Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
<b>Strategy 1.2 - Implement a reliable and measurable tracking system for the time it takes to process and investigate an employment discrimination complaint</b>										
Agency will decrease time it takes to process charges to meet the goal of 180 days		3	\$ 173,873.60	3	\$ 175,310.12	See below	Compliance	Dan Koon (responsible more than 3 years) Vicki Miller (responsible more than 3 years) Margaret H Ellis (responsible more than 3 years)	Dan Koon - No Vicki Miller - No Margaret H Ellis - No	Federal Government
Objective 1.2.1 - Decrease the average amount of case processing time of 263 days to investigate a charge of discrimination from the date of filing by 20% or 210 days by June 30, 2017	Agency will decrease time it takes to process charges to meet the goal of 180 days	5	\$ 342,107.14	6	\$ 410,930.39	Employment Cases Received; Employment Cases Closed; Employment Cases Successfully Mediated; Funds Collected at Mediation; Employment: Monetary Value of Settlements	Compliance	Commissioner Raymond Buxton, II (responsible more than 3 years) Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years) Lee Ann Rice (responsible less than 3 years) Emma Bennett-Williams (responsible less than 3 years)	Commissioner Raymond Buxton - No Dan Koon - No John Dave Smith - No Sharon Dorn - No Lee Ann Rice - No Emma Bennett-Williams - No	Federal Government
<b>Goal 2 - Prevent and Eliminate Housing Discrimination</b>										
<b>Strategy 2.1 - Enhance the awareness of the Housing Division to include the awareness of the Agency in under-served counties</b>										
To prevent and eliminate housing in underserved counties		1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.1 - Finalize a Fair Housing Outreach Plan by December 31, 2016	Education and Outreach	1	\$ 44,042.94	1	\$ 59,273.00	Housing Cases Received	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.2 - Hire a Fair Housing Outreach Liaison by December 16, 2016	Education and Outreach	1	\$ 4,519.35	1	\$ 18,077.40	Housing Cases Received	Compliance/Fair Housing	Luis Mendoza (responsible less than 3 years (hired 10/17/16))	No	Federal Government
<b>Strategy 2.2 - Implement an efficient processing system for Housing Discrimination Complaints</b>										
Agency will be able to efficiently investigate complaints of housing complaints		1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.2.1 - Process 60% of all Housing cases within 100 days during FY 2016-17	Agency will decrease time it takes to process charges to meet the goal of 100 days	DNE	\$ -	7	\$ 269,514.61	Housing Cases Closed; Housing Cases Conciliated	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Tamiko Johnson (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Tamiko Johnson - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government

**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Objective 2.2.2 - Conduct on-site investigations for all cases identified as problematic cases during FY 2016-2017	Agency will be able to efficiently investigate complaints of housing investigations	DNE	\$ -	6	\$ 243,649.61	Housing Cases Closed	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government
<b>Goal 3 - Educate Citizens about the use of Legal Remedies to Achieve Justice and Fairness</b>						See below				
<b>Strategy 3.1 - Empower the Legal and Mediation Departments with authority as provided by law.</b>	Provide recourses provided to charging parties	1	\$ 54,708.22	1	\$ 59,368.00	See below	Administration/Legal	Lee Ann Rice (responsible less than 3 years)	No	Federal Government
Objective 3.1.1 - Litigate probable cause cases that cannot be conciliated in the Fair Housing Division during FY 2016-17	Hold accountable discriminating respondents in SC	2	\$ 67,280.68	2	\$ 111,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years)	No	Federal Government
Objective 3.1.2 - Hold an administrative hearing for an employment or housing case by June 30, 2017	Holding accountable discriminators in Employment or Housing	DNE	\$ -	3	\$ 161,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years) Emma Williams-Bennett (responsible less than 3 years)	No	Federal Government
Objective 3.1.3 - Increase the number of mediated cases from the current level of 20% to 25% during FY 2016-17	Efficiently resolve more cases filed with the agency	2	\$ 87,538.41	2	\$ 88,905.00	Employment Cases Successfully Mediated; Funds Collected at Mediation; Housing Cases Conciliated; Public Accommodation / 90 e Cases Investigated	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Tracie Mefford (responsible less than 3 years)	No	Federal Government
<b>Strategy 3.2 - Promote legislation to update and standardize the laws and regulations of the Commission</b>	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00		\$ 104,070.00	See below	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Objective 3.2.1 - Continue to engage and educate members of the General Assembly for proposed changes to existing statues during FY 2016-17	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00	1	\$ 104,070.00	None	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
<b>Goal 4 - Foster Culturally Sensitive and Socially Inclusive Communities State Wide</b>						See below				
<b>Strategy 4.1 - Create and sustain existing Community Relations Councils in 46 counties</b>	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	See below	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.1 - Increase the number of counties with Community Relations Councils from 17 to 22 during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.2 - Sustain the current leadership in existing Community Relations Councils per minimum requirement during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	2	\$ 81,174.16	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Sandra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
<b>Strategy 4.2 - Implement technology platform and external Communication campaign to expand the network of Community Relations Councils</b>	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	See below	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.1 - Distribute an electronic newsletter devoted to Community Relations Councils on a monthly basis during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 51,919.52	1	\$ 55,086.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Betty Dennis (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.2 - Develop the agency web page to communicate periodic updated information to all Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other



**Strategic Plan Summary**

(Study Step 1: Agency Legal Directives, Plan and Resources; and Study Step 2: Performance)

Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	2015-16		2016-17		Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
		# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted					
<b>Strategy 4.3 - Promote the Quality of Life Initiative in all Community Relations Councils</b>	Promote best practices among Community Relations Councils	1	\$ 50,475.84	1	\$ 51,905.00	See below	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.3.1 - Conduct Quality of Life Initiative meetings with 5 Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	DNE	\$ -	1	\$ 51,905.00	None	Consultative Services/Community Relations	Sandra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
<b>Goal 5 - Advocate the compliance of Agency Affirmative Action Policies within all State Agencies</b>						See below				
<b>Strategy 5.1 - Partner with all State Agencies to better monitor agency Affirmative Action policies</b>	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	See below	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.1.1 - Conduct a computer analysis of each agency's hiring and promotion practices during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
Objective 5.1.2 - Review all State Agency Affirmative Action Reports and provide necessary recommendations to state agencies in developing and implementing non-discriminatory employment systems during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored; Training - External	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
<b>Strategy 5.2 - Provide affirmative action and employment law training to all State Agencies</b>	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	See below	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.1 - Conduct one statewide training program for all Affirmative Action (EEO) Officers during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.2.2 - Provide 12 EEO Employment Law training sessions for supervisors of state agencies requesting assistance during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	None	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.3 - Organize one state-wide Affirmative Action Forum for all State Agencies during FY 2016-17.	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government

## Agency Internal Changes and Law Recommendations

### INTERNAL CHANGES

#### Internal Change # 1

- Internal Change: Update and modernize regulation 65-2 related to the South Carolina Human Affairs Law, which would eliminate the need for notarization on the Complaint Form in order to reflect the less stringent statutory requirement of a “sworn statement”
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): Regulation change has been submitted to the General Assembly and the Agency’s Legal Department has been testifying before the respective subcommittees and committees
- Performance Measures Impacted and predicted impact: More cases will be accepted which result in more case closures and high rate of compensation from the EEOC
- Objective Costs Impacted and anticipated impact: Objective 3.2 – increase will likely be \$2,100-\$3,500
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: to be given back to the general fund
- Anticipated Implementation Date: July 2017

#### Internal Change # 2

- Internal Change: Update and modernize regulation 65-3 related to the South Carolina Human Affairs Law, which would shorten the time that a party has to respond to the Agency’s request for information in an employment investigation
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): Regulation change has been submitted to the General Assembly and the Agency’s Legal Department has been testifying before the respective subcommittees and committees
- Performance Measures Impacted and predicted impact: Case processing time will shorten overall because the parties in an investigation will not have as many ways of unnecessarily prolonging the Agency’s investigation. The Human Affairs Law states that cases should be investigated in under 180 days, but the average case processing time currently exceeds 200 days, which is due in part to the multitudinous steps found solely in the regulations.
- Objective Costs Impacted and anticipated impact: Objective 1.2.1 – revenue from case completion would increase based on the number of cases completed
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: payment of salary/fringe for staff and operating costs utilized by earmarked funds
- Anticipated Implementation Date: July 2017

#### Internal Change # 3

- Internal Change: Update and modernize the Agency’s employee handbook

- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The Management team will present the new handbook to the Board for approval at the upcoming board meeting and then will distribute to staff
- Performance Measures Impacted and predicted impact: Performance by agency staff will remain consistently high, or improve
- Objective Costs Impacted and anticipated impact: N/A
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: N/A
- Anticipated Implementation Date: August 2017

#### Internal Change # 4

- Internal Change: Hold administrative hearings for all 'reasonable cause cases' under S.C. Code Ann. §1-13-90(c) and S.C. Code Ann. §31-21-130
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): A plan has been implemented and the Commission Board has been trained, so that a hearing can be held in May 2017
- Performance Measures Impacted and predicted impact: Agency will be upholding its statutory duty
- Objective Costs Impacted and anticipated impact: Objective 3.1.2 – The cost will likely be less than litigation in court, but is unknown at this time and is always case-specific
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: EEOC and HUD contract payments
- Anticipated Implementation Date: May 2017

#### Internal Change # 5

- Internal Change: Secure other physical locations available for scheduling mediations
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer more flexibility of times for parties engaging in mediation
- Objective Costs Impacted and anticipated impact: Objective 3.1.3 – More files will likely be closed earlier, saving the agency money on an undetermined amount of cases
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used on mediators
- Anticipated Implementation Date: Agency has not fully analyzed the feasibility of idea

#### Internal Change # 6

- Internal Change: Litigate all ‘reasonable cause cases’ under the Human Affairs Law and the Fair Housing Law
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer free legal services to individuals who have been unlawfully discriminated against
- Objective Costs Impacted and anticipated impact: Objective 3.1.1 – The resulting costs will likely be covered, in part, in penalties assessed on violators through litigation; however, there are litigation expenses that will need to be fronted by the Agency, and there is no guarantee that all costs will be covered in a favorable settlement, Order, or jury verdict
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used to cover the costs of litigation
- Anticipated Implementation Date: Agency has not fully analyzed the feasibility of idea

#### Internal Change # 7

- Internal Change: Provide greater enforcement for viable complaints of Public Accommodations discrimination.
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer free legal services to individuals who have been unlawfully discriminated against
- Objective Costs Impacted and anticipated impact: Objective 3.2.1 – Unknown, but additional staff would be needed
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used to cover the costs of investigations and administrative hearings
- Anticipated Implementation Date: Agency has not fully analyzed

## LAW RECOMMENDATIONS

### Law Recommendation # 1

- Law: SC Code Section 1-13-70 (i)
- Summary of current statutory requirement: The Agency shall issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of evidence in employment investigations, and the Commission shall enforce subpoenas through a court of competent jurisdiction.
- Recommendation and Rationale for Recommendation: While Section 1-13-90(d) clearly articulates that the Agency has the power to subpoena non-state Agency employers, the language in 1-13-70 (i) has not been updated to reflect the agency's jurisdiction.
- Law Wording: (i) To require from any employer state agency or department or local subdivisions of a state agency or department such reports and information at such times as it may deem reasonably necessary to effectuate the purposes of this chapter.
- Other Agencies Impacted: None

### Law Recommendation # 2

- Law: SC Code Section 1-13-90 (c)(16)
- Summary of current statutory requirement: The Commission shall hold an administrative hearing before a panel of three commission members, and shall render a decision related to the claims, when an employment investigation against a state agency has resulted in a reasonable cause determination.
- Recommendation and Rationale for Recommendation: State and Federal Courts, as well as the Agency's federal counterpart, award broader damages to aggrieved parties in employment discrimination litigation, and state law should contemplate the full range of damage awards available to a prevailing party. Language similar to the proposed wording below is found in Tennessee and Kentucky code sections.
- Law Wording: (16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the Commission an opinion and order requiring the Respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to such public officers and persons as the commission deems proper. Affirmative action ordered under this section may include, but is not limited to:
  - (a) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;
  - (b) Admission or restoration of individuals to union membership, admission to, or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;
  - (c) Reporting as to the manner of compliance;

(d) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the commission and inclusion of such notices in advertising material;

(e) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and cost, including a reasonable attorney's fee; and

(f) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record. ~~that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. The Commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.~~

- Other Agencies Impacted: Any agency that unlawfully discriminates against an employee or potential employee

### Law Recommendation # 3

- Law: SC Code Section 1-13-90 (d)(6)
- Summary of current statutory requirement: The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.
- Recommendation and Rationale for Recommendation: Complainants may be thrown out of court, despite abiding by all the necessary deadlines, when a complainant brings a civil suit following an investigation by the Agency, if the EEOC has waived the case to the Agency. For example, if the EEOC accepted a charge 300 days after the date of harm (the EEOC's deadline for acceptance), then subsequently waived the case immediately the Agency, the Agency would not be able to issue a Notice of Right to Sue to the Complainant until 480 days after the date of harm. Currently, the statute states that a lawsuit must be filed within a year from the date of harm, if it is earlier than the 180 days the Agency has to investigate the case.
- Law Wording: (6) If a charge filed with the commission by a complainant pursuant to this chapter is dismissed by the commission, or if within one hundred eighty days from the filing of the charge the commission has not filed an action under this chapter or entered into a conciliation agreement to which the complainant is a party, the complainant may bring an action in equity against the respondent in circuit court. The action must be brought within one year from the date of the violation alleged, or within one hundred twenty days from the date the complainant's charge is dismissed, whichever occurs later ~~earlier~~, except that this period may be extended by written consent of the respondent.
- Other Agencies Impacted: Any agency against which an employment discrimination lawsuit is brought

Law Recommendation # 4

- Law: SC Code Section 1-13-100
- Summary of current statutory requirement: The Commission may contract and cooperate with Federal Equivalent Agencies (like the EEOC and HUD) in furthering the joint missions of the Agencies. The Human Affairs Law is to be construed as a law which parallels Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq.; the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq.; and the Americans with Disabilities Act of 1990, as amended, Public Law 101-336.
- Recommendation and Rationale for Recommendation: In addition to limiting the types of civil causes of action that can be brought under the Human Affairs Law, a similar limitation to the relief awarded should also be established.
- Law Wording: Nothing in this chapter may be construed to create a cause of action other than those specifically described in Section 1-13-90 of this chapter. Nothing in this chapter may be construed to create a cause of action against a person not covered by Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq., if the cause of action arises from discrimination on the basis of race, color, religion, sex, or national origin. Nothing in this chapter may be construed to create a cause of action against a person not covered by the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq., if the cause of action arises from discrimination on the basis of age. Nothing in this chapter may be construed to create a cause of action against a person not covered by the Americans with Disabilities Act of 1990, as amended, Public Law 101-336. Nothing in this chapter may be construed to award relief greater than Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq., or the Americans with Disabilities Act of 1990, as amended, Public Law 101-336.
- Other Agencies Impacted: None

Law Recommendation # 5

- Law: SC Code Section 1-13-90 (c)
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: Similar to the Office of Human Resources in holding Grievance Committee Hearings and in South Carolina Circuit Courts, State Agencies and complainants should be required to engage in a preliminary mediation at the Agency.
- Law Wording: (c) For complaints asserting expressly or in substance a violation by a state agency or department or local subdivisions of a state agency or department of Section 1-13-80 the procedure shall be as follows:
  - (1) Within sixty days of the complainant's filing of the complaint, the commissioner shall assign one or more of his employees or agents to hold a mandatory mediation conference. The mandatory mediation conference may not be used as a fact-finding conference. The mediator may hold additional mediation conferences to accommodate settlement discussions.
  - (2) If the complaint is not resolved after the mandatory mediation conference, the complainant or the respondent may request the commission to hold additional mediation conferences.

(3) The commission may dismiss the complaint if a complainant, after notice and without good cause, fails to attend a mandatory mediation conference, or the respondent has eliminated the discriminatory practice complained of, taken steps to prevent a like occurrence in the future, and offered full relief to the complainant, even though the complainant has refused the relief.

(4) If the complaint is not resolved after the mandatory mediation conference, the commissioner shall assign one or more of the agency's employees or agents within fifteen days after the mandatory mediation conference to investigate the complaint as the designated investigator in charge of the complaint. Information gathered during an investigation under this item shall not be made public by the commission, its officers, or employees, except for information made public as a result of being offered or received into evidence in an action brought under this chapter.

(5) The chairman of the commission or, upon the request of the chairman, the commissioner shall designate a member of the commission to supervise the processing of the complaint.

(6) The complaint may be resolved at any time before a hearing by conference, conciliation, or persuasion, with the complainant and the respondent. The resolution must be embodied in a conciliation agreement, which shall include an agreement by the respondent to refrain from committing unlawful discriminatory practices in the future, and which may contain those further provisions as are agreed upon by the complainant and the respondent. No conciliation agreement may be considered an effective resolution by the commission unless the supervisory commission member has reviewed and approved the terms of the agreement. Positions taken by a witness in connection with these efforts toward conciliation shall not be made public or used against the interest of the witness in a subsequent proceeding.

(7) In undertaking its investigation of a complaint, the commission shall have the authority:

(a) to issue a subpoena or subpoena duces tecum and thereby compel attendance of witnesses or production for examination of books, papers, and records, whenever it is considered necessary to compel the attendance of witnesses, or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers, or any other evidence relating to any matter under investigation or in question before the commission. This authority may be exercised only by the joint action by the chairman of the commission and the commissioner;

(b) to require any party or witness to answer interrogatories at any time after the complaint is filed;

(c) to take depositions of witnesses including any party pursuant to a complaint or investigation made by the commission;

(d) pursuant to subitems (a), (b), (c), if a person fails to permit access, fails to comply with a subpoena, refuses to have his deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery, the commission may request an order of a court of competent jurisdiction requiring discovery and other related good faith compliance.

(8) If not sooner resolved, the investigator shall upon completion of his investigation submit to the supervisory commission member a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. The supervisory commission member, after review of the case file and the statement and recommendation of the investigator, shall issue an order either of dismissal or for a hearing, which order is not subject to judicial or other further review.



(9) If the order is for dismissal, the supervisory commission member shall mail a copy of the order to the complainant and the respondent at their last known addresses.

(10) If the order is for a hearing, the supervisory commission member shall attach to the order a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(11) At any time before a hearing a complaint may be amended by the supervisory commission member upon the request of the investigator, complainant, or respondent.

Complaints may be amended during a hearing only upon a majority vote of the panel of commission members for the hearing.

(12) Upon request by any party, the commissioner shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless the commissioner determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonable or unduly burdensome.

(13) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the commission, upon notice to the party or witness, shall apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the commission determines that the discovery would be unreasonably or unduly burdensome.

(14) Upon request by the supervisory commission member, the chairman of the commission shall designate a panel of three members of the commission to sit as the commission to hear the complaint; provided, that no member of the commission may be a member of a panel to hear a complaint for which he has been a supervisory commission member.

(15) At any hearing held pursuant to this subsection, the case in support of the complaint shall be presented before the panel by one or more of the commission's employees or agents, and, with consent of the panel, by legal representatives of the complaining party; provided, that attempts at conciliation by the investigator must not be received into evidence nor otherwise made known to the members of the panel.

(16) The respondent shall submit a written answer to the complaint and appear at the hearing in person or by counsel and may submit evidence. The respondent shall have the power reasonably and fairly to amend his answer.

(17) The complainant is permitted to be present and submit evidence.

(18) These proceedings are subject to the Administrative Procedures Act and in case of conflict between the provisions of this chapter and the Administrative Procedures Act, the Administrative Procedures Act shall govern. A recording of the proceedings shall be made, which may be subsequently transcribed upon request and payment of a reasonable fee by the complainant or the respondent. The fee must be set by the commission or upon motion of the panel, in which case copies of this transcription shall be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the commission.

(19) If upon all the evidence presented at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the commission an opinion and order requiring that the unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstating or

upgrading of employees, with or without back pay to the persons aggrieved by the practice as, in the judgment of the panel, shall effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of the complaint with the commission. The commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.

(20) If upon all the evidence at the hearing the panel shall find that the respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent.

(21) A copy of the opinion and order of the commission shall be delivered to the Attorney General and to those other public officers as the commission deems proper. Copies of the opinion and order shall be available to the public for inspection upon request, and copies shall be made available to any person upon payment of a reasonable fee set by the commission.

(22)(a) If an application for review is made to the commission within fourteen days from the date of the opinion and order of the commission, the commission, for good cause shown, shall review the opinion and order, the evidence, receive further evidence, rehear the parties or their representatives, and, if justified, amend the opinion and order.

(b) The opinion and order of the commission as provided in item (19), if not reviewed in due time, or an opinion and order of the commission upon review, as provided for in subitem (a), is conclusive and binding as to all questions of fact unless clearly erroneous in view of the reliable, probative, and substantive evidence in the whole record. Either party to the dispute, within thirty days after receipt of the opinion and order, may appeal the decision of the commission to the Administrative Law Court as provided in Chapter 23, Title 1. In case of an appeal from the decision of the commission, the appeal operates as a supersedeas for thirty days only, unless otherwise ordered by the administrative law judge, and the respondent is required to comply with the order involved in the appeal until the questions at issue are fully determined in accordance with the provisions of this chapter.

(c) The commission may institute a proceeding for enforcement of its order issued under item (19) or its amended order issued under subitem (a) after thirty days from the date of the order, unless otherwise prevented by the administrative law judge under subitem (b) above, by filing a request for enforcement in the court of common pleas of the county in which the hearing occurred, or where the person who is the subject of the commission's order resides or transacts business.

A decree of the court for enforcement of the order may be granted upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the commission's order."

~~(1) The Commissioner shall assign one or more of his employees or agents to investigate the complaint, in which case one shall be designated the investigator in charge of the complaint. Information gathered during an investigation under this subsection shall not be made public by the Commission, its officers or employees, except for information made public as a result of being offered or received into evidence in an action brought under this subsection.~~

~~(2) The Chairman of the Commission or, upon the request of the Chairman, the Commissioner shall designate a member of the Commission to supervise the processing of the complaint.~~

~~(3) The complaint may be resolved at any time before a hearing by conference, conciliation and persuasion with the complainant and the respondent, such resolution to be embodied in a conciliation agreement, which shall include an agreement by the respondent to refrain from~~

committing unlawful discriminatory practices in the future, and which may contain such further provisions as are agreed upon by the complainant and the respondent. No conciliation agreement shall be deemed an effective resolution by the Commission unless the supervisory commission member shall have reviewed and approved the terms thereof. Positions taken by a witness in connection with such efforts toward conciliation shall not be made public or used against the interest of the witness in a subsequent proceeding.

(4) In undertaking its investigation of a complaint the Commission shall have the authority:

(i) To issue a subpoena or subpoena duces tecum and thereby compel attendance of witnesses or production for examination of books, papers, and records, whenever it is deemed necessary to compel the attendance of witnesses, or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers or any other evidence relating to any matter under investigation or in question before the Commission. The power may be exercised only by the joint action by the Chairman of the Commission and the Commissioner.

(ii) To require any party or witness to answer interrogatories at any time after the complaint is filed.

(iii) To take depositions of witnesses including any party pursuant to a complaint or investigation made by the Commission.

(iv) Pursuant to subitems (i), (ii), (iii), above, if a person fails to permit access, fails to comply with a subpoena, refuses to have his or her deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery, the Commission may request an order of a court of competent jurisdiction requiring discovery and other related good faith compliance.

(5) If not sooner resolved, the investigator shall upon completion of his investigation submit to the supervisory commission member a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. The supervisory commission member, after review of the case file and the statement and recommendation of the investigator shall issue an order either of dismissal or for a hearing, which order shall not be subject to judicial or other further review.

(6) If the order be of dismissal, the supervisory commission member shall mail a copy of the order to the complainant and the respondent at their last known addresses.

(7) If the order be for a hearing, the supervisory commission member shall annex thereto a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(8) At any time before a hearing a complaint may be amended by the supervisory commission member upon the request of the investigator or of the complainant or of the respondent. Complaints may be amended during a hearing only upon a majority vote of the panel of commission members for such hearing.

(9) Upon request by any party, the Commissioner shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless the Commissioner determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonable or unduly burdensome.

(10) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his or her deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the Commission, shall, upon notice to the party or witness, apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the Commission determines that the discovery would be unreasonably or unduly burdensome.

(11) Upon request by the supervisory commission member, the Chairman of the Commission shall designate a panel of three members of the Commission to sit as the Commission to hear the complaint; provided, that no member of the Commission shall be a member of a panel to hear a complaint for which he has been a supervisory commission member.

(12) At any hearing held pursuant to this subsection, the case in support of the complaint shall be presented before the panel by one or more of the commission's employees or agents, and, with consent of the panel, by legal representatives of the complaining party; provided, that endeavors at conciliation by the investigator shall not be received into evidence nor otherwise made known to the members of the panel.

(13) The respondent shall submit a written answer to the complaint and appear at such hearing in person or by counsel and may submit evidence. The respondent shall have the power reasonably and fairly to amend his answer.

(14) The complainant shall be permitted to be present and submit evidence.

(15) Proceedings under this section shall be subject to the Administrative Procedures Act, Sections 1-23-310 through 1-23-400 of the Code of Laws of South Carolina, 1976, as amended, and in case of conflict between the provisions of this chapter and the Administrative Procedures Act, the Administrative Procedures Act shall govern. A recording of the proceedings shall be made, which may be subsequently transcribed upon request and payment of a reasonable fee by the complainant or the respondent. The fee shall be set by the Commission or upon motion of the panel, in which case copies of such transcription shall be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the Commission.

(16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the Commission an opinion and order requiring that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. The Commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.

(17) If upon all the evidence at the hearing the panel shall find that the respondent has not engaged in any such unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent.

(18) A copy of the opinion and order of the Commission shall be delivered in all cases to the Attorney General and to such other public officers as the Commission deems proper. Copies of the opinion and order shall be available to the public for inspection upon request, and copies shall be made available to any person upon payment of a reasonable fee set by the Commission.

(19)(i) If an application for review is made to the commission within fourteen days from the date the order of the commission is given, the commission, for good cause shown, shall review the order and evidence, receive further evidence, rehear the parties or their representatives, and, if proper, amend the order.

(ii) The order of the commission, as provided in item (16) of subsection (c) of this section, if not reviewed in due time, or an order of the commission upon review, as provided for in subitem (i) of item (19) of this subsection, is conclusive and binding as to all questions of fact unless clearly erroneous in view of the reliable, probative, and substantive evidence in the whole record. Either party to the dispute, within thirty days after receipt of notice to be sent by registered mail of the order may appeal the decision of the commission to the Administrative Law Court as provided in Sections 1-23-380(B) and 1-23-600(D). In case of an appeal from the decision of the commission, the appeal operates as a supersedeas for thirty days only, unless otherwise ordered by the administrative law judge, and the respondent is required to comply with the

order involved in the appeal or certification until the questions at issue are fully determined in accordance with the provisions of this chapter.

(iii) The commission may institute a proceeding for enforcement of its order of item (16) of subsection (c) of this section, or its amended order of subitem (i) of item (19) of this subsection after thirty days from the date of the order, by filing a notice of appeal in the court of common pleas of the county in which the hearing occurred, or where a person required in the order to cease and desist from a practice which is the subject of the commission's order, or to take other affirmative action, resides, or transacts business.

If no appeal pursuant to subitem (ii) of item (19) of this subsection is initiated, the commission may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the commission's order.

- Other Agencies Impacted: Any state agency against which a charge is filed

#### Law Recommendation # 6

- Law: SC Code Section 31-21-70 (G)
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: Disability discrimination related to modifications, accommodations and construction deficiencies in a housing investigation may involve the terms and conditions of a sale or rental of a dwelling, in addition to the denial of a dwelling.
- Law Wording: (G) For purposes of Section 31-21-40(6) and 31-21-40(7), discrimination includes:
  - (1) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is thirty months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

(a) the public use and common use portions of such dwelling are readily accessible to and usable by handicapped persons;

(b) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(c) all premises within these dwellings contain the following features of adaptive design:

(i) an accessible route into and through the dwelling;

(ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in the bathroom walls to allow later installation of grab bars; and

(iv) usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

- Other Agencies Impacted: None

Law Recommendation # 7

- Law: SC Code Section 31-21-120 (B)
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: The Agency and its Federal Counterpart agency (the Department of Housing and Urban Development) no longer require that a complaint or answer be verified, only that they be under oath. The Commission may contract and cooperate with Federal Equivalent Agencies (like the EEOC and HUD) in furthering the joint missions of the Agencies.
- Law Wording: (B) A complaint under subsection (A) must be filed within one hundred eighty days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him, not later than ten days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. ~~Both complaint and answer must be verified.~~
- Other Agencies Impacted: None

Law Recommendation # 8

- Law: SC Code Section 45-9-10 (A)
- Summary of current statutory requirement: After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the law, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: (A) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in Article 1 of this chapter, without discrimination or segregation on the ground of race, color, religion, ~~or~~ national origin, or sex, though nothing in this part shall prohibit segregation on the basis of sex of bathrooms, health clubs, rooms for sleeping or changing clothes, or other places of public accommodation the commission specifically exempts on the basis of bona fide considerations of public policy.
- Other Agencies Impacted: Office of the Attorney General and SLED





Law Recommendation # 9

- Law: SC Code Section 45-9-40
- Summary of current statutory requirement: After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed wording, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: Section 45-9-40. Processing of ~~charges~~ complaints; review by State Human Affairs Commission; complaint by Commission ~~Attorney General~~.

Whenever the ~~State Human Affairs Commission~~ Attorney General receives a ~~charge~~ complaint and has cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by the provisions of Article 1, and that the pattern or practice is of a nature so as to deny the full exercise of the rights described in the provisions of Article 1, the ~~Commission~~ Attorney General shall notify the State Law Enforcement Division which shall conduct an investigation. The results of this investigation must be reported to ~~a panel of the Board of the Commission~~ the State Human Affairs Commission. A panel of not fewer than three commission members, designated by the chairman, shall determine if there is reasonable cause to believe that the facts alleged, based upon the results of this investigation, are sufficient to state a violation of Article 1 by a pattern or practice of discrimination or segregation.

If this panel finds reasonable cause, ~~they shall inform the chairman~~ the chairman shall inform the Attorney General, and the ~~Commission~~ Attorney General or his designee shall begin an action by ~~filing a complaint with the commission and~~ serving a complaint and Order for hearing, by certified mail, return receipt requested, on the parties named in the complaint. The commission members which serve on this panel may not serve on the panel conducting a hearing on the allegations contained in the complaint if a license revocation proceeding is initiated. If a person alleged to have violated the provisions of Article 1 by a pattern or practice of discrimination or segregation is an employee or agent of an establishment as defined in Section 45-9-10, the ~~Commission~~ Attorney General shall make a diligent effort to include in the complaint the name of the employer, principal, or a third party who may be the holder of a license or permit under which the establishment or an agent of the establishment operates. The complaint must set forth a description of the charges, including the facts pertaining to the pattern or practice of discrimination or segregation and a listing of those licenses or permits which are sought to be revoked under the provisions of this article and must state clearly the remedy or penalty available pursuant to Sections 45-9-60 and 45-9-80 if the allegations are found to be true.

- Other Agencies Impacted: Office of the Attorney General and SLED

Law Recommendation # 10

- Law: SC Code Section 45-9-60
- Summary of current statutory requirement: The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed wording, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: SECTION 45-9-60. State Human Affairs Commission may establish rules of procedure for hearings; subpoenas; rights of persons charged; rules of evidence; scope of hearing; deliberations of panel; remedies for violation.

The commission may establish rules of procedure for the conduct of the panel hearings as provided in this article and is not governed by the Administrative Procedures Act in establishing these rules or in the conduct of panel hearings. The commissioner, upon request of the panel conducting a hearing, may issue subpoenas and subpoenas duces tecum to allow the panel to interview any person it deems necessary and review any document it deems relevant.

A person or group of persons charged in the complaint with engaging in a pattern or practice of discrimination or segregation in violation of Article 1 shall have the right in the hearing to present physical and documentary evidence, the testimony of witnesses, and other relevant information. In procuring the testimony of witnesses, such persons shall have the benefit of the commissioner's subpoena power. Such persons shall have the right to appear before the panel

and be represented by an attorney, to call witnesses, to confront and cross examine adverse witnesses, and to make oral and written legal arguments.

All testimony given must be under oath in the presence of a court reporter who shall record the proceedings. The rules of evidence applicable in circuit court shall be used in all hearings. Except to the extent necessary to establish a pattern or practice of discrimination or segregation or to allow for the participation of those intervenors as may be allowed by Section 45-9-70, the panel conducting the hearing must limit the scope of the hearing to the items delineated in the description of the charges or in the allegations in the complaint.

Notwithstanding any other provision of law to the contrary, all deliberations and votes of the panel may be conducted in executive session. The deliberations, findings, and conclusions of the panel are confidential and may not be disclosed by any person until the final order or

determination is made public as provided in this article.

Except as otherwise provided by this article, if it is determined that the rights and privileges secured by Article 1 have been violated by a pattern or practice of discrimination or segregation by an owner of an establishment, an employee of an establishment, or an agent of an establishment, the panel shall grant the relief authorized in Section 45-9-80. The panel may further order any persons found to have violated

the provisions of Article 1 by a pattern or practice of discrimination or segregation to reimburse the State for the actual costs incurred in conducting the hearing, including reasonable attorney's fees. Additionally, the Panel's Order shall be public and may require:

- (1) Admission of individuals to a place of public accommodation, resort or amusement;
- (2) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;
- (3) Reporting as to the manner of compliance;
- (4) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the commission and inclusion of such notices in advertising material;
- (5) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and cost, including a reasonable attorney's fee;
- (6) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record.

- Other Agencies Impacted: Office of the Attorney General

#### Law Recommendation # 11

- Law: SC Code Section 45-9-80
- Summary of current statutory requirement: The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed law, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: SECTION 45-9-80. ~~Commission Attorney General~~ to notify permitting, regulatory, or licensing authority of violations; immediate revocation of license or permit; enforcement of panel's decision; violators not to obtain license or permit for three years. Notwithstanding any other provision of law or ordinance to the contrary, if the panel determines that the provisions of Article 1 have been violated by a pattern or practice of discrimination or segregation by the owner of an establishment, an employee of an establishment, or an agent of an establishment of public accommodations as defined in Section 45-9-10, the ~~Commission Attorney General~~ must immediately notify the appropriate state or local permitting, regulatory, or licensing authority that those licenses or permits so designated in the panel's order must be revoked immediately, notwithstanding the provisions of Section 1-23-380(C), upon expiration of the time allowed for an appeal if no appeal has been filed. After appeals, if the panel's order is not reversed, the license or permit must be revoked as

provided in this article.

If necessary, a writ of mandamus may be sought by the Commission Attorney General or any individual to effectuate the provisions of this section. Nothing in this section shall be construed as requiring the issuance of a writ of mandamus, and no civil action shall lie against any regulatory or licensing official acting pursuant to an order of the panel.

If the Commission notifies the appropriate state or local permitting, regulatory, or licensing authority that those licenses or permits so designated in the panel's order must be revoked immediately, ~~no~~ the owner of an establishment, employee of an establishment, or agent of an

establishment who is found to have violated the provisions of Article 1 by a pattern or practice of discrimination or segregation shall not obtain a license or permit from the same regulatory or licensing entity or seek the reissuance of a revoked license or permit within three years from the date of the panel's order or a final determination of a court of competent jurisdiction, whichever is later.

- Other Agencies Impacted: Office of the Attorney General

#### Law Recommendation # 12

- Law: Regulation 65-2
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: The regulation should be changed to eliminate the unnecessary requirement of notarization on the Complaint Form, and should instead reflect the statutory requirement of a statement that is made under oath or affirmation. The proposed amendment parallels the requirements of the Agency's federal counterpart, the Equal Employment Opportunity Commission, thereby making the respective practices of the two entities substantially similar, which is required by the *Worksharing Agreement* between the Agency and the Equal Employment Opportunity Commission.
- Law Wording: B. Complaint Form.  
The complaint shall be in writing on a form provided by the Commission for this purpose. The complaint must be signed and sworn under oath or affirmation. ~~before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. Notarial service shall be furnished without charge by the Commission.~~
- Other Agencies Impacted: None

#### Law Recommendation # 13

- Law: Regulation 65-3
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability. The Agency shall issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of evidence in

employment investigations, and the Commission shall enforce subpoenas through a court of competent jurisdiction. The Agency shall make certain portions of employment investigation files available to the parties involved in the investigation.

- Recommendation and Rationale for Recommendation: The regulation should be changed to decrease the timeframe for subpoena enforcement from 30 days to 14 days, additionally the timeframe to request a motion to quash and request for additional time are removed. The regulation should further provide Complainants and Respondents with equal access to the Agency's investigative files in order to be substantially equivalent to the EEOC, and the citation for the Freedom of Information Act is wrong and should be corrected. .
- Law Wording: 65-3. Investigation and Production of Evidence.

A. Investigation.

(1) Investigator. The investigation of complaint shall be conducted by one or more investigators from the Commission's staff who shall be appointed by the Commissioner. If more than one investigator is appointed, one of the investigators shall be designated the "investigator in charge" and shall direct the investigation.

(2) Duties of the Investigator. Investigators shall do those things necessary and proper to thoroughly investigate a complaint, but shall limit their investigations to their proper scope as described in Subsection 65-3A(5) herein. Investigators assigned to investigate complaints filed pursuant to Section 1-13-90(c) of the Act (State agencies or departments and their local subdivisions) shall upon completion of their investigations submit to the supervisory commission member a statement of the facts disclosed by their investigations and recommend to the supervisory commission member that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. In complaints arising under Section 1-13-90(d) of the Act (employers, employment agencies or labor organizations, including municipalities, counties, special purpose districts, school districts and local governments), investigators shall upon completion of their investigation submit to the Commissioner a statement of the facts disclosed by the investigation and recommend either that the complaint be dismissed or that the Commission endeavor to formally conciliate the matter.

(3) Supervisory Commission Members. If the complaint under investigation is brought pursuant to Section 1-13-90(c) of the Act, the Chairman of the Commission, or upon the request of the Chairman, the Commissioner shall designate a member of the Commission to supervise the processing of the complaint who shall be known as the supervisory commission member. The supervisory commission member shall review the results of the investigation conducted by the investigator and review the investigator's recommendations for dismissal or other action.

(4) Commencement of the Investigation. The investigation shall commence immediately upon service by the Commission of a copy of the complaint or notice of complaint upon the respondent.

(5) Scope of Investigation. Insofar as practicable, the investigation shall be limited to a determination of the facts relating to the unlawful employment practice or practices under investigation or in question before the commission. alleged in the complaint and to the individual harm alleged to have been suffered by the complaining party. The investigator's inquiry for relevant facts shall be restricted to the relevant immediate environment in which the complaining party allegedly suffered harm such as a department or similar organizational structure of a respondent employer which is within the decision-making authority of a single person.

## (6) Conduct of the Investigation.

(a) The investigator shall make a prompt and complete investigation of the allegations in the complaint which meet the standards of R.65-2.

(b) As part of each investigation the investigator:

(i) Will accept as evidence any statement of position and/or evidence concerning the allegations of the complaint which the complainant or respondent wishes to voluntarily submit.

(ii) Shall require the complainant or respondent to provide any evidence, including statements and documents, ~~if any, in his/her possession~~ which are relevant to the complaint, as well as, any information which is necessary to establish actual damages or to establish the date on which the alleged damages occurred.

(c) The investigator may require the complainant to provide a detailed statement which includes, but is not limited to:

(i) a statement of each specific harm that the complainant has allegedly suffered, and the date on which each alleged harm occurred;

(ii) for each alleged harm, a statement specifying the act, policy or practice of the respondent which is alleged to be unlawful; and

(iii) for each act, policy or practice alleged to have harmed the complainant a statement of the facts which lead the complainant to believe that the act, policy or practice is unlawfully discriminatory.

(d) During the investigation of a complaint, the investigator may conduct a fact-finding conference with the parties. The purpose of the conference shall be to clearly define the issues to determine which elements of the matter under investigation are undisputed, to resolve those issues that can be resolved and to determine whether there is any likelihood for a negotiated no-fault settlement of the complaint as described in Section 65-5A. Discussions during a fact-finding conference are confidential. Any conciliation efforts during the conference are also confidential and are considered conciliation attempts within the meaning of the Act.

## B. Production of Evidence.

~~(1) Investigator's Informal Request for Information. An investigator may, at any reasonable time after service of complaint, informally request access to records and documents in the possession of any person being investigated which are relevant to the complaint for purposes of inspection and copying.~~

(2)(1) Investigator's Formal Request for Information. An investigator may, at any reasonable time after service of complaint, formally request access to or production of records and documents in the possession of any person being investigated which are relevant to the complaint for purposes of inspection and copying. The investigator shall make the formal request for documents in writing by certified mail, transmitted to the person being investigated.

~~If any person refuses to comply with an investigator's informal request for access to documents and records, the investigator shall demand access to the documents in writing by certified mail, transmitted to the person being investigated. The written demand shall notify the person that the investigator may apply to the Commission for a subpoena if access to or production of the documents and records is not permitted within thirty (30) days from the receipt of the investigator's written demand.~~

~~(3)~~(2) Investigator's Application for Subpoena ~~Duces Tecum~~. If any person fails to comply with an investigator's formal written demand for information within thirty (30) days after receipt of the written demand, the investigator may apply to the Commission for a subpoena ~~duces tecum~~ by presenting to the Commission the investigator's written demand and the response of the person to whom the demand was made denying access to the information requested or, if no response was made, the investigator's affidavit that no response was received from the party to whom the demand for information was sent.

~~(4)~~(3) Issuance of Subpoena ~~Duces Tecum~~. To effectuate the purpose of the Act, upon a showing by an investigator that a person has not complied with a written demand for information relevant to the complaint which was transmitted to the person by certified mail, the Chairman of the Commission and the Commissioner shall acting jointly have the authority to sign and issue a subpoena requiring:

- (a) the production of evidence including but not limited to books, papers, records, correspondence or documents in the possession or under the control of the person subpoenaed;
- (b) access to evidence for purposes of examination and the right to copy; and
- (c) under Section 1-13-90(c) of the Act, attendance at hearings or at prehearing depositions.

~~(5)~~(4) Form and Content of Subpoenas.

(a) A subpoena issued by the Commission shall:

- (i) state the name and address of its issuer;
- (ii) briefly and clearly state the cause of issuance;
- (iii) identify the person to whom and the place, date and time at which the subpoena is returnable;
- (iv) identify the person or evidence subpoenaed with reasonable clarity, specificity and particularity to readily enable the person receiving the subpoena to identify the named person or evidence;
- (v) state the date and time access is requested if a subpoena ~~duces tecum~~ is issued.

(b) A subpoena shall only be returnable to a duly authorized investigator of the Commission of the Commissioner.

(c) Neither the complainant nor the respondent shall have the right to demand that an investigative subpoena be issued.

~~(6)~~(5) Petitions to Revoke Subpoena. Within fourteen (14) ~~thirty (30)~~ days after a subpoena is issued, the person served with the subpoena may petition the Commission by mail to revoke or modify the subpoena and shall serve a copy of the petition upon the investigator who originally demanded the information. The petition shall separately identify the portion of the subpoena with which the petitioner does not intend to comply and shall state with respect to each portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A". Within ten (10) days after receipt of the petition or as soon thereafter as practicable, the Commission shall review the petition and make a written determination upon the petition stating in detail the reasons for the Commission's determination and shall serve a copy of the determination upon the petitioner and the investigator demanding the information. When a petition to revoke a subpoena is served upon the Commission, no enforcement of a subpoena shall be sought until the Commissioner has made a determination on the petition and served the petitioner with the determination.

~~(7)~~(6) Applications For Enforcement.



(a) Failure to Comply and Enforcement. A person who receives a subpoena may refuse to comply by failing to respond to the subpoena or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke the subpoena. If a person fails to comply with a subpoena, the Commission may, after fourteen (14) ~~thirty (30)~~ days, apply to any state court of competent jurisdiction for an order requiring the person to comply with the subpoena as provided by the Act.

(b) Notice of Hearing. Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays, and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

~~(c) Requests for Additional Time. Except in extraordinary circumstances the Commission will not oppose requests for additional time not to exceed ten (10) days, to prepare for the hearing, if the request is made to the court and served upon the Commission at least two days before the scheduled hearing.~~

~~(d) Motions to Quash. As provided by the Act, any person may move before a court of competent jurisdiction for an order quashing a subpoena after giving the Commission four (4) days notice (excluding Saturdays, Sundays and state holidays).~~

~~(8)~~(7) Interrogatories and Depositions.

(a) A party or witness may be required to answer written interrogatories relevant to a complaint under investigation under Section 1-13-90(c) and (d) of the Act at any time after such complaint is served.

(b) At least ten (10) days written notice (excluding Saturdays, Sundays and state holidays) shall be furnished to any party or witness sought to be deposed.

(c) The scope of discovery shall be governed by the relevance to the content of the complaint under investigation as described in Subsection 65-3A(5) of these Regulations.

~~(9)~~(8) Petitions to Revoke Interrogatories and Depositions. If a person refuses to have his/her deposition taken or refuses to answer interrogatories, the person may petition to revoke the notice to take deposition or revoke the interrogatories within five (5) days after receipt of the notice to take deposition or within thirty (30) days after receipt of interrogatories. The petition shall be mailed to the Commission and shall be served upon the investigator who originally demanded the information. The petition shall separately identify each portion of the interrogatories with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the notice to take deposition or the interrogatories, as the case may be, shall be attached to the petition and designated as "Attachment A". Within five (5) days after receipt of the petition or as soon thereafter as practicable, the Commission shall make a determination upon the petition stating in detail the reasons for its determination and shall serve a copy of its determination upon the petitioner. When a petition to revoke is served upon the Commission, no enforcement of a notice to take deposition or interrogatories shall be sought until the Commission has made its determination on the petition and served the petitioner.

~~(10)~~(9) Applications for Enforcement.

(a) Failure to Comply and Enforcement. A person who receives interrogatories or a notice to take deposition may refuse to comply by failing to respond or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke. If a person fails to comply with the notice to take deposition, the Commission may after ten (10) days apply to any state court of competent jurisdiction for an order requiring the person to comply as required by the Act. If a person fails to answer interrogatories the

Commission may after thirty (30) days apply to any state court of competent jurisdiction for an order requiring the person to answer the interrogatories as provided by the Act.

(b) Notice of Hearing. Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

~~(c) Requests for Additional Time. Except in extraordinary circumstances, the Commission will not oppose requests for additional time not to exceed ten (10) days to prepare for the hearing if the requests are made to the court and served upon the Commission at least two days before the scheduled hearing.~~

~~(d) Motions to Quash. Any person may move before a court of competent jurisdiction for an order quashing a motion to take depositions or interrogatories after giving the Commission four (4) days notice (excluding Saturdays, Sundays and state holidays).~~

~~(11)(10) Confidentiality.~~

(a) Public Access to Commission Files or Information Gathered During an Investigation. As provided in Sections 1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered during an investigation conducted under Section 1-13-90 of the Act, shall not be made public by the Commission, its officers or employees, unless and until that information is offered or received into evidence at a Commission hearing or court proceeding brought in accordance with the Act. In view of the prohibitions against making information public contained in Sections 1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered by the Commission during investigations and internal memoranda assessing evidence, discussing complaints or recommending action on complaints shall not be deemed "public records" within the meaning of the Code of Laws of South Carolina Section ~~30-4-20~~ 30-3-20. The provisions of this Subsection apply whether the Commission's investigative file is open for an ongoing investigation or closed after a matter is completely concluded.

(b) Public Access to Final Opinions and Orders and Determinations. The public shall have access to the Commission's final opinion and order concerning a complaint under Section 1-13-90(c) of the Act or the Commission's determination on whether to dismiss a complaint or sue in the state circuit court under Section 1-13-90(d) of the Act.

(c) Commission Requests for Information from Investigators. If the Commission requires reports on investigations or on the progress of investigations, the investigator's report shall be given to the Commission while the Commission sits in executive session with member of the public excluded.

(d) Access to Information by Complainant and Respondent.

(i) Information Provided by the Parties Themselves. The complainant may at all times have access to any information which the complainant has furnished the Commission. The respondent may at all times have access to any information which the respondent has furnished the Commission. However, neither the complainant nor the respondent shall have information furnished by the other party, except that this Subsection does not apply to disclosure to the parties or their attorneys where the disclosure is limited to matters necessary for determining appropriate relief and/or negotiating settlements or making conciliation offers and except that this Subsection does not apply to the complainant's or respondent's access to Commission files after a complaint against the respondent has been served as provided in subitem (ii), following.

(ii) Information Available to the Parties in a Proceeding, a Respondent before a Hearing or Court Procedure. If an action is brought against a respondent in accordance with the Act, either before the Commission pursuant to Section 1-13-90(c) of the Act or in a court of competent jurisdiction pursuant to Sections 1-13-90(c) and (d) of the Act, the complainant and respondent shall from the time the complaint is served be granted access to the investigative file of the Commission which shall include access to statements, affidavits or depositions of the complainant and ~~complainant's~~ witnesses, whether or not the complainant and the ~~complainant's~~ witnesses are employees of the respondent at the time the request for access is made. The complainant and respondent shall also have access to all other facts and data gathered by the Commission during its investigation, provided however that neither shall ~~the respondent shall not~~ have access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint and further provided that deletions may be made where necessary to protect the personal privacy of an affiant or an individual named in a document to insure the anonymity of confidential sources or information, and to protect the confidentiality of trade secrets, confidential financial information and the like.

(iii) Copy of the Complaint. A copy of the complaint will be served in all cases upon the respondent unless a complaint received pursuant to a federal contract expressly requires that the original complaint not be served. In the event that a copy of the complaint is not provided, the respondent shall be served with a notice of the complaint within ten (10) days of receipt. The notice of complaint shall include the place, circumstances and identity of the person filing the complaint, a description of the violations of the Act alleged to have been committed by the respondent and the date of the alleged violation.

(e) Reports and Compilations. The Commission may publish abstracts of data derived from its closed investigative files in a form which does not reveal the identity of the parties, trade secrets, financial information or competitive commercial information or processes.

(f) Sharing Information Between Agencies. The Commission shall not provide information to any state or federal agency which does not have written regulations providing essentially the same protection against unauthorized disclosure as provided in these regulations.

- Other Agencies Impacted: None

#### Law Recommendation # 14

- Law: Regulation 65-9
- Summary of current statutory requirement: The Commission shall issue an order at the completion of an employment investigation regarding a state agency employer, either that the matter be dismissed or that a panel of commission members be designated to hear the matter. The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.

- Recommendation and Rationale for Recommendation: The Regulation should be changed to reflect the One Hundred Twenty (120) day statutory deadline for filing a lawsuit. This deadline is found in South Carolina Code Section 1-13-90(d)(6).
- Law Wording: (3) Content of Notice of Right to Sue. The notice of right to sue shall include:
  - (a) authorization to the complainant to bring a civil action pursuant to Section 1-13-90(d) of the Act within one hundred twenty (120) ninety (90) days from issuance of such authorization by the Commission to the complainant, his/her attorney of record, or, in those instances covered by 65-2J(2)(d) hereof, from the date of mailing to the complainant's last known address;
  - (b) advice concerning the institution of such civil action by the complainant, where appropriate;
  - (c) a copy of the complaint;
  - (d) the Commission's decision, determination, or dismissal as appropriate.
- Other Agencies Impacted: None

#### Law Recommendation # 15

- Law: Regulation 65-22
- Summary of current statutory requirement: The Commission may adopt bylaws, publish reports and policies, and promulgate regulations to further the mission of the Agency, and deter discrimination in housing and employment across the state.
- Recommendation and Rationale for Recommendation: Regulation 65-22 may confuse state agencies and may lead an agency to understand that records need only be retained for a period of six months, when in fact, federal recordkeeping obligations require longer retention periods for state agencies and other employers, specifically those found in 29 C.F.R. § 1602.
- Law Wording: 65-22. Employment Records to be Retained for Six Months.  
~~Each State Agency, department and local subdivision thereof shall preserve and retain any personnel or employment record made or kept by them, including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, for a period of six (6) months from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of six (6) months from the date of termination. However, in no event is the six-month record keeping requirement to be construed or interpreted as permitting the destruction of personnel records, after the expiration of the six-month period, whenever a charge of discrimination has been filed and currently pending against a State Agency, department or local subdivision thereof.~~ Repealed.
- Other Agencies Impacted: None

#### Law Recommendation # 16

- Law: Regulation 65-22
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: The law should apply to all employers, labor organizations, and employment agencies which are in the process of being investigated by the Human Affairs Commission. The regulation should clarify that charges originating with the Commission's federal counterpart, the Equal Employment Opportunity Commission, have the same requirement. Additionally, the Human Affairs Commission should have the right to infer that, if an employer, labor organization, or employment agency fails to retain personnel records which are relevant evidence to an investigation, such evidence may have adversely affected the party's position.
- Law Wording: 65-23. Preservation of Records in Event of Charge of Discrimination.  
When a charge of discrimination has been filed with the Commission or its federal equivalent, or if an action brought by either entity is pending the Commission, the employer, labor organization, or employment agency respondent State Agency, department or local subdivision, shall preserve all personnel or employment records relevant to the charge or action until final disposition of the charge or the action. Failure to retain relevant personnel or employment records may result in an adverse inference against the party during the course of an investigation.
- Other Agencies Impacted: None

#### Law Recommendation # 17

- Law: Regulation 65-223
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: The law should clarify that certain file contents may be protected from disclosure.
- Law Wording: (3) Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in 65-225.F., the Commission will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent, provided however that neither shall have access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint and further provided that deletions may be made where necessary to protect the personal privacy of an affiant or an individual named in a document to insure the anonymity of confidential sources or information, and to protect the confidentiality of trade secrets, confidential financial information and personal identifiable information under S.C. Code 30-2-30, or those items exempt from disclosure under S.C. Code 30-4-30. Additionally, any records requested by a party or a non-party to an investigation under S.C. Code 30-4-30 will be assessed on a case by case basis. Following the completion of investigation, the Commission shall notify the aggrieved person and the respondent that the final investigation report is completed and will be provided upon request.
- Other Agencies Impacted: None

Law Recommendation # 18

- Law: Regulation 65-227
- Summary of current statutory requirement: The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.
- Recommendation and Rationale for Recommendation: The law needs to consistently and clearly use different terms when referring to different documents in an investigation deemed to be a ‘reasonable cause’ case.
- Law Wording: 65-227. Issuance of Reasonable Cause Determination-Complaint
  - A . Reasonable cause determination.
    - (1) If a conciliation agreement has not been executed by the complainant and the respondent, and approved by the Commissioner, within the time limits set forth in paragraph (3)(a) of this section, the Commission shall determine whether, based on the totality of the factual circumstances known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by complainant and respondent and otherwise, disclosed during the investigation.
      - (a) In all cases
        - (i) If the Commission determines that reasonable cause exists the Commission will immediately issue a reasonable cause determination complaint on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.
        - (ii) If the Commission determines that no reasonable cause exists, the Commission shall: issue a short and plain written statement of the facts upon which the Commission has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal may be by issuance of a press release except that the respondent may request that no release be made. Notwithstanding a respondent’s request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available on request.
      - (2) The Commission may not issue a reasonable cause determination complaint under paragraph (1) of this section regarding an alleged discriminatory housing practice, if an aggrieved person has commenced a civil action seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced. If a complaint may not be issued because of the commencement of such a trial, the Commission will so notify the aggrieved person and the respondent by certified mail or personal service.
      - (3)(a) The Commission shall make a reasonable cause determination within 100 days after filing of the original complaint (or where the Commission has reactivated a complaint, within 100 days after service of the notice of reactivation), unless it is impracticable to do so.

(b) If the Commission is unable to make the determination within the 100 day period specified in paragraph (3)(a) of this section, the Commission will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

B. Issuance of Administrative Pleading-Complaint.

(1) An administrative pleading-complaint:

(a) Shall consist of a short and plain written statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

(b) Shall be based on the final investigative report; and

(c) Need not be limited to facts or grounds that are alleged in the original complaint if the record of the investigation demonstrated that the respondent has been given notice and an opportunity to respond to the allegation.

(2) Within three business days after the issuance of the reasonable cause determination ~~complaint~~ the Commission shall:

(a) Set a time and place for hearing;

(b) File the administrative pleading ~~complaint~~ along with the required notifications, with the Chairman; and

(c) Serve the administrative pleading ~~complaint~~ and notifications in accordance with the Act.

C. Election of civil action or provision of administrative proceeding.

(1) If an administrative pleading-complaint is issued under 65-227.B., a complainant, a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding, to have the claims asserted in the complaint decided in a civil action.

(2) The election must be made no later than twenty days after the receipt of service of the reasonable cause determination. ~~complaint~~. The notice of the election must be filed with the Commission, the respondent, and the aggrieved persons on whose behalf the complaint was filed. The notification will be filed and served in accordance with the procedures established under Article 3.

(3) If an election is not made under this section, the Commission will maintain an administrative proceeding based on the administrative pleading ~~complaint~~ in accordance with the procedures under Article 3.

(4) If an election is made under this section, the Commission shall cause to be commenced and maintained a civil action seeking relief as provided by the Fair Housing Law on behalf of the aggrieved person in the appropriate Court of Common Pleas.

- Other Agencies Impacted: None

Law Recommendation # 19

- Law: Regulation 65-233
- Summary of current statutory requirement: The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.
- Recommendation and Rationale for Recommendation: The citation in this regulation is confusing, so clarity is needed.
- Law Wording: ~~Discovery~~.

~~K. A.~~ Either party may cause to be taken the depositions of witnesses within or without the State. Such depositions shall be taken in accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the courts of common pleas of this State; and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practice relating thereto shall apply.

~~L. B.~~ The Chief Hearing Commissioner shall on its own behalf, or, upon request, on behalf of any other party to the case, issue in the name of the Commission subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers and records.

~~M. C.~~ The Court of Common Pleas shall, on application of the Commission, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records and shall have the power to punish as for contempt of court, by a fine or imprisonment or both, the unexcused failure or refusal to attend and give testimony or produce books, papers and records as may have been required in any subpoena issued by the Commission.

~~N. D.~~ If a party fails to comply with discovery, the hearing panel may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) Prohibit the party failing to comply from introducing evidence or otherwise relying upon, testimony relating to the information sought;

(3) Permit the requesting party to introduce secondary evidence concerning the information sought;

(4) Strike any appropriate part of the pleadings or other submissions of the party failing to comply with such order; or

(5) Take such other action as may be appropriate.

- Other Agencies Impacted: None



# Department of Agriculture

*Chair Wm. Weston J. Newton*

*First Vice-Chair:  
Laurie Slade Funderburk*

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June 27, 2017

Commissioner Huger E. Weathers  
South Carolina Department of Agriculture  
P.O. Box 11280  
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate the agency's continued cooperation during the oversight process. The Subcommittee is scheduled to meet again on Monday, July 10 at 2:00 p.m. As it is my understanding you are unable to attend the meeting on July 10, the Subcommittee will hold another work session with regards to its study of the Department of Agriculture. Please have an agency representative available to answer any potential questions. In preparation for the next work session, the Subcommittee seeks additional information from the agency, pertaining to its recommendations, on or before Friday, July 7, 2017.

*Recommendation #4 - Adopt the model feed law proposed by the American Association of Feed Control Officials*

- Please explain the difference in the tonnage fee versus the registration fee and how the agency will be able to make this change budget neutral?
- Please explain the facility registration fees.
- Please explain any other fees and if the proposed changes adds or keeps these the same.

*Recommendation #10 - Authorize an application fee (\$25) for a food business when registering for a registration verification certificate*

*Recommendations #11 - Authorize a tiered annual fee for a registration verification certificate*

- How much revenue does the agency anticipate this fee will generate?
- How many inspectors, if any, will this revenue enable the agency to hire?

Commissioner Weathers  
June 27, 2017

Previously, the Subcommittee requested draft language (i.e., strike through and underline format) of agency recommendations. We appreciate the suggested language already provided for many of the agency recommendations. It would be helpful to have that language for the remaining agency recommendations:

- Recommendation #5 - Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws
- Recommendation #6 - Requires businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
- Recommendation #7 - Authorize a \$5 per dispenser registration fee for business that dispense petroleum products
- Recommendation #8 - Enforce a scalable money penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer

In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina.

Sincerely,



Laurie Slade Funderburk  
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

## UPDATED RECOMMENDATIONS

## AGENCY RECOMMENDATIONS FOR LEGISLATIVE CHANGES TO IMPROVE EFFICIENCY AND OUTCOMES

### Commissioner of Agriculture

1. **ADOPTED 6.22.17** Remove the bonding requirements of the Commissioner of Agriculture
  - o Draft language

#### ~~SECTION 46-3-50. Bond.~~

~~The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.~~

~~HISTORY: 1962 Code Section 3-3.1; 1954 (48) 1566.~~

### Commission of Agriculture

2. **ADOPTED 6.22.17** Remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget
  - o Draft language

#### **SECTION 46-5-20. Powers.**

The Commission shall have the power to:

~~(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.~~

~~(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.~~

~~(3)~~ (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.

~~(4)~~ (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.

~~(5)~~ (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.

3. **ADOPTED 6.22.17** Revise the appointment procedure of Commission of Agriculture to address a seat has either been vacant or the term has expired for more than two years

#### Feed

4. Adopt the model feed law proposed by the American Association of Feed Control Officials
  - o [SUBMITTED LANGUAGE FROM AGENCY FOR COMMITTEE TO REVIEW - ON WEBSITE- LARGE DOCUMENT](#)
  - o Per agency approximately 25 other states have adopted

#### Food Quality (Consumer Protection Lab)

5. Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws

#### Consumer Services

6. Require businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
7. Authorize a \$5 per dispenser registration fee for businesses that dispense petroleum products
8. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of consumer
9. **ADOPTED 6.22.17** Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)

#### **SECTION 39-22-110.** Required identification tags on bales.

Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must

be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.

### **Food/Feed Safety**

10. Authorize an application fee (\$25) for a food business when registering for a registration verification certificate
  - o Registration with the agency is required for persons or firms wishing to manufacture, prepare, repack or sell foods to the public
11. Authorize a tiered annual fee for a registration verification certificate

**SECTION 39-25-210.** Persons subject to inspection pursuant to this chapter; registration requirements; exceptions; annual renewal; civil and criminal penalties.

(A) A person subject to inspection pursuant to this chapter may not engage in the business of manufacturing, processing, warehousing, or packaging food in any manner without first registering with the department. This section shall not apply to facilities inspected and regulated by the United States Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter on or before the first day of January on forms provided by the department.

(B) A person who willfully violates the provisions of this section is subject to a civil penalty of up to one thousand dollars for each violation as determined by the department. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.

#### (C) Ability to Operate under Registration Verification Certificate (RVC)

(1)- Prerequisite for operation. A person may not operate a food establishment without a valid Registration Verification Certificate (RVC) issued by the Department

(2)- Form of Submission. A person desiring to engage in a food business regulated by the department shall submit to the Department a written application for a RVC on a form provided by the Department. Fee for this application is \$25.

(D) The Commissioner shall charge annually the following fees for the RVC issued pursuant to the establishment and product type. The fee structure shall be based on the level of risk, employee size, procedural effort and inspection time needed for each food manufacturer establishment. Tier 1 -\$100.00 Tier 2 \$200.00 Tier 3- \$300.00. The

RVC shall be renewed annually on July 1. Registration Fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.

HISTORY: 2010 Act No. 261, Section 2, eff June 11, 2010.

### Reduce Restrictions for Businesses

12. **ADOPTED 6.22.17** Remove agency involvement with the “cottage bill” - (i.e., remove the exemption registration burden from small home-based food producers)
  - A cottage food operation is a home-based food operations in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer
  - [Letter from DHEC on website stating no objection to this requested change](#)
13. **ADOPTED 6.22.17** -Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers)
  - [SUBMITTED LANGUAGE FROM AGENCY FOR COMMITTEE TO REVIEW - ON WEBSITE](#)
14. **FOR INFORMATION ONLY 6.22.17** Modernize salvage food (e.g., dented cans) regulations
  - [SUBMITTED LANGUAGE FOR COMMITTEE TO REVIEW - ON WEBSITE](#)

### Procurement for Commodity Boards

15. **FOR INFORMATION ONLY 6.22.17** Recommend Subcommittee Report include a finding recognizing the [April 28, 2016 Attorney General Opinion](#) that commodity boards are not subject to the State Procurement Code
  - [Commodity boards](#) operate as autonomous representatives of their respective commodities (e.g., beef; pork; peanut; cotton; tobacco; soybean and watermelon)



July 12, 2017

Commissioner Huge E. Weathers  
South Carolina Department of Agriculture  
P.O. Box 11280  
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate your staff sharing their time and knowledge with the Subcommittee on July 10. At this time, the Subcommittee is in the process of drafting its study of the agency for submission to the full Committee for its consideration. Thank you for your service to the citizens of South Carolina and for your continued cooperation with the legislative oversight process.

Sincerely,

Laurie Slade Funderburk  
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members



## *Appendix M. August 16, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - May 10, 2017 - Meeting Minutes
  - Materials from the Executive Subcommittee's Study of the Treasurer's Office
  - Materials from the Law Enforcement and Criminal Justice Subcommittee's Study of the Department of Public Safety
  - Materials from the Education and Cultural Subcommittee's Study of the Department of Archives and History
  - Materials from the Economic Development, Transportation, and Natural Resources Study of the Department of Agriculture

South Carolina  
House of Representatives



Legislative Oversight Committee

*Wednesday, August 16, 2017*

*Room 110 - Blatt Building*

*1:00 p.m.*

*Pursuant to Committee Rule 4.9, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.*

**AGENDA**

- I. Approval of minutes
- II. Discussion of the following:
  - Executive Subcommittee's Study of the Treasurer's Office;
  - Law Enforcement and Criminal Justice Subcommittee's Study of the Department of Public Safety;
  - Education and Cultural Subcommittee's Study of the Department of Archives and History;
  - and any other studies of agencies, if notice is received on or before August 16, 2017, in accordance with Standard Practice 12.5
- III. Discussion of Committee administrative matters
- IV. Adjournment



**Legislative Oversight Committee Meeting**  
Wednesday, May 10, 2017  
Blatt Building Room 516

**Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, 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 House Legislative Oversight Committee was called to order by Chair Wm. Weston J. Newton on Wednesday, May 10, 2017, in Room 516 of the Blatt Building. All members of the Committee were present for all or a portion of the meeting, except: Representative William K. "Bill" Bowers; Representative Todd Rutherford; and Representative Tommy M. Stringer.

**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. Representative Smith moved to approve the

minutes from the Committee's meeting on March 30, 2017. A roll call vote was held, and the motion passed.

<b>Representative Smith's motion to approve the minutes from the previous meeting:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson				✓
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell				✓
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

### **Discussion of Additional Studies to Schedule in 2017**

- I. The specific task of this Committee is to conduct legislative oversight studies and investigations of state agencies at least once every seven (7) years in a recurring cycle. Chairman Newton provided an update on the status of agency studies. The Committee has completed eight (8) studies of agencies, two additional agencies ready for consideration, and has ten (10) other agencies under study at this time, one of which has been placed on hold with an additional forty-six (46) having been identified that our Committee will review in the seven (7) year cycle, and 152 that may be reviewed for a possible total of 217 agencies. The public is invited to

submit public input about agencies to study, and there are many avenues which the public can communicate that information to the Committee.

Chairman Newton shared with the Committee the agencies that had been suggested for study by constituents, legislators, and members, which were:

- a. For the Economic Development, Transportation, and Natural Resources Subcommittee:
  - i. The Department of Employment and Workforce;
  - ii. The Department of Motor Vehicles;
  - iii. The Research Development Authority;
  - iv. The Rural Infrastructure Authority; and
  - v. Commission on Minority Affairs
- b. For the Education and Cultural Subcommittee:
  - i. The Department of Education;
  - ii. Medical University of South Carolina;
  - iii. ETV; and
  - iv. Patriots Point
- c. For the Executive Subcommittee:
  - i. The Secretary of State's Office; and
  - ii. The Adjutant General
- d. For the Healthcare and Regulatory Subcommittee:
  - i. The Department of Alcohol and Other Drug Abuse Services;
  - ii. Labor, Licensing & Regulation;
  - iii. The Department of Mental Health;
  - iv. Patient's Compensation Fund; and
  - v. The State Accident Fund
- e. For the Law Enforcement and Criminal Justice Subcommittee:
  - i. The Department of Corrections;
  - ii. The Department of Natural Resources;
  - iii. Indigent Defense; and

iv. Prosecution Coordination Commission

Chairman Newton explained as the Healthcare and Regulatory Subcommittee has two large agencies, the Department of Health and Environmental Control and Department of Disabilities and Special Needs, the Committee may consider deferring scheduling another agency for this Subcommittee at this time.

Additionally, as the budget passed by the House regarding John de la Howe, suspends programmatic and management operations for fiscal year 2017/18, it may be prudent to place this study on hold if this provision is adopted as part of the final budget.

**Motions**

- II. Representative Felder moved that the Economic Development, Transportation, and Natural Resources Subcommittee study the Commission on Minority Affairs next. A roll call vote was held, and the motion passed.

<b>Representative Felder's motion to study the Commission on Minority Affairs:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

- III. Representative Smith moved that the Education and Cultural Affairs Subcommittee study the John de la Howe School on hold if the proviso takes effect which suspends agency operations. A roll call vote was held, and the motion passed.

<b>Representative Smith's motion to place the study of the John de la Howe School on hold if the proviso takes effect which suspends agency operations:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

- IV. Representative Smith moved that the Education and Cultural Affairs Subcommittee study the John de la Howe School on hold if the Patriot's Point Development Authority next. A roll call vote was held, and the motion passed.

<b>Representative Smith's motion to study Patriots Point:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

- V. Representative Clary moved that the Executive Subcommittee study the Adjutant General's office next. A roll call vote was held, and the motion passed.

<b>Representative Clary's motion to study the Adjutant General Office:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			



Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

VI. Representative Henderson moved that the Healthcare and Regulatory Subcommittee defer scheduling any other agencies at this time. A roll call vote was held, and the motion passed.

<b>Representative Henderson's motion to defer any further agencies to study:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			

Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

- VII. Representative Tallon moved that the Law Enforcement and Criminal Justice Subcommittee study the Department of Natural Resources next. A roll call vote was held, and the motion passed.

<b>Representative Tallon's motion to study the Department of Natural Resources:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers				✓
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas	✓			
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

### **Administrative Matters**

- I. The Committee received an update on administrative matters, including the receipt of Program Evaluation Reports from agencies.
- II. The meeting was adjourned.

Legislative Oversight Committee  
**Executive Subcommittee’s Study of the  
 Treasurer’s Office**



*March 7, 2017*

<b>FULL COMMITTEE OPTIONS STANDARD PRACTICE 13</b>	<b>FULL COMMITTEE ACTION(S)</b>	<b>DATE(S) OF FULL COMMITTEE ACTION(S)</b>
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee’s study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**” In making these determinations the **Subcommittee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>1</sup>

## *Study Process*

### Legislative Oversight Committee Actions

- April 14, 2015 - Prioritizes the agencies to study
- April 15, 2015 - Provides the Treasurer with notice about the oversight process

### Executive Subcommittee Actions

- May 7, 2015 - Holds **Meeting #1 (Entry)** with the agency about the oversight process
- September 10, 2015 - Holds **Meeting #2** to discuss the public survey and status of conversion to South Carolina Enterprise Information System (SCEIS)
- March 17, 2016 - Holds **Meeting #3** to receive information on the agency’s history, mission, strategic plan, financial allocation, and employee allocation
- April 14, 2016 - Holds **Meeting #4** to receive public input and information about the entities the agency partners with to accomplish its strategic plan
- August 19, 2016 - Holds **Meeting #5** to formulate subcommittee recommendations
- February 15, 2017 - Holds **Meeting #6 (Member Work Session)** to discuss additional recommendations and information members would like the agency to provide

### Public’s Actions

- September 1-30, 2015 - Responds to survey about the agency
- April 14, 2016 - Provides testimony at a public input hearing
- August 19, 2016 - Provides testimony during a Subcommittee meeting
- Ongoing - Submits comments on the Oversight Committee’s webpage on the General Assembly’s website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

### Treasurer’s Actions

- March 31, 2015 - Submits Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits Program Evaluation Report to the Committee
- January 12, 2016 - Submits 2016 Annual Restructuring Report
- September 2016 - Submits 2015-16 Accountability Report
- December 2016 - Submits Annual Request for Information
- September 2015 - August 2016 - Meets with Subcommittee to respond to inquiries

Figure 1. Summary of Key Dates and Actions of the Study Process, 2015-2017.

## Recommendations

The Subcommittee has a variety of recommendations. The Subcommittee recommendations include a suggested change to the agency's internal operations to address the issue of employee retention. The Subcommittee's recommendations for revisions to law include (1) clarification of the duties of the Treasurer's Office, and (2) annual publication of investment policy statements and performance reports as the agency invests \$15 billion in state and local funds.<sup>2</sup> The Subcommittee's recommendations for future Committee attention include following up with the agency about an employee retention plan and analysis of litigation retention agreements and settlement agreements during the study of the Office of the Attorney General. The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or elimination of agency programs.

Table 1. Summary of recommendations.

Topic	Recommendation for . . .
<b>. . . Agency Internal Operations</b>	
Employee Retention	Develop a written employee retention policy, to the extent one does not already exist, or review such policy if one does exist.
<b>. . . General Assembly</b>	
Multiple Roles of the Treasurer's Office	Clarify, through legislation, the duties of the Treasurer's Office regarding its role as custodian of the state's public pension funds, member of the Retirement System Investment Commission, and member of the State Fiscal Accountability Authority.
Public Investment Policy Statements and Performance Reports	Add provisions in law requiring the Treasurer's Office, no later than July 1 of each year, to provide to the General Assembly, and publish on the agency's website: <ul style="list-style-type: none"> <li>the Investment Policy Statements which reflect the intended management of the investment portfolios for the fiscal year; and</li> <li>a Performance report which includes the annualized net-of-fee return of each investment portfolio versus all internal benchmarks stated in the Investment Policy Statements, for the trailing 1,3,5, and 10 years.</li> </ul>
<b>. . . House Legislative Oversight Committee</b>	
Litigation Retention Agreements and Settlement Agreements	Review the drafting and approval process of litigation retention agreements and settlement agreements during the Committee's study of the Office of the Attorney General.
Follow-up	Follow-up with the Treasurer's office by the end of 2017 about its review or development of an employee retention plan, and any other questions the committee has for the agency.

# DETAILS - STUDY PROCESS

## *House Oversight Committee's Actions*

The Treasurer's Office ("Office" or "agency") is an agency subject to legislative oversight.<sup>3</sup> The Committee approves the Treasurer's Office as an agency to be studied by the Executive Subcommittee on April 14, 2015.<sup>4</sup> The Committee notifies the agency about the study on April 15, 2015.<sup>5</sup> As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are also notified about the agency study.<sup>6</sup>

## *Subcommittee Studying the Agency<sup>7</sup>*

The Executive Subcommittee of the House Legislative Oversight Committee is studying the agency. The study begins during the 121st General Assembly. At this time, the chair of the Subcommittee is the Honorable Joshua Putnam; other members include: the Honorable Laurie Slade Funderburk, the Honorable Wm. Weston J. Newton, and the Honorable Robert Q. Williams.<sup>8</sup> The study continues during the 122nd General Assembly. Now, the chair of the Subcommittee is the Honorable Gary E. Clary; other members include: the Honorable Laurie Slade Funderburk, the Honorable Wm. Weston J. Newton, and the Honorable Robert Q. Williams.<sup>9</sup>

## *Subcommittee and Public Actions*

The Subcommittee meets with the agency once about the oversight process and on four occasions about the agency's work. Also, the Subcommittee holds one Member work session. Members of the public have an opportunity to participate in a public survey, provide comments after the public survey is over via a link on the Committee website, and appear in person before the subcommittee. All meetings are open to the public and stream live online with videos archived.

Highlights of meetings, public participation, and major events at the agency during the study process are listed below in a **timeline**.

## *September 2015*

The Subcommittee posts an **online survey to solicit comments from the public** about the Treasurer's Office and other agencies. Communication about this survey is sent to all House members who are encouraged to inform their constituents about this opportunity. A statewide media release is issued about this opportunity for public participation.<sup>10</sup> There are 1,010 responses to the survey, with at least one response coming from each of the 41 of the 46 South Carolina counties.<sup>11</sup> These comments are not considered testimony.<sup>12</sup> As noted in the survey, "input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>13</sup> The **public is informed of a continuous opportunity to submit written comments about agencies online** after the public survey closes.<sup>14</sup>

On September 10, 2015, the Subcommittee holds a meeting with the agency.<sup>15</sup> During the meeting, the agency confirms it has informed its staff about the public survey and informed staff the survey is confidential.<sup>16</sup> Additionally, there is discussion about the status of the agency's conversion to the South Carolina Enterprise Information Systems (SCEIS) and the employee turnover rate at the agency.<sup>17</sup>

After the meeting, the agency sends a letter clarifying an answer about the completion date for the agency's conversion from a legacy system to SCEIS.<sup>18</sup> The following information about the conversion dates is provided in the letter:

- Investment Management System converted September 1, 2015;
- Debt System to be converted fall 2015;
- Treasury Management Depository system has an anticipated conversion of spring 2016;
- Conversion of following subsystems in next fiscal year (2016-17):
  - Capital Projects;
  - Financial Management System;
  - Local Government Investment Pool (LGIP);
  - Cash Management;
  - Health and Human Services Banking Function; and
  - Capital Leases.

On September 23, 2015, the Subcommittee requests information about the following topics: (1) agency's position on the recommended changes to statute suggested by the Comptroller General; (2) why the Local Government Investment Pool was 43 days late in submitting audited financial statements to the Comptroller General's Office for use in the state's Comprehensive Annual Financial Report (CAFR); (3) confirmation on SCEIS conversion dates for the agency; and (4) costs to have all systems at the agency converted to SCEIS by June 30, 2016 or before.<sup>19</sup>

### ***October 2015***

On October 2, 2015, the agency provides the Subcommittee with additional information about anticipated dates for SCEIS conversions.<sup>20</sup> Information provided includes, but is not limited to, the following:

- Investment Management (converted September 1, 2015), Banking Deposits, and Debt Management have a go-live target date of April 2016;
- All anticipated conversion dates are target dates and should be viewed as objectives or goals, not deadlines; and
- Capital Projects, Financial Management System, Local Government Investment Pool, Cash Management, Health and Human Services Banking Function, and Capital Leases do not have specific target timelines, but the agency is in the process of creating a "roadmap" which will estimate the financial and human resources necessary to complete the conversions.

A comparison of the information received from the agency about dates for its conversion to SCEIS is listed on the next page in Table 2.



Table 2. Comparison of information received about the agency's conversion to SCEIS, which began in 2015.

<u>September 10, 2015 letter from Treasurer's Office</u>	<u>October 2, 2015 letter from Treasurer's Office</u>
<b>Converted September 1, 2015</b>	<b>Converted September 1, 2015</b>
Investment Management System	Investment Management System
<b>Fall 2015 anticipated conversion</b>	<b>April 2016 Target*</b>
Debt System	Debt Management System
<b>Spring 2016 anticipated conversion</b>	<b>April 2016 Target*</b>
Treasury Management Depository System	Banking Deposits System
<b>Fiscal Year 2016-17</b>	<b>No specific target timeline^</b>
Cash Management Subsystem	Cash Management Subsystem
Financial Management System Subsystem	Financial Management System Subsystem
Local Government Investment Pool Subsystem	Local Government Investment Pool Subsystem
Capital Projects Subsystem	Capital Projects Subsystem
Health and Human Services Banking Subsystem	Health and Human Services Banking Subsystem
Capital Leases Subsystem	Capital Leases Subsystem

\*Agency states all anticipated conversion dates are target dates and should be viewed as objectives or goals, not deadlines.

^Agency states it is in the process of creating a "roadmap" which will estimate the financial and human resources necessary to complete the conversion.

### **March 2016**

On March 17, 2016, the Subcommittee meets with the agency to discuss the agency's history, mission, strategic plan, and potential negative impacts.<sup>21</sup> The agency presents the amount it spends and number of employees working on each objective in its strategic plan.<sup>22</sup> Subcommittee members ask questions about various topics: state's credit rating; relationship with the Bank of New York Mellon; custodial banking; unfunded pension liabilities; local government funds; and unclaimed property.<sup>23</sup> Additional information about the Subcommittee's inquiries is provided in Table 3 on the next page.

Table 3. Additional information about Subcommittee Members' inquiries to the agency during the March 17, 2016, meeting.<sup>24</sup>

General Topic	Subtopics
<b>State's credit rating</b>	<ul style="list-style-type: none"> <li>○ significance of the ratings;</li> <li>○ person within the agency responsible for monitoring the state's ratings;</li> <li>○ if the state's borrowing was affected by the downgrade of the state from a AAA rating to a AA+ by Standard and Poor's;</li> <li>○ if a reason for the downgrade from AAA to AA+ was the state's negative employment trends;</li> <li>○ if Standard and Poor's has given the agency a target goal for reforming the unfunded liabilities in the state's pension system at which point the state's AA+ rating would be upgraded; and</li> <li>○ if Standard and Poor's has highlighted any other concerns besides the unfunded liabilities in the state's pension system;</li> </ul>
<b>Relationship with Bank of New York Mellon (BNYM)</b>	<ul style="list-style-type: none"> <li>○ date on which the state first started conducting business with BNYM;</li> <li>○ reason the agency filed the lawsuit against BNYM rather than the Attorney General;</li> <li>○ settlement of the lawsuit against BNYM;</li> <li>○ actual amount received by the agency/state as part of the settlement;</li> <li>○ if the agency had lawyers help negotiate the settlement;</li> <li>○ if the agency/state had to pay fees to BNYM related to the state's actual recovery from the settlement that were not negotiated away as part of the settlement;</li> <li>○ explanation of the reasons the settlement included fee negotiations for a future contract between BNYM and the agency/state;</li> <li>○ information explaining the terms of the settlement and new contract between the agency/state and BNYM;</li> <li>○ if it was true the settlement required the agency/state to continue to do business with BNYM for a period of ten years;</li> <li>○ whether the new contract between the agency/state and BNYM requires continued business with BNYM for a period of ten years; and</li> <li>○ reason the agency/state continues to conduct business with BNYM following the settlement;</li> </ul>
<b>Custodial banking</b>	<ul style="list-style-type: none"> <li>○ are banks, other than BNYM, able to offer better or more affordable services to the state;</li> </ul>
<b>Unfunded pension liabilities</b>	<ul style="list-style-type: none"> <li>○ summary of the state's unfunded pension liabilities;</li> </ul>
<b>Local government funds</b>	<ul style="list-style-type: none"> <li>○ whether local governments are able to control how their funds are invested, or if the agency controls the investments;</li> </ul>
<b>Unclaimed Property</b>	<ul style="list-style-type: none"> <li>○ whether funds in Unclaimed Property are invested;</li> <li>○ information about the liability consultant the agency hired to help determine the appropriate amount that should stay in the Unclaimed Property Reserve Fund;</li> <li>○ method the agency uses to determine how much of the Unclaimed Property fund can be remitted to the General Assembly; and</li> <li>○ if amounts remitted to the General Assembly are considered an "unfunded liability" for purposes of the state's credit rating</li> </ul>

On March 29, 2016, the Subcommittee requests information about the following topics: (1) South Carolina's credit rating; (2) agency employees; (3) BNYM and agency; and (4) Retirement System Investment Commission (RSIC) and agency.<sup>25</sup>

## *April 2016*

On April 8, 2016, the agency responds to the Subcommittee's March 29, 2016 letter.<sup>26</sup>

On April 14, 2016, the Subcommittee receives public testimony.<sup>27</sup> Also, the agency provides information on performance measures and explains how it works with other entities to accomplish the agency's strategic plan.<sup>28</sup> The following representatives of entities with whom the agency works provide testimony:

- Mr. William Taylor, Wells Fargo Relationship Manager;
- Mr. Keith Wood, Senior Advisor at Silvercrest Investment Management;
- Ms. Paula Reid, Senior VP Bank of America;
- Mr. Keith Wine, Director of Grant Thornton;
- Mr. Gary Pope, Attorney with Pope-Flynn;
- Mr. Alan Linkis, Attorney with Hal Linkis;
- Mr. Joseph Marsalones, Assisting Manager Varys Financial; and
- Mr. Brad Humphries, Colonial Trust.

Three other individuals testify about their concerns regarding the state's pension system and the lawsuit filed by the agency against the Bank of New York Mellon. A motion is adopted allowing the continuation of their testimony at the next subcommittee meeting since they were informed prior to the meeting that they would have ten minutes to speak, but, due to the number of individuals who came to the meeting, they were only permitted five minutes.<sup>29</sup> The individuals include:

- Mr. Wayne Bell, President of the State Retirees Association of South Carolina;
- Mr. Thomas Parkman, retired Head Librarian of the University of South Carolina's Music Library; and
- Dr. Samuel Griswold, who has previously served as the Deputy Director and Chief Operating Officer of the State Budget and Control Board, Director of the Department of Social Services, Director of the Department of Health and Human Services, President and Chief Executive Officer of the United Way of South Carolina, and President of the State Retirees Association.

The full testimony of each individual can be viewed in the video recording of the meeting, which is available on the Committee's webpage.<sup>30</sup>

## *August 2016*

On August 3, 2016, the Subcommittee requests information related to the agency's Strategic Goal 2, Investments, including, but not limited to, total return from investments, portfolio allocation, peer group comparisons, internal benchmarks, and investment fees and expenses.<sup>31</sup> The agency responds to these requests on August 16, 2016.<sup>32</sup>

On August 19, 2016, the Subcommittee meets with the agency.<sup>33</sup> During the meeting, Committee staff provide a brief overview of the agency's progress through the oversight process. In accordance with a motion passed at the previous meeting, Dr. Griswold and Mr. Parkman provide testimony. Both testify about securities lending and the settlement with the Bank of New York Mellon. Additionally, Dr. Griswold's testimony addresses the state's tuition prepayment program.

Also during the August 19, 2016, meeting, agency representatives provide an overview and recap of the agency's previous presentations to the Subcommittee. Subcommittee members ask questions about the following:

- **Tuition prepayment program** including outsourcing and how the public can access information about the program;
- **If the agency has any policy or legislative recommendations** for the Subcommittee;
- Update on the **agency's conversion to the South Carolina Enterprise Information System**;
- Policies and procedures governing the agency's audit of entities with which it contracts for **securities lending** services, and whether any such written policies and procedures are available to the public;
- Policies and procedures governing the agency's audit of entities that provide **custodial banking** services, and whether any such written policies and procedures are available to the public;
- **Settlement with Bank of New York Mellon (BNYM)** including whether Mitchell Willoughby, one of the two attorneys who represented the agency in the lawsuit, was present at the New York settlement negotiations between the two parties; if the mediation meeting between the parties on March 13 resulted in the settlement, or if there was a subsequent meeting or settlement conference that resulted in the settlement; and if the lawsuit arose as a result of allegations that BNYM violated its contract with the state;
- Who at the agency is responsible for ensuring **BNYM** adheres to the terms of the current **contract with the agency**;
- **Investments**, including, if the agency employs anyone to review and assess the agency's investment performance with the investment consultant; and if the agency has a comparison of the investment performance to the benchmark information included in the agency's August 16, 2016 letter; and
- **Agency's strategic plan** and if there was consideration of the S.M.A.R.T. method.

The Subcommittee hears testimony from a representative of the Comptroller General's Office, Mr. David Starkey, Senior Assistant Comptroller General, and the agency related to how the assets and liabilities of securities lending activities are allocated among various entities in the state's Comprehensive Annual Financial Report (CAFR).<sup>34</sup> The Subcommittee requests an explanation of the process by which the securities lending assets and liabilities are allocated to the various institutions identified in the CAFR.<sup>35</sup> The Subcommittee asks questions about whether the allocation is done by the agency or the Comptroller General's Office; whether the figures found in the CAFR are figures found on the financial statements of the various institutions; and if the public colleges and universities are aware of the securities lending assets and liabilities allocated to them.<sup>36</sup> The Subcommittee requests Committee staff follow-up with staff from the Comptroller General's Office and agency after the meeting so the Subcommittee can receive information about allocations of assets and liabilities to the state's public colleges and universities.<sup>37</sup>

## *February 2017*

On February 15, 2017, the Subcommittee holds a work session, noting agency representatives were informed they did not need to attend the meeting.<sup>38</sup> A brief summary of the study of the agency is provided and additional recommendations are adopted.<sup>39</sup> The Subcommittee notes its expectations for attendance at oversight meetings by agency heads, unless specifically informed otherwise.<sup>40</sup> The Subcommittee adopts a motion that: (1) staff draft a Subcommittee Report related to the agency for presentation to the full committee; (2) staff provide a copy of the report to all subcommittee members by Friday, February 24th, 2017; (3) staff include any subcommittee member written statements, pursuant to Standard Practice 12.4, which staff receives prior to 5:00 p.m. on Friday March 3, 2017; and (4) unless the Subcommittee Chair receives an alternative request by 5:00 p.m. on Friday, March 3rd, 2017, the Subcommittee Chair notify the committee chairman, pursuant to Standard Practice 12.5, that a study is available for consideration by the full Committee.<sup>41</sup>

## *Agency Actions*

The **Committee asks the agency to conduct a self-analysis** by completing and submitting a 2015 Annual Restructuring Report and Seven-Year Plan for cost savings and increased efficiencies<sup>42</sup>, a Program Evaluation Report, and a 2016 Restructuring Report. The agency submits its Program Evaluation Report on July 27, 2015.<sup>43</sup> The agency submits its 2016 Restructuring Report on January 12, 2016.<sup>44</sup> The agency responds to the committee Staff Study, and House Members are notified about the staff study with the agency's response on March 5, 2016.<sup>45</sup>

## *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** After an opportunity to provide written statements, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, notifies the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During the full committee meeting at which the Subcommittee Study is discussed, the full Committee may vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) approve the subcommittee's study; or (3) further evaluate the agency as a full committee.

When the full committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study.<sup>46</sup> The final study and written statements are published online and the agency, as well as all House Standing Committees, receive a copy.<sup>47</sup>

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee.<sup>48</sup> The Committee Chair may also provide briefings to the public about the final oversight study.<sup>49</sup>

# DETAILS - RECOMMENDATIONS

## *Recommendations*

### *Generally*

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information and videos of the Subcommittee's meetings with the agency are available on the Committee's website.

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

### *Revise (Curtail or Enhance)*

The Subcommittee recommends the following revisions to agency internal operations and state law:

#### Recommendations for Agency Action

- The Subcommittee recommends the Treasurer's Office develop a written employee retention policy, to the extent that it does not already have one, or review such policy if one does exist.<sup>50</sup>

#### Recommendations for Legislative Action

- The Subcommittee recommends the General Assembly clarify the duties of the Treasurer's Office with regard to its role as custodian of the state's public pension funds, member of the Retirement System Investment Commission, and member of the State Fiscal Accountability Authority.<sup>51</sup>
- Since the Treasurer's Office invests \$15 billion in state and local funds, the Subcommittee recommends provisions be added in law which require the Treasurer's Office, no later than July 1 of each year, to provide to the General Assembly, and publish on the Treasurer's office website, the following information:
  - Investment Policy Statements which reflect the intended management of the investment portfolios for the fiscal year; and
  - Performance reports which include the annualized net-of-fee return of each investment portfolio versus all internal benchmarks stated in the Investment Policy Statements, for the trailing 1,3,5, and 10 years.<sup>52</sup>

#### Recommendations for the Committee

- The Subcommittee recommends the process related to drafting and approving litigation retention agreements and settlement agreements be addressed during the House Legislative Oversight Committee's study of the Office of the Attorney General.<sup>53</sup>

### ***Eliminate***

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs.

### ***Follow Up***

The Subcommittee recommends the Committee follow up with the Treasurer's office by the end of 2017 about (1) the agency's status in regards to the Committee's recommendation that the agency create an employee retention plan, and (2) any other questions the committee has for the agency.<sup>54</sup>

# SELECTED AGENCY INFORMATION

**SC Office of the State Treasurer. "Program Evaluation Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/Treasurer's%20Office%20Program%20Evaluation%20Report.PDF> (accessed February 22, 2017).

**SC Office of the State Treasurer. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Treasurer's%20Office.PDF> (accessed February 22, 2017)

**SC Office of the State Treasurer. "Annual Restructuring Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Treasurer's%20Office.PDF> (accessed February 22, 2017)

**Office of the State Treasurer. "Accountability Report, 2015-16."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed February 22, 2017)

**Office of the State Treasurer. "Annual Request for Information, 2017)**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Treasurer%20RFI.pdf> (accessed February 22, 2017)

**SC House of Representatives, Legislative Oversight Committee. "September 2015 Survey Results."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf) (accessed February 22, 2017).

**SC House of Representatives, Legislative Oversight Committee. "Staff Study of the Department of the Office of the Treasurer."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Staff%20Study%20\(Amended%20March%2017,%202016\)%20and%20agency%20response.PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Staff%20Study%20(Amended%20March%2017,%202016)%20and%20agency%20response.PDF) (accessed February 22, 2017)



# CONTACT INFORMATION

## Committee Contact Information

Physical:

South Carolina House of Representatives  
Legislative Oversight Committee  
Blatt Building, Room 228  
1105 Pendleton Street  
Columbia, SC 29201

Mailing:

Post Office Box 11867  
Columbia, South Carolina 29211

Telephone: 803-212-6810

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

## Agency Contact Information

Physical:

State Treasurer's Office  
Wade Hampton Office Building  
1200 Senate Street  
Columbia, SC 29201

Mailing:

Post Office Box 11778  
Columbia, SC 29211

Telephone: 803-734-2101

Online: <http://www.treasurer.sc.gov>

# ENDNOTES

<sup>1</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>2</sup> Legislative Oversight Committee staff notes from agency's January 24, 2017, public meeting with the Legislative, Executive and Local Government Subcommittee of the House Ways and Means Committee.

<sup>3</sup> *SC Code of Laws*, sec. 2-2-10(1).

<sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, "April 14, 2015 Full Committee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/April142015.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Treasurer's Office (April 15, 2015)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Treasurer, S.C. Office of the," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Committee%20to%20Treasurer's%20Office%20\(April%2015,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Committee%20to%20Treasurer's%20Office%20(April%2015,%202015).pdf) (accessed February 24, 2017).

<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-2016 Summary - House Legislative Oversight Committee," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/April142015.pdf> (accessed February 24, 2017).

<sup>7</sup> In June 2016, the House Ethics Committee issues Advisory Opinion 2016-1 which finds there are no conflicts of interest with regards to the Executive Subcommittee's study of the Treasurer's Office and its study of the Retirement System Investment Commission. The opinion was requested after public input received via the Committee webpage alleged a member of the Subcommittee and an individual staffing the Subcommittee had a conflict of interest in studying these agencies. SC House of Representatives, House Legislative Oversight Committee, "House Ethics Committee's Advisory Opinion 2016-1 (June 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/House%20Ethics%20Committee's%20Advisory%20Opinion%202016-1%20and%20Correspondence%20requesting%20an%20opinion%20on%20the%20issue.PDF> (accessed February 24, 2017).

<sup>8</sup> SC House of representatives, House Legislative Oversight Committee, "Subcommittees - 2016," under "Committee Information," under "House Legislative Oversight Committee," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed February 24, 2017).

<sup>9</sup> SC House of representatives, House Legislative Oversight Committee, "Subcommittees - 2017," under "Committee Information," under "House Legislative Oversight Committee," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignments%20-%202017.pdf> (accessed February 24, 2017).

<sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, "Press Release announcing Public Survey (September 1, 2015)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Press%20Release%20announcing%20Public%20Survey%20\(September%201,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Press%20Release%20announcing%20Public%20Survey%20(September%201,%202015).pdf) (accessed February 24, 2017).

<sup>11</sup> SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer's Office," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf), unnumbered page 1 and 26-34, (accessed February 24, 2017).

<sup>12</sup> SC House of Representatives, House Legislative Oversight Committee, "Standard Practices - Committee Standard Practice 10.4.," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (accessed February 24, 2017).

<sup>13</sup> SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer's Office," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Commission for the Blind" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf) (accessed February 24, 2017). The survey is closed.

<sup>14</sup> SC House of Representatives, House Legislative Oversight Committee, "Provide Feedback About a State Agency," under "Committee Postings and Reports," under "House Legislative Oversight Committee."

<sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, "September 10, 2015 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/September102015Minutes.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>16</sup> *Ibid*.

<sup>17</sup> *Ibid*.

<sup>18</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Treasurer's Office to Oversight Subcommittee (September 10, 2015)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Treasurer's%20Office%20to%20Oversight%20Subcommittee%20\(September%2010,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Treasurer's%20Office%20to%20Oversight%20Subcommittee%20(September%2010,%202015).pdf) (accessed February 24, 2017).

<sup>19</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Treasurer's Office (September 23, 2015)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Subcommittee%20to%20Treasurer's%20Office%20\(September%202023,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Subcommittee%20to%20Treasurer's%20Office%20(September%202023,%202015).pdf) (accessed February 24, 2017).

<sup>20</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Treasurer's Office to Oversight Subcommittee (October 2, 2015)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Treasurer's%20Oct.%202020correspondence%20to%20Rep.%20Putnam%20regarding%20SCEIS%20Conversion.pdf> (accessed February 24, 2017).

<sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, "March 17, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/March172016Minutes.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Treasurer's Office (March 29, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/March%2029,%202016%20Ltr%20to%20Treasurer%20re%20Follow%20Up%20from%20March%202017,%202016%20Subcom%20Mtg%20PDF.PDF> (accessed February 24, 2017).

<sup>26</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Treasurer's Office to Oversight Subcommittee (April 8, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/April%208,%202016%20Letter%20from%20Treasurer's%20Office.PDF> (accessed February 24, 2017).

<sup>27</sup> SC House of Representatives, House Legislative Oversight Committee, "April 14, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/April142016Minutes.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. A statewide press release announcing the public input meeting is issued April 8, 2016.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Treasurer's Office (August 3, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Subcommittee%20to%20Treasurer's%20Office%20\(August%202023,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Oversight%20Subcommittee%20to%20Treasurer's%20Office%20(August%202023,%202016).PDF) (accessed February 24, 2017).

<sup>32</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Treasurer's Office to Oversight Subcommittee (August 16, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Treasurer's%20Office%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202016,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Letter%20from%20Treasurer's%20Office%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202016,%202016).pdf) (accessed February 24, 2017).

<sup>33</sup> SC House of Representatives, House Legislative Oversight Committee, "August 19, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/August192016Minutes.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> SC House of Representatives, House Legislative Oversight Committee, "February 15, 2017 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes," Minutes will be posted once they are approved at the next Subcommittee Meeting. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> SC Office of the State Treasurer, *Restructuring and Seven-Year Plan Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Treasurer's%20Office.PDF> (accessed February 22, 2017).

<sup>43</sup> SC Office of the State Treasurer, *Program Evaluation Report*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/Treasurer's%20Office%20Program%20Evaluation%20Report.PDF> (accessed February 22, 2017).

<sup>44</sup> SC Office of the State Treasurer, *2016 Annual Restructuring Report*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Treasurer's%20Office.PDF> (accessed February 22, 2017).

<sup>45</sup> SC House of Representatives, House Legislative Oversight Committee, "Staff Study and Agency Response - Amended (March 17, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Treasurer, S.C. Office of the,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Staff%20Study%20\(Amended%20March%202017,%202016\)%20and%20Agency%20Response.PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TreasurersOffice/Staff%20Study%20(Amended%20March%202017,%202016)%20and%20Agency%20Response.PDF) (accessed February 24, 2017).

<sup>46</sup> Committee Standard Practice 13.4.

<sup>47</sup> Committee Standard Practice 13.5.

<sup>48</sup> Committee Standard Practice 14.1.

<sup>49</sup> Committee Standard Practice 14.5.

<sup>50</sup> SC House of Representatives, House Legislative Oversight Committee, "August 19, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/August192016Minutes.pdf> (accessed February 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. A motion was adopted during 122<sup>nd</sup> General Assembly to approve the recommendations adopted by the Subcommittee during the prior General Assembly. SC House of Representatives, House Legislative Oversight Committee, "February 15, 2017 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes," Minutes will be posted once they are approved at the next Subcommittee Meeting. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>51</sup> SC House of Representatives, House Legislative Oversight Committee, "August 19, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

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<sup>52</sup> SC House of Representatives, House Legislative Oversight Committee, "February 15, 2017 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes," Minutes will be posted once they are approved at the next Subcommittee Meeting. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>53</sup> SC House of Representatives, House Legislative Oversight Committee, "August 19, 2016 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes,"

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<sup>54</sup> SC House of Representatives, House Legislative Oversight Committee, "February 15, 2017 Executive Subcommittee Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Executive Subcommittee Minutes," Minutes will be posted once they are approved at the next Subcommittee Meeting. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

Legislative Oversight Committee  
**Law Enforcement and Criminal Justice  
 Subcommittee’s Study of the  
 Department of Public Safety**



*April 21, 2017*

<b>FULL COMMITTEE OPTIONS STANDARD PRACTICE 13</b>	<b>FULL COMMITTEE ACTION(S)</b>	<b>DATE(S) OF FULL COMMITTEE ACTION(S)</b>
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee’s study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly**; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations, the **Subcommittee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>1</sup>

## *Study Process*

### Legislative Oversight Committee Actions

- April 14, 2015 - Prioritizes the agencies to study
- April 22, 2015 - Provides the agency with notice about the oversight process
- June 1, 2016 - Holds **Meeting #6** and addresses a matter relating to a potential violation of SC Code 2-2-100 (Contempt of the General Assembly)

### Law Enforcement and Criminal Justice Subcommittee Actions

- April 29, 2015 - Holds **Meeting #1/Entry meeting** and discusses study procedural issues
- May 5, 2015 - Resigns from the Public Safety Coordinating Council – Rep. Tallon
- February 25, 2016 - Holds **Meeting #2** and discusses written questions to send agency
- April 21, 2016 - Holds **Meeting #3** and discusses the agency's history and strategic plan
- May 5, 2016 - Holds **Meeting #4** and provides opportunity for public input and information about agency partners
- May 26, 2016 - Holds **Meeting #5** and addresses a matter relating to a potential violation of SC Code 2-2-100 (Contempt of the General Assembly)
- July 13, 2016 - Holds **Meeting #7** and receives information on agency’s resources and performance
- July 20, 2016 - Holds **Meeting #8** and discusses aspects of the agency's strategic plan
- August 30, 2016 - Holds **Meeting #9** and discusses, among other things, agency’s hiring practices and manpower across regions of the state
- November 1, 2016 - Holds **Meeting #10** and further discusses hiring issues as well as discusses agency’s finances and inconsistencies in applying discipline policies
- January 31, 2017 - Holds **Meeting #11/Work Session** and discusses study progress
- February 21, 2017 - Holds **Meeting #12** and (1) receives constituent testimony; (2) discusses information provided to families of traffic fatality victims; and (3) discusses the length of time in which the agency's Office of Professional Responsibilities cases proceed to disposition
- February 28, 2017 - Holds **Meeting #13** and (1) receive constituent testimony; and (2) discusses grants, drug testing, and technology issues



- March 7, 2017 - Holds **Meeting #14/Work Session** and discusses study recommendations
- April 21, 2017 - Provides notification that the Subcommittee Study on the agency is available for consideration by the full Committee

### Public's Actions

- September 1-31, 2015 - Responds to survey about the agency
- May 5, 2016 - Opportunity to provide testimony at a public input hearing; however, no testimony received from constituents at this time
- February 21, 2017 - Provides testimony during a Subcommittee meeting
- February 28, 2017 - Provides testimony during a Subcommittee meeting
- Ongoing - Submits comments on the Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

### Department of Public Safety Actions

- March 31, 2015 - Submits Restructuring and Seven-Year Plan Report
- August 28, 2015 - Submits Program Evaluation Report
- January 11, 2016 - Submits 2016 Annual Restructuring Report
- April 29, 2016 - Submits response to Committee Staff Study
- May 5, 2016 - Amends its response to Committee Staff Study
- September 14, 2016 - Submits 2015-16 Accountability Report
- November 29, 2016 - Submits Annual Request for Information
- April 2015 - February 2017 - Meets with and responds to Subcommittee's inquiries

*Figure 1. Summary of Key Dates and Actions of the Study Process, 2015-2017*

## ***Recommendations***

The Subcommittee has 27 recommendations relating to the agency. The Subcommittee's **recommendations for revisions to the agency's internal operations and revisions to laws fall into seven categories**. These categories include: (1) recruitment, hiring, retention, and public safety; (2) equipment replacement; (3) applying policies consistently; (4) communication, morale, and leadership issues; (5) focusing on its primary mission; (6) analyzing and updating information; and (7) follow up.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs**.

Table 1. Summary of Recommendations

RECOMMEND AGENCY ADDRESS . . .
<b>...SAFETY, HIRING, RECRUITMENT, and RETENTION</b>
<ol style="list-style-type: none"> <li>1. Ensure the appropriate division head is involved in the hiring process. Ensure policies outline clearly which personnel provide input at which stages of the hiring process.</li> <li>2. Research the cost and feasibility of implementing a career path for agency employees.</li> <li>3. Track applicable data to determine which recruiting methods are effective in obtaining applicants with the temperament and ability to successfully complete appropriate Criminal Justice Academy courses. Include this data in the agency's Accountability Report each year.</li> <li>4. Revisit policy which automatically disqualifies job applicants with visible tattoos.</li> <li>5. Update the agency's Personnel Allocation Model to conform to national standards.</li> <li>6. Review industry best practices on trooper fatigue under various shift changes.</li> </ol>
<b>...EQUIPMENT REPLACEMENT</b>
<ol style="list-style-type: none"> <li>7. Request a permanent line item, which identifies funding for the equipment replacement schedules, in the General Appropriations Act.</li> <li>8. Develop a computer and technology replacement cycle; include this information in the agency's budget request.</li> </ol>
<b>...APPLYING POLICIES CONSISTENTLY</b>
<ol style="list-style-type: none"> <li>9. Implement the agency's existing Alcohol and Drug Deterrence Policy and perform random and post-accident drug testing of agency employees.</li> <li>10. Revise the agency's Residency Policy to have clear standards of which employees are required, and which are not required, to live within various requisite distances from their troop headquarters or their assigned post. Apply Residency Policy consistently.</li> <li>11. Update the agency's Audio-Video Monitor Report Form to include the reason the supervisor is reviewing a video. Track this information in the activity console (i.e., agency's internal database).</li> <li>12. Review the policies and format of the corrective action plans submitted by Troop Commanders in response to Staff Inspection Reports. Ensure these plans include deadlines and appropriate follow-up.</li> </ol>
<b>...COMMUNICATION AND MORALE</b>
<ol style="list-style-type: none"> <li>13. Distinguish between the number of active troopers and number of troopers who are still in training when reporting data.</li> <li>14. Restructure the agency so both the Office of Professional Responsibility and Human Resources Office report to the Legal Department, whose attorneys are subject to requirements of legal ethics and rules of professional responsibility to remain licensed to practice law, then the Director.</li> </ol>

15. Adopt a process by which employees can provide feedback to the agency anonymously.

16. Have an outside entity perform a leadership climate and employee morale survey of the agency beginning this year and once every three years thereafter. Require agency leadership to generate and follow through with improvement plans based upon the results of the surveys.

17. Require Troop Commanders and Supervisors in the Blythewood Office, including the Director, to spend one day per month on the road to stay abreast of troopers' daily activities.

#### **...FOCUSING ON ITS PRIMARY MISSION**

18. Transfer the Illegal Immigration Enforcement Unit to the State Law Enforcement Division.

19. Transfer grants programs unrelated to highway safety (i.e., criminal justice, juvenile justice; and crime victims) to another agency.

20. Coordinate a meeting with the division of State Human Resources and other agencies which may have similar scheduling situations, (e.g., Department of Juvenile Justice; Department of Corrections; and Department of Social Services), to discuss ways to reduce the amount of time necessary to enter and update personnel hours in the South Carolina Enterprise Information System.

#### **...ANALYZING AND UPDATING INFORMATION**

21. Research the costs involved in the agency producing reports from the Multi-disciplinary Accident Investigation Team and private sector industry standards related to amounts charged for this type of information to determine appropriate charges for these reports.

22. Revise SC Code Section 23-6-187, relating to witness fees for troopers, trained in Advanced Accident Investigation, testifying in civil matters, to allow the agency to adjust the amount it charges each year with inflation.

23. Revise SC Code Section 23-6-20, relating to establishment of the agency, to remove references to transfers of divisions and, instead, require the agency to maintain a list of its divisions.

24. Update SC Code Section 23-6-30, relating to the duties and powers of the agency, to remove a reference to a training program now provided by the Criminal Justice Academy.

25. Revise SC Code Section 23-6-50, relating to an annual audit, carrying funds into the next fiscal year, and retention of revenue to meet the agency's expenses, to remove outdated references and allow the agency to expend certain funds for drug testing.

#### **...FOLLOW UP**

26. Provide an update, in an approved format, once a quarter from April 3, 2017, until April 3, 2018, or the Committee re-visits the need for the updates.

27. Provide the Committee an update every 30 days about the status of payments to subgrantees (i.e., crime victim service providers grant requirements).

## DETAILS - STUDY PROCESS

### *House Oversight Committee's Actions*

On January 7, 2015, the House Oversight Committee approves a proposed seven-year study schedule for the Speaker of the House.<sup>2</sup> The Speaker approves the Committee's recommendations, which are published in the House Journal on January 13, 2015.<sup>3</sup> The Department of Public Safety ("DPS" or "agency") is an agency subject to legislative oversight.<sup>4</sup> The **Committee approves DPS as the second state agency for study by the Law Enforcement and Criminal Justice Subcommittee** on April 14, 2015.<sup>5</sup>

The **Committee notifies the agency** about the study on April 22, 2015.<sup>6</sup> As the Committee encourages **collaboration in its legislative oversight process**, the Committee notifies the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor about the agency study.<sup>7</sup>

### *Subcommittee Studying the Agency*

The **Law Enforcement and Criminal Justice Subcommittee ("Subcommittee") of the House Oversight Committee is studying the agency**. The study begins during the 121<sup>st</sup> General Assembly. At this time, the chair of the Subcommittee is the Honorable Kirkman Finlay III; other members include: the Honorable William K. "Bill" Bowers; the Honorable Raye Felder; and the Honorable Edward R. Tallon, Sr.<sup>8</sup> The study continues during the 122<sup>nd</sup> General Assembly. Now, the chair of the Subcommittee is the Honorable Edward R. Tallon, Sr.; other members include: the Honorable Katherine E. "Katie" Arrington, the Honorable William M. "Bill" Hixon; and the Honorable J. Todd Rutherford.<sup>9</sup>

### *Subcommittee & Public Actions*

The **Subcommittee meets with the agency once about process and on ten occasions about the agency's work**.<sup>10</sup> The Subcommittee holds two work sessions and the full Committee meets once on an issue referred to it by the Subcommittee.<sup>11</sup> All meetings are open to the public and streamed live online with videos archived.

**Public input is a cornerstone of the House Legislative Oversight Committee's process**.<sup>12</sup> Members of the public are able to participate anonymously in a public survey about the agency and four other agencies during the month of September in 2015, provide comments via a link on the Committee website at any time, and appear in person before the Subcommittee during the public input meeting in May 2016. Throughout the process, members of the public, including current and former employees, actively provide input to the Subcommittee. This input, including anonymous input, points the Subcommittee to management issues with the agency. **Due to the volume of input from constituents about the Highway Patrol, Human Resources, and Office of Professional Responsibility, the Subcommittee focuses on those aspects of the agency in regards to the agency efficiently and effectively fulfilling its statutory duties**.<sup>13</sup>

Highlights of meetings, public participation, and major events at the agency during the study process are listed below in a **timeline**. A summary of this timeline is set forth in Figure 1 on pages 4-5. Meeting minutes and archived videos of meetings are available online.<sup>14</sup>

## *121<sup>st</sup> General Assembly*

### *April 2015*

On April 29, 2015, the Subcommittee holds an entry meeting with the agency to discuss oversight study procedural issues.<sup>15</sup>

### *May 2015*

In an abundance of caution and to avoid any potential perception of a conflict of interest, **Representative Tallon resigns from his duties on the South Carolina Public Safety Coordinating Council.**<sup>16</sup>

### *September 2015*

The Subcommittee posts an **online survey to solicit comments from the public about the Department of Public Safety** and other agencies. Communication about this survey is sent to all House members who are encouraged to inform their constituents about this opportunity.<sup>17</sup> A statewide media release is issued about this opportunity for public participation.<sup>18</sup> There are 1,010 responses to the survey, with at least one response from 41 of the 46 South Carolina counties.<sup>19</sup> These comments are not considered testimony.<sup>20</sup> The survey notes “input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”<sup>21</sup> The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>22</sup>

### *February 2016*

On February 25, 2016, the Subcommittee meets (**Meeting #2**) and, among other things, provides a brief update on the study of the agency and **discusses written questions for the Department of Public Safety.**<sup>23</sup> Representative Tallon submits a list of inquiries.<sup>24</sup> An agency representative present at the meeting states the agency does not require clarification on any of the questions.<sup>25</sup>

### *March 2016*

On March 2, 2016, the Subcommittee sends a letter with questions from the February 25, 2016, Subcommittee meeting.<sup>26</sup> This letter requests information about the following topics: (1) Illegal Immigration Enforcement Unit; (2) Highway Patrol; (3) Discipline/Office of Professional Responsibility; and (4) Office of Human Resources. On March 16, 2016, the agency provides responses to these topics of interest to the Subcommittee.<sup>27</sup>

### *April 2016*

On April 21, 2016, the Subcommittee meets with the agency (**Meeting #3**) and discusses the **agency’s history and strategic plan.**<sup>28</sup> Chairman Finlay swears in Director Leroy Smith, agency head since 2012, and other agency staff.<sup>29</sup> A summary is provided of the agency’s history.<sup>30</sup> Subcommittee members ask general questions about the agency, which Director Smith answers.<sup>31</sup>

At the direction of the Subcommittee Chair, Committee staff provide a brief background on DPS’ strategic plan.<sup>32</sup> Director Smith provides the Subcommittee details about each aspect of the agency’s strategic plan.<sup>33</sup> Subcommittee members ask follow-up questions for clarification, which Director Smith answers.<sup>34</sup>

In response to questioning, Director Smith agrees the agency's Illegal Immigration Enforcement Unit (IIEU) is aligned more within the State Law Enforcement Division's (SLED) mission than the Department of Public Safety's mission.<sup>35</sup> The Subcommittee approves a recommendation to move IIEU from DPS to SLED.<sup>36</sup>

The next day the agency responds in writing to questions asked by Subcommittee members during the meeting.<sup>37</sup> The agency's responses address the following topics: (1) fees charged to those who request Multi-Disciplinary Accident Investigation Team (MAIT) Reports; and (2) the methodology used to ascertain the safety belt usage rate.<sup>38</sup>

On April 29, 2016, the Subcommittee and all House Members receive the final Staff Study and agency response.<sup>39</sup> A copy is available online.<sup>40</sup>

## *May 2016*

On May 5, 2016, the Subcommittee meets with the agency (**Meeting #4**).<sup>41</sup> The purpose of the meeting is for the Subcommittee to receive **testimony about the agency from members of the public**.<sup>42</sup> While there are no members of the public present to testify about the agency, Chairman Finlay notes members of the public have provided information about the agency to the Subcommittee through other means.<sup>43</sup>

Another purpose of the meeting is for the Subcommittee to obtain information about the entities with which the agency works.<sup>44</sup> Committee staff provide a brief overview of the **agency's partners, customers, and stakeholders**.<sup>45</sup> Subcommittee members ask questions of Ms. Tosha Autry, the agency's Director of Human Resources, to which she responds.<sup>46</sup> During the meeting, a partial audio recording is played and Ms. Autry confirms the recording is of her.<sup>47</sup>

On May 6, 2016, the Subcommittee sends a letter stating its intention at the next meeting to make an inquiry about issues of importance to state employees including, but not limited to, the agency's process and procedures for hiring and firing employees, how the agency addresses employee disciplinary matters, and information employees with grievances are permitted to share.<sup>48</sup> On May 9, 2016, DPS acknowledges the letter.<sup>49</sup>

On May 26, 2016, the Subcommittee meets with the agency (**Meeting #5**).<sup>50</sup> The purpose of the meeting is to **discuss and vote on whether the Subcommittee recommends the full Committee make an inquiry as to whether a violation of S.C. Code 2-2-100 (contempt of the General Assembly) has occurred**.<sup>51</sup> Committee Staff provide a brief background on this statute and other statutes related to Legislative Oversight of Executive Departments.<sup>52</sup> The Subcommittee approves a motion recommending the full Committee make an inquiry as to whether a witness, the agency's Director of Human Resources may have violated S.C. Code Section 2-2-100 when testifying before the Subcommittee on May 5, 2016.<sup>53</sup> On May 31, 2016, the Subcommittee notifies the full Committee of its request.<sup>54</sup>

## *June 2016*

On June 1, 2016, the full Committee meets (**Meeting #6**).<sup>55</sup> Among other things, the **Committee discusses the request from the Subcommittee that the Committee refer an allegation of contempt of the General Assembly to the Attorney General**.<sup>56</sup> Committee Members make comments and ask questions about this issue. A motion is approved to refer the matter to the Attorney General.<sup>57</sup> On June 8, 2016, the Oversight Committee refers the matter to the Attorney General.<sup>58</sup>

On June 15, 2016, the **Subcommittee requests information from the agency** about the following topics: (1) agency spending on legal services; (2) overtime; and (3) discipline/Office of Professional Responsibility. On June 29, 2016, the agency responds to the Subcommittee.<sup>59</sup>

## July 2016

On July 7, 2016, the **agency provides clarification on issues** relating to the Office of Professional Responsibility/Division Investigation (OPR/DI) Case Summary documents the agency previously provided.<sup>60</sup> On the same day, the agency provides clarification relating to overtime documents the agency produced on June 29, 2016.<sup>61</sup>

The Subcommittee meets with the agency (**Meeting #7**) on July 13, 2016.<sup>62</sup> The purpose of this meeting is to obtain information on the **agency's resources and performance**.<sup>63</sup> Director Smith gives a presentation on the agency's resources and fund allocations.<sup>64</sup> During and after the presentation, Subcommittee members ask questions.<sup>65</sup> Next, Director Smith gives a brief overview of the agency's performance measures and objectives.<sup>66</sup> Due to time constraints, Subcommittee members hold questions on performance measures and objectives until the next meeting.<sup>67</sup>

On July 15, 2016, the **Subcommittee requests information from the agency** about the following topics: (1) strategic plan, funding allocation, and performance measures; (2) hiring, retention, and employee makeup; (3) scheduling and activities; (4) finances; (5) Multi-disciplinary Accident Investigation Team; and (6) overtime and compensation time.<sup>68</sup> On July 19, 2016, the agency responds to some of the questions and states it is in the process of compiling information responsive to the other requests.<sup>69</sup>

On July 20, 2016, the Subcommittee meets with the agency (**Meeting #8**) and discusses **aspects of the agency's strategic plan**.<sup>70</sup> Director Smith testifies about aspects of the agency's strategic plan on which Subcommittee members had questions at the previous meeting.<sup>71</sup>

The Subcommittee **discusses hiring, retention, and morale issues** including: applicants in the agency's current class, turnover, employee concerns about possible retribution from leadership when expressing opinions or concerns, employee concerns about the agency's residency policy; employee concerns about consolidation of the communication centers, expenditures for recruitment, timeframes of employee investigations, and an update on the agency's overtime lawsuit.<sup>72</sup>

The Subcommittee discusses with the agency numerous issues relating to **equipment** including, among other things, the condition of and cost to replace various existing equipment, as well as purchase new equipment such as body cameras.<sup>73</sup>

The Subcommittee discusses the **agency's rating from the Commission on Accreditation for Law Enforcement Agencies**, and it requests an **explanation for the low number of trooper and civilian contacts throughout the year**.<sup>74</sup>

Director Smith provides a presentation on **internal changes to improve agency efficiency and outcomes**.<sup>75</sup> Director Smith testifies the agency has no recommendations to improve efficiency and outcomes at this time.<sup>76</sup> He further testifies the agency has improved efficiency and outcomes in a variety of ways, including:

- implementing an electronic traffic collision reporting system;
- merging offices of Highway Safety and Justice Programs;

- consolidating office space in Greenville and Rock Hill;
- implementing a mobile data program;
- creating an Internal Communications Office to support agency enforcement and education efforts;
- creating an Internal Office of Strategic Services, Accreditation, Policy & Inspections; and
- updating the Office of Professional Responsibility's case management system.<sup>77</sup>

**Further discussion is held with Director Smith pertaining to topics addressed at previous meetings** including: (1) the Director's views about the Subcommittee's recommendation to move the Illegal Immigration Enforcement Unit to SLED, and (2) the results of the agency's internal Office of Professional Responsibility investigation of the potential violation of Section 2-2-100.<sup>78</sup>

The **Subcommittee adopts multiple motions for recommendations** which include: (1) process to allow anonymous employee feedback; (2) clarifying residency policy; and (3) distinguishing between the number of active troopers versus personnel still at the Criminal Justice Academy when reporting data.<sup>79</sup>

On July 22, 2016, the **Subcommittee requests additional information from the agency** relating to the following topics: (1) strategic plan, funding allocation, and performance measures; (2) hiring, retention, and employee makeup; (3) scheduling and activities; (4) finances; (5) overtime and compensation time; and (6) Office of Professional Responsibility.<sup>80</sup>

### *August 2016*

On August 15, 2016, the **agency responds to most of the questions posed in the Subcommittee's July 22, 2016, letter.**<sup>81</sup> The agency informs the Subcommittee it is in the process of compiling information responsive to the other requests and will provide that information as soon as it is available.<sup>82</sup>

The Subcommittee meets with the agency (**Meeting #9**) on August 30, 2016.<sup>83</sup> During the meeting, the **Subcommittee addresses multiple issues with the agency** including: hiring; inconsistent application of agency policies; equipment acquisition and replacement scheduling; allocation of manpower across the regions; finances including use of available resources and cost to remodel a conference space at the agency's headquarters.<sup>84</sup>

Various agency employees, with the agency's general counsel and a private attorney for the agency in attendance, respond to the different Subcommittee questions.<sup>85</sup> **Subcommittee Members adopt multiple motions** which include: (1) tracking recruiting data to obtain highest quality applicants; (2) hiring transparency and personnel; (3) leadership climate and employee morale survey; (4) troop commander corrective action plans; (5) shift change fatigue study; (6) laptop and technology replacement; (7) South Carolina Enterprise Information System scheduling; (8) updating charges for multi-accident investigation team reports; and (9) updating charges for depositions.<sup>86</sup>

On August 31, 2016, the **Subcommittee requests additional information from the agency** pertaining to the following topics: (1) staff inspections; (2) body armor; (3) laptops and technology; (4) scheduling and activities; (5) hiring and retention; and (6) finances.<sup>87</sup>

### *November 2016*

On November 1, 2016, the Subcommittee meets with the agency (**Meeting #10**) and **further discusses hiring issues as well as agency finances and inconsistencies in applying discipline policies.**<sup>88</sup> Members of



the Subcommittee ask questions about the following topics: personnel, hiring, and performance; finances; and consistency in applying agency policies.<sup>89</sup>

The **Subcommittee adopts multiple motions for recommendations** which include: (1) researching the feasibility of career path initiative for employees; (2) instituting a Leaders on the Road Program which requires troop commanders and supervisors in the Blythewood Office to spend one day/month on the road to help increase morale with the troopers and stay in touch with troopers daily activities; (3) requesting permanent line item in the agency's budget in the General Appropriations Act which identifies funding for equipment replacement schedules; (4) Office of Professional Responsibility and Office of Human Resources reporting to the Legal Department, then the Director, to ensure the accuracy of information utilized and stored since in-house counsel has a professional obligation; and (5) providing quarterly updates to the Committee.<sup>90</sup>

On November 10, 2016, the **Subcommittee requests additional information** relating to the following subjects: (1) staffing and finances; (2) hiring and retention; (3) agency policies and activities; and (4) Office of Professional Responsibility.<sup>91</sup>

### *December 2016*

On December 2, 2016, the **agency provides answers to most of the questions posed in the Subcommittee's November 10, 2016 letter.**<sup>92</sup> The agency states it is in the process of compiling information responsive to the other requests and will provide that information as soon as it is available.<sup>93</sup>

### *122<sup>nd</sup> General Assembly*

#### *January 2017*

On January 5, 2017, **Representative Tallon requests information** from the agency relating to the following subjects: (1) drug testing; (2) numbers of troopers on the road, in a non-supervisory capacity; (3) number of traffic fatalities; and (4) turnover in the agency's Information Technology department.<sup>94</sup> On January 24, 2017, the agency responds to Representative Tallon's requests.<sup>95</sup> Representative Tallon shares this information with the Subcommittee.<sup>96</sup>

On January 31, 2017, the Subcommittee holds a work session to continue its discussion of the study of the agency (**Meeting #11/Work Session**).<sup>97</sup> Members discuss questions and topics of interest to discuss with the agency at the next meeting.<sup>98</sup> The **Subcommittee adopts multiple motions for recommendations** which include: (1) revisiting automatically disqualifying job applicants with visible tattoos so as to allow those who are willing to cover their tattoos to continue to move through the application process; and (2) updating the agency's audio/video report.<sup>99</sup>

#### *February 2017*

On February 3, 2017, the **Subcommittee requests information from the agency** about the following topics: (1) grants; (2) fatalities and trooper activity; (3) booklets distributed to grieving families of traffic fatalities; (4) drug testing; (5) laptops and technology; (6) essentials to operate; (7) dispatch staffing; (8) remediation; (9) Office of Professional Responsibility; (10) video policies; (11) certification removal and appeals; (12) overtime; and (13) personnel and finances.<sup>100</sup>

On February 17, 2017, the **agency responds to most of the questions** posed in the Subcommittee's February 3, 2017, letter.<sup>101</sup> The agency states the remainder of the responses are forthcoming.<sup>102</sup>

On February 21, 2017, the Subcommittee meets with the agency (**Meeting #12**) and **(1) receives constituent testimony; (2) discusses information provided to families of traffic fatality victims; and (3) length of time in which the agency's Office of Professional Responsibilities cases proceed to disposition.**<sup>103</sup> A constituent, Ms. Avril Wilson, provides testimony to the Subcommittee sharing concerns about the agency. Members ask questions to Ms. Wilson and agency representatives.<sup>104</sup> Members ask questions about the materials the agency provides to families of traffic fatality victims to which agency representatives respond.<sup>105</sup> Chairman Tallon asks additional questions relating to the agency's Office of Professional Responsibility, including the length of time in which investigations are open and what notification is provided to employees under investigation about the status of the investigation.<sup>106</sup>

The Subcommittee meets with the agency on February 28, 2017, (**Meeting #13**) and **(1) receives constituent testimony; and (2) discusses grants, drug testing, and technology issues.**<sup>107</sup> Agency representatives answer questions about the agency's issuance of new guns and reprogramming trooper's radios.<sup>108</sup> A constituent, Ms. Laura Hudson, provides testimony about grants administered by the agency.<sup>109</sup> Members ask questions which Ms. Hudson and various agency representatives answer.<sup>110</sup> Members ask questions about drug testing, laptops, and other technology.<sup>111</sup> Agency representatives respond to the questions.<sup>112</sup> **Subcommittee Members adopt multiple motions for recommendations** which include: (1) moving Criminal Justice, Juvenile Justice, and Crime Victim Grants to another agency; and (2) providing the Committee a document every 30 days which includes a list of the subgrantees that have and have not been paid.<sup>113</sup>

On February 24, 2017, the **agency supplements the responses in its February 17, 2017, letter** by providing information related to the following topics: (1) fatalities and trooper activity<sup>114</sup>; (2) remediation<sup>115</sup>; (3) video policies<sup>116</sup>; and (4) dispatch staffing<sup>117</sup>.

### **March 2017**

On March 3 and 7, 2017, the **agency supplements the responses in its February 17, 2017, letter** by providing information related to the following topics: (1) grants<sup>118</sup>; (2) driving under the influence arrest data for calendar years 2012-2016<sup>119</sup>; (3) traffic collision statistics for calendar year 2015 and 2016<sup>120</sup>; and (4) Highway Patrol Annual Report for each year from 2012 through 2015<sup>121</sup>.

On March 7, 2017, the Subcommittee has a Work Session to discuss the study of the agency and recommendations arising from the study (**Meeting #14/Work Session**).<sup>122</sup> The **Subcommittee reviews its study recommendations.**<sup>123</sup> The **Subcommittee adopts additional recommendations** which include: (1) performing random and post-accident drug testing; (2) updating the Highway Patrol's Personnel Allocation Model; and (3) revising South Carolina Code Sections 23-6-20; 23-6-30; and 23-6-50.<sup>124</sup>

As this timeline evidences, the Subcommittee addresses multiple issues with the agency that relate directly to the agency fulfilling its statutory duty. These topics are discussed in further detail in the "Issues in Fulfilling Statutory Duty" section of the Subcommittee Report.

## *Agency Actions*

The **Committee asks the agency to conduct a self-analysis** by completing and submitting a 2015 Annual Restructuring Report and Seven-Year Plan for cost savings and increased efficiencies, a Program Evaluation Report, and a 2016 Restructuring Report. The agency submits its 2015 Annual Restructuring Report and Seven-Year Plan on March 31, 2015<sup>125</sup>, its Program Evaluation Report on August 28, 2015.<sup>126</sup> Committee staff provide a staff study and agency response to the Subcommittee on April 29, 2016;<sup>127</sup> the agency amends its response on May 5, 2016. The agency submits its 2016 Restructuring Report on January 11, 2016,<sup>128</sup> and its 2015-16 Accountability Report on September 14, 2016.<sup>129</sup> All reports are available online. Additionally, throughout the study process the agency responds to Subcommittee questions.

## *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee may provide a written statement for inclusion with the Subcommittee's Study.** After an opportunity to provide written statements, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, notifies the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full Committee meeting. During the full Committee meeting at which the Subcommittee Study is discussed, the full Committee may vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's Study; or (3) further evaluate the agency as a full Committee.

When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study.<sup>130</sup> The final study and written statements are published online and the agency, as well as all House Standing Committees, receive a copy.<sup>131</sup>

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee.<sup>132</sup> The Committee Chair may also provide briefings to the public about the final oversight study.<sup>133</sup>

## ISSUES IN FULFILLING STATUTORY DUTY

**Public input is a cornerstone of the House Legislative Oversight Committee's process.**<sup>134</sup> Due to the volume of input from constituents about the Highway Patrol, Human Resources, and Office of Professional Responsibility, the Subcommittee focuses on those aspects of the agency in regards to the agency efficiently and effectively fulfilling its statutory duties.<sup>135</sup>

### *Safety*

The primary purpose of the agency is encompassed in its very name, the Department of Public Safety, with a focus on highway safety. This purpose is embodied in the agency's mission, which is as follows:

As the largest law enforcement agency in South Carolina, it is the mission of the South Carolina Department of Public Safety to **protect and serve the public** with the highest standard of conduct and professionalism; to **save lives** through educating its citizens on highway safety and **diligent enforcement of laws governing traffic**, motor vehicles, and commercial carriers; and to **ensure a safe, secure environment** for the citizens of the state of South Carolina and its visitors. (emphasis added)<sup>136</sup>

As described below, data from fiscal year 2012-13 to the present evidences an annual escalation in the **agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty.**<sup>137</sup>

From 2013 to 2016, the **number of patrol hours decreases by 86,696 hours**, number of warnings and citations decrease by 164,389, and total collisions increase by 23,755.<sup>138</sup> During this same time period, the number of fatal collisions increase by 30.18% and number of fatalities increase by 32.33%.<sup>139</sup> As of February 17, 2017, **the total number of fatalities is the highest since 2007**, and this number may further increase as the agency continues to receive information.<sup>140</sup> Ancillary, there is also a \$318,201 decrease in funding to the Criminal Justice Academy, which trains law enforcement officers across the state, as surcharges on traffic citations have been a source of funding for the Criminal Justice Academy until 2016.<sup>141</sup> Additional information regarding trooper activity, collisions, and fatalities is included in Attachment 1 (Trooper Activity, Collisions, Fatalities, and Budget).

Moreover, the **agency is not tracking data to monitor the performance of dispatch** or Telecommunication Centers (TCCs) which provide telephone access for citizens' calls, dispatch DPS law enforcement officers to collision scenes and other calls for service, and provide officers with accurate and timely information which enhances officer safety and promotes the overall safety of the motoring public.<sup>142</sup> Information from the agency illustrates repeated concerns that are noted from the Bureau of Protective Services and Highway Patrol about the amount of time taken for law enforcement officers to reach TCCs.<sup>143</sup>

Potential causes of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement of laws **include deficiencies in the following areas:** (1) hiring, recruitment, and retention; (3) replacement of equipment; (4) application of agency policies; and (5) communication and morale.

## Hiring, Recruitment, and Retention

A potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement is lack of manpower and turnover.

During the study process, the Subcommittee requests and receives from the agency information pertaining to recruitment, hiring and retention. This information serves as a basis for the Subcommittee's recommendations in this area.

Table 2. Summary of the Subcommittee's Recommendations: Hiring, Recruitment, and Retention

RECOMMEND AGENCY ADDRESS . . .
<b>...HIRING, RECRUITMENT, AND RETENTION</b>
<ol style="list-style-type: none"> <li>1. Ensure the appropriate division head is involved in the hiring process. Ensure policies outline clearly which personnel provide input at which stages of the hiring process.</li> <li>2. Research the cost and feasibility of implementing a career path for agency employees.</li> <li>3. Track applicable data to determine which recruiting methods are effective in obtaining applicants with the temperament and ability to successfully complete appropriate Criminal Justice Academy courses. Include this data in the agency's Accountability Report each year.</li> <li>4. Revisit policy which automatically disqualifies job applicants with visible tattoos.</li> <li>5. Update the agency's Personnel Allocation Model to conform to national standards.</li> <li>6. Review industry best practices on trooper fatigue under various shift changes.</li> </ol>

On August 30, 2016, in response to questioning, the Colonel of the South Carolina Highway Patrol affirmed there are resources in the budget to hire more and the **lack of officers on the road is not the result of lack of funding.**<sup>144</sup> During each of the last four years there are **more than 200 authorized, but unfilled, positions at the agency** as Table 3 illustrates.<sup>145</sup> Table 3 also illustrates the amount the **agency carries forward in personal services from the General Fund increases each year.**<sup>146</sup> Lastly, a comparison of the agency's total budget, and highway patrol budget, shows an increase of 4% and 13%, as seen in Table 4.<sup>147</sup>

Table 3. Authorized, filled, and vacant full time equivalent positions and Personal Service Carryforward

	Full Time Equivalent Positions			Carryforward
	Authorized	Filled	Vacant	10% of General Fund Personal Service Balance (Does not include: Federal and Other Personal Service carryforward)
FY 2012-13	1,462.00	1,245.00	217.00	\$381,041.95
FY 2013-14	1,495.00	1,274.00	221.00	\$461,046.62
FY 2014-15	1,495.00	1,229.00	266.00	\$540,993.43
FY 2015-16	1,521.00	1,249.00	272.00	\$2,456,912.37

Table 4. Agency and Highway Patrol budget for FY 2012-13 and FY 2015-16

Total Agency Budget and Highway Patrol Division Budget			
	2012-13	2015-16	% Change
Total Agency Budget w/o carry forward <sup>148</sup>	\$154,941,120	\$161,431,719	4.19%
Highway Patrol Division Budget <sup>149</sup>	\$93,086,717	\$105,238,726	13.05%

### Hiring

The **Director makes final hiring decisions<sup>150</sup> without input from division heads.**<sup>151</sup> The hiring process at the agency has numerous stages including an initial administrative review, a physical abilities component, a written test, and an interview with an Oral Interview Board.<sup>152</sup> Follow up data from the agency shows distinct differences in materials available to the Oral Review Board and the Director.<sup>153</sup> Table 5 illustrates the Oral Review Board is not provided the interviewee's application and does not include division heads. Also, division heads do not participate in meetings when final hiring decisions are made.<sup>154</sup> Additional information about the hiring process, which includes number of applicants culled (i.e., not advanced) at each stage and reasons for doing so are included in Attachment 2 (Hiring Process).

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Table 5. Summary of Oral Interview Board v. Director's Review Personnel and Information

<u>Oral Interview Board</u> <sup>155</sup>	<u>Director's Review</u> <sup>156</sup>
<p><u>Present in room:</u></p> <ul style="list-style-type: none"> <li>• Chairman (Major)</li> <li>• Four board members (variety of Captain, Lieutenant, Sergeant, Corporal)</li> <li>• One Human Resources Representative</li> <li>• Applicant</li> </ul>	<p><u>Present in room:</u></p> <ul style="list-style-type: none"> <li>• Agency Director<sup>157</sup></li> <li>• Human Resources Director</li> </ul>
<p><u>Information available to review:</u></p> <ul style="list-style-type: none"> <li>• Schedule of all applicant interview times</li> <li>• Applicant essay which explains why the applicant wants to be a trooper</li> <li>• Employment Board Questions (10 questions for the applicant to answer)</li> <li>• Oral Interview Board (OIB) Rating Sheet (used to rate the applicant on each question asked, written/oral communication, and appearance)</li> <li>• OIB Rating Rubric (A guide to help board members understand each rating category)</li> <li>• OIB Component &amp; Rating Sheet (directions/information for what board members can expect that day)</li> </ul>	<p><u>Information available to review:</u></p> <ul style="list-style-type: none"> <li>• Oral Interview Board Notes/Score Sheet, and</li> </ul>
	<p><u>Information available to review: (continued)</u></p> <ul style="list-style-type: none"> <li>• State Application &amp; Supplemental Application</li> <li>• Physical Ability Test</li> <li>• Nelson Denny Scores (vocabulary, comprehension, and reading)</li> <li>• Background (employment and character references)</li> <li>• Applicant's Essay</li> <li>• Polygraph</li> <li>• Credit Check</li> <li>• DD 214 (discharge information for military candidates, if applicable)</li> <li>• College Transcript (if applicable)</li> <li>• Driver's License Check</li> <li>• National Crime Information Center Check</li> <li>• SC Information Exchange Check</li> <li>• Social Media Check</li> </ul>

## *Recruitment*

The agency's strategy, objectives, and performance measures relating to recruitment do not appear to provide the agency sufficient information to determine whether its recruitment efforts are effective or efficient. As an example, one of the agency's performance measures is simply, "[d]id Highway Patrol Telecommunications Office develop a recruitment plan?"<sup>158</sup> As another example, the agency counts the number of recruitment seminars held, but not the number of individuals that apply, and are hired, to know if the agency's recruitment efforts are effective.<sup>159</sup> Tracking data, in particular outcome data, may allow the agency the ability to analyze which of its efforts are successful.

## *Retention*

**Employee retention is an issue of concern in the Highway Patrol Division** as less manpower means fewer troopers to educate those on the road and to enforce traffic safety laws. **Between 2012 and 2015, \$8.9 to \$21.1 million is spent on training and equipping new troopers, but the net result of this spending is an increase in total trooper strength across the state of only two troopers.**<sup>160</sup> In 2015, Troops across the state have, on average, less than 60% of the manpower the agency's personnel allocation model states is needed in each Troop.<sup>161</sup>

In 2014-15 in particular, 142 employees leave the highway patrol, compared to only 102 in 2011-12.<sup>162</sup> Also, in **FY 2014-15, "personal" reasons account for approximately 59% of all Highway Patrol separations, compared to 27% in 2011-12.**<sup>163</sup> The agency states in a letter that changes have been made in pay scale in an effort to reinstate troopers separated from employment and to retain current troopers.<sup>164</sup> However, the agency acknowledges it is not tracking data in order to determine whether the efforts are effective.<sup>165</sup>

**Employee retention is an issue not isolated to the Highway Patrol Division.** In 2014-15 in particular, 199 employees leave the agency, which is 38.19% more than 2011-12 and 48.51% more than 2010-11.<sup>166</sup> The agency's **Human Resources Office has a turnover rate between approximately 30% and 60% from fiscal year 2012-13 through fiscal year 2014-15.**<sup>167</sup> **During the last four fiscal years, the agency's Information Technology Office is not fully staffed, and currently one-third of the positions are vacant.**<sup>168</sup> During the study, agency representatives mention a potential career path to assist in retention, but the agency has no information on potential costs, implementation dates, or even if it will be implemented.<sup>169</sup> Additional information on separations is available in Attachment 3 (Employee Separations). Statements from the agency's Staff Inspection Reports which relate to how the current number of personnel impact morale and operational effectiveness are included in the Morale section of this Report. Complete copies of Staff Inspection Reports can be found on the Committee's webpage.



## Equipment Replacement

Another potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement is a deficiency in replacing equipment.

The Subcommittee requests and receives from the agency information pertaining to equipment utilized by agency personnel. This information serves as a basis for the Subcommittee's recommendations.

Table 6. Summary of the Subcommittee's Recommendations: Equipment Replacement

RECOMMEND AGENCY ADDRESS . . .
<b>...EQUIPMENT REPLACEMENT</b>
7. Request a permanent line item, which identifies funding for the equipment replacement schedules, in the General Appropriations Act.
8. Develop a computer and technology replacement cycle; include this information in the agency's budget request.

An **issue of concern among Highway Patrol and Telecommunications Units across the state is a lack of reliable, functioning equipment.** As an example, an entire recent graduating class of troopers did not have properly functioning laptops installed in their vehicles.<sup>170</sup> Staff inspection reports note a variety of concerns pertaining to patrol vehicles and technology equipment (e.g., computers; telephones; software, etc.). Among other things, these concerns include both the distance and amount of time required to travel to repair vehicles or other equipment.<sup>171</sup> The agency states it uses grants and non-recurring funding for equipment.<sup>172</sup> Also, the agency states in a letter to the Subcommittee, "SCDPS has neither a formal policy nor a recurring budget regarding a computer and technology replacement cycle."<sup>173</sup>

## Applying Policies Consistently

Another potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty are deficiencies in consistent application of the agency's policies.

The Subcommittee requests and receives from the agency information pertaining to agency policies and the application of the policies. This information serves as a basis for the Subcommittee's recommendations.

Table 7. Summary of the Subcommittee's Recommendations: Applying Policies Consistently

RECOMMEND AGENCY ADDRESS . . .
<b>...APPLYING POLICIES CONSISTENTLY</b>
9. Implement the agency's existing Alcohol and Drug Deterrence Policy and perform random and post-accident drug testing of agency employees.

- 10.** Revise the agency's Residency Policy to have clear standards of which employees are required, and which are not required, to live within various requisite distances from their troop headquarters or their assigned post. Apply Residency Policy consistently.
- 11.** Update the agency's Audio-Video Monitor Report Form to include the reason the supervisor is reviewing a video. Track this information in the activity console (i.e., agency's internal database).
- 12.** Review the policies and format of the corrective action plans submitted by Troop Commanders in response to Staff Inspection Reports. Ensure these plans include deadlines and appropriate follow-up.

### *Alcohol and Drug Deterrence Policy*

The agency has an Alcohol and Drug Deterrence Policy which allows, among other things, for random drug testing, drug testing based on suspicion, and post-accident drug testing.<sup>174</sup> However, the **agency has opted not to perform any random (i.e., suspicion less) drug testing or post-accident drug testing during the last four years.**<sup>175</sup> The agency states, “[i]nsofar as a very small number of investigations and disciplinary actions over the last few years have been associated with drug/alcohol use, the Department does not view widespread random testing as a critical need at this time.”<sup>176</sup> The Subcommittee notes concerns with not utilizing this policy since troopers are entrusted with state vehicles, which they may operate at high levels of speed, carry weapons, and have the authority to arrest citizens.<sup>177</sup>

### *Disciplinary Policies*

The Subcommittee questions the agency about these policies as public input is received alleging a perception of an inconsistent application of the policy.<sup>178</sup> Discussion of the agency's application of its disciplinary policies is set forth in detail under the Communication and Morale section of this report.

### *Residency Policy*

The agency has a Residency Policy, which requires certain personnel to live within various requisite distances of the area of the state in which they are assigned.<sup>179</sup> The definition of “residence” in the policy states,

The fixed or permanent domicile of a person where s/he has an intention of returning when absent. SCDPS may consider the factors identified in SC Code 7-1-25(D) **and any other matter(s) deemed relevant** in determining the location constituting an officer's domicile under this policy (emphasis added).<sup>180</sup>

The Subcommittee questions the agency about this policy as public input is received alleging a perception of an inconsistent application of the policy.<sup>181</sup> During the study, there are more than ten ranking and ten non-ranking officers living outside the requisite area.<sup>182</sup> The justification for some of the waivers include, “statewide supervisory responsibilities.”<sup>183</sup> However, instead of individuals with statewide responsibility living in the center of the state, to allow for efficient travel throughout the state, several live in the upstate (York and Spartanburg) or on the coast (Horry and Berkeley).<sup>184</sup>

### *Supervisory Review of In-Car Audio/Video Recordings*

The agency has a policy which address supervisory review of in-car audio/video recordings.<sup>185</sup> The Highway Patrol Division Manual of Operations requires supervisory review of these recordings on a regular basis as well as when certain events occur.<sup>186</sup> When a supervisor reviews a trooper’s video, the supervisor is required to complete an “Audio/Video Monitor Report.”<sup>187</sup> However, the “Audio/Video Monitor Report,” does not include any sections which require a supervisor to note the reason the supervisor is reviewing the video, and data relating to supervisory review of a trooper’s video is not tracked in the Highway Patrol Division’s activity console.<sup>188</sup>

The Subcommittee questions the agency about this policy, and inability to readily track the reason for reviewing the video and number of videos reviewed. The basis for the questioning is public input the Subcommittee receives alleging a potential practice whereby the agency, or certain higher ranking personnel within the agency, request supervisors specifically review videos of troopers with alleged low activity to search for any type of violation for which the supervisor may refer the trooper to the Office of Professional Responsibility (OPR), thereby utilizing OPR as punishment for low activity.<sup>189</sup>

### *Implementing Commander Corrective Action Plans*

The agency performs Staff Inspections every three years.<sup>190</sup> The Staff Inspection Reports include recommendations for items to correct/improve and Troop Commanders are required to create plans to address issues.<sup>191</sup> However, during the study the Subcommittee is not made aware of any policies which ensure Commanders follow through with these plans.

### *Communication and Morale*

Another potential cause of the agency’s inefficiency and ineffectiveness in fulfilling its mission and statutory duty is deficiency in communication, particularly in the areas of external communication and internal feedback.

The Subcommittee requests and receives information pertaining to communication at the agency. This information serves as a basis for the Subcommittee’s recommendations.

*Table 8. Summary of the Subcommittee’s Recommendations: Communication and Morale*

RECOMMEND AGENCY ADDRESS . . .
<b>...COMMUNICATION AND MORALE</b>
<b>13.</b> Distinguish between the number of active troopers and number of troopers who are still in training when reporting data.
<b>14.</b> Restructure the agency so both the Office of Professional Responsibility and Human Resources Office report to the Legal Department, whose attorneys are subject to requirements of legal ethics and rules of professional responsibility to remain licensed to practice law, then the Director.
<b>15.</b> Adopt a process by which employees can provide feedback to the agency anonymously.

**16.** Have an outside entity perform a leadership climate and employee morale survey of the agency beginning this year and once every three years thereafter. Require agency leadership to generate and follow through with improvement plans based upon the results of the surveys.

**17.** Require Troop Commanders and Supervisors in the Blythewood Office, including the Director, to spend one day per month on the road to stay abreast of troopers' daily activities.

### *Human Resources Data*

During the study process, the Subcommittee reviews a variety of agency reports including those made to other legislative entities. **Human resources data from the agency may not be reliable as evidenced by inconsistencies in data provided to different House Committees.** While it is not unreasonable to have slight discrepancies in the number of employees for the current year, as the number of employees at an agency can change from day to day, it is reasonable to expect consistency in information from previous years.

As one example, on August 15, 2016, the Subcommittee requests, and the agency provides, information about the number of troopers at the start and end of each fiscal year for the past six fiscal years.<sup>192</sup> When the Subcommittee compares the information to similar data provided to another House Committee, the data is inconsistent.<sup>193</sup> Table 9 illustrates the variance in the data.<sup>194</sup>

*Table 9. Variance in data provided by the agency to two different House Committees*

Highway Patrol Law Enforcement Manpower			
Year	DPS Data to Other House Committee	DPS Data to House Oversight Committee	Variance
2015-16	760	760	0
2014-15	779	770	9
2013-14	761	756	5
2012-13	758	763	5
2011-12	809	793	16
2010-11	840	838	2

As another example, the **human resources information the agency provides to the same legislative entity does not appear to be consistent over multiple years.** Table 10 reflects differences in the agency's presentation of information to the same legislative entity with regards to Highway Patrol Officer Manpower.<sup>195</sup>

Table 10. Differences in the agency's presentation of information to the same legislative entity with regards to Highway Patrol Officer Manpower

Highway Patrol Commissioned Officer Manpower			
Year	DPS 2016-17 Data provided to legislative entity	DPS 2014-15 Data provided to legislative entity	Variance
2015	760		
2014	779	813	34
2013	761	778	17
2012	758	789	31
2011	809	798	11
2010	840	844	4
2009	853	853	0
2008	943	967	24
2007	881	881	0
2006	837	837	0
2005	763	763	0
2004	806	806	0
2003	854	854	0

### *Office of Professional Responsibility /Division Investigations*

Agency policies state **the Director has discretion over (1) which situations are and are not investigated<sup>196</sup> and (2) the discipline issued.**<sup>197</sup> The Office of Human Resources maintains a log containing investigative dispositions for matters investigated by the Office of Professional Responsibility along with disciplinary actions, if any.<sup>198</sup> The agency utilizes this information as a resource and reference for the Director and other members of the Disciplinary Review Committee when they are reviewing and making decisions on potential disciplinary actions.<sup>199</sup>

Data from the agency reveals what some may perceive to be **inconsistencies in addressing disciplinary matters pertaining to veracity.**

- In one situation, an employee is initially untruthful with a supervisor when questioned about the events surrounding another officer's review of in-car video and, later admits the untruthfulness.<sup>200</sup> The agency investigates the situation, classifies it as "Failure to Provide Truthful and Complete Information" and "Improper Conduct/Conduct Unbecoming a State Employee," terminates the employee, and submits a "Notification of Separation Due to Misconduct," form to the Law Enforcement Training Council.<sup>201</sup> This notification begins the process of removing the individual's certification as a law enforcement officer.
- In another situation, evidence shows a troop commander, along with the entire troop under his command, have RADAR training certifications containing false information.<sup>202</sup> The agency investigates the situation and terminates the training officer.<sup>203</sup> Also, there is a finding that "thirteen of the twenty-seven troopers who engaged in this conduct did so after [the troop commander] had participated in this practice. . . ."<sup>204</sup> The troop commander receives a one day suspension as the agency classifies his actions as "Negligence in the Performance of Supervisory

Responsibilities” and “Negligence in Following Rules, Regulations, Policies or Procedures,” instead of “Failure to Provide Truthful and Complete Information,” which requires termination under the agency’s progressive disciplinary policy.<sup>205</sup> Some of the individual troopers specifically acknowledge they signed the Speed Measuring Device (‘SMD’) Field Proficiency Test Form, admitted the signature was theirs, admitted they did not complete a field proficiency test using the speed measuring device, and admitted they issued speeding citations using their measuring device after the date they signed the form.<sup>206</sup> However, even these troopers receive only a letter of reprimand as the agency classifies their actions as “Negligence in Following Rules, Regulations, Policies or Procedures,” which allows for Level I reprimands, instead of “Failure to Provide Truthful and Complete Information,” which requires termination.<sup>207</sup>

- In another situation a trooper makes an arrest for simple possession of marijuana. The trooper allows the individual to plead guilty to the offense, and does not inform the Court the agency’s marijuana analysis report indicates the evidence tests negative for marijuana.<sup>208</sup> The trooper admits to receiving the report prior to the court date but states, “she was in the habit of saving documents on her email without opening the attachments.<sup>209</sup> According to [the trooper], she failed to review the report because she automatically assumed the results were positive based on her observation of the evidence.”<sup>210</sup> The Office of Professional Responsibility concludes the Trooper, “had access to the analysis report” but “failed to review the report prior to her court date.”<sup>211</sup> Conversely, there is not sufficient evidence to show that [the trooper] intentionally withheld this report in order to manipulate the defendant or the court.”<sup>212</sup> The agency classifies the matter as “Negligence in Following Rules, Regulations, Policies or Procedures,” which allows for a Level I reprimand, instead of “Failure to Provide Truthful and Complete Information,” which requires termination.<sup>213</sup>

Data from the agency reveals the **agency expends resources in matters some may consider inconsequential**. As an example, between 2012 and 2016, while only receiving nine citizen complaints about profanity, the Office of Professional Responsibility investigates 48 cases of profanity.<sup>214</sup> Two separate investigations of alleged of profanity each take nine months to reach a disposition.<sup>215</sup> While an officer is under investigation for any matter, including profanity, the officer is not eligible for promotion.<sup>216</sup>

Additionally, data from the agency reveals **the Office of Professional Responsibility and Division Investigations may remain open for years**. Table 11 provides examples of long periods of time some investigations of allegations remain open.<sup>217</sup> The data is current as of June 30, 2016.<sup>218</sup>

*Table 11. Examples of long periods of time some investigations of allegations remain open*

ALLEGATION	TIMEFRAME FOR INVESTIGATION (DPS records provided on June 30, 2016)
Improper conduct	1,173 days (3.1 years)
Insubordination	889 days (2.3 years)
Improper procedures	408 days (1.09 years)
Providing false information	Open since October 2013
Improper procedures	Open since February 2014

## *Morale*

Potential causes of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement of laws **include deficiencies in the following areas:** (1) hiring, recruitment, and retention; (3) replacement of equipment; (4) application of agency policies; and (5) communication and morale. These deficiencies have negatively impacted the morale of agency personnel across the state.

While agency management assert agency morale is at a 3 out of 4<sup>219</sup>, based on the scores from the Staff Inspection Reports, information received during the study process **indicates morale scores may be skewed based on the agency's directions to employees to not consider manpower issues when reporting morale.** This potential skewing of the data is illustrated by the following comments from the Staff Inspection Reports:

“Although the **post personnel were asked not to base answers regarding morale on manpower issues**, personnel seem to feel that they do not get to maximize their potential as far as their work ethic because they have no time for proactive enforcement activities because of the amount of calls for service compared to the number of troopers working at one time” (emphasis added).<sup>220</sup>

SC Highway Patrol Troop Six, Post B, Colleton and Dorchester

“Although it is **consistently stated by patrol command that this should not be considered**, field personnel relate that the **lack of personnel** does negatively affect morale and operational effectiveness” (emphasis added).<sup>221</sup>

SC Highway Patrol Troop Five, Post B, Dillon, Florence, and Marion

Another factor which may skew the data in the Staff Inspection Report is **morale scores are obtained by field lieutenants or officers with higher ranks** within the agency,<sup>222</sup> and constituents who have contacted Subcommittee Members state they have a fear of retribution when providing feedback to the agency.<sup>223</sup>

Table 12, provides examples of quotes from agency employees around the state, which are within Staff Inspection Reports. These quotes illustrate comments Subcommittee Members receive during the study and continue to receive:<sup>224</sup>

**Impact of Agency Deficiencies on Personnel and Safety of the Public**

The Highway Patrol separates the state enforcement into seven Troops (i.e., regions).

**Troop Three:**

**Anderson, Oconee, Pickens, Greenville, and Spartanburg**

“Most everyone interviewed was disappointed in the disciplinary actions of late. They felt that troopers were being written up for minimal violation and not given second chances; locally and throughout the state. Some troopers mentioned that they were afraid to do their job because of all the disciplinary actions being imposed.”<sup>225</sup>

**Troop Four:**

**Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield**

“Post personnel consistently describe shortages in staffing as having a negative effect on the overall operational effectiveness of the post.”<sup>226</sup>

**Troop Two:**

**Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda**

“The troopers feel the troop command staff does not truly understand how things really are out in the field, in particular to activity and the shortage of manpower.”<sup>227</sup>

“...many feel they are relegated to being in the area of the city limits in order to satisfy the (20) seat belt citations per month. The lack of patrolling in the county on secondary roadways was expressed as troopers feel they are not being able to do their job as they see it.”<sup>228</sup>

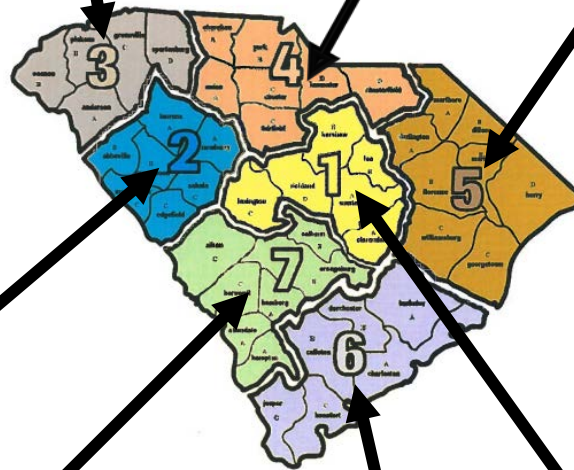
“Supervisors were concerned with low manpower, regaining trust, rebuilding confidence in the troopers...”<sup>229</sup>

**Troop Five:**

**Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry**

“Some troopers feel like the DPS Command Staff does not support them; therefore, they find themselves second guessing the decisions they make attempting to avoid making a mistake and possibly generating a District Investigation (DI).”<sup>230</sup>

“The leading cause for concern ... is (1) the low morale of the post - rated by the majority of personnel interviewed as ‘poor’ and (2) the overall lack of manpower.”<sup>231</sup>



**Troop Six:**

**Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper**

“The troopers feel like DPS Headquarters does not ‘have their backs...’”<sup>232</sup>

“The lack of quality equipment is frustrating. ... Repairs [to vehicles] are stated to normally take a month or two to complete.”<sup>233</sup>

“personnel seem to feel that they do not get to maximize their potential as far as their work ethic because they have no time for proactive enforcement activities because of the amount of calls for service compared to the number of troopers working at one time.”<sup>234</sup>

**Troop One:**

**Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland**

“Some feel that there is a ‘disconnect’ between the troop command staff and the road trooper”<sup>235</sup>

“Operational effectiveness was directly correlated to the overall lack of manpower; as well as, the lack of experienced personnel assigned to or retained within the post.”<sup>236</sup>

“At times, troopers in the post simply investigate collisions one after another with little time available to effectively reduce collisions through enforcement.”<sup>237</sup>

**Troop Seven:**

**Allendale, Bamberg, Barnwell, Hampton, Orangeburg, Calhoun, and Aiken**

“Personnel expressed concerns regarding the lack of quality applicants; therefore, resulting in less desirable trainees. Personnel, both supervisory and non-supervisory, recognize the lack of ‘experienced’ personnel as a cause for lower ratings in this area,” (area is operational effectiveness),<sup>238</sup>



## *Focusing on Agency's Primary Mission*

The Subcommittee requests and receives from the agency information pertaining to the agency's mission, duties, and powers. This information serves as a basis for the Subcommittee's recommendations.

*Table 13. Summary of the Subcommittee's Recommendations: Focusing on Agency's Primary Mission*

RECOMMEND AGENCY ADDRESS . . .
<b>...FOCUSING ON ITS PRIMARY MISSION</b>
<p><b>18.</b> Transfer the Illegal Immigration Enforcement Unit to the State Law Enforcement Division.</p> <p><b>19.</b> Transfer grants programs unrelated to highway safety (i.e., criminal justice, juvenile justice; and crime victims) to another agency.</p> <p><b>20.</b> Coordinate a meeting with the division of State Human Resources and other agencies which may have similar scheduling situations, (e.g., Department of Juvenile Justice; Department of Corrections; and Department of Social Services), to discuss ways to reduce the amount of time necessary to enter and update personnel hours in the South Carolina Enterprise Information System.</p>

The agency's mission is as follows:

As the largest law enforcement agency in South Carolina, it is the mission of the South Carolina Department of Public Safety to protect and serve the public with the highest standard of conduct and professionalism; to save lives through educating its citizens on **highway safety** and diligent **enforcement of laws governing traffic, motor vehicles, and commercial carriers**; and to ensure a safe, secure environment for the citizens of the state of South Carolina and its visitors (emphasis added).<sup>239</sup>

The duties and powers of the agency as provided in statute are as follows:

- (1) carry out **highway** and other related safety programs;
- (2) engage in **driver training and safety activities**;
- (3) enforce the **traffic, motor vehicle, commercial vehicle**, and related laws;
- (4) enforce size, weight, and safety enforcement **statutes relating to commercial motor vehicles**;
- (5) operate a comprehensive law enforcement personnel training program;
- (6) promulgate such rules and regulations in accordance with the Administrative Procedures Act and Article 7 of this chapter for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;
- (7) operate such programs and disseminate information and material so as to continually improve **highway safety**;
- (8) receive and disburse funds and grants, including any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter; and
- (9) do all other functions and responsibilities as required or provided for by law (emphasis added).<sup>240</sup>

Based on state statute and the agency's mission, the **Subcommittee notes the primary focus of the agency is highway safety.**

### *Illegal Immigration Enforcement Unit*

In 2011, an Illegal Immigration Enforcement Unit (IIEU) is created under the agency by the General Assembly.<sup>241</sup> The Director testifies the unit is performing well.<sup>242</sup> However, in response to questioning, Director Smith agrees the IIEU is aligned more within the State Law Enforcement Division's mission than the Department of Public Safety's mission.<sup>243</sup>

### *Justice Program Grants*

The agency serves as the agent for the State in accepting from the federal government, and then administering to subgrantees throughout the state, two groupings of grants: (1) Highway Safety Grants; and (2) Justice Program Grants.<sup>244</sup> Ms. Laura Hudson, a constituent, provides testimony to the Subcommittee which reveals how **issues with communication between the agency's finance department and grants department significantly impacts crime victim service providers (e.g., rape crisis organizations; domestic violence shelters; and children/sexual assault programs) across the state when there are significant delays in timely grant reimbursement payments (e.g., 30, 60, or in some cases, even 90 days).**<sup>245</sup> Additionally, testimony from the agency reveals position postings of additional personnel necessary for timely administration of these grants remained open for almost twelve months.<sup>246</sup>

### *SCEIS Scheduling*

Agency testimony indicates there are **issues with entering time in the South Carolina Enterprise Information System (SCEIS) since agency personnel do not work on the typical schedule** (i.e., 8:30 a.m. to 5:00 p.m.).

## *Analyzing and Updating Information*

The Subcommittee requests and receives from the agency information pertaining to the agency's analysis of information as well as the currentness of statutes applicable to the agency. This information serves as a basis for the Subcommittee's recommendations.

*Table 14. Summary of the Subcommittee's Recommendations: Analyzing and Updating Information*

RECOMMEND AGENCY ADDRESS . . .
<b>...ANALYZING AND UPDATING INFORMATION</b>
<b>21.</b> Research costs involved in the agency producing reports from the Multi-disciplinary Accident Investigation Team and private sector industry standards related to amounts charged for this type of information to determine appropriate charges for these reports.
<b>22.</b> Revise SC Code Section 23-6-187, relating to witness fees for trooper trained in Advanced Accident Investigation, testifying in civil matters, to allow agency to adjust the amount it charges each year with inflation.

**23.** Revise SC Code Section 23-6-20, relating to establishment of the agency, to remove references to transfers of divisions and, instead, require the agency to maintain a list of its divisions.

**24.** Update SC Code Section 23-6-30, relating to the duties and powers of the agency, to remove a reference to a training program now provided by the Criminal Justice Academy.

**25.** Revise SC Code Section 23-6-50, relating to an annual audit, carrying funds into the next fiscal year, and retention of revenue to meet the agency's expenses, to remove outdated references and allow the agency to expend certain funds for drug testing.

Some **individuals and companies purchase reports created by the Multi-Accident Investigation Team (MAIT) for use in private civil lawsuits.**

In reviewing statutes applicable to DPS, the Subcommittee notes there is **no provision in the statute which takes into consideration inflation in the amount the agency may charge when its personnel are called for depositions in private lawsuits.**

The Subcommittee notes **some statutes relating to the agency contain references that are either outdated or no longer reflect current practices.**

# RECOMMENDATIONS

## *Recommendations*

### *Generally*

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information, including but not limited to the Staff Study, Program Evaluation Report, Accountability Report, Restructuring Report and videos of meeting with the agency, can all be found on the Committee's website.

The agency has no recommendations to improve efficiency and outcomes.<sup>247</sup>

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

### *Revise (Curtail or Enhance)*

The Subcommittee has 27 recommendations relating to the agency. The Subcommittee's **recommendations for revisions to the agency's internal operations and revisions to laws fall into seven categories**. These categories include: (1) recruitment, hiring, retention, and public safety; (2) equipment replacement; (3) applying policies consistently; (4) communication, morale, and leadership issues; (5) focusing on its primary mission; and (6) analyzing and updating information. For the chart of recommendations and detailed wording, see Attachment 4 (Recommendations Chart and Details).

### *Eliminate*

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs, except for the programs the Subcommittee recommends move to another agency. The programs the Subcommittee recommends move to another agency are discussed in the "Leadership Issues" section and the chart of recommendations in Attachment 4 (Recommendations Chart and Details).

### *Follow Up*

The Subcommittee recommends receipt of quarterly reports from the agency as well as monthly updates on the status of grant payments to subgrantees (i.e., crime victim service providers).

## SELECTED AGENCY INFORMATION

**Department of Public Safety. "Program Evaluation Report, 2015."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (accessed March 20, 2017).

**Department of Public Safety. "Restructuring and Seven-Year Plan Report, 2015."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Public%20Safety.pdf> (accessed March 20, 2017)

**Department of Public Safety. "Annual Restructuring Report, 2016."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DPS.PDF> (accessed March 20, 2017)

**Department of Public Safety. "Accountability Report, 2015-16."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed March 20, 2017)

**Department of Public Safety. "Annual Request for Information, 2017)** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Department%20of%20Public%20Safety%20-%20RFI.pdf> (accessed March 20, 2017)

**SC House of Representatives, Legislative Oversight Committee. "September 2015 Survey Results."** [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf) (accessed March 20, 2017).

**SC House of Representatives, Legislative Oversight Committee. "Staff Study of the Department of Public Safety, April 29, 2016, Amended May 5, 2016."** [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20\(originally%20submitted%20April%2029,%202016;%20amended%20May%2005,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20(originally%20submitted%20April%2029,%202016;%20amended%20May%2005,%202016).PDF) (accessed March 20, 2017)

# CONTACT INFORMATION

## Committee Contact Information

Physical:

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You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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<http://www.scdps.gov>

## ENDNOTES

<sup>1</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>2</sup> SC House of Representatives, House Legislative Oversight Committee, “January 7, 2015 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January072015.pdf> (accessed February 9, 2016). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>3</sup> The committee’s recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee’s website under “Committee Postings and Reports,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed February 22, 2017).

<sup>4</sup> *SC Code of Laws*, sec. 2-2-10(1).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, “April 14, 2015 Full Committee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Meeting Minutes and Handouts” and under “Full Committee Minutes,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/April142015.pdf> (last accessed March 27, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Committee to DPS (April 22, 2015),” under “House Legislative Oversight Committee,” under “Agencies and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Committee%20to%20DPS%20\(April%2022,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Committee%20to%20DPS%20(April%2022,%202015).pdf) (accessed March 27, 2017).

<sup>7</sup> SC House of Representatives, House Legislative Oversight Committee, “2015-2017 Summary – House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20March%206,%202017.pdf> (last accessed March 19, 2017).

<sup>8</sup> SC House of Representatives, House Legislative Oversight Committee, “Subcommittees - 2015,” under “Committee Information,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed February 23, 2017).

<sup>9</sup> SC House of Representatives, House Legislative Oversight Committee, “Subcommittees - 2017,” under “Committee Information,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignments%20-%202017.pdf> (accessed February 23, 2017).

<sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, “Law Enforcement and Criminal Justice Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee and Other Information,” and under “Meeting Minutes and Handouts,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (last accessed March 19, 2017). Videos of the meetings are available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>11</sup> *Ibid.*

<sup>12</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>13</sup> Members of the Subcommittee received input from the public via an anonymous public survey about the agency and four other agencies during the month of September in 2015, comments via a link on the Committee website throughout the study, in-person testimony, phone calls, and emails.

<sup>14</sup> SC House of Representatives, House Legislative Oversight Committee, “Law Enforcement and Criminal Justice Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee and Other Information,” and under “Meeting Minutes and Handouts,”

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<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, “April 29, 2015 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April292015Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>16</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Rep Tallon to Chairman Delleny, (May 5, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>17</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release Announcing Public Survey (May 13, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Juvenile Justice, Department of (DJJ),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DJJ/Press%20Release%20announcing%20Public%20Survey%20\(May%2013,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DJJ/Press%20Release%20announcing%20Public%20Survey%20(May%2013,%202015).pdf) (last accessed February 23, 2017).

<sup>18</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (September 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Press%20Release%20announcing%20Public%20Survey%20\(September%201,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Press%20Release%20announcing%20Public%20Survey%20(September%201,%202015).pdf) (last accessed March 19, 2017).

<sup>19</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer’s Office (September 1-30, 2015),” under “Committee Information,” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf) (last accessed March 23, 2017). (Abbeville; Aiken; Anderson; Bamberg; Barnwell; Beaufort; Berkeley; Calhoun; Charleston; Cherokee; Chesterfield; Clarendon; Colleton; Darlington; Dorchester; Fairfield; Florence; Georgetown; Greenville; Greenwood; Hampton; Horry; Jasper; Kershaw; Lancaster; Laurens; Lexington; Marion; Marlboro; McCormick; Newberry; Oconee; Orangeburg; Pickens; Richland; Saluda; Spartanburg; Sumter; Union; Williamsburg; and York).

<sup>20</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4

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<sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer’s Office (September 1-30, 2015),” under “Committee Information,” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>22</sup> SC House of Representatives, House Legislative Oversight Committee, “Provide Feedback About a State Agency,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee.”

<sup>23</sup> SC House of Representatives, House Legislative Oversight Committee, “February 25, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawsSub/February252016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (March 2, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/March%202016%20Letter%20to%20DPS%20with%20Questions%20from%20Feb.%2025,%202016%20Subcom%20Mtg%20PDF.PDF> (last accessed March 19, 2017).

<sup>27</sup> Ibid.

<sup>28</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawsSub/April212016MinutesRevised.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>29</sup> Ibid. Director Leroy Smith’s initial term of office is confirmed by the Senate on March 6, 2012.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter DPS to Oversight Subcommittee (April 22, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/April%2022,%202016%20Ltr%20from%20DPS%20to%20Subcommittee.PDF> (last accessed March 19, 2017).

<sup>38</sup> Ibid.

<sup>39</sup> SC House of Representatives, House Legislative Oversight Committee, “2015-2017 Summary – House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20March%206,%202017.pdf> (last accessed March 19, 2017).

<sup>40</sup> SC House of Representatives, House Legislative Oversight Committee, “Staff Study and Agency Responses (April 29, 2016 and Amended May 5, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>41</sup> SC House of Representatives, House Legislative Oversight Committee, “May 5, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawsSub/May052016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to DPS (May 6, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>49</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (May 9, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20\(May%209,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20(May%209,%202016).PDF) (last accessed March 19, 2017).

<sup>50</sup> SC House of Representatives, House Legislative Oversight Committee, "May 26, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/May262016MinutesDPS.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Oversight full committee (May 31, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>55</sup> SC House of Representatives, House Legislative Oversight Committee, "June 1, 2016 Meeting Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/June012016.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to the Attorney General (June 8, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>59</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to DPS (June 15, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20\(June%2015,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20(June%2015,%202016).PDF) (last accessed March 19, 2017).

<sup>60</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (July 7, 2016)," under "House Legislative Oversight Committee," and under "Public Safety,

Department of (DPS),”

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<sup>61</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter #2 from DPS to Oversight Subcommittee (July 7, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>62</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>63</sup> Ibid.

<sup>64</sup> SC House of Representatives, House Legislative Oversight Committee, “Resources: Availability and Allocation PowerPoint Presentation by DPS (July 13, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Resources\\_%20Availability%20and%20Allocation%20PowerPoint%20presentation%20by%20DPS%20\(July%2013,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Resources_%20Availability%20and%20Allocation%20PowerPoint%20presentation%20by%20DPS%20(July%2013,%202016).pdf) (last accessed March 19, 2017).

<sup>65</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>66</sup> SC House of Representatives, House Legislative Oversight Committee, “Performance and Recommendations PowerPoint Presentation by DPS (July 13, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>67</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>68</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (July 15, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (July 19, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>70</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> SC House of Representatives, House Legislative Oversight Committee, “Internal Changes to Improve Agency Efficiency & Outcomes PowerPoint Presentation provided by DPS (July 20, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>76</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (July 22, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>81</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (August 15, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>82</sup> Ibid.

<sup>83</sup> SC House of Representatives, House Legislative Oversight Committee, “August 30, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (August 31, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>88</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (November 10, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20\(November%2010,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20(November%2010,%202016).PDF) (last accessed March 19, 2017).

<sup>92</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee with attachment (December 2, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(December%202,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(December%202,%202016).pdf) (last accessed March 19, 2017).

<sup>93</sup> Ibid.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Representative Tallon to DPS (January 5, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Rep.%20Tallon%20to%20DPS%20\(January%205,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Rep.%20Tallon%20to%20DPS%20(January%205,%202017).pdf) (last accessed March 19, 2017).

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Representative Tallon (January 24, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20\(January%2024,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20(January%2024,%202017).pdf) (last accessed March 19, 2017).

<sup>96</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Representative Tallon (January 24, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20\(January%2024,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20(January%2024,%202017).pdf) (last accessed March 27, 2017).

<sup>97</sup> SC House of Representatives, House Legislative Oversight Committee, “January 31, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/January312017Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (February 3, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Subcommittee%20to%20DPS%20\(February%203,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Subcommittee%20to%20DPS%20(February%203,%202017).pdf) (last accessed March 19, 2017).

<sup>101</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety,

Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Febbruary%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Febbruary%2017,%202017).pdf) (last accessed March 19, 2017).

<sup>102</sup> Ibid.

<sup>103</sup> SC House of Representatives, House Legislative Oversight Committee, “February 21, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February212017Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> SC House of Representatives, House Legislative Oversight Committee, “February 28, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> SC House of Representatives, House Legislative Oversight Committee, “fatalities and trooper activity,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Fatalities%20and%20Trooper%20Activity.pdf> (last accessed March 19, 2017).

<sup>115</sup> SC House of Representatives, House Legislative Oversight Committee, “remediation,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Remediation.pdf> (last accessed March 19, 2017).

<sup>116</sup> SC House of Representatives, House Legislative Oversight Committee, “video policies,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Video%20Policies.pdf> (last accessed March 19, 2017).

<sup>117</sup> SC House of Representatives, House Legislative Oversight Committee, “dispatch staffing,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Dispatch%20Staffing.pdf> (last accessed March 19, 2017).

<sup>118</sup> SC House of Representatives, House Legislative Oversight Committee, “grants,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Grants.pdf> (last accessed March 19, 2017).

<sup>119</sup> SC House of Representatives, House Legislative Oversight Committee, “DUI arrest data for calendar years 2012 through 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DUI%20Arrest%20Data%20for%20calendar%20years%202012%20through%202016.pdf> (last accessed March 19, 2017).

<sup>120</sup> SC House of Representatives, House Legislative Oversight Committee, “traffic collision statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>121</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Annual Report for each year 2012 through 2015,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2012%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2013%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2014%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2015%20SCHP%20Annual%20Report.pdf> (last accessed March 19, 2017).

<sup>122</sup> SC House of Representatives, House Legislative Oversight Committee, “March 7, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20and%20Public%20Safety%20-%20March%207%202017%20Minutes%20DPS.pdf>. A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Department of Public Safety, *Restructuring and Seven-Year Plan Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Public%20Safety.pdf> (last accessed March 20, 2017).

<sup>126</sup> Department of Public Safety, *Program Evaluation Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (last accessed March 20, 2017).

<sup>127</sup> SC House of Representatives, House Legislative Oversight Committee, “Staff Study of the Department of Public Safety, April 29, 2016, Amended May 5, 2016,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20\(originally%20submitted%20April%2029,%202016;%20amended%20May%205,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20(originally%20submitted%20April%2029,%202016;%20amended%20May%205,%202016).PDF)

(last accessed March 20, 2017).

<sup>128</sup> Department of Public Safety, *Annual Restructuring Report, 2016*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DPS.PDF> (last accessed March 20, 2017)

<sup>129</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>130</sup> Committee Standard Practice 13.4.

<sup>131</sup> Committee Standard Practice 13.5.

<sup>132</sup> Committee Standard Practice 14.1.

<sup>133</sup> Committee Standard Practice 14.5.

<sup>134</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>135</sup> Members of the Subcommittee received input from the public via an anonymous public survey about the agency and four other agencies during the month of September in 2015, comments via a link on the Committee website throughout the study, in-person testimony, phone calls, and emails.

<sup>136</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>137</sup> SC Code Annotated Section 23-6-30.

<sup>138</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Febuary%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Febuary%2017,%202017).pdf) (last accessed March 24, 2017). See page 59 of 66; SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2014 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,”

and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2014%20Fact%20Book.pdf> (last accessed March 24, 2017). See page 6

of 136; SC House of Representatives, House Legislative Oversight Committee, “Traffic Collision Statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>139</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Febuary%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Febuary%2017,%202017).pdf) (last accessed March 24, 2017). See page 3 of 66;

SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2014 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,” and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2014%20Fact%20Book.pdf> (last accessed March 24, 2017). See page 6

of 136; SC House of Representatives, House Legislative Oversight Committee, “Traffic Collision Statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>140</sup> SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2010 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,” and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2010FactBook.pdf> (last accessed March 24, 2017). See page 7 of 136;

SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Febuary%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Febuary%2017,%202017).pdf) (last accessed March 23, 2017) (As of February 7, 2017 the fatality count for 2016 was 1,015).

<sup>141</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Febuary%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Febuary%2017,%202017).pdf)



pdf (last accessed March 23, 2017). See page 59 of 66. (Citations in 2012-13 were 479,654. Citations in 2015-16 were 416,012. Total decrease of 63,642 citations); SC Code Section 14-1-240 (Until 2016, there was a five dollar surcharge on citations went to help fund the Criminal Justice Academy (CJA). This provision sunset on June 30, 2016).

<sup>142</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017).

<sup>143</sup> SC House of Representatives, House Legislative Oversight Committee, "Bureau of Protective Services Staff Inspection Report - Headquarters; Governor's Mansion Division; State Agency Support Division; Statehouse Division; Judicial Division (December 1, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Bureau%20of%20Protective%20Services%20\(December%201,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Bureau%20of%20Protective%20Services%20(December%201,%202015).pdf) (last accessed March 24, 2017). See page 35 of 108 (Governor's Mansion Division) and page 53 of 108 (State Agency Support) ("Officers believe the attentiveness BPS receives from the Blythewood Telecommunications Center (TCC) is poor. They detail significant delays when calling the TCC for on-duty/off-duty calls. Additionally, they express their inability to get a response during several enforcement actions to include foot pursuits, traffic stops, and records checks"). See page 72 of 108 (Statehouse Division) ("Officers expressed concern with the poor service the officers state they are receiving from the Blythewood Telecommunications Center (TCC). Officers describe situations where they get slow or no response from the TCC. These occurrences are described as not only when signing on and off duty, but when officers are attempting to or taking enforcement action."); SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 60-61 (Post A - Anderson) ("A large percentage of the troopers interviewed complained about the Telecommunication Center. Problems with telecommunications began occurring when the Greenwood TCC relocated to Greenville. Troopers feel the TCC Operators are not as familiar with the post area as they should be. Further, it was noted that TCC Operators take an extended time to answer and ultimately provide needed information. Their complaints relate to officer safety issues especially during the nightshift."); SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 62 (Post C - Fairfield and Chester) ("Many of the troopers interviewed complained about the Telecommunications Center. They feel the TCC Operator does not know the area as needed. Further, it takes the TCC Operator too long to answer the radio and to convey the needed information. Troopers state that the problem occurred when the Greenwood Center moved to Blythewood. Troopers believe the telecommunication issue has become a safety issue especially during the nightshift."); See page 57 (Post A - Cherokee and Union) ("The primary area of concern for the personnel assigned to the post is overwhelmingly the service provided by the telecommunications center (TCC). Throughout the interview process, supervisory and non-supervisory personnel alike described the service provided by the TCC as 'an officer safety issue.' Personnel describe the issue not as a personality conflict; moreover, as a 'staffing' concern. Personnel describe a communications channel, providing service to the entire troop, functioning with a single telecommunications operator. Their description of communications (TCC) was the single issue consistently identified as negatively affecting the morale of the personnel in the post.").

<sup>144</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 55:45 in the video. Colonel Oliver stated the agency's challenge is finding qualified applicants.

<sup>145</sup> SC House of Representatives, House Legislative Oversight Committee, "FTE and Personal Service Carryforward for FY2013 - FY2016 (provided by the Executive Budget Office)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/FTE%20and%20Personal%20Service%20Carryforward%20for%20FY2013%20-%20FY2016%20provided%20by%20EBO.pdf> (last accessed March 24, 2017).

<sup>146</sup> Ibid.

<sup>147</sup> 2012-13 General Appropriations Act and 2015-16 General Appropriations Act; SC House of Representatives, House Legislative Oversight Committee, "Budget, Staffing, Trooper Activity (2012-13 thru 2014-15)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Budget,%20Staffing,%20Warnings.pdf> (last accessed March 21, 2017).

<sup>148</sup> 2012-13 General Appropriations Act and 2015-16 General Appropriations Act.

<sup>149</sup> SC House of Representatives, House Legislative Oversight Committee, "Budget, Staffing, Trooper Activity (2012-13 thru 2014-15)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Budget,%20Staffing,%20Warnings.pdf> (last accessed March 21, 2017).

<sup>150</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 5 ("The final decision to hire or reject such applicants has always remained with me, and this authority has not and will not be delegated to another."); SC House of Representatives, House Legislative Oversight Committee, "July 20, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 17:50 in the video. ("At the end of the day, it's not the Colonel's decision, it's not HR's decision, it's not General Counsel's decision, that's my decision."); SC House of Representatives, House Legislative Oversight Committee, "November 1, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 2:48:30 in the video. ("Again, I was appointed by the Governor, confirmed by the Senate to make those hiring decisions, and that's what I do. I don't take that lightly. The governor didn't appoint the Colonel or the Chiefs, the Senate didn't confirm the Colonel or the Chiefs. They confirmed me. It is my job to make those hiring decision, and that is what I do.").

<sup>151</sup> SC House of Representatives, House Legislative Oversight Committee, "Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 22, 2017); SC House of Representatives, House Legislative Oversight Committee, "Director - Applicant materials

available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 22, 2017); SC House of Representatives, House Legislative Oversight Committee, “Number of Applicants the Director Cuts and Reasons Why - Highway Patrol (2015-16 and 2016-17),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Number%20of%20Applicants%20the%20Director%20Cuts%20and%20Reasons%20Why.pdf> (last accessed March 22, 2017).

<sup>152</sup> Ibid.

<sup>153</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 20, 2017); SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 20, 2017).

<sup>154</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 22, 2017); SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 22, 2017); SC House of Representatives, House Legislative Oversight Committee, “Number of Applicants the Director Cuts and Reasons Why - Highway Patrol (2015-16 and 2016-17),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Number%20of%20Applicants%20the%20Director%20Cuts%20and%20Reasons%20Why.pdf> (last accessed March 22, 2017);

SC House of Representatives, House Legislative Oversight Committee, “Applicants Rejected and Hiring Stage at which applicant was Rejected - Highway Patrol (2013-14 thru 2015-16),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Applicants%20Rejected%20and%20Hiring%20Stage%20at%20which%20applicant%20was%20Rejected%20-%20Highway%20Patrol%20\(2013-14%20thru%202015-16\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Applicants%20Rejected%20and%20Hiring%20Stage%20at%20which%20applicant%20was%20Rejected%20-%20Highway%20Patrol%20(2013-14%20thru%202015-16).xlsx) (last accessed March 22, 2017).

<sup>155</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 20, 2017).

<sup>156</sup> SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 20, 2017).

<sup>157</sup> October 3, 2016 email from Warren V. Ganjehsani, General Counsel for the Department of Public Safety to Charles Appleby, General Counsel for the House Legislative Oversight Committee includes an attachment which provides the following additional information, “Since Director Smith has been the Department’s Director, he has asked the agency’s Human Resources Director to report facts and background information gathered by the Highway Patrol (and, in the case of social media checks, Human Resources staff) regarding all applicants for law enforcement positions. The final decision to hire or reject such applicants has always remained with Director Smith, and this authority has not and will not be delegated to another.”

<sup>158</sup> SC House of Representatives, Archived State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Archived State Agency Reports,” and under “2013-14 Accountability Reports,” <http://www.scstatehouse.gov/Archives/aar2014/K05.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-9; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2014-15 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2015/k050.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-8; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2015-16 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2016/K050.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-8.

<sup>159</sup> Department of Public Safety, *Program Evaluation Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (last accessed March 20, 2017); SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2014-15 Accountability Reports,”

<http://www.scstatehouse.gov/reports/aar2015/k050.pdf> (last accessed March 23, 2017). See Performance Measure Item STP-8; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2015-16 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2016/K050.pdf> (last accessed March 23, 2017). See Performance Measure Item STP-7.

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<sup>160</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (March 16, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/March%2016%202016%20Letter%20from%20DPS%20in%20response%20to%20Subcom's%20March%20202016%20Letter.PDF> (last accessed March 23, 2017). See page 4 where the agency states the cost of training and equipping one new trooper is \$77,982.40 with all new equipment or \$32,982.40 if used equipment such as cars and weapons are utilized. 271 new troopers were added between 2012 and 2015.

<sup>161</sup> SC House of Representatives, House Legislative Oversight Committee, “Manpower per Troop from DPS internal Staff Inspection Reports (2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Manpower%20percentages%20from%20Staff%20Inspection%20Reports.xlsx> (last accessed March 23, 2017). Chart is a compilation of data from the agency’s internal Staff Inspection Reports, which are also available on the Committee’s website.

<sup>162</sup> SC House of Representatives, House Legislative Oversight Committee, “Turnover Details for the last 5 years provided by DPS,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 23, 2017). The agency provides

various reasons for personnel leaving including, but not limited to, conduct, different job, moved out of job area, retirement, and personal.

<sup>163</sup> Ibid.

<sup>164</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 8 of 560 ("the Department of Public Safety implemented a pay plan in September 2015 ... to encourage retention by more clearly defining pay raises and compensation for incumbent employees and to serve as a recruiting tool by making new employee salaries competitive with other departments within South Carolina").

<sup>165</sup> SC House of Representatives, House Legislative Oversight Committee, "November 1, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 21:10 in the video. ("Officially, probably not.")

<sup>166</sup> SC House of Representatives, House Legislative Oversight Committee, "Turnover Details for the last 5 years provided by DPS," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 23, 2017).

<sup>167</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 22 of 560; SC House of Representatives, House Legislative Oversight Committee, "Employment Data for 2010-11 thru 2015-16 including start and end of year numbers, separations and turnover rates," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Employment%20Data%20for%202010-11%20thru%202015-16%20including%20start%20and%20end%20of%20year%20numbers,%20separations%20and%20turnover%20rates.PDF> (last accessed March 23, 2017). Specific Turnover rates are as follows: 2012-13-52.6%; 2013-14-28.6%; 2014-15-63.6%; 2015-16-33.3%.

<sup>168</sup> SC House of Representatives, House Legislative Oversight Committee, "Turnover Details for the last 5 years provided by DPS," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 20, 2017); SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 23, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 1:40:20 in the video where the agency's Information Technology (IT) Director testified the IT office is funded 30 positions.

<sup>169</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 23, 2017). See page 8 of 560 (“It is expected, however, that further enhancements to the existing pay structure, would assist with retention; for example, the implementation of a career path that rewards the development of identified knowledge, skills, and abilities as well as longevity is a recommended means for retaining personnel. Such a plan would be dependent on recurring funding”).

<sup>170</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%202017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%202017,%202017).pdf) (last accessed March 23, 2017). See page 56 of 66.

<sup>171</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 64-65 (Post B - Kershaw/Lee) (“Equipment issues, especially the condition of patrol vehicles, were cited as negatively affecting operational effectiveness.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 57 (Post C - Greenville) (“The lack of quality equipment is frustrating to Post C personnel. This issue is compounded when their car or equipment requires maintenance by agency staff in Columbia. In part, the travel/repairs consume a full day which has ultimately lead to criticism when their activity is low.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 58 (Post C - Chester and Fairfield) (“Several troopers spoke in a negative manner about vehicle conditions and the length of time to have their vehicles repaired.”); and page 62 (“The overall operational effectiveness in the post is good however, some of the troopers felt like they do not have access to the resources to perform their jobs. They mention vehicle with high mileage, lack of manpower, and lengthy DI investigations.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%202014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%202014-18,%202015).PDF) (last accessed March 23, 2017). See page 87 (Post A - Darlington and Marlboro) (“The most negative issue affecting operational effectiveness communicated by the troopers interviewed was equipment. The troopers specifically commented on the condition of the computers and the LIDARS. Troopers stated if the computer assigned to them needs repairs, it takes weeks to get another computer or to have repairs completed. These factors create an untimely delay for the troopers completing reports. The lack of a working computer creates duplication documenting the public contacts.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%202016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%202016-19,%202015).PDF) (last accessed March 23,

2017). See page 75 (Post C - Beaufort, Jasper) (“The lack of quality equipment is frustrating. When there are body repair issues with a car, the closest body shop is located in Walterboro. Repairs are stated to normally take a month or two to complete. During that time, the trooper has to drive a spare car. The spare cars are stated to be in very poor shape (faded paint, high mileage, RADARs that are not operational, and the speedometer reportedly does [not] work in either spare car.”); and page 80 (“The most frustrating issues were: the poor condition of the spare cars; the time it takes to get a damaged car repaired (there is no body shop under state contract located within the post); and personnel do not feel like DPS Headquarters ‘has their back.’”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Communications Staff Inspection Report (November - December, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Highway%20Patrol%20Communications.PDF> (last accessed March 24, 2017).

See page 20 of 102 (Blythewood TCC) (“Areas of concern were communicated as computers (DPS Tech Support needs to be prompt in solving issues) and telephones (less down time as it relates to breakdowns and upgrades.”); See page 40 of 102 (Charleston TCC) (“TCOs expressed concerns about problems experienced with the CAD and not having GPS to attempt to locate callers. ... The TCC computers are slow. All TCOs interviewed gave special noted attention to the CAD being slow and not being updated with a GPS system.”); See page 59-60 of 102 (Florence TCC) (“Although the overall operational effectiveness was rated as good, there is room for improvement. Those identified areas were related to the computers, the CAD (very slow) - the upgrades made the problem(s) worse, and the telephone equipment (not good). .. The TCOs expressed concerns with CAD being slow and the system not able to keep up with the current communication demands.”); See page 82 of 102 (Greenville TCC) (“Interviews with the TCOs in this assessment revealed that they had the resources needed to perform their jobs; however, they expressed concerns regarding problems they have with the CAD upgrades, computer equipment (often ‘freezing up’), being understaffed, and the fact that some TCOs show no care for the job.”); See page 21 of 102 (Blythewood TCC) (“The supervisors and the TCC manager described several areas of concern. The areas included a need for upgrades (GEO Mapping, CAD, and computer equipment), a need for expedient communication and a coordinated response plan in the rare instance that a suspicious package is delivered to the DPS Office Complex, and manpower shortages (‘Something needs to be done to slow the revolving door of employee turnover.’”).

<sup>172</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/November%2012016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 45:00 in the video. (“That \$2 million is for four hours of every pay period. The issue of that carry over money, is that we needed vehicles, so most of the money goes to equipment;”) and 50:45 in the video (“In the past, we have had to come to the General Assembly to ask money for cars. As gas prices dropped, we were able to use carry over money for those kind of issues without coming to ask for more one-time expenditures.”).

<sup>173</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%2017,%202017).pdf) (last accessed March 23, 2017). See page 55 of 66. As an example, with the most recent graduating class of troopers, none of the 62 laptops installed in their vehicles functioned properly.

<sup>174</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 200.04 Alcohol and Drug Deterrence Program,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20200.04%20Alcohol%20and%20Drug%20Deterrence%20Program%20\(Effective%20June%202022,%202021\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20200.04%20Alcohol%20and%20Drug%20Deterrence%20Program%20(Effective%20June%202022,%202021).pdf) (last accessed March 23, 2017).

<sup>175</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other

Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%2017,%202017).pdf) (last accessed March 23, 2017).

<sup>176</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%2017,%202017).pdf) (last accessed March 23, 2017). See page 5 of 66.

<sup>177</sup> SC House of Representatives, House Legislative Oversight Committee, “March 7, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/March72017MinutesDPS.pdf>. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 2:23 in the video.

<sup>178</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 1:36:45 in the video. (“What you’re saying is that it’s not a consistent disciplinary action? Case by case basis.”).

<sup>179</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 300.47 - Residency Requirements for Commissioned Officers (Effective Date July 2, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Residency%20Requirements.pdf> (last accessed March 23, 2017).

<sup>180</sup> Ibid.

<sup>181</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 53:20 in the video (“Some of your officers out there feel like there is a double standard that some people get to do things that others don’t;”) and 54:51 in this video, (“Maybe you should change your policy to explain that because your troopers don’t understand that and see favoritism,”) and 57:11 in this video (“You got troopers out here that are saying that they have a policy but they are not required to follow it”).

<sup>182</sup> SC House of Representatives, House Legislative Oversight Committee, “Residency Requirement Waivers for Troopers and Supervisors (August 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Domicile%20Policy%20-%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF> (last accessed March 23, 2017).

<sup>183</sup> Ibid.

<sup>184</sup> SC House of Representatives, House Legislative Oversight Committee, “Residency Requirement Waivers for Troopers and Supervisors (August 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Domicile%20Policy%20-%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF>



%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF (last accessed March 20, 2017).

<sup>185</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 300.06 - In Car Video and Recording February 17, 2016 version; replaced policy dated February 5, 2015," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20\(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015).pdf) (last accessed March 23, 2017).

<sup>186</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Manual of Operations re: Video Recording and Review by Supervisors (Revised Sept. 25, 2013)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20\(Revised%20September%2025,%202013\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20(Revised%20September%2025,%202013).pdf) (last accessed March 23, 2017).

<sup>187</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 300.06 - In Car Video and Recording, February 17, 2016 version; replaced policy dated February 5, 2015," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20\(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015).pdf) (last accessed March 20, 2017); and SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Manual of Operations re: Video Recording and Review by Supervisors (Revised Sept. 25, 2013)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20\(Revised%20September%2025,%202013\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20(Revised%20September%2025,%202013).pdf) (last accessed March 20, 2017).

<sup>188</sup> SC House of Representatives, House Legislative Oversight Committee, "Audio-Video Monitor Report Form (March 2016 - DPS Policy 300.06)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Audio-Video%20Monitor%20Report%20\(March%202016%20-%20DPS%20Policy%20300.06\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Audio-Video%20Monitor%20Report%20(March%202016%20-%20DPS%20Policy%20300.06).pdf) (last accessed March 20, 2017).

<sup>189</sup> Committee staff summary of constituent input email message to the House Legislative Oversight Committee's Law Enforcement and Criminal Justice Subcommittee, September 9, 2016.

<sup>190</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 3:36:00 in the video.

<sup>191</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 3:47:00 in the video.

<sup>192</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 27, 2017). See page 22 of 560.

<sup>193</sup> Materials the Department of Public Safety (DPS) provided to the House Ways and Means Law Enforcement Subcommittee and Criminal Justice Subcommittee during DPS' budget presentation in early 2016, "Highway Patrol Commissioned Officer Manpower"; SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 23, 2017). See page 6 of 560, ("Please provide the following information, separated for civilians and sworn officers, for each fiscal year from 2010-11 through 2015-16: number of employees at start of the year, number of employees at end of the year, and number of employee separation during the year"); SC House of Representatives, House Legislative Oversight Committee, "Employment Data for 2010-11 thru 2015-16 including start and end of year numbers, separations and turnover rates," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Employment%20Data%20for%202010-11%20thru%202015-16%20including%20start%20and%20end%20of%20year%20numbers,%20separations%20and%20turnover%20rate.s.PDF> (last accessed March 23, 2017) (See Law Enforcement, SCDPS Highway Patrol; Begin '10-11=838, End '10-11=796; Begin '11-12=793, End '11-12=763; Begin '12-13=763, End '12-13=756; Begin '13-14=756, End '13-14=772; Begin '14-15=770, End '14-15=762; Begin '15-16=760, End '15-16=780).

<sup>194</sup> Ibid.

<sup>195</sup> Materials the Department of Public Safety (DPS) provided to the House Ways and Means Law Enforcement Subcommittee and Criminal Justice Subcommittee during DPS' budget presentation in early 2016 and early 2014.

<sup>196</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 100.07 - OPR November 25, 2015 version; replaced policy dated May 31, 2012," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20\(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012).pdf) (last accessed March 23, 2017). See Section VIII. A. ("Each allegation or complaint made against an employee or the agency will be reviewed by OPR and referred to the director to determine if the matter will be investigated. If the complaint is minor in nature, the complaint may be referred to the appropriate division director to investigate.") (emphasis added).

<sup>197</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 100.07 - OPR November 25, 2015 version; replaced policy dated May 31, 2012," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20\(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012).pdf) (last accessed March 23, 2017). See Section IX, 2 ("If the director determines that disciplinary action is not warranted, the report will be returned to the chief investigator. If the director determines that disciplinary action is warranted, the director, with the assistance of the Office of Human Resources (HR), will notify the employee of the action by letter.") (emphasis added).

<sup>198</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (February 17, 2017)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%202017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%202017,%202017).pdf) (last accessed March 23, 2017).

<sup>199</sup> Ibid.

<sup>200</sup> SC House of Representatives, House Legislative Oversight Committee, "OPR File #PR-2101-14-0024-D

(December 8, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20file%20for%20Corporal%20B.E.%20Kyzer%20provided%20by%20DPS%20\(December%208,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20file%20for%20Corporal%20B.E.%20Kyzer%20provided%20by%20DPS%20(December%208,%202014).pdf) (last accessed March 23, 2017).

<sup>201</sup> Ibid.

<sup>202</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0045-D (July 11, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20\(July%202011,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20(July%202011,%202014).pdf) (last accessed March 23, 2017).

<sup>203</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0033-D (June 19, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0033-D%20\(June%202019,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0033-D%20(June%202019,%202014).pdf) (last accessed March 23, 2017).

<sup>204</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0045-D (July 11, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20\(July%202011,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20(July%202011,%202014).pdf) (last accessed March 23, 2017).

<sup>205</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>206</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-003-D - 27 other related employees disciplined,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-003-D%20-%2027%20other%20related%20employees%20disciplined.pdf> (last accessed March 23, 2017). See page 11 of 28.

<sup>207</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>208</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2101-14-0017-D (March 23, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Alford-PR-2101-14-0017-D.pdf> (last accessed March 23, 2017).

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

<sup>213</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>214</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 (June 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20-%20OPR%20Case%20Summaries%20for%202010%20through%20June%202016.pdf> (last accessed March 23, 2017). Oversight Committee staff compiled this information from the “2010-2015 OPR / DI Case Summaries with demographics” documents provided by DPS on June 29, 2016. DPS personnel testified during the July 13, 2016 Subcommittee meeting that this information was tracked via Microsoft Access, without uniform allegation naming until 2014. In 2014, the data was moved to a new database and DPS began utilizing drop down menus to assist it in naming allegations consistently.

<sup>215</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 Excel Charts (listing of cases provided by DPS via email on June 30, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20\(provided%20via%20email%20on%20June%2030,%202016\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20(provided%20via%20email%20on%20June%2030,%202016).xlsx) (last accessed March 28, 2017). The first matter was opened in August 2013 as OPR File #PR-13-0050 and remained open for 250 days, before it was closed and re-opened as #DI-14-0051-D, which remained open another 29 days, making the investigation a total of 279 days. Another matter, #DI-14-0003-D, was opened in January 2014 and took 281 days to reach a finding.

<sup>216</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20Sub/July132016Minutes.pdf> (last accessed March 23, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. (last accessed March 23, 2017). See 4:37:54 in the video. (“If they are under investigation they cannot be promoted. ... No, they are not eligible for promotions while under investigation.”).

<sup>217</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 Excel Charts (listing of cases provided by DPS via email on June 30, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20\(provided%20via%20email%20on%20June%2030,%202016\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20(provided%20via%20email%20on%20June%2030,%202016).xlsx) (last accessed March 28, 2017). See OPR File #PR-12-0027 (1173 days (3.1 years)) with allegation of “improper conduct”; OPR File #PR-13-0013 (889 days (2.3 years)) with allegation of “insubordination”; OPR File #PR-13-0074 (691 days and still counting (1.85 years)) with allegation of “providing false information” that is still pending; OPR File #PR-14-0008-C (592 days and still counting (1.59 years)) with allegation of “improper procedures” that is still listed as active; and OPR File #DI-15-0047-C (408 days (1.09 years)) with allegation of “improper procedures.”

<sup>218</sup> Bonnie Brooks, email message to Charles Appleby, June 30, 2016. (“Mr. Appleby, on behalf of Director Smith, in addition to the information that was hand-delivered to the HLOC on June 29, 2016, attached please find OPR/DI Case Summaries in excel format as requested. Please let us know if you have any questions or need additional information. Thank you so much. B.”)

<sup>219</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20Sub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 39:20 in the video. (“We have staff inspections where we go in and get a good sample set of each component that we’re inspecting. We look at morale, operational

effectiveness, the leadership, and we look at the communication lines. Under our recent inspection, the moral was very good. It was a 3.0 on a 4.0 scale.”)

<sup>220</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 74 (Post B - Colleton, Dorchester)

<sup>221</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). Page 87 (Post B - Dillon, Florence, and Marion)

<sup>222</sup> SC House of Representatives, House Legislative Oversight Committee, “August 30, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 4:28:00 in the video. (“The team is composed with field lieutenants or officers with higher ranks. They are pulled from different troops when it is time to inspect another troop.”).

<sup>223</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 1:13:45 in the video. (“I am going to make a comment back to Colonel Oliver. When I was talking to people who did not get promoted or had a grievance filed against them or something like that, some of them yes, and many of them no, there are number of troopers out there that are afraid to say what they feel like they need to say for fear of retribution.”).

<sup>224</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 47:14 in the video (“Since we’ve started this oversight process, I’ve been getting calls from law enforcement officers all over the state. I owe it to them to ask these questions. I have never seen the morale at highway patrol as low as it is now.”).

<sup>225</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 66 (Post B - Oconee and Pickens).

<sup>226</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 61 (Post A -

Cherokee and Union).

<sup>227</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 40 (Post A - Laurens and Newberry).

<sup>228</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 42 (Post A - Laurens and Newberry).

<sup>229</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 44 (Summary / Conclusion).

<sup>230</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). See page 83 (Post B - Dillon, Florence, and Marion) (“Very little individual counseling is conducted for performing well. On the other hand, troopers state they get ‘talked to’ often for poor activity ... Some troopers feel like the DPS Command Staff does not support them; therefore, they find themselves second guessing the decisions they make attempting to avoid making a mistake and possibly generating a District Investigation (DI).”).

<sup>231</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). See page 90 (Post D - Horry).

<sup>232</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 75 (Post C - Beaufort and Jasper).

<sup>233</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 75 (Post C - Beaufort and Jasper).

<sup>234</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 74 (Post B - Colleton, Dorchester).

<sup>235</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 61 (Post B - Kershaw and Lee).

<sup>236</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 67 (Post D - Richland).

<sup>237</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 65 (Post B - Kershaw and Lee).

<sup>238</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 7 Staff Inspection Report - Allendale, Bamberg, Barnwell, Hampton, Orangeburg, Calhoun, and Aiken (July 24, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%207%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%207%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 56 (Post C - Aiken).

<sup>239</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>240</sup> SC Code Annotated Section 23-6-30.

<sup>241</sup> 2011 Act No. 69, section 17, effective upon concurrence of contingency.

<sup>242</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April212016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 39:32 in the video.

<sup>243</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April212016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 40:31-40:59 in the video. (When asked if he feels the Illegal Immigration Enforcement Unit is within the mission of DPS, Director Smith, “To be quite candid, that mission falls under the responsibility of SLED. I would never sit here and try to lead you down the wrong path. The mission, when you look at SLED’s mission, in terms of criminal investigation, it falls under the mission of SLED.”).

<sup>244</sup> SC Department of Public Safety, Office of Highway Safety & Justice Programs, <http://www.scdps.gov/ohsjp/> (last accessed March 24, 2017).

<sup>245</sup> SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 11:33-28:00 in the video.

<sup>246</sup> SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 46:27-48:10 in the video.

<sup>247</sup> SC House of Representatives, House Legislative Oversight Committee, "Performance and Recommendations PowerPoint presentation by DPS (July 13, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Performance%20and%20Recommendations%20PowerPoint%20presentation%20by%20DPS%20\(July%2013,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Performance%20and%20Recommendations%20PowerPoint%20presentation%20by%20DPS%20(July%2013,%202016).pdf) (last accessed March 24, 2017). See slide 34 of 38.



**Legislative Oversight Committee**  
South Carolina House of Representatives  
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# Notification of the Education and Cultural Subcommittee's Study of the Department of Archives and History

June 2, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Education and Cultural Subcommittee's oversight study of the Department of Archives and History is available for consideration by the full committee.

The Honorable James E. Smith, Jr.  
Education and Cultural Subcommittee Chair

cc: The Honorable Raye Felder  
The Honorable Joseph G. Jefferson, Jr.  
The Honorable Tommy Stringer

# Legislative Oversight Committee

## Study of the Department of Archives and History *June 2, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# AGENCY SNAPSHOT

## S.C. Department of Archives and History

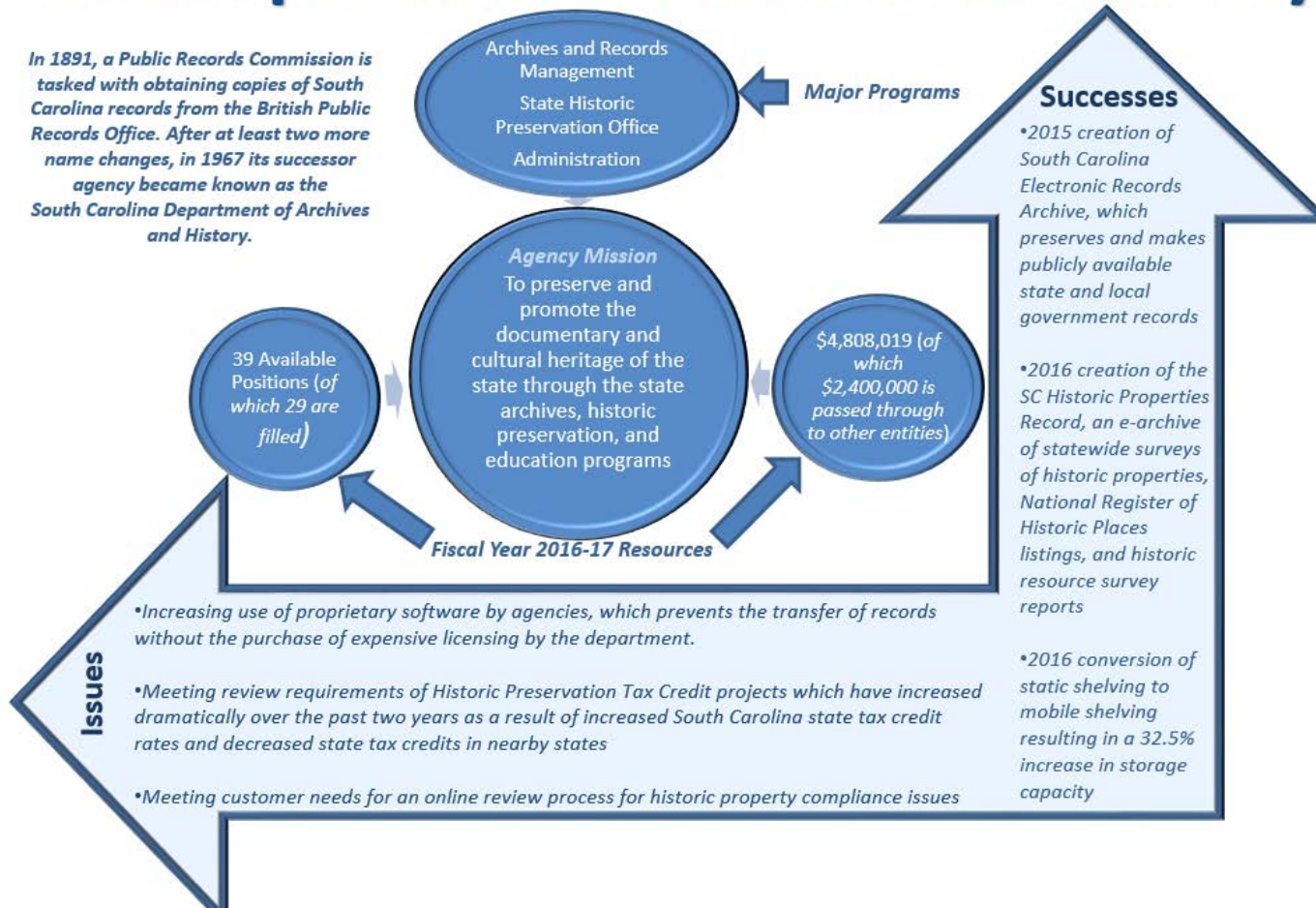


Figure 1. Snapshot of agency's history, major programs, Fiscal Year 2016-17 resources, successes, and issues.<sup>1</sup>

## EXECUTIVE SUMMARY

### *Purpose of Oversight Study*

As stated in SC Code of Laws § 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**” In making these determinations, the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

### *Study Process*

The House Legislative Oversight Committee’s (Committee) process for studying the Department of Archives and History (agency, Department, or Archives) includes actions by the full Committee; Education and Cultural Subcommittee (Subcommittee); the agency; and the public. A summary of the key dates and actions of are listed below in Figure 2.

#### Legislative Oversight Committee Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides agency with notice about the oversight process
- May 1-31, 2016 - Solicits input from the public about the agency in the form of an online public survey
- March 2, 2017 - Holds **Meeting # 1** to obtain public input about the agency

#### Education and Cultural Subcommittee Actions

- April 26, 2016 - Holds **entry meeting** with agency to discuss the study process
- March 7, 2017 - Holds **Meeting #2** with agency to discuss its **history, strategic plan, major program, products and services**
- March 21, 2017 - Holds **Meeting #3** with agency to discuss its **strategic plan, resources, and governmental partners**
- April 18, 2017 - Holds **Meeting # 4** with agency to discuss its **programs, objectives and performance measures**
- April 25, 2017 - Holds **Meeting #5** with agency to discuss its governing **laws and recommendations**
- May 11, 2017 - Holds **Meeting #6** with agency to further discuss its **recommendations**

## Department of Archives and History Actions

- March 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- January 12, 2016 - Submits its **2016 Annual Restructuring Report**
- May 26, 2016 - Submits its **Program Evaluation Report**
- November 11, 2016 - Submits its response to a **Request for Information** to keep oversight materials online current
- April 2016 - May 2017 - Meets with and **responds to Subcommittee's inquiries**

## Public's Actions

- May 1-31, 2016 - Provides input about agency via **online public survey**
- March 2, 2017 - Provides **testimony** to the full Committee
- Ongoing - **Submits written comments on the Oversight Committee's webpage** on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

Figure 2. Summary of key dates and actions of the study process.

## Recommendations

The **Subcommittee has ten recommendations** arising from its study of the agency. These recommendations fall into three categories: (1) recommendations for the Department of Archives and History; (2) recommendations for the General Assembly; and (3) recommendations for agencies in general.

Table 1. Summary of recommendations arising from the study process.

Topic	Recommendations for . . .
	<b>. . . Department of Archives and History</b>
<b>Certified Local Government Program</b>	<b>1.</b> Create informational media (e.g., pamphlet) and work with the Municipal Association of South Carolina to raise awareness among municipalities about the Certified Local Government Program, which promotes community preservation planning and heritage education through a partnership with the State Historic Preservation Office (i.e., the agency) and the National Park Service.
<b>Fees</b>	<b>2.</b> Conduct a regular review of fees or charges for services to commercial customers to ensure they sufficiently cover the agency's cost to research and prepare materials.
	<b>. . . General Assembly</b>
<b>Taxpayer Voluntary Contributions</b>	<b>3.</b> Revise SC Code of Laws § 12-6-5060 to authorize taxpayer voluntary contribution to the Department of Archives and History to be used to purchase or preserve collections with significant historical value to South Carolina.
<b>Proviso Codification</b>	<b>4.</b> Codify Proviso 26.1 by revising SC Code of Laws § 60-11-120 relating to disposition of certain duplicative archival material.

	5. Codify Proviso 26.2 by revising SC Code of Laws § 60-11-100 to allow for use of proceeds.
State Historic Preservation Grant Fund	6. Revise SC Code of Laws § 12-6-3535 so as to establish a State Historic Preservation Grant Fund through authorization of a fee for the State Historic Preservation Office's review of state income tax credit applications for making qualified rehabilitation expenditures to a certified historic structure. Require the agency to develop an application process for distribution of funds from the State Historic Preservation Grant Fund.
Record Retention	7. Ask all agencies under study by the House Legislative Oversight Committee if they are current with transferring records, including electronic ones, to the Department of Archives and History. If not, why not?
Technology Funding	8. Ask any agency that has a technology funding request for a server if it is current with transferring its electronic records to the Department of Archives and History. If not, why not?
Pass-Through Funding	9. Provide accountability for funds that pass through state agencies to other entities. This is a concept recommendation only.
	<b>. . . Agencies in general</b>
Procurement	10. Include provisions allowing for the transfer of the records to the Department of Archives and History when procuring proprietary software.

There are no specific recommendations with regards to continuance of agency programs or elimination of agency programs.

### *Internal Changes Implemented by Agency Related to Study Process*

During the study process, the agency implements two internal changes directly related to participation in the study process. First, **testimony received at the March 2, 2017, public input meeting from a longtime patron of the agency helps inform a management decision** to post an opening for a curator position at the agency.<sup>3</sup> Second, **public input received in the May 2016 online survey and Subcommittee questioning of the agency about this public input helps inform management about the existence of a substantial number of records (over 4,000 boxes) at the Department of Health and Environmental Control that need to be moved to temporary storage at the Department of Archives.**<sup>4</sup> During the study process, the agency develops a plan to address the backlog.



# AGENCY OVERVIEW

## *History*

The **Department of Archives and History** has provided the Committee with the below overview of the **agency's history**.<sup>5</sup> In addition, Committee staff has confirmed the accuracy of any assertion of legislative action.

### *Creation of the Public Records Commission and Archives Department*

- In 1891, the General Assembly creates the Public Records Commission to obtain copies of South Carolina records in the British Public Records Office.<sup>6</sup>
- In 1894, the General Assembly creates the South Carolina Historical Commission to acquire further historical documents.<sup>7</sup>
- In 1905, the General Assembly expands the mission of the Historical Commission, making it responsible for noncurrent state government records and authorizing the hiring of a full time secretary.<sup>8</sup>

### *Progression of the Archives Department*

- **In 1905, Alexander S. Salley becomes the agency's first director.** He serves until his retirement in 1949.<sup>9</sup>
  - Early in his tenure, Salley concentrates on arranging, indexing and publishing records of the American Revolution, rolls of the state's Confederate soldiers, and legislative journals. During the 1920s and 1930s, Salley leads the successful campaign to get the World War Memorial building funded and constructed as the new home of the agency.<sup>10</sup> Finally in 1935, the Historical Commission moves from the three rooms in the State House to the first floor of the World War Memorial Building at the corner of Pendleton and Sumter Streets in Columbia. During the next decade, Salley hires six staff members and begins work on arranging the large mass of state agency records transferred from the State House.<sup>11</sup>
- **In 1949, Dr. J. Harold Easterby is appointed the second director of the Historical Commission.** He serves until his death in 1960.<sup>12</sup>
  - In 1951, Dr. Easterby expands the publications program to include the Colonial Records of South Carolina series, the State Records of South Carolina series, and the Papers of John C. Calhoun series.<sup>13</sup>
  - In 1954, the General Assembly passes the Archives Act changing the agency's name to the South Carolina Archives Department. The agency is given extended responsibilities for the preservation, access and disposal of non-current government records, approval of historical marker inscriptions, and the editing and publication of state historical documents.<sup>14</sup>
  - By 1960, Dr. Easterby completes the successful campaign for the funding, construction, and opening of the new Archives Building at the corner of Senate and Bull Streets in Columbia.<sup>15</sup>

- **In 1961, Charles E. Lee is appointed the third director of the agency.**<sup>16</sup> Mr. Lee serves from 1961 until his retirement in 1987. During his tenure, the staff grows from 13 members in 1961 to a peak of 130 members in 1980.<sup>17</sup>
  - In 1964, the agency establishes the South Carolina Confederation of Local Historical Societies to stimulate and promote the study of local history.<sup>18</sup>
  - As a result of the National Historic Preservation Act in 1966, the State Historic Preservation Office becomes part of the agency in 1969. Duties for this program include administering the National Register of Historic Places, statewide surveys of historic properties, § 106 review of federal projects impact on historic sites, tax credits for the rehabilitation of historic buildings, certified local government program, and the distribution of federal grant money to assist preservation projects.

### *Name Change to the Department of Archives and History*

- While still under Director Charles E. Lee, **in 1967 the Archives Department becomes the South Carolina Department of Archives and History.** The new name recognizes the Department's additional responsibilities for historic preservation, historical services and records management.<sup>19</sup>
  - In 1969, the department implements a records management program for state and local government that will include records retention schedules, document microfilming, and the operation of a state record center on Blanding Street in Columbia. This program eventually allows the state to save \$800,000 per year in cost avoidance measures.
  - By 1971, a new wing is added to the Archives Building doubling the size of the stack, office research and laboratory space.<sup>20</sup>
  - In 1972, the agency begins computer generated item level indexing of early and important record series from the archival collection.<sup>21</sup>
  - In 1973, the General Assembly passes the Public Records Act, giving the Archives Department authority to enforce the proper disposal of records created by state agencies and local government offices.<sup>22</sup>
  - In 1976, the Department publishes "The South Carolina Archives: A Temporary Summary Guide," the first comprehensive list of all records in the archival collection.<sup>23</sup>
  - In 1981, the first staff downsizing in the history of the agency closes the microfilm service bureau and reduces the publications program.<sup>24</sup>
  - In 1987, the Department completes "A Guide to Local Government Records in the South Carolina Archives," a more extensive list of county and municipal government records in the archival collection.<sup>25</sup>
- **In 1987, Dr. George L. Vogt is appointed the agency's fourth director.**<sup>26</sup> Dr. Vogt serves until 1996, when he leaves to become director of the State Historical Society of Wisconsin.<sup>27</sup>
  - In 1990, a series of downsizings spanning the next two decades begins, which results in staff being reduced from 98 members to 54 members. This includes elimination of the agency's publication program, closing of the conservation shop, significantly reduces Research Room hours, and ever increasing reliance on earned and federal funds to keep essential programs operating.<sup>28</sup> Also in the same year, the Department is given a role in the administration of the local option state law allowing counties and cities to offer special local property tax assessments for rehabilitated historic properties.<sup>29</sup> Later that year, the General Assembly amends the Public Records Act to expand the definition of public body and to make the definition of public records

- conform to the Freedom of Information Act. Archives Department is given increased authority over the retention, disposition and protection of public records.<sup>30</sup>
- In 1992, the establishment of the Archives and History Foundation begins Dr. Vogt's successful campaign to obtain funding from the General Assembly and private sources for the 20.5 million dollar Archives and History Center.<sup>31</sup> The Foundation raises two million dollars in private funds to equip the new building with shelving and computer equipment.<sup>32</sup> Using funds from a National Endowment for the Humanities Grant, staff begins creating series level catalog entries which are now available to researchers via the online catalog to our archival collection.<sup>33</sup> Later that same year, the Protection of State-Owned or Leased Historic Properties law creates a review process for state owned properties listed in the National Register of Historic Places between state agencies and public colleges and the Department.<sup>34</sup>
  - In 1993, the South Carolina African American Heritage Council (now Commission) is established by a joint resolution of the General Assembly. It became a Commission in 2001 by executive order of Governor Jim Hodges. Their mission is to identify and promote the preservation of historic sites, structures, buildings, and culture of the African American experience in South Carolina and to assist and enhance the efforts of the Department.<sup>35</sup>
  - In 1995, the Department partners with the Palmetto Trust for Historic Preservation and the Office of the Governor to create statewide preservation awards program.<sup>36</sup>
- **In 1997, Dr. Rodger Stroup is named the fifth director of the department.** Dr. Stroup serves until his retirement in 2009.<sup>37</sup>
- In 1998, the Department moves to its current location at the South Carolina Archives and History Center on Parklane Road in Columbia.<sup>38</sup>
  - In 1999, for the next decade, Department becomes a host of the state contest for the National History Day competition for middle and high school students.<sup>39</sup>
  - In 2000, the Department organizes and hosts the first annual statewide historic preservation conference.<sup>40</sup>
  - In 2001, the first of several federal Teaching American History grants brings a summer program to train middle and secondary school teachers under the wings of the department.
  - In 2002, Grants from the State Library and allocation of existing funds enables the department to make item level descriptions of more than 300,000 records and digital images of more than 60,000 records available to researchers worldwide via the agency's website.<sup>41</sup>
  - In 2002, the South Carolina Historic Rehabilitation Incentives Act provides state income tax credits for the rehabilitation of historic buildings (both commercial and owner-occupied residences) requiring project reviews by the Department.<sup>42</sup>
  - In **2005, the Department marks its centennial** with a three day conference it sponsors with the SC Historical Society (celebrating its 150th anniversary) and the SC Historical Association (celebrating its 75th anniversary). Under a general title of "To Collect and Preserve," leading historians present papers on the state's history.<sup>43</sup>
  - In 2008, ArchSite, an online GIS system for historic property information, is launched, which results in a partnership with the South Carolina Institute of Archaeology and Anthropology, and is supported by funding from the Department of Transportation. It provides information about above-ground historic properties and archaeological sites.<sup>44</sup>

- **In 2009, Dr. W. Eric Emerson is appointed the agency's sixth director.** He continues to serve in this capacity.<sup>45</sup>
  - In 2010, there are forced downsizings over the next two years that reduces the full-time staff from 54 members to 24 members.<sup>46</sup> Also in that year, the Department allows Budget and Control Board to rent two floors of office space in "Building A" of the Archives and History Center to reduce the amount of rent owed by the Department. Remaining department staff members move to Building C. The agency continues to occupy Buildings B, C, and D at the Center. The Human Resources Division and portions of the Department of Education occupy parts of Building A.<sup>47</sup> Again, the Department expands its facility rentals program by marketing the building for night and weekend events to increase generated revenue.<sup>48</sup> Lastly, the Department changes the hours of operation for the Research Room. Saturday is added so that the facility is open on its busiest five days of the week.<sup>49</sup>
  - In 2012, the **Department begins converting all stationary archival shelving to mobile shelving and increases storage capacity for the collection from 40,000 cubic feet to 53,000 cubic feet.**<sup>50</sup>
  - In 2014, the Department reboots its electronic records program and focuses its efforts on the ever-growing number of electronic records being created by state and local government.<sup>51</sup>
  - In 2015, the **Department introduces the South Carolina Electronic Records Archive,** which preserves and makes available to the public electronic records created by state and local governments.<sup>52</sup>
  - In 2016, the **Department introduces the South Carolina Historic Property Record,** an electronic records archive that contains information on statewide surveys of historic properties, National Register of Historic Places listings, and historic resource survey reports.<sup>53</sup>

# Organizational Chart

## SOUTH CAROLINA DEPARTMENT OF ARCHIVES & HISTORY ORGANIZATION CHART

June 13, 2016

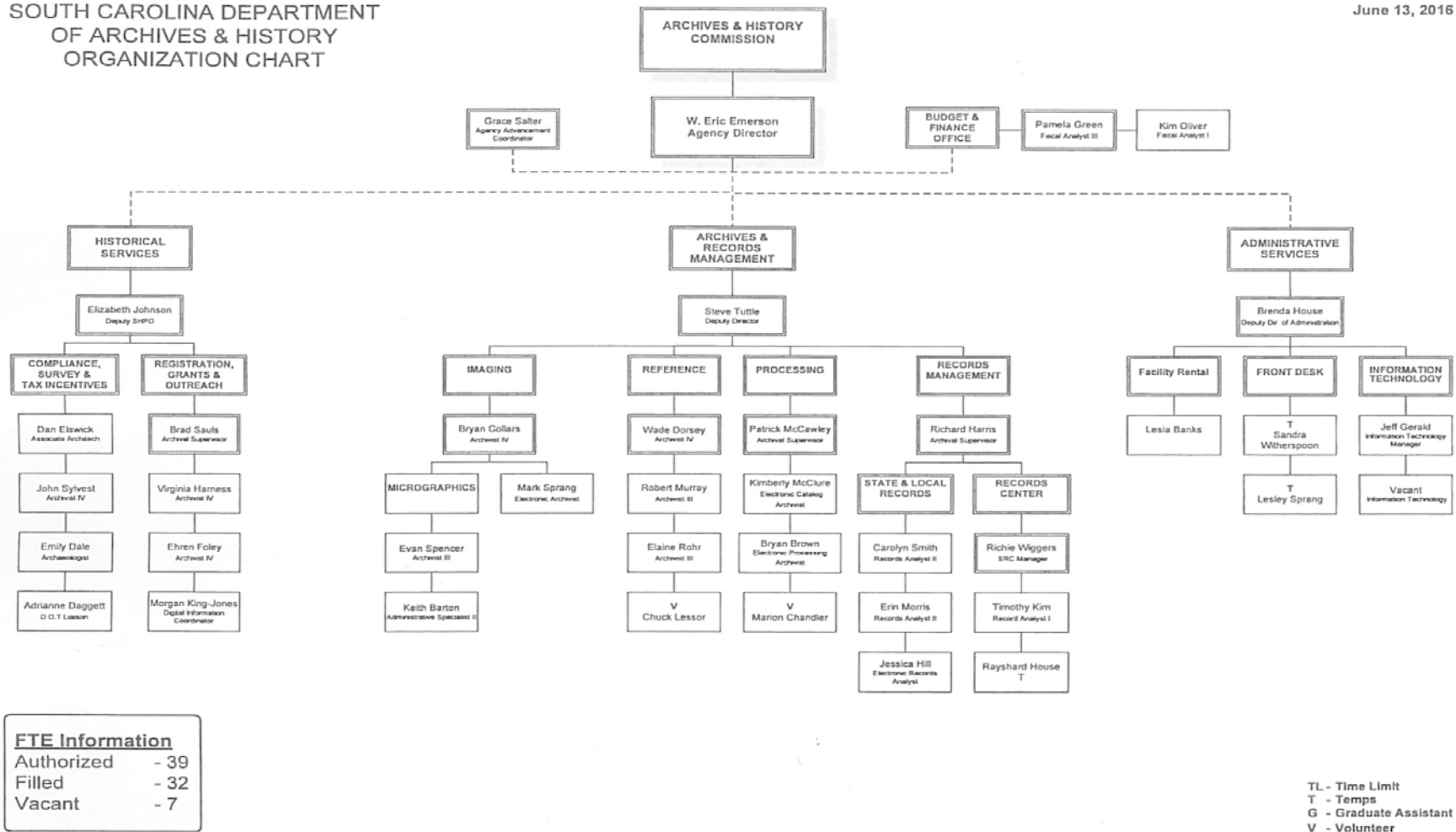


Figure 3. Organizational chart provided by the agency. (Current as of June 13, 2016).<sup>54</sup>

## Major Divisions or Programs

The agency's Program Evaluation Report (PER) includes information about its major operating programs (i.e., divisions).<sup>55</sup> An agency's division into major divisions or programs is the way that the agency segments itself operationally.

Table 2. Department of Archives and History divisions: names and descriptions.

DIVISION NAME	DIVISION DESCRIPTION
Administration	Division is responsible for all administrative functions of the agency including finance, human resources, facility management, information technology, security, and agency advancement.
Archives and Records Management	Division is responsible for preserving and making available historic public records and for helping state and local government agencies manage their records.
State Historic Preservation Office	Division functions under the guidelines established by the National Preservation Act, encourages and facilitates the responsible stewardship of South Carolina's irreplaceable historic and prehistoric places.

## Strategic Resources

Annually, each agency submits a strategic plan.<sup>56</sup> Of interest in the oversight process is how the agency allocates its human and financial resources to accomplish the goals and objectives in the agency's strategic plan. The agency submits the information included below in a revision to its PER.<sup>57</sup>

Table 3. Agency's strategic plan and resources allocated to its goals and objectives.

Goal	Objective	Description	Employee Equivalents 2015-2016 <sup>58</sup>	Strategic Budgeting <sup>59</sup>
1		To promote and encourage understanding, appreciation, and preservation of the state's history and heritage	7	The agency is preparing to enter a new strategic planning cycle. The new plan will be more comprehensive and should allow the agency to allocate its budget to specific goals and objectives. <sup>60</sup>
		Offer appropriate educational programs and products for different audiences	2.5	
	1.1.1	Offer ten records management workshops annually for state and local government agencies	2	
	1.1.2	Offer a series of free genealogical workshops to be held at the Archives and History Center in 2016/17	0.5	
		Continue both internal and external collaboration	2.5	
	1.2.1	Hold weekly division head meetings to ensure divisional collaborations	0.5	

	1.2.2	<i>Continue collaboration with the Confederate Relic Room, South Caroliniana Library, and USC Press to sponsor and organize symposia</i>	2
		<b>Encourage and facilitate staff involvement in historical and professional organizations</b>	2
	1.3.1	<i>Increase total staff membership in national historical and professional organizations by 10 percent in 2016/17</i>	1
	1.3.2	<i>Increase total number of outside presentations given by staff by 10 percent in 2016/17</i>	1
2		<b>To increase awareness, understanding, and use of the programs of South Carolina Department of Archives and History (SCDAH) in 2016/17</b>	1
		<b>Explore new ways to use technology</b>	1
	2.1.1	<i>Broaden the methods of communications with the public through a series of media outlets</i>	0.75
	2.1.2	<i>Enhance the use of diagnostic tools to maximize the agency's online presence</i>	0.25
3		<b>To assess mission essential needs for SCDAH and identify and secure new sources of generated funds to support its mission in 2016/17</b>	16
		<b>Establish new marketing strategies for services and products</b>	5
	3.1.1	<i>Conduct an annual assessment of the agency's Preservation Conference to increase attendance and revenue</i>	2
	3.1.2	<i>Evaluate the profitability of goods sold in the agency's gift shop to maximize profit</i>	1
	3.1.3	<i>Broaden SCDAH's marketing of rental facilities to increase revenue in 2016/17</i>	2
		<b>Evaluate the impact of revenue generating activities on agency programs and make adjustments to ensure that those activities do not adversely impact the agency's mission</b>	2
	3.2.1	<i>Develop a plan for the eventual elimination of agency microfilm product sales and the resulting increase in digitization revenue</i>	2
		<b>Expand agency internships and volunteer programs to enhance staff resources</b>	4

	3.3.1	<i>Increase the number of agency volunteers by 10 percent to assist the agency with special projects in 2016/17</i>	3
	3.3.2	<i>Double the number of agency interns in 2016/17</i>	1
		<b>Maximize the use of agency human resources</b>	3
	3.4.1	<i>Fill 25 percent of the agency's unfilled authorized positions in 2016/17</i>	1
<b>4</b>		<b>Increase and enhance preservation of, and access to, South Carolina state and local government records in 2016/17</b>	2
		<b>Digitize historically significant state and local records</b>	2
	4.1.1	<i>Increase the number of files added to the agency online records index by 5 percent in 2016/17</i>	2
	4.1.2	<i>Ingest and make available electronic records from three state agencies in 2016/17</i>	<b>14</b>
		<b>Increase accessibility to the Archives records through arrangement, description, conservation, digitization, and online access</b>	6
	4.2.1	<i>Make accessible 400 GBs of data through the South Carolina Electronic Records Archive (SCERA)</i>	3
	4.2.2	<i>Digitize 60 boxes and conduct South Carolina Historic Property Record (SCHR) data entry for 30 boxes of historic property records</i>	3



## STUDY PROCESS

### *Agency Selection*

The Department of Archives and History is a state agency subject to legislative oversight.<sup>61</sup> The **Committee approves Archives as the third state agency to be studied** by the Education and Cultural Subcommittee on January 28, 2016.<sup>62</sup>

The **Committee notifies the agency** about the study on February 4, 2016.<sup>63</sup> As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are also notified about the agency study.

### *Subcommittee Membership*

The **Education and Cultural Subcommittee of the House Legislative Oversight Committee is studying the agency**.<sup>64</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. Throughout the study, the Honorable James E. Smith, Jr., serves as chair. Other Subcommittee Members and their time of service on the Subcommittee are listed below:

- The Honorable Gary E. Clary (121<sup>st</sup> General Assembly);
- The Honorable Raye Felder (122<sup>nd</sup> General Assembly);
- The Honorable Joseph H. Jefferson, Jr. (121<sup>st</sup> and 122<sup>nd</sup> General Assemblies); and
- The Honorable Tommy M. Stringer (121<sup>st</sup> and 122<sup>nd</sup> General Assemblies).

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct self-analysis** by requiring it to complete and submit annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report. Each report is posted on the agency page of the Committee's website.

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in S.C. Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly "detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services."<sup>65</sup> The report, at a minimum, includes information in the following areas - History, Mission and Vision, Laws, Strategic Plan, Human and Financial Resources, Performance Measures, and Restructuring Recommendations.

The Department of Archives and History submits its Annual Restructuring Reports on March 31, 2015, and January 25, 2016.<sup>66</sup> The agency's 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Annual Restructuring Report.<sup>67</sup>

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

Also, S.C. Code of Laws § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period.”<sup>68</sup> The Department of Archives and History submits its plan on January 25, 2016.<sup>69</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee."<sup>70</sup> S.C. Code of Laws § 2-2-60 outlines what an investigating committee's request for a program evaluation report must contain. It also provides a list of information an investigating committee may request. The Committee sends guidelines for the Department of Archives and History's Program Evaluation Report on May 16, 2016.<sup>71</sup> The agency submits the report on July 12, 2016.<sup>72</sup>

The PER includes information in the following areas - History, Structure, Strategic Plan, Programs, Strategic Allocation of Human Resources, Strategic Allocation of Financial Resources, Performance Measures, Comparisons to Other Agencies, and Recommendations. The **Program Evaluation Report serves as the base document for the Subcommittee's study of the agency.**

### *Information from the Public*

Members of the public have an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee website, and appear in person before the Subcommittee.<sup>73</sup>

### *Public Survey*

From May 1, 2016 to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Archives and History** and four other agencies. Communication about this survey is sent to all House members to forward to their constituents. In an effort to communicate this public input opportunity widely, a statewide media release is issued.<sup>74</sup>

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.<sup>75</sup> These comments are not considered testimony.<sup>76</sup> As the survey notes, “input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”<sup>77</sup> The survey results are posted on the Committee's website. The **public is informed it may continue to submit written comments about agencies online** after the public survey closes.<sup>78</sup>

Of those survey participants that respond to questions related to the Department of Archives and History, **84% have a positive or very positive opinion of the agency.**<sup>79</sup>

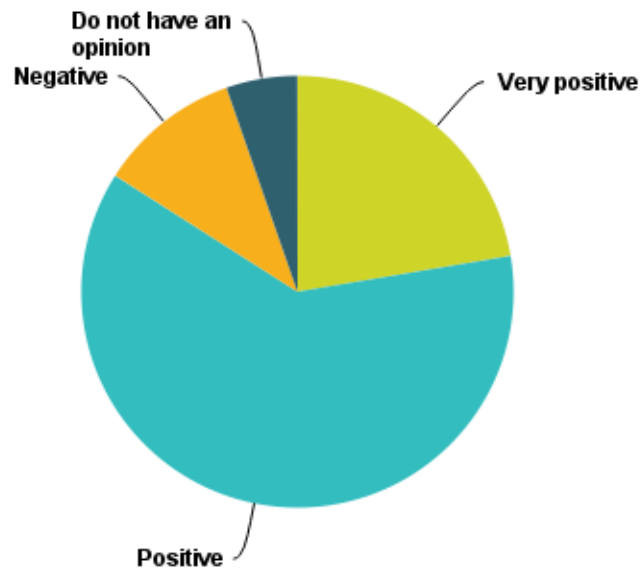


Figure 4. May 2016 public survey respondent opinion of the Department of Archives and History.

Over 70% of the May 2016 public survey respondents base their opinions on personal or business experience with the agency. **Most of the respondents that provide comments refer to the agency's storage of public records, online access to documents, and agency staffing.**<sup>80</sup>

#### *Public Input via Committee Website*

Throughout the course of the study, people are able to submit comments anonymously on the Committee website. Those comments are posted to the website verbatim.<sup>81</sup> One person submits a comment about the agency regarding documentation related to transferring and storing public records.<sup>82</sup>

#### *Public Input via In-Person Testimony*

The Committee offers the opportunity for the public to appear and provide sworn testimony.<sup>83</sup> A meeting dedicated to public input is held on March 2, 2017.<sup>84</sup> A press release announcing this opportunity is sent to media outlets statewide on February 16, 2017.<sup>85</sup> Further detail on the testimony the Committee receives is in the meetings section of this report.

#### *Meetings Regarding the Agency*

The Committee meets with, or about, the agency on two occasions, and the Subcommittee meets with, or about, the agency on six occasions. All meetings are open to the public and stream live online; also, the videos are archived and the minutes are available online. A timeline of meetings is set forth in Figure 2 beginning on page 6.

### *January 28, 2016 Meeting*

During the January 28, 2016 meeting, the **Committee meets and selects the Department of Archives and History for study.**<sup>86</sup> The agency replaces Patriots Point Development Authority as the next agency to study.<sup>87</sup> See Appendix A for the meeting packet.

### *April 26, 2016 Meeting*

During the April 26, 2016 meeting, the **Subcommittee meets with the agency to introduce the oversight study process.** The agency head, Dr. W. Eric Emerson, gives a brief overview of the agency and shows the Subcommittee examples of some of the historical records the agency maintains.<sup>88</sup> For the record, Committee staff ask agency executive staff about their understanding of the process and they agency's plan to inform employees of the study. Subcommittee Members question agency staff about funding, both source and amount. See Appendix B for the meeting packet.

### *March 2, 2017 Meeting*

During the March 2, 2017 meeting, the **public is invited to provide comments and recommendations about the agency directly to the Committee.**<sup>89</sup> During this meeting, people provide testimony about the Department of Archives and History, the Department of Disabilities and Special Needs, and the John de la Howe School. Two people testify about the Department of Archives and History at that time:  
 (1) Rory Cathcart - Genealogist from Charleston and President of a national genealogical nonprofit, and  
 (2) Sue Eleazor - Consumer of agency services. See Appendix C for the meeting packet.

### *March 7, 2017 Meeting*

During the March 7, 2017 meeting, the **Subcommittee meets with the agency to learn more about its history, programs, products, and services.**<sup>90</sup> Agency staff present information on those topics. For reference, Subcommittee Members have available the following sections of the PER - Successes, Challenges, and Emerging Issues; History; Governing Body; Daily Operation's Programs; Customers and Potential Impact; and Public Benefit and Responsibilities.

Subcommittee Members question the agency about the following:

- Agency assistance to educators;
- Online availability of collection;
- Revenue generation;
- Tribal Historical Preservation Office;
- Services to customers;
- Funds to purchase artifacts;
- § 106 of the National Historic Preservation Act;
- Agency records management compliance;
- Funding;
- Genealogy classes; and
- Challenges.

Following the meeting, the agency submits supplemental responses to some of the Subcommittee's questions. See Appendix D for the meeting packet, agency presentation, and supplemental responses.

### *March 21, 2017 Meeting*

During the March 21, 2017 meeting, the **Subcommittee meets with the agency to learn more about the agency's strategic plan, human resources, and financial resources.**<sup>91</sup> Agency staff present information about those topics. For reference, Subcommittee Members have available the following sections of the PER, in addition to sections already reviewed, - Stakeholders and Partners; Employee Allocation by Objective; Programs and Objectives; Strategic Budgeting; and Strategic Spending. Subcommittee Members also have available a print out of the state human resources dashboard pertaining to the agency.

Subcommittee Members question the agency about the following topics:

- Digitizing current microfilm collections;
- Internship program;
- Building rent and maintenance;
- Tax credits;
- Preservation funding;
- Records management; and
- Adequacy of number of employees.

Following the meeting, the agency submits supplemental responses to some of the Subcommittee's questions. See Appendix E for the meeting packet, agency presentation, and supplemental responses.

### *April 18, 2017 Meeting*

During the April 18, 2017 meeting, the **Subcommittee meets with the agency to learn more about the agency's programs, objectives, and performance measures.** Agency staff present information about those topics.<sup>92</sup> Agency staff specifically note the increasing availability of information online is necessitating a re-examination of the agency's performance measures. Representatives from the Department of Administration present information about the Archives building and its maintenance. For reference, Subcommittee Members have available the Performance Measures section of the PER, in addition to sections already reviewed.

Subcommittee Members question the agency and/or representatives from the Department of Administration about the following:

- Lease agreement with the Department of Administration;
- Use of revenue from state agency leases;
- Warranties on major equipment in/on state buildings;
- Deferred maintenance on state buildings; and
- Internship program.

See Appendix F for the meeting packet and agency presentation.

### *April 25, 2017 Meeting*

During the April 25, 2017 meeting, the **Subcommittee meets with the agency to learn more about laws relating to the agency and the agency's recommendations.**<sup>93</sup> Agency staff present information about those topics. Representatives from the Department of Health and Environmental Control (DHEC) and the State Fiscal Accountability Authority Procurement Service Division are also present. During the meeting, the **Subcommittee discusses an issue the agency is having with archiving materials if an agency utilizes proprietary software to maintain data.** Representatives from the Procurement Services Division respond to questions in that area. During the meeting, a **public input comment is discussed relating to the archiving of DHEC records.** After the meeting, DHEC, an agency under study by the Healthcare and Regulatory Subcommittee, provides the Subcommittee with information about some of the challenges it has relating to temporary storage at the Department of Archives and History.<sup>94</sup> For reference, Subcommittee Members have available the Looking Ahead/Agency Recommendations section of the PER, in addition to sections already reviewed.

Subcommittee Members question the agency and/or representatives from the State Fiscal Accountability Authority Procurement Services Division about the following:

- Funding to review state historic preservation tax credit applications;
- Funding to purchase private collections;
- Relationship between the agency and public television;
- Funding of classes;
- Agency records collection; and
- Archival ability of software procured by state agencies.

See Appendix G for the meeting packet.

### *May 11, 2017 Meeting*

During the May 11, 2017 meeting, the **Subcommittee meets with the agency to discuss additional study recommendations.**<sup>95</sup> Subcommittee Members question the agency about the following:

- Form agency staff use to have records stored; and
- Responsibility for transmitting records to the agency.

Following the meeting, the agency submits supplemental responses to some of the Subcommittee's questions. See Appendix H for the meeting packet and supplemental responses.

## *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee Members have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee Members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for

a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may provide briefings to the public about the final oversight study.

Lastly, **to support the Committee's ongoing oversight by maintaining current information about the Department of Archives and History, the agency will receive an annual Request for Information.**

## RECOMMENDATIONS

### *General Information*

The following **recommendations include areas identified for potential improvement** by the Subcommittee. The **Subcommittee recognizes these recommendations 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 full Committee, discussions with the agency during multiple meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency, is available on the Committee's website.

### *Continue*

The **Subcommittee does not make any recommendations relating to continuing agency programs**.

### *Curtail (i.e. Revise)*

The **Subcommittee has ten recommendations for revisions**. All of the Subcommittee recommendations are adopted as one motion at its Thursday, May 11, 2017 meeting; all members present at the meeting vote to approve the recommendations.<sup>96</sup> The Subcommittee's recommendations fall into three categories: (1) recommendations for the Department of Archives and History; (2) recommendations for the General Assembly; and (3) recommendations for agencies in general. An overview of these recommendations is provided in Table 1 on page 7.

### *Recommendations for the Department of Archives and History*

The Subcommittee has **two recommendations for revisions to the agency's internal operations**, and a summary is set forth in Table 4.

*Table 4. Summary of recommendations for revisions to the agency's internal operations.*

Topic	Recommendations
<b>Certified Local Government Program</b>	<b>1.</b> Create informational media (e.g., pamphlet) and work with the Municipal Association of South Carolina to raise awareness among municipalities about the Certified Local Government Program, which promotes community preservation planning and heritage education through a partnership with the State Historic Preservation Office (i.e., the agency) and the National Park Service.
<b>Fees</b>	<b>2.</b> Conduct a regular review of fees or charges for services to commercial customers to ensure they sufficiently cover the agency's cost to research and prepare materials.

The first recommendation relates to the federal **Certified Local Government Program**, which promotes community preservation planning and heritage education through a partnership with the State Historic



Preservation Office (i.e., the Department of Archives and History) and the National Park Service. Currently, South Carolina has 34 certified local governments.<sup>97</sup> As there are several benefits for local governments that obtain this designation, including eligibility to apply for federal grants, the Subcommittee recommends the Department of Archives and History create informational media, (e.g., pamphlet), and work with the Municipal Association of South Carolina to raise awareness among municipalities about the Certified Local Government Program.<sup>98</sup> The second recommendation relates to **fees the agency charges for services to commercial customers**. The Subcommittee recommends the agency conduct a regular review of the amount it charges for services it provides to commercial customers to ensure the charges sufficiently cover the agency's cost to research and prepare materials.

### *Recommendations for the General Assembly*

The Subcommittee recommends **revisions to four state laws pertaining to the agency**. Explanations of the suggested revisions and recommended language are provided in Table 5.

Table 5. Recommendations for revisions to state laws pertaining to the agency.

Statute	§ 12-6-5060
Explanation of Revision	(Recommendation 3.) Authorize taxpayer voluntary contributions to the Department of Archives and History to be used to purchase or preserve collections with significant historical value to South Carolina.
Recommended Language	<p>§ 12-6-5060. Voluntary contribution to certain funds may be designated on return; reporting of contributions annually by department.</p> <p>(A) Each taxpayer required to file a state individual income tax return may contribute to the War Between the States Heritage Trust Fund established pursuant to § 51-18-115, the Nongame Wildlife and Natural Areas Program Fund established pursuant to § 50-1-280, the Children's Trust Fund of South Carolina established pursuant to § 63-11-910, the Eldercare Trust Fund of South Carolina established pursuant to § 43-21-160, the First Steps to School Readiness Fund established pursuant to § 63-11-1750, the South Carolina Military Family Relief Fund established pursuant to Article 3, Chapter 11, Title 25, the Donate Life South Carolina established pursuant to § 44-43-1310, the Veterans' Trust Fund of South Carolina established pursuant to Chapter 21, Title 25, the South Carolina Litter Control Enforcement Program (SCLCEP) and used by the Governor's Task Force on Litter only for the SCLCEP Program, the South Carolina Law Enforcement Assistance Program (SCLEAP) and used as provided in § 23-3-65, the South Carolina Department of Parks, Recreation and Tourism for use in the South Carolina State Park Service in the manner the General Assembly provides, the South Carolina Forestry Commission for use in the state forest system, the South Carolina Department of Natural Resources for use in its programs and operations, K-12 public education for use in the manner the General Assembly provides by law, South Carolina Conservation Bank Trust Fund established pursuant to § 48-59-60, the Financial Literacy Trust Fund established pursuant to § 59-29-510, <del>or</del> the South Carolina Association of Habitat for Humanity Affiliates, by designating the contribution on the return- <u>or the South Carolina Department of Archives and History and used by the agency only to purchase or preserve collections with significant historical value to our state.</u> The contribution may be made by reducing the income tax refund or by remitting additional payment by the amount designated.</p> <p>(B) All South Carolina individual income tax return forms must contain a designation for the above contributions. The instructions accompanying the income tax form must contain a description of the purposes for which the funds were established and the use of monies from the income tax contribution.</p> <p>(C) The department shall determine and report at least annually to the appropriate agency administering the fund or in the case of the Children's Trust Fund to the fund the total amount of contributions designated to the above funds. The department shall transfer the appropriate amount to each fund at the earliest possible time. The incremental cost of administration of the contribution must</p>

	<p>be retained by the department from the contributions before any funds are expended as provided in this section.</p> <p>(D) The Department of Natural Resources shall make a report to the General Assembly as early in January of each year as may be practicable, which must include the amount of revenue produced by the contributions and a detailed accounting of expenditures from the Nongame Wildlife and Natural Areas Fund.</p> <p>(E) For purposes of this section, the South Carolina Department of Revenue is not subject to provisions of the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.</p> <p>(F) Revenues from the South Carolina Litter Control Enforcement Program Fund and the South Carolina Law Enforcement Assistance Program Fund carry forward into succeeding fiscal years and earnings of the funds must be credited to them.</p>
Statute	§ 60-11-120
Explanation of Revision	<b>(Recommendation 4.)</b> Codifies an existing Proviso 26.1, which relates to disposition of certain duplicative archival material (e.g., bank notes which are sold in the museum gift shop and through online auctions).
Recommended Language	<p>§ 60-11-120. Disposition of certain duplicative archival material; use of funds realized; annual report.</p> <p>Upon approval by the commission, the agency may remove certain record and nonrecord materials from its collections by gift to another public or nonprofit institution or by sale <del>at public auction</del>. This is a supplemental form of disposition beyond that recognized in the Public Records Act for the retention, copying, and destruction of public records, and it pertains only to those accessioned archive materials having a market value and which duplicate existing archival material, fall outside the scope of the archives collection policy, or have no further possible research value. All funds realized through sale <del>by public auction</del> must be placed in a special account to be used for improved access to and preservation of the state archives collections. The commission shall annually report to the State Department of Administration regarding these dispositions.</p>
Statute	§ 60-11-100
Explanation of Revision	<b>(Recommendation 5.)</b> Codifies an existing Proviso 26.2 relating to the use of proceeds by the agency.
Recommended Language	<p>§ 60-11-100. Use of county and municipal funds to procure equipment for microfilming public records.</p> <p>The Department of Archives and History may receive and use funds from the county and municipal governments to microfilm public records of permanent value both to the counties and municipalities and the Department, if the counties or municipalities do not have archival quality microfilming capability or do have short term or emergency requirements for archival quality filming which would not justify purchase of such a system. The Department's current filming of county government records which have no security copies may be continued as scheduled. The funds received from the counties and municipalities must be used solely for the filming of county and municipal government records for records management security and research purposes. In order to provide the microfilm services requested by the counties and municipalities, the Department may use the funds to lease or purchase equipment, purchase microfilm and microfilming supplies, employ a microfilming team, and have film processed and inspected to meet required standards of quality. Travel expenses incurred by such program must be reimbursed from such funds at the State-approved rate.</p> <p><u>The proceeds of facilities rentals, gift shop operations, training sessions, sales of publications, reproductions of documents, repair of documents, research fees, handling charges, and the proceeds of sales of National Register of Historic Places certificates and plaques by the Archives Department shall be deposited in a special account in the State Treasury, and may be used by this department to cover the cost of facility operations and maintenance, gift shop inventory, additional training sessions, publication, reproduction expenses, repair expenses, and National Register of Historic Places certificates and plaques, and selected Historic Preservation Grants.</u></p>

Statute	§ 12-6-3535
Explanation of Revision	<b>(Recommendation 6.)</b> Establish a State Historic Preservation Grant Fund through authorization of a fee for the State Historic Preservation Officer’s review of applications for a federal income tax credit for making qualified rehabilitation expenditures for a certified historic structure.
Recommended Language	<p>§ 12-6-3535. Income tax credit for making qualified rehabilitation expenditures for a certified historic structure.</p> <p>(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations, <del>including the establishment of fees</del>, needed to administer the certification process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit.</p> <p><u>(G) A taxpayer claiming a credit pursuant to this Section must pay a fee to the Department of Archives and History for the State Historic Preservation Grant Fund. The preliminary fee is 0.5% (.005) of the estimated “qualified rehabilitation expenses” and/or the “rehabilitation expenses”, to be paid prior to review of a Historic Preservation Certification Application, Part 2 and/or a Certified Rehabilitation Application, S2. The final fee is 1% (.01) of the actual “qualified rehabilitation expenses” and/or the “rehabilitation expenses”, to be paid prior to review of a Historic Preservation Certification Application, Part 3 and/or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee.</u></p> <p><u>(H) The Department of Archives and History shall develop an application process for distribution of funds from the State Historic Preservation Grant Fund, to include eligibility criteria and grant requirements.</u></p>

The Subcommittee has **recommendations for changes to the General Assembly’s internal operations**, and a summary is set forth in Table 6.

Table 6. Summary of recommendations for changes to the General Assembly’s internal operations.

Topic	Recommendation
<b>Record Retention</b>	<b>7.</b> Ask all agencies under study by the House Legislative Oversight Committee if they are current with transferring records, including electronic ones, to the Department of Archives and History. If not, why not?
<b>Technology Funding</b>	<b>8.</b> Ask any agency that has a technology funding request for a server if it is current with transferring its electronic records to the Department of Archives and History. If not, why not?
<b>Pass-Through Funding</b>	<b>9.</b> Provide accountability for funds that pass through state agencies to other entities. This is a concept recommendation only.

The Subcommittee’s seventh recommendation relates to record retention by agencies. **Eleven agencies have not taken steps over the course of the past five years to transfer records to the Department of Archives and History** (i.e., inactive).<sup>99</sup> Inactive agencies include: *Adjutant General’s Office*; First Steps to School Readiness; Jobs-Economic Development Authority; *John de la Howe School*; Medical Malpractice Patient’s Compensation Fund; *Commission for Minority Affairs*; *Patriots Point Naval and Maritime Museum*; Prosecution Coordination Commission; Research Authority; Rural Infrastructure Authority; and Wil Lou Gray Opportunity School.<sup>100</sup> Agencies listed in italics are currently under study by the House Legislative Oversight Committee. Accordingly, the Subcommittee recommends the **House Legislative Oversight Committee ask each agency under study if it is current with transferring records, including electronic ones, to the Department of Archives and History** with a follow up question as to why or why not.

As a related issue, the Subcommittee's eighth recommendation relates to technology funding. The Subcommittee recommends the **General Assembly inquire about an agency's records retention schedule with the Department of Archives and History whenever an agency makes a technology funding request for a server.**<sup>101</sup> On April 18, 2017, the Director of the Department of Archives and History testifies "agencies seem more willing to keep electronic records and go to the General Assembly and ask for more storage space for their individual agency instead of scheduling those records."<sup>102</sup> On April 25, 2017, the Department of Archives and History presents the Subcommittee a four step plan to address issues with the transferal of digital records.<sup>103</sup>

The Subcommittee's ninth recommendation relates to pass-through funding. This means the funds are provided to the Department of Archives and History with an instruction the agency should provide these funds directly to another entity. In **Fiscal Year 2016-17 approximately 49%, or almost half, of the Department of Archives and History's appropriations are pass-through funds (i.e., earmarked).** An overview of the agency's Fiscal Year 2016-17 budget is provided in Table 7.<sup>104</sup> As a concept recommendation, the **Subcommittee recommends that the General Assembly provide accountability for funds that pass through state agencies to other entities.**

Table 7. Department of Archives and History's Fiscal Year 2016-17 budget.

Total Funds (Budgeted)	\$4,808,019
State Funding (General Funds)	\$2,616,278
<b>Pass - Through Funds (Earmarked)</b>	<b>\$2,300,000 Architectural Heritage Preservation</b>
	\$1,000,000 Fireproof Building, SC Historical Society Charleston
	\$ 500,000 Historic Charleston Foundation, Charleston
	\$ 500,000 College of the Building Arts, Charleston
	\$ 205,000 Town of James Island
	\$ 60,000 Robert Mills Courthouse, Kershaw
	\$ 25,000 Garvin House, Town of Bluffton
	\$ 10,000 Mitchelville Preservation Project, Hilton Head
	<b>\$ 100,000 South Carolina African American Heritage Commission, Historic Driving Tours</b>

### *Recommendation for Agencies in General*

The Subcommittee has a **recommendation for agencies in general**, and a summary is set forth in Table 8.

Table 8. Summary of recommendation for agencies in general.

	<b>. . . Agencies in general</b>
<b>Procurement</b>	<b>10.</b> Include provisions allowing for the transfer of the records to the Department of Archives and History when procuring proprietary software.

The Subcommittee's tenth recommendation relates to procurement. The Subcommittee recommends the **procurement of proprietary software by state agencies include provisions allowing for the transfer of the records to the Department of Archives and History.** The agency faces challenges when other agencies

utilize proprietary software. Challenges relate to incurring expenses for extracting the information (e.g., purchase of a license or additional costs for periodic downloads); the Department of Archives and History advocates for usage of open source software. On April 25, 2017, the Director of Procurement Services Division with the State Fiscal Accountability Authority testifies his agency does “try to account for proprietary software and how purchasing such might impact how agencies use those software,” and he notes there is an ongoing statewide information technology initiative.<sup>105</sup>

## INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study process, the agency implements two internal changes directly related to participation in the study process. First, **testimony received at the March 2, 2017, public input meeting from a longtime patron of the agency helps inform a management decision** to post an opening for a curator position at the agency.<sup>106</sup> Second, **public input received in the May 2016 online survey and Subcommittee questioning of the agency about this public input helps inform management about the existence of a substantial number or records (over 4,000 boxes) at the Department of Health and Environmental Control that need to be moved to temporary storage at the Department of Archives.**<sup>107</sup> During the study process, the agency develops a plan to address the backlog.

## SELECTED AGENCY INFORMATION

**Department of Archives and History. "Program Evaluation Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Department%20of%20Archives%20and%20History%20PER.PDF> (accessed May 23, 2017).

**Department of Archives and History. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Archives%20and%20History.pdf> (accessed May 23, 2017).

**Department of Archives and History. "Agency Accountability Report, 2015-16."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Reports%20&%20Audits%20%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 23, 2017).

**Department of Archives and History. "Annual Request for Information, 2017."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Department%20of%20Archives%20and%20History%20-%20Annual%20Request%20for%20Information%20\(RFI\)%20SCDAH.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Department%20of%20Archives%20and%20History%20-%20Annual%20Request%20for%20Information%20(RFI)%20SCDAH.pdf) (accessed May 23, 2017).

**SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 23, 2017).

# CONTACT INFORMATION

## Committee Contact Information

### Physical:

South Carolina House of Representatives  
Legislative Oversight Committee  
1105 Pendleton Street, Blatt Building Room 228

### Mailing:

Post Office Box 11867  
Columbia, South Carolina 29211

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### Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

## Agency Contact Information

### Address:

Department of Archives and History  
8301 Parklane Road  
Columbia, South Carolina 29223

### Telephone:

803-896-6196

### Online:

Agency Main Page  
State Historic Preservation Office  
Records Management

<http://scdah.sc.gov/Pages/default.aspx>

<http://shpo.sc.gov/Pages/default.aspx>

<http://rm.sc.gov/Pages/default.aspx>

# ENDNOTES

<sup>1</sup> Visual Summary Figure 1 is compiled from information in the Department of Archives and History study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Archives and History" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/ArchivesandHistory.php> (accessed May 23, 2017).

<sup>2</sup> SC Code of Laws § 2-2-20(C).

<sup>3</sup> SC House of Representative, House Legislative Oversight Committee, March 2, 2017, video archives, time 02:11:25. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DHEC to Department of Archives and History (April 25, 2017)," under "Correspondence" under "Committee Postings and Reports," under "The Department of Archives and History," and under "House Legislative Oversight Committee," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History\\_Redacted.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History_Redacted.pdf) (accessed May 23, 2017).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "Agency PER (July 12, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Department%20of%20Archives%20and%20History%20PER.PDF> (accessed May 19, 2017).

<sup>6</sup> 1891 Act No. 690, § 1.

<sup>7</sup> 1894 Act No. 559, § 1.

<sup>8</sup> 1905 Act No. 494, § 4.

<sup>9</sup> "A Brief History of the Department," <http://scdah.sc.gov/aboutus/Pages/history.aspx> (assessed May 12, 2017).

<sup>10</sup> Agency PER (July 12, 2016) at Page 2.

<sup>11</sup> *Id.*

<sup>12</sup> A Brief History of the Department.

<sup>13</sup> Agency PER (July 12, 2016) at Page 2.

<sup>14</sup> 1954 Act No. 692, § 1.

<sup>15</sup> Agency PER (July 12, 2016) at Page 2.

<sup>16</sup> A Brief History of the Department.

<sup>17</sup> Agency PER (July 12, 2016) at Page 2.

<sup>18</sup> *Id.*

<sup>19</sup> 1967 Act No. 153, § 1.

<sup>20</sup> Agency PER (July 12, 2016) at Page 3.

<sup>21</sup> *Id.*

<sup>22</sup> 1973 Act No. 291, § 2 and 11.

<sup>23</sup> Agency PER (July 12, 2016) at Page 3.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> A Brief History of the Department.

<sup>27</sup> Agency PER (July 12, 2016) at Page 3.

<sup>28</sup> *Id.*

<sup>29</sup> 1990 Act No. 474, § 1. (SC Code of Laws § 4-9-195).

<sup>30</sup> 1990 Act No. 546, § 1. (SC Code of Laws § 30-1-10).

<sup>31</sup> A Brief History of the Department.

<sup>32</sup> Agency PER (July 12, 2016) at Page 3.

<sup>33</sup> *Id.*

<sup>34</sup> 1992 Act No. 4245, § 1. (SC Code of Laws § 60-12-70).

<sup>35</sup> 1993 Act No. 197, § 1.

<sup>36</sup> Agency PER (July 12, 2016) at Page 3.

<sup>37</sup> A Brief History of the Department.

<sup>38</sup> Agency PER (July 12, 2016) at Page 4.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> 2002 Act No. 229, § 2. (SC Code of Laws § 12-6-3535).

<sup>43</sup> Agency PER (July 12, 2016) at Page 4.

<sup>44</sup> *Id.*

<sup>45</sup> A Brief History of the Department.

<sup>46</sup> Agency PER (July 12, 2016) at Page 4.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* The agency identified this as one of its successes in its PER.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* The agency identified this as one of its successes in its PER.

<sup>53</sup> *Id.* at page 5. The agency identified this as one of its successes in its PER.

<sup>54</sup> Agency PER (July 12, 2016) at page 32.

<sup>55</sup> *Id.*

<sup>56</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Agency Accountability Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 23, 2017). In 2016 the Oversight Committee worked with the Executive Budget Office to combine the information sought in the Annual Restructuring Report and Annual Accountability Report, into one report.

<sup>57</sup> *Id.*

<sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Updated Employee Equivalent Allocation by Objective (May 9, 2017)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/EE%20Allocation%20by%20Obj\\_Archives%20Updated.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/EE%20Allocation%20by%20Obj_Archives%20Updated.pdf) (accessed May 19, 2017).

<sup>59</sup> *Id.*

<sup>60</sup> Dr. W. Eric Emerson, Ph. D., interviewed by Committee Staff, May 23, 2017.

<sup>61</sup> SC Code of Laws, § 2-2-10(1).

<sup>62</sup> SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf>. (assessed May 19, 2017) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>63</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Department of Archives and History (February 4, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Letter%20from%20oversight%20Committee%20to%20Archives%20and%20History%20\(Febbruary%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Letter%20from%20oversight%20Committee%20to%20Archives%20and%20History%20(Febbruary%204,%202016).pdf) (accessed May 19, 2017).

<sup>64</sup> SC House of representatives, House Legislative Oversight Committee, "Subcommittees -2017," under "Committee Information," under "House Legislative Oversight Committee," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignments%20-%202017.pdf> (accessed May 19, 2017).

<sup>65</sup> S.C. Code of Laws § 1-30-10.

<sup>66</sup> 2015-16 Agency Accountability Report.

<sup>67</sup> *Id.*



<sup>68</sup> S.C. Code of Laws § 1-30-10.

<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “2016 Annual Restructuring Report,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Archives%20and%20History%20.pdf> (assessed May 19, 2017).

<sup>70</sup> S.C. Code § 2-2-50.

<sup>71</sup> SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report Guidelines (May 16, 2016),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%202016,%202016\)%20-%20Archives%20and%20History.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%202016,%202016)%20-%20Archives%20and%20History.pdf) (accessed May 19, 2017).

<sup>72</sup> Agency PER (July 12, 2016).

<sup>73</sup> SC House of Representatives, House Legislative Oversight Committee.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 19, 2017).

<sup>74</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (April 29, 2016),” under “Public Survey & Public Input via LOC webpage” under “Committee Postings and Reports,” under “The Department of Archives and History,” and under “House Legislative Oversight Committee,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (accessed May 23, 2017).

<sup>75</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 19, 2017).

<sup>76</sup> Committee Standard Practice 10.4.

<sup>77</sup> Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016).

<sup>78</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 23, 2017).

<sup>79</sup> Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016).

<sup>80</sup> *Id.*

<sup>81</sup> Committee Standard Practice 10.4.2 allows for the redaction of profanity.

<sup>82</sup> SC House of Representatives, House Legislative Oversight Committee, “Public Input received about the agency via Committee webpage (February 16, 2017),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/Public%20Input%202016.2017.pdf> (accessed May 19, 2017). In response to questioning about this comment during the April 25, 2017, Subcommittee meeting, at approximately 32:10 in the archived video the agency states the form may need to be reassessed and offers to provide training sessions for those regularly responsible for handling these records. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>83</sup> Also, the Chair of either the Committee or Education and Cultural Subcommittee has the discretion to allow testimony during meetings.

<sup>84</sup> SC House of Representatives, House Legislative Oversight Committee, “March 2, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20%20Minutes%20\(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20%20Minutes%20(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe).pdf) (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>85</sup> Press Release announcing Public Survey (April 29, 2016).

<sup>86</sup> January 28, 2017 - Meeting Minutes.

<sup>87</sup> *Id.*

<sup>88</sup> SC House of Representatives, House Legislative Oversight Committee, “April 26, 2017 - Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EducationSub/April262016Minutes.pdf> (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>89</sup> March 2, 2017 - Meeting Minutes.

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20%20Minutes%20\(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%202,%202017%20%20Minutes%20(Public%20Input%20for%20Archives%20and%20History,%20DDSN,%20John%20de%20la%20Howe).pdf) (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>90</sup> SC House of Representatives, House Legislative Oversight Committee, “March 7, 2017 - Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EducationSub/March072017Minutes.pdf> (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>91</sup> SC House of Representatives, House Legislative Oversight Committee, “March 21, 2017 - Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The Department of Archives and History,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EducationSub/March212017Minutes.pdf> (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>92</sup> SC House of Representatives, House Legislative Oversight Committee, "April 18, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EducationSub/April182017Minutes.pdf> (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>93</sup> SC House of Representatives, House Legislative Oversight Committee, "April 25, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The Department of Archives and History," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EducationSub/4.25.17%20Meeting%20Minutes.pdf> (assessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>94</sup> Letter from DHEC to Department of Archives and History (April 25, 2017).

<sup>95</sup> A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Minutes have not yet been approved for this meeting.

<sup>96</sup> *Id.* Subcommittee Members present at the meeting include: Rep. Raye Felder; Rep. Joseph H. Jefferson, Jr., and Rep. James E. Smith, Jr.

<sup>97</sup> National Park Service, "Certified Local Government Program," under <https://www.nps.gov/clg/> (assessed May 22, 2017). The following are certified local governments: Abbeville; Aiken; Anderson; Beaufort; Bennettsville; Bluffton; Blythewood; Charleston; Cheraw; Chester; Chesterfield; Columbia; Conway; Darlington; Dillon; Florence; Fort Mill; Georgetown; Greenville; Greer; Hartsville; Horry County; Laurens; Lexington; McClellanville; McCormick; Mount Pleasant; Rock Hill; Seneca; Spartanburg; Sullivan's Island; Summerville; Sumter; and York.

<sup>98</sup> *Id.* The National Parks Service notes "[c]ommunity certification opens doors to funding, technical assistance, and other preservation successes."

<sup>99</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Department of Archives and History to Oversight Subcommittee (May 5, 2017)," under "Correspondence" under "Committee Postings and Reports," under "The Department of Archives and History," and under "House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/ArchivesandHistory.php> (assessed May 22, 2017)

<sup>100</sup> *Id.*

<sup>101</sup> A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Minutes have not yet been approved for this meeting.

<sup>102</sup> SC House of Representative, House Legislative Oversight Committee - Education and Cultural Subcommittee, April 18, 2017 video archives, time 46:32.

<sup>103</sup> SC Department of Archives and History, April 25, 2017, Agency Presentation to Subcommittee on its Laws and Recommendations, unnumbered slide 10,

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.25.17%20Agency%20Presentation%20to%20Subcommittee%20\(Laws%20and%20Recommendations\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.25.17%20Agency%20Presentation%20to%20Subcommittee%20(Laws%20and%20Recommendations).pdf) (assessed May 22, 2017). The four steps of the plan are as follows: 1) Continue to consult with agencies regarding following transferal schedules of digital records; 2) Use 30-1-100, "Within the limits of available funds, the Archives shall require preservation duplicates to be made of essential or historical records including those retained on electronic or optical disc systems. . . ."; 3) Use 30-1-70, "If public records of long term or archival value are in danger of loss due to negligence, deterioration, theft, or unauthorized disposal or destruction, the director may order that the records be transferred to suitable storage for the purpose of security microfilming or other necessary preservation measures; and 4) 20-1-50, sets criminal penalties for not delivering the record, and "in addition, the legal custodian or the public records or the Director of the Archives may apply by verified petition to the court of common pleas in a county of residence of the person withholding the records and the court shall upon proper showing issue orders for the return of the records to the lawful custodian or the Director of the Archives."

<sup>104</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Department of Archives and History to Oversight Subcommittee (March 7, 2017)," under "Correspondence" under "Committee Postings and Reports," under "The Department of Archives and History," and under "House Legislative Oversight Committee,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History\\_Redacted.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History_Redacted.pdf) (assessed May 23, 2017).

<sup>105</sup> SC House of Representative, House Legislative Oversight Committee - Education and Cultural Subcommittee, April 25, 2017 video archives, time 38:00.

<sup>106</sup> SC House of Representative, House Legislative Oversight Committee, March 2, 2017, video archives, time 02:11:25. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>107</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DHEC to Department of Archives and History (April 25, 2017)," under "Correspondence" under "Committee Postings and Reports," under "The Department of Archives and History," and under "House Legislative Oversight Committee,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History\\_Redacted.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArchivesandHistory/4.27.17%20DHEC%20concerns%20about%20temporary%20storage%20at%20Archives%20and%20History_Redacted.pdf) (assessed May 23, 2017).

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# Notification of the Economic Development, Transportation, and Natural Resources Subcommittee Study

of the Department of Agriculture

Friday, August 4, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Economic Development, Transportation, and Natural Resources Subcommittee oversight study of the Department of Agriculture is available for consideration by the full committee.

The Honorable Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: The Honorable Neal A. Collins  
The Honorable Mandy Powers Norrell  
The Honorable Robert L. Ridgeway III

# Legislative Oversight Committee

## Study of the Department of Agriculture *August 3, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# AGENCY SNAPSHOT

## Department of Agriculture

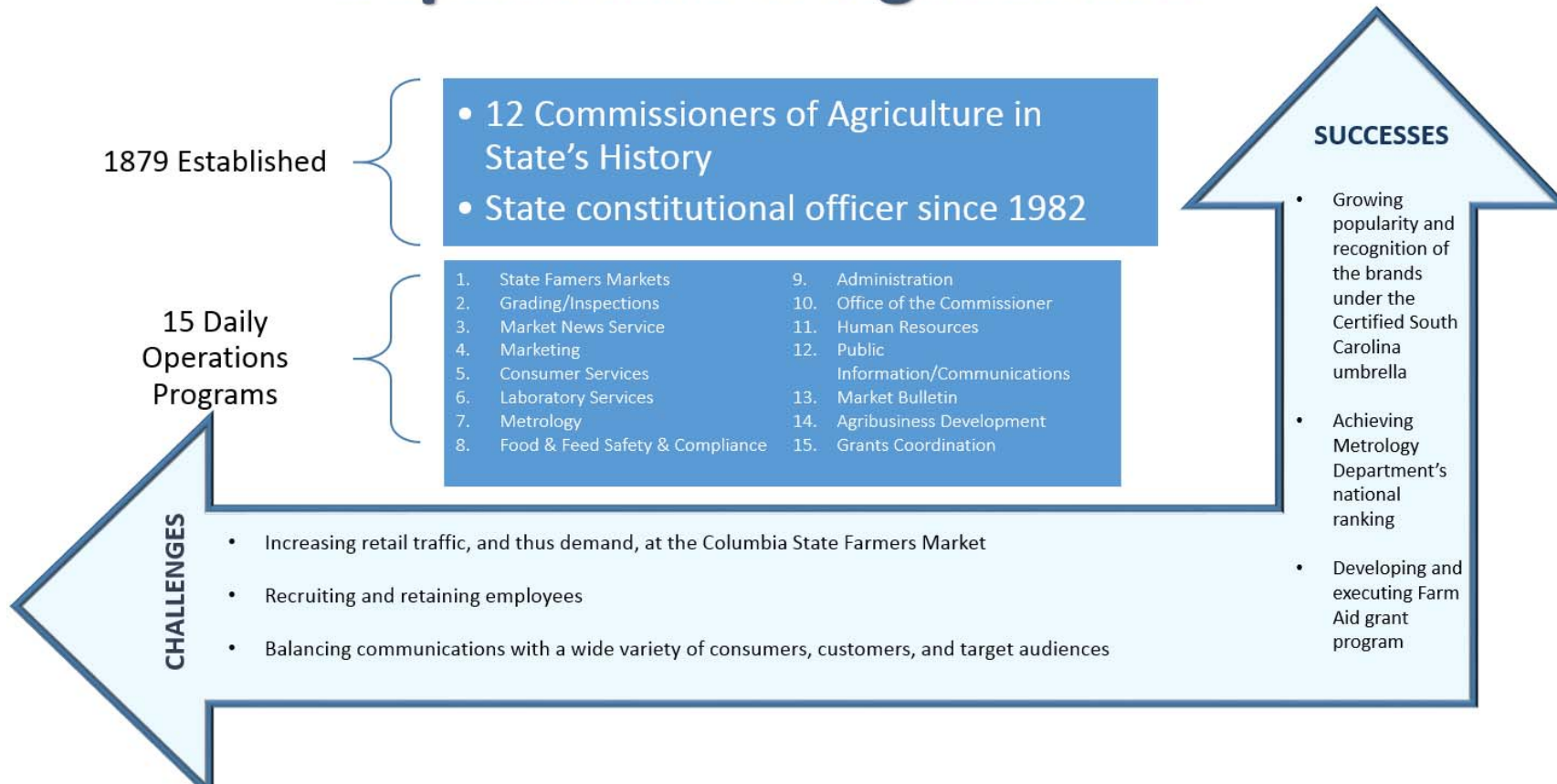


Figure 1. Snapshot of agency's history, daily operations programs, successes, and challenges.<sup>1</sup>



# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

SC Code of Laws § 2-2-20(B) states that “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee:

(1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and**  
 (2) **should be continued, curtailed, or eliminated.”** In making these determinations, the **Committee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## *Study Process*

The House Legislative Oversight Committee’s (Committee) process includes actions by the Committee; Economic Development, Transportation, and Natural Resources Subcommittee (Subcommittee);<sup>3</sup> the Department of Agriculture (agency); and the public. A summary of key dates and actions of the study process are listed in Figure 2.

### House Legislative Oversight Committee’s Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides the agency with notice about the oversight process

### Economic Development, Transportation, and Natural Resources Subcommittee’s Actions

- April 28, 2016 - Holds **Meeting #1**, an entry meeting, to discuss procedures and to receive an overview of the agency’s operations
- July 6, 2016 - Holds **Meeting #2** to offer an opportunity for public testimony and to receive information on the agency’s history, mission, and key partners
- October 31, 2016 - Holds **Meeting #3** to discuss the impact of Hurricane Matthew to the agency and agriculture in the state; commodity boards; and the Agriculture Commission
- January 26, 2017 - Holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly
- February 16, 2017 - Holds **Meeting #5** to discuss the agency’s program structure and strategic plan
- May 2, 2017 - Holds **Meeting #6** to discuss the agency’s successes; challenges; emerging issues; strategic plan objectives; implementation of Legislative Audit Council’s recommendations relating to the State Farmers Market; and its “50 by 20” ten-year goal for agriculture in South Carolina
- June 15, 2017 - Holds **Meeting #7** to discuss the agency’s recommendations
- June 22, 2017 - Holds **Meeting #8**, a work session, to further discuss recommendations

- July 10, 2017 - Holds **Meeting #9**, a work session, to further discuss recommendations

### Department of Agriculture's Actions

- March 21, 2015 - Submits its **Restructuring and Seven-Year Plan Report**
- January 11, 2016 - Submits its **Annual Restructuring Report**
- August 24, 2016 - Submits its **Program Evaluation Report, which serves as the base document for the study**
- September 15, 2016 - Submits its **Fiscal Year 2015-16 Accountability Report, which serves as its 2017 Annual Restructuring Report**
- December 30, 2016 - Submits updates to its Program Evaluation Report

### Public's Actions

- May 1-31, 2016 - Provides input about the agency in the form of an **online public survey**
- July 6, 2016 - Opportunity to provide testimony about the agency
- Ongoing - Opportunity for public to submit written comments on the House Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

*Figure 2. Summary of key dates and actions of the study process.*

## Recommendations

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

*Table 1. Summary of recommendations arising from the study process.*

RECOMMENDATIONS
<b>Modernize Law Relating to the Commissioner of Agriculture</b>
1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
<b>Modernize and Revise Laws Relating to the Agriculture Commission of South Carolina</b>
2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.

<b>Improve Consumer Services</b>	
<b>4.</b>	Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
<b>5.</b>	Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” <sup>4</sup>
<b>6.</b>	Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.
<b>7.</b>	Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.
<b>8.</b>	Enforce a tiered monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.
<b>Reduce Restrictions for Businesses</b>	
<b>9.</b>	Remove statutory reference to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control (i.e., remove an exemption registration burden from small home-based food producers that distribute non-potentially hazardous baked-goods and candy to the end consumer).
<b>10.</b>	Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number).
<b>11.</b>	Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; remove licensure requirements for small producers; authorize the licensure of quail eggs; and authorize a fee for registration).

### *Internal Changes Implemented by Agency Related to Study Process*

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>5</sup>

### *Additional Information of Interest*

The Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest include: (1) April 28, 2016, Attorney General Opinion that commodity boards are not subject to the State Procurement Code, and (2) agency’s draft language for modernizing salvage food (e.g., dented cans) regulations.<sup>6</sup> Both documents are available online.

## AGENCY OVERVIEW

### History

The **General Assembly establishes the South Carolina Department of Agriculture in 1879** and tasks it with a broad scope of responsibilities: fertilizer regulation; soil improvement and analysis; distribution of seeds; sheep husbandry; geology; labor; and more.<sup>7</sup> The General Assembly initially appropriates a one-time sum of approximately \$168,759 (inflation adjusted); the agency is supported by the funds collected from fines, forfeitures, and fees for land registration.<sup>8</sup> In 1880, the agency concludes its first year of operations with a balance of approximately \$565,567 (inflation adjusted).<sup>9</sup>

The first Commissioner of Agriculture is A.P. Butler.<sup>10</sup> More than a century later, in **1982, the Commissioner of Agriculture becomes an elected statewide constitutional officer** directly accountable to the public.<sup>11</sup> There are 12 Commissioners of Agriculture in the state's history, which are listed below in Table 2.<sup>12</sup> The current Commissioner of Agriculture is Hugh E. Weathers (Commissioner).

*Table 2. Commissioners of Agriculture, 1880 to present.*

COMMISSIONER	TERM OF OFFICE
A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
*D. Leslie Tindal	1982-2002
*Charles R. Sharpe	2002-2005
*Hugh E. Weathers	2005-present

*Table Note: Commissioners with an \*beside their names either have served or serve as a constitutional officer.*

In the early part of the twentieth century, **at least a dozen state agencies are created with responsibilities originally housed at the Department of Agriculture.**<sup>13</sup> The agency's name evolves to reflect its responsibilities.<sup>14</sup> In 1904, the Department of Agriculture is renamed the "State Department of Agriculture, Commerce and Immigration."<sup>15</sup> The Commissioner of Agriculture, Commerce and Immigration is appointed by the Governor, with the consent of the Senate.<sup>16</sup> In 1909, the State Department of Agriculture, Commerce and Immigration is renamed the "Department of Agriculture, Commerce and Industries," and the Commissioner of Agriculture, Commerce and Industries gains the authority to collect labor statistics.<sup>17</sup> In 1936, the General Assembly establishes the Department of Labor and vests it with collection of labor statistics.<sup>18</sup> Accordingly, the State Department of Agriculture, Commerce and Industries is renamed the "Department of Agriculture and Commerce."<sup>19</sup> In 1941, the Department of Agriculture and Commerce is renamed the "Department of Agriculture."<sup>20</sup>

In 1960, the **General Assembly authorizes the Department of Agriculture to execute all laws regarding agriculture** unless the laws designate execution by another entity.<sup>21</sup>

In 1968, the **General Assembly creates the Agriculture Commission** and, among other things, authorizes it to create and oversee commodity boards and administer marketing orders.<sup>22</sup>

In 1974, the state acquires the **Columbia Farmers Market** and places it under the supervision of the Department of Agriculture.<sup>23</sup> The agency assumes operations of the Greenville Farmers Market in 1980, and the Pee Dee State Farmers Market opens in 1989.<sup>24</sup>

The **“Certified SC”** campaign launches in 2007, which now has over 1,800 members.

In 2009, the agency launches its **“50 by 20 – A Ten Year Goal for South Carolina Agriculture” initiative**.<sup>25</sup> The agency’s goal is for agriculture to be a \$50 billion industry by the year 2020; the agency is seeking to achieve this goal through increases in market access, partnerships, recruitment, and diversification.<sup>26</sup>

In 2010, the **“Fresh on the Menu”** restaurant program is established, with over 300 restaurants now participating.<sup>27</sup>

In 2011, the agency partners with the Department of Commerce for an agribusiness project manager, and in January 2014, the **agritourism program** is created.<sup>28</sup> In 2013, agribusiness has a total economic impact of \$41.7 billion, representing 10.5% of the state’s workforce (i.e., 212,530 jobs).<sup>29</sup> **South Carolina produces \$3 billion each year from its top agricultural products:** chickens, turkeys, greenhouse nurseries, cotton, corn, cattle, soybeans, peanuts, eggs, and wheat.<sup>30</sup>

## Major Divisions or Programs

An agency’s major divisions or programs are the way the agency is operationally segmented. The **Department of Agriculture has 15 daily operations programs**.<sup>31</sup>

*Table 3. Agency’s daily operations programs.*

PROGRAM	PURPOSE OF PROGRAM
State Farmers Markets	<ul style="list-style-type: none"> <li>Owns and manages three regional (Columbia, Florence, and Greenville) state farmers markets, which provide consumers with a variety of locally grown produce and specialty products.</li> </ul>
Grading/Inspections	<ul style="list-style-type: none"> <li>Provides fruit, vegetable, poultry, egg, and commodity grading and inspection services, including Good Agricultural Practices training, under a cooperative agreement with the United States Department of Agriculture (USDA).</li> </ul>
Market News Services	<ul style="list-style-type: none"> <li>Analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers, pursuant to an agency contract with the USDA.</li> </ul>
Marketing	<ul style="list-style-type: none"> <li>Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality South Carolina agricultural products at local, national, and international levels.</li> </ul>

Consumer Services	<ul style="list-style-type: none"> <li>• Ensures the net content statements on packages and weighing or measuring devices are correct and that agricultural products are measured accurately for commerce to protect consumers.</li> </ul>
Laboratory Services	<ul style="list-style-type: none"> <li>• Assures that goods meet acceptable standards of quality.</li> <li>• Issues registrations, licenses, and permits to certain businesses (e.g., food laboratory, feed laboratory, seed laboratory, chemical residue laboratory, and petroleum products laboratory) to protect consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale.</li> </ul>
Metrology	<ul style="list-style-type: none"> <li>• Provides National Institute of Standards and Technology traceable calibrations for mass and volume standards.</li> <li>• Calibrates equipment for state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.</li> </ul>
Food & Feed Safety and Compliance	<ul style="list-style-type: none"> <li>• Conducts routine surveillance inspections to ensure foods and feeds are manufactured under safe, sanitary conditions.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>• Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management, and other administrative services.</li> </ul>
Office of the Commissioner	<ul style="list-style-type: none"> <li>• Provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development.</li> <li>• Ensures agency personnel practices are compliant with state and federal regulations.</li> </ul>
Public Information / Communications	<ul style="list-style-type: none"> <li>• Communicates the agency's mission and the importance of South Carolina agriculture and agribusiness through traditional and social media, websites, and the Market Bulletin.</li> <li>• Informs industry members and the general public of pertinent agricultural issues.</li> <li>• Responds to various media inquiries.</li> </ul>
Market Bulletin	<ul style="list-style-type: none"> <li>• Issues publication (print and electronic) twice a month as a marketplace for agricultural goods and services.</li> <li>• Provides consumer interest articles.</li> </ul>

Agribusiness Development	<ul style="list-style-type: none"> <li>• Works to continually promote agribusiness in South Carolina through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in the state via the production of South Carolina grown products or value-added services/processing.</li> <li>• Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.</li> </ul>
Grants Coordination	<ul style="list-style-type: none"> <li>• Cooperates with the federal government to implement the Specialty Crop Block Grant, Farm to School Grant, and Manufactured Food and Regulatory Program Standards.</li> <li>• Pursues and secures other grants to benefit the agriculture industry and agency.</li> </ul>

An organizational chart, inclusive of the Agriculture Commission of South Carolina, is provided in Figure 3 on the next page.

# Organizational Chart

Agency FTE Total: 120.8  
 2 TG  
 7 TL

## S.C. Department of Agriculture August 1, 2016

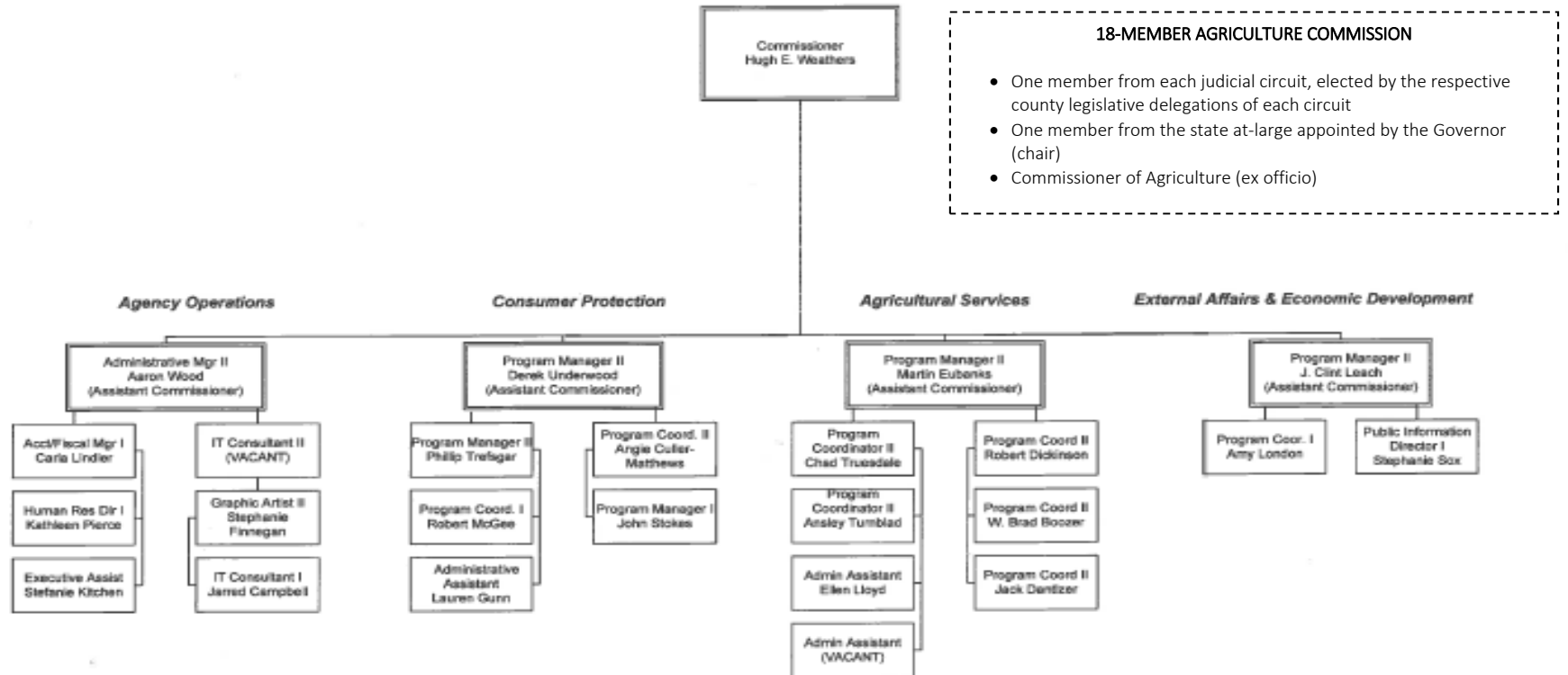


Figure 3. Organizational chart, current as of August 1, 2016.



## Products/Services

The **Department of Agriculture is tasked with executing laws in South Carolina pertaining to agriculture.** The combined Accountability Report and Annual Restructuring Report for fiscal year 2015-16 requests information on the services and products an agency provides.<sup>32</sup> Table 4 lists some of the products and services the agency provides relating to agriculture.

*Table 4. Some of the products and services the agency provides.<sup>33</sup>*

<p><b>Ensures that foods and feeds are manufactured under safe and sanitary conditions</b> via routine:</p> <ul style="list-style-type: none"> <li>• Sampling and analysis; and</li> <li>• Chemical and microscopic analyses of feed products.</li> </ul>
<p><b>Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale and ensures goods meet acceptable standards of quality</b> via:</p> <ul style="list-style-type: none"> <li>• Fruit and vegetable residue testing;</li> <li>• Gasoline and diesel fuel products inspections and analysis; and</li> <li>• Germination and purity testing.</li> </ul>
<p><b>Protects consumers by ensuring the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce</b> via:</p> <ul style="list-style-type: none"> <li>• Weighing and measuring devices inspections;</li> <li>• Public weigh masters;</li> <li>• Bonded dealers and handlers licenses; and</li> <li>• Licensing and bonding of warehouses.</li> </ul>
<p><b>Communicates state agriculture, agribusiness, pertinent agricultural issues and marketplace information for agricultural goods and services</b> via:</p> <ul style="list-style-type: none"> <li>• Traditional media relations;</li> <li>• Social media;</li> <li>• Market bulletin publication; and</li> <li>• Regional state farmers markets; and</li> <li>• Agribusiness recruitment.</li> </ul>

## Other Agencies Serving Similar Customers/Products/Services

During the study of an agency, the **Committee asks what other agencies serve customers, products, or services similar to the agency under study.**<sup>34</sup> While the majority of products and services the Department of Agriculture provides are unique, the agency networks with other agencies in the economic development, transportation, natural resources, and regulatory arena to exchange operational ideas and information.<sup>35</sup>

## Strategic Resources and Allocation

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.<sup>36</sup>

The following tables include an overview of the agency's strategic plan and resources allocated to its goals and objectives.<sup>37</sup> Table 5 lists employees and funding allocated to each goal in fiscal year 2016-17. Tables 6 through 9.1 include additional details, including resource allocation and associated performance measures, for each of these goals.

*Table 5. Resources allocated toward the agency's goals in fiscal year 2016-17.*

Strategic Plan Element	Description	Number of physical FTES and (FTE equivalents) planned <sup>38</sup>	Total budgeted (% of funds available) <sup>39</sup>
Goal 1	Improve agency operational readiness and workforce development	23 (15)	\$1,220,810 (5.46%)
Goal 2	Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59 (55)	\$4,198,306 (18.78%)
Goal 3	Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56 (49.15)	\$11,702,662 (52.35%)
Goal 4	Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17 (8.5)	\$147,643 (0.66%)
Balance remaining	Amount unspent		\$5,085,840 (22.75%)

In regards to carryforward, the agency states the amounts are necessary to support associated programs year-round.<sup>40</sup> Many of the agency's funding sources do not receive a steady stream of revenue throughout the year, rather, the revenue may be received only over a two-to-three month period (e.g., seed licenses, feed registrations, and commodity board assessments). If the agency does not carry forward appropriate revenue, the agency may be unable to meet operating expenses for portions of the year. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (i.e., soybean, peanuts, watermelon, cotton, and tobacco) negatively, the boards may not receive crop assessments sufficient to meet the next year's operating expenses. The agency acts as a fiduciary agent for commodity board assessments, but the agency does not control the amount of remittances or expenditures. Also, built into the carryforward for 2014, 2015, and 2016 are amounts for non-recurring funds received through provisos which will not be available after this fiscal year.<sup>41</sup>

*Table 6. Goal 1: Improve agency operational readiness and workforce development: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>42</sup>	Total budgeted (% of funds available) <sup>43</sup>
<b>Goal 1</b>	<b>Improve agency operational readiness and workforce development</b>	<b>23 (15)</b>	<b>\$1,220,810 (5.46%)</b>
<b>Strategy 1.1</b>	<b><i>Prioritize and deploy Information Technology (IT) products and services</i></b>	<b>5 (3.25)</b>	
Objective 1.1.1	Inventory and establish a replacement schedule for all agency IT equipment	1 (1)	
Objective 1.1.2	Achieve that 100% of appropriate staff complete an annual information security awareness training	1 (0.5)	
Objective 1.1.3	Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2 (1.25)	
Objective 1.1.4	Work with Division of Information Security to develop and implement INFOSEC (i.e., information security) policies	1 (0.5)	
<b>Strategy 1.2</b>	<b><i>Recruit and retain highly qualified and motivated employees</i></b>	<b>7 (4)</b>	
Objective 1.2.1	Perform all actions related to personnel (e.g.: E-Verify, South Carolina Enterprise Information System, NeoGov [job portals], Employee Performance Management System, insurance, retirement, and documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3 (2.75)	
Objective 1.2.2	Complete required Equal Employment Opportunity Commission reporting and focus on potential areas of improvement	1 (0.25)	
Objective 1.2.3	Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1 (0.25)	
Objective 1.2.4	Offer an annual health screening for all employees and purchase Personal Protective Equipment for all field personnel	1 (0.25)	
Objective 1.2.5	Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1 (0.5)	
<b>Strategy 1.3</b>	<b><i>Improve financial reporting and business procedures</i></b>	<b>6 (4.5)</b>	
Objective 1.3.1	Provide monthly financial reports to division directors and program staff	1 (0.5)	
Objective 1.3.2	Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	1 (0.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>42</sup>	Total budgeted (% of funds available) <sup>43</sup>
Objective 1.3.3	Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1 (1)	
Objective 1.3.4	Set up purchase orders, post payments received, and process invoices within two weeks of receipt	3 (2.25)	
<b>Strategy 1.4</b>	<b><i>Set, execute and monitor a strategic plan towards accomplishing the agency mission</i></b>	<b>5 (3.25)</b>	
Objective 1.4.1	Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1 (0.5)	
Objective 1.4.2	Complete Farm Aid application processing, review and disbursements by 1 October 2016	2 (1.25)	
Objective 1.4.3	Respond to constituent contacts within 3 business days of receipt	1 (0.5)	
Objective 1.4.4	Brief Commissioner daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner at meetings, seminars, and events	1(1)	

**Table 6.1. Performance measures associated with goal 1.**

<u>Performance Measures associated with Goal 1<sup>44</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of planning staging documents completed within two months of the calendar year for existing employees and within one month of hiring new employees	100%	94%	100%	July 1-June 30	HR records	Number of completed planning staging documents/ total number of employees required to have an employee performance evaluation	1.2.3
Percent of supervisors receiving supervisory skills training/personal development plan	100%	100%	100%	July 1-June 30	HR records	Number of employees receiving supervisory training/total number of employees eligible for supervisory training	1.2.3, 1.2.5
Percent of computer-using staff that complete annual information security awareness training	new	n/a	100%	July 1-June 30	IT records	Number of completions/total number of required staff	1.1.1

*Table 7. Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>45</sup>	Total budgeted (% of funds available) <sup>46</sup>
<b>Goal 2</b>	<b>Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities</b>	<b>59 (55)</b>	<b>\$4,198,306 (18.78%)</b>
<b>Strategy 2.1</b>	<b><i>Provide food/feed safety oversight of South Carolina food manufactures, processors, and food distribution facilities through routine, risk-based, compliance inspections</i></b>	<b>4 (3.5)</b>	
Objective 2.1.1	Lead implementation plans for federal regulatory mandates such as Food Safety Modernization Act (FSMA), Manufactured Food Regulatory Program Standards, Animal Feed Regulatory Program Standards, and Country of Origin Labeling	1 (0.5)	
Objective 2.1.2	Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1 (1)	
Objective 2.1.3	Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1 (1)	
Objective 2.1.4	Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the United States Food and Drug Administrations' (FDA) FSMA Produce Safety Rule	1 (1)	
<b>Strategy 2.2</b>	<b><i>Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</i></b>	<b>8 (7)</b>	
Objective 2.2.1	Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program	1 (0.75)	
Objective 2.2.2	Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1 (0.25)	
Objective 2.2.3	Build a new metrology laboratory to meet the National Institute of Standards and Technology requirements for Echelon I metrology laboratory environments	2 (2)	
Objective 2.2.4	Perform calibrations within one month of a work order	4 (4)	
<b>Strategy 2.3</b>	<b><i>Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</i></b>	<b>21 (20)</b>	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>45</sup>	Total budgeted (% of funds available) <sup>46</sup>
Objective 2.3.1	Procure and deploy new large mass vehicles to provide service to large scale firms	1 (0.5)	
Objective 2.3.2	Perform routine inspections, consistent with policy, of 100% of firms annually under agency regulatory oversight	18 (18)	
Objective 2.3.3	Provide follow-up communication on 100% of consumer complaints	2 (1.5)	
<b>Strategy 2.4</b>	<b><i>Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i></b>	<b>26 (24.5)</b>	
Objective 2.4.1	Collaborate and ensure open communication with other agencies (e.g., Clemson, Department of Transportation, Department of Health and Environmental Control, Department of Revenue, Animal and Plant Health Inspection Service, Food Emergency Response Network [FERN], FDA, and United States Department of Agriculture) to perform routine and emergency testing	1 (0.5)	
Objective 2.4.2	Develop and install a new Laboratory Information Management System to enhance reporting and interface with FERN and FDA compliant databases	2 (1.5)	
Objective 2.4.3	Develop standard operating procedures and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1 (1)	
Objective 2.4.4	Have 100% staff attendance at all technical trainings and safety meetings	21 (20.5)	
Objective 2.4.5	Analyze official and submitted samples and communicate results within five business days	1 (1)	

Table 7.1. Performance measures associated with goal 2.

<b>Performance Measures associated with Goal 2<sup>47</sup>:</b>	<b>2015-16 Target Value</b>	<b>2015-16 Actual Value</b>	<b>2016-17 Target Value</b>	<b>Time Applicable</b>	<b>Data Source and Availability</b>	<b>Calculation Method</b>	<b>Associated Objective(s)</b>
Number of seed inspections performed for Clemson University	new	n/a	350	July 1-June 30	Seed Lab records	Total number of seed inspections performed for Clemson	2.4.1, 2.4.3
Percent of consumer protection requests and complaints with same-day follow-up communication	100%	100%	100%	July 1-June 30	Inspection records	Number of consumer requests with same-day follow-up/total number of requests	2.3.3
Number of firms provided metrology laboratory services	new	381	400	July 1-June 30	Metrology Laboratory Report	Total number of firms provided laboratory services	2.2.1, 2.2.2, 2.2.3, 2.2.4
Percent of time action is taken on inferior petroleum samples	new	n/a	100%	July 1-June 30	Petroleum Lab records	Number of corrective actions taken/total number of fuel deemed inferior or contaminated	2.3.2, 2.3.3
Percent of time action is taken on mislabeled food products	new	n/a	100%	July 1-June 30	Food Safety Records	Number of corrective actions taken/Total number of food label submissions	2.1.1, 2.1.2, 2.1.3,
Percent of producers educated about produce safety rule under Food Safety Modernization Act (FSMA)	new	n/a	80%	July 1-June 30	Records and log from newly created agency FSMA department and Clemson University	Number of producers reached/total inventory of targeted producers	2.1.1, 2.1.4

*Table 8. Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products: agency's fiscal year 2016-17 strategic plan and resources allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>48</sup>	Total budgeted (% of funds available) <sup>49</sup>
<b>Goal 3</b>	<b>Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</b>	<b>56 (49.15)</b>	<b>\$11,702,662 (52.35%)</b>
<b>Strategy 3.1</b>	<b><i>Expand Certified South Carolina branding and marketing efforts</i></b>	<b>7 (5.5)</b>	
Objective 3.1.1	Increase program membership by 5%	2 (2.5)	
Objective 3.1.2	Actively use social media to engage the public with at least two posts per day	1 (0.75)	
Objective 3.1.3	Grow agritourism operator participation in South Carolina programming by 5% and consumer traffic at those venues by 10%	3 (1.5)	
Objective 3.1.4	Conduct participant evaluation at all events to determine effectiveness and utilization	1 (0.75)	
<b>Strategy 3.2</b>	<b><i>Maximize Return on Investment of producer-led commodity boards through research, promotion and education</i></b>	<b>4 (2)</b>	
Objective 3.2.1	Use merchandising and commodity-specific promotions to increase sales of South Carolina products by 5% in retail food outlets and food service venues	1 (0.5)	
Objective 3.2.2	Fund research of new technologies, science and best management practices for production, packaging and processing	1 (0.5)	
Objective 3.2.3	Place more resources into export market analysis, access, and development	1 (0.5)	
Objective 3.2.4	Use cross-promotion of, and between, commodities to increase demand by 5%	1 (0.5)	
<b>Strategy 3.3</b>	<b><i>Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i></b>	<b>20 (17.9)</b>	
Objective 3.3.1	Identify and prioritize critical upgrades at all three State Farmers Market to ensure producers and consumers have safe and clean facilities	15 (14.5)	
Objective 3.3.2	Provide four training meetings for producers and community based markets to expand Supplemental Nutrition Assistant Program/Women, Infants Children usage of this program	1 (0.75)	
Objective 3.3.3	In conjunction with Clemson University Extension, update producer Good Agricultural Practice training and outreach efforts to increase certification by 5%	2 (1.75)	



Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>48</sup>	Total budgeted (% of funds available) <sup>49</sup>
Objective 3.3.4	Provide technical assistance and funding to nine new schools and pre-schools	1 (0.5)	
Objective 3.3.5	Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1 (0.4)	
<b>Strategy 3.4</b>	<b><i>Provide daily market news reports and United States Department of Agriculture (USDA) quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i></b>	<b>25 (23.75)</b>	
Objective 3.4.1	Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4 (3.25)	
Objective 3.4.2	Produce and publish information daily and weekly through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2 (1.5)	
Objective 3.4.3	Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17 (17)	
Objective 3.4.4	Increase the diversity of USDA commodity certifications that agency inspectors can issue upon request	2 (2)	

Table 8.1. Performance measures associated with goal 3.

<u>Performance Measures associated with Goal 3<sup>50</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of Certified South Carolina members	1950	1870	1900	July 1- June 30	Member database; Updated monthly	Total of all Certified South Carolina members, including Certified South Carolina seafood	3.1.1
Number of attendees at Certified South Carolina events	235,400	181,132	190,000	July 1- June 30	Car counts, Ticket sales	Totaling number of attendees at agency events via car counts (2.2 PP per car as standard) and ticket sales for paid events	3.1.4
Certified South Carolina brand recognition	66%	n/a	66%	time in between periodic surveys	Statewide consumer survey	Total positive responses on consumer survey of target group sample	3.1.1
Percent of inspection staff able to provide full service to customers without restrictions	new	43%	100%	July 1- June 30	Inspection staff certifications	Number of full certified inspection staff/total number of inspection staff	3.4.4

*Table 9. Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>51</sup>	Total budgeted (% of funds available) <sup>52</sup>
<b>Goal 4</b>	<b>Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders</b>	<b>17 (8.5)</b>	<b>\$147,643 (0.66%)</b>
<b>Strategy 4.1</b>	<b><i>Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i></b>	<b>5 (2.65)</b>	
Objective 4.1.1	Meet with ten current companies annually to encourage them to use more South Carolina agricultural products in their business processes	1 (0.65)	
Objective 4.1.2	Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1 (0.25)	
Objective 4.1.3	Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1 (0.5)	
Objective 4.1.4	Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1 (1)	
Objective 4.1.5	Perform an annual inventory analysis on agribusiness companies who are primed for expansion in South Carolina or the Southeastern United States	1 (0.25)	
<b>Strategy 4.2</b>	<b><i>Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i></b>	<b>3 (1)</b>	
Objective 4.2.1	Assess all industry policies before each legislative session by gathering input from a cross section of at least ten different producers	1 (0.4)	
Objective 4.2.2	Be an industry voice in communicating factual information to elected officials at the appropriate time	1 (0.2)	
Objective 4.2.3	Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1 (0.4)	
<b>Strategy 4.3</b>	<b><i>Provide credible and timely information to South Carolinians to increase awareness of agriculture</i></b>	<b>3 (1.1)</b>	
Objective 4.3.1	Update agency plan for crisis management and/or regulatory enforcement events	1 (0.1)	
Objective 4.3.2	Respond to 100 percent of website information requests within two business days	1 (0.25)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>51</sup>	Total budgeted (% of funds available) <sup>52</sup>
Objective 4.3.3	Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1 (0.75)	
<b>Strategy 4.4</b>	<b><i>Continue to foster external and internal communications as educational resources and enhanced customer service tools</i></b>	<b>6 (3.75)</b>	
Objective 4.4.1	Maintain a Market Bulletin subscription of 15,000	3 (2.5)	
Objective 4.4.2	Public Information staff should conduct visits with different program staff at least monthly	1 (0.25)	
Objective 4.4.3	Establish an accurate position on key issues and create consistent messaging across the agency	1 (0.5)	
Objective 4.4.4	Leverage paid media to get a higher return on investment	1 (0.5)	

*Table 9.1. Performance measures associated with goal 4.*

<u>Performance Measures associated with Goal 4<sup>53</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of website Public Information Requests answered within 2 days	99%	100%	100%	July 1- June 30	Estimate based on PI request records	Number of phone, email, and social media requests answered within 2 days/total number of requests	4.3.2
Market Bulletin subscription reach	16,000	15,894	15,600	July 1- June 30	Kelly Registration Systems	Total number of Market Bulletin subscribers	4.4.1
Number of agribusiness identified for prospective expansion or projects in South Carolina	6	87	75	July 1- June 30	Recruitment log; updated monthly	Totaling monthly number of contacts	4.1.1, 4.1.3, 4.1.4, 4.1.5
Earned media	new	479	500	July 1- June 30	Media tracking records; daily	Total number of all agency media mentions	4.3.3, 4.4.2, 4.4.3, 4.4.4

## *Performance*

Information on individual performance measures are listed in the previous section in Tables 6.1; 7.1; 8.1; and 9.1 for ease of comparison with the agency's goals.

Additionally, the **Program Evaluation Report requests information about the entities the agency views as top in performance areas similar to the agency.**<sup>54</sup> Based on the agency's mission and strategic plan, there are three other entities, the agency considers the best in the country: (1) New Jersey Department of Agriculture (branding state agriculture products); (2) Florida Department of Agriculture & Consumer Services (branding state agriculture products and seafood regulation); and (3) North Carolina Department of Agriculture and Consumer Services (food safety program).

## STUDY PROCESS

### *Agency Selection*

The Department of Agriculture is an agency subject to legislative oversight.<sup>55</sup> During the 121<sup>st</sup> General Assembly,<sup>56</sup> the **Committee prioritizes the agency for study** by the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee on January 28, 2016.<sup>57</sup> When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development Transportation, and Natural Resources Subcommittee.<sup>58</sup>

The **Committee notifies the agency** about the study on February 4, 2016.<sup>59</sup> The notification letter is in Appendix A on page 49. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are notified about the agency study.<sup>60</sup>

### *Subcommittee Membership*

The **Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency.**<sup>61</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. During the 121<sup>st</sup> General Assembly, the Honorable Phyllis J. Henderson serves as chair, and during the 122<sup>nd</sup> General Assembly, the Honorable Ralph W. Norman serves as chair until he resigns from the General Assembly on February 16, 2017.<sup>62</sup> The Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presides at the remainder of the Subcommittee meetings with the agency. Members participating in the study of the agency are listed below:

- The Honorable Neal A. Collins (122<sup>nd</sup> General Assembly);
- The Honorable Laurie Slade Funderburk (122<sup>nd</sup> General Assembly);
- The Honorable Phyllis J. Henderson (121<sup>st</sup> General Assembly);
- The Honorable Ralph W. Norman (121<sup>st</sup> and 122<sup>nd</sup> General Assembly);
- The Honorable Mandy Powers Norrell (122<sup>nd</sup> General Assembly);
- The Honorable Robert L. Ridgeway, III (121<sup>st</sup> and 122<sup>nd</sup> General Assembly); and
- The Honorable Samuel Rivers, Jr. (121<sup>st</sup> General Assembly).

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct a self-analysis** by requiring it to complete and submit a Seven-Year Plan for cost savings and increased efficiencies; annual Restructuring Reports, and a Program Evaluation Report. These reports are available to the public on the Committee's website.

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

S.C. Code of Laws § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period.”<sup>63</sup> The agency submits its plan on March 11, 2015.<sup>64</sup>

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”<sup>65</sup> The **agency submits Annual Restructuring Reports** on March 11, 2015, January 12, 2016, and September 15, 2016.<sup>66</sup> The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Restructuring Report.<sup>67</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee."<sup>68</sup> SC Code of Laws § 2-2-60 outlines what an investigating committee's request for a program evaluation report (PER) must contain. It also provides a list of information an investigating committee may request. The agency’s PER includes information in the following areas: history, structure, strategic plan, programs, strategic allocation of resources, performance measures, comparisons to other agencies, and recommendations.

The **PER serves as the base document for the Subcommittee’s study of the agency.** The Committee sends guidelines for the agency’s PER on May 16, 2016.<sup>69</sup> The agency submits the report on August 24, 2016 and updates the report on December 30, 2016.<sup>70</sup>

### *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee’s process.**<sup>71</sup> Members of the public are provided an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee website, and appear in person before the Subcommittee.<sup>72</sup>

### *Public Survey*

From May 1, 2016, to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Agriculture** and four other agencies.<sup>73</sup> Members of the public are able to participate anonymously in a public survey about the agency. In an effort to communicate this public input opportunity widely, a statewide media release is issued about the public survey on April 29, 2016.<sup>74</sup> House Members are provided copies of this media release and are encouraged to share notice of this public input opportunity with their constituents.<sup>75</sup>

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.<sup>76</sup> These comments are not considered testimony.<sup>77</sup> As noted in the survey, "input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>78</sup> Documents related to the public survey are in Appendix B on page 52. The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>79</sup>

Of those that respond to questions related to the Department of Agriculture, 72% have a positive or very positive opinion of the department.<sup>80</sup> Over 68% of respondents form their opinions via personal or business experience with the agency or from media coverage.<sup>81</sup>

Written comments about the agency are provided by 23 survey participants; often, these comments address more than one topic. Many of the written comments address the agency's customer service and the farmers market.<sup>82</sup> Responses to online surveys are posted on the Committee's webpage verbatim as they are received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

### *Public Input via Committee Website*

Throughout the course of the study, the public is able to submit comments anonymously on the Committee website. No public input is received through this communication method with the Committee.

### *Public Input via In-Person Testimony*

The Committee offers the public an opportunity to appear and provide sworn testimony. A meeting dedicated to public input is held on July 6, 2016.<sup>83</sup> A press release announcing this opportunity is sent to media outlets statewide on June 28, 2016.<sup>84</sup> No public testimony is received about the agency during the meeting. Additionally, the chair of either the Committee or Subcommittee has the discretion to allow the testimony about the agency during meetings.

### *Meetings Regarding the Agency*

The full Committee meets once about the agency, and the Subcommittee meets either with or about the agency on nine occasions. A timeline of meetings is in Figure 2 on page 8. Meeting minutes and archived videos of meetings are available online.<sup>85</sup>

#### *121<sup>st</sup> General Assembly (2015-2016)*

##### **January 2016**

On January 28, 2016, the Committee **meets and prioritizes the Department of Agriculture** for study.<sup>86</sup> Appendix C includes the meeting packet on page 149.



## April 2016

On April 28, 2016, the Subcommittee holds **Meeting #1**, an entry meeting, to discuss **procedural issues and receive a brief overview of the agency's operations** from the Commissioner of Agriculture.<sup>87</sup> Appendix D includes the meeting packet on page 177.

## July 2016

On July 6, 2016, the Subcommittee holds **Meeting #2** to offer an **opportunity for the public to provide testimony about the agency**.<sup>88</sup> No testimony is received. The Commissioner of Agriculture provides information on the **agency's history, mission, and its key partners**. Following the meeting, the Subcommittee requests information on the following: (1) overview of relationships with South Carolina State University Public Service Activities; (2) information about pivot irrigation systems; (3) copies of studies mentioned during the meeting; and (4) recommendations the agency may have for revisions to laws for consideration as part of the study.<sup>89</sup> The agency responds to these requests on September 2, 2016.<sup>90</sup> Appendix E includes the meeting packet on page 254.

## October 2016

On October 31, 2016, the Subcommittee holds **Meeting #3** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) impact of Hurricane Matthew to the agency and agriculture in the state; (2) structure, funding, staffing, and procurement for commodity boards; and (3) the structure and history of the Agriculture Commission**.<sup>91</sup> Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission appointment process; and (2) commodity board staffing and fee assessments.<sup>92</sup> The Commissioner responds to these questions. Appendix F includes the meeting packet on page 312.

## *122<sup>nd</sup> General Assembly (2017-2018)*

### January 2017

On January 26, 2017, the Subcommittee holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly.<sup>93</sup> Appendix G includes the meeting packet on page 352.

### February 2017

On February 16, 2017, the Subcommittee holds **Meeting #5** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) the agency's program structure, and (2) the agency's strategic plan**.<sup>94</sup> Subcommittee members question the Commissioner about the following topics: (1) state aid package to assist farmers, meeting certain criteria, affected by the October 2015 historic flood; (2) agency's budget requests; and (3) the relationship between the state's agricultural production and consumption. The Commissioner responds to these questions. Appendix H includes the meeting packet on page 379.

## May 2017

On May 2, 2017, the Subcommittee holds **Meeting #6** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>95</sup> The Commissioner of Agriculture provides information about the following topics: **(1) successes; (2) challenges; (3) emerging issues; (3) strategic plan objectives; (4) implementation of Legislative Audit Council's recommendations relating to the State Farmers Market; and (5) the "50 by 20" ten-year goal for South Carolina agriculture [i.e., agribusiness industry flow \$50 billion in the state's economy by 2020].** Subcommittee members question the Commissioner about the following topics: (1) federal Food Safety Modernization Act; (2) farming profession; (3) surface water withdrawal; (4) farmers market; (5) commodity boards and the procurement code; and (6) marketing and economic development. The Commissioner of Agriculture responds to these questions. Following the meeting, the Subcommittee requests information on the following: (1) the federal Food Safety Modernization Act; and (2) commodity boards and procurement.<sup>96</sup> The agency responds to the Subcommittee's request on June 6, 2017.<sup>97</sup> Additionally, the agency and the Department of Health and Environmental Control provide the Subcommittee with information relating to the agency's recommendations for statutory changes.<sup>98</sup> Appendix I includes the meeting packet on page 397.

## June 2017

On June 15, 2017, the Subcommittee holds **Meeting #7** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>99</sup> The Commissioner of Agriculture provides information about the **agency's recommendations** for revisions to laws relating to the agency. Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission; (2) model feed law proposed by the American Association of Feed Control Officials; (3) laboratory analysis performed by the agency; (4) agency's regulation of petroleum dispensers; (5) food inspection; (6) salvaged food; (7) electronic warehouse receipts for cotton; and (8) licensure requirements to sell eggs. The Commissioner of Agriculture, Assistant Commissioner for Consumer Protection, and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee requests information about the agency's recommendations.<sup>100</sup> Appendix J includes the meeting packet on page 485.

On June 22, 2017, the Subcommittee holds **Meeting #8, a work session to further discuss the agency's recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>101</sup> Following the meeting, the Subcommittee sends a letter to the agency requesting information relating to its recommendations.<sup>102</sup> Appendix K includes the meeting packet on page 550.

## July 2017

On July 10, 2017, the Subcommittee holds **Meeting #9, a work session to further discuss the agency's recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>103</sup> Subcommittee members question agency representatives about the agency's recommendations. The Assistant Commissioner for Consumer Protection and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee sends a letter to the agency.<sup>104</sup> Appendix L includes the meeting packet on page 676.

## *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee members may provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to (1) refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.<sup>105</sup> The Committee Chair may provide briefings to the public about the final oversight study.<sup>106</sup>

To support the Committee's ongoing oversight by maintaining current information about the Department of Agriculture, the agency receives an annual Request for Information.

# RECOMMENDATIONS

## *General Information*

The following **recommendations include areas identified for potential improvement by the Subcommittee.** The **Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple Subcommittee meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency can all be found on the Committee's website.

### *Continue*

The **Subcommittee does not have any specific recommendations with regards to continuance of agency programs.**

## Curtail (i.e. Revise)

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1 on page 8.

### *Recommendation to Modernize Law Relating to the Commissioner of Agriculture*

**1. The Subcommittee recommends the General Assembly consider removing the bond (\$50,000) requirement of the Commissioner of Agriculture.** The chief executive officer of the agency is the Commissioner of Agriculture, an elected state constitutional officer.<sup>107</sup> If a vacancy occurs in the office, the Governor appoints a successor to fill the unexpired term.<sup>108</sup> State statutes provide general qualifications for the office and outline specific duties for the Commissioner. The general qualifications include “a competent knowledge of agriculture, manufacturing and general industries, commerce, chemistry, and publicity.”<sup>109</sup> A variety of other duties of the Commissioner are referenced in statute, and one of those duties includes the posting of a bond.<sup>110</sup>

The bond requirement has not been updated in more than 60 years.<sup>111</sup> During the study process, the Commissioner of Agriculture testifies 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>112</sup> A summary of the recommendation is in Table 10.

**Table 10. Summary of recommendation to modernize law relating to the Commissioner of Agriculture (bond).**

Statute or Regulation	SECTION 46-3-50. Bond
Explanation of Revision	1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
Recommended Language	<p><del>SECTION 46-3-50. Bond.</del></p> <p>The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.</p> <p>HISTORY: 1962 Code Section 3-3-1; 1954 (48) 1566.</p>

### *Recommendations to Modernize Laws Relating to the Agriculture Commission*

**2. The Subcommittee recommends the General Assembly consider limiting service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.** The Agriculture Commission is composed of one member from each judicial circuit and one member from the state at large appointed by the Governor who serves as chair; the Commissioner of Agriculture serves ex officio.<sup>113</sup> According to information from the South Carolina Secretary of State’s Office, **one judicial circuit has a vacancy on the**

Agriculture Commission; half of the sixteen judicial circuits have members on the commission who are serving in a hold-over capacity with expired terms, including one that expired a quarter of a century ago.<sup>114</sup> A summary of the recommendation is in Table 11.

*Table 11. Summary of recommendation to modernize law relating to the Agriculture Commission (service in a hold-over capacity).*

Statute or Regulation	<b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.
Explanation of Revision	2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
Recommended Language	<p><b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.</p> <p>There is created the Agriculture Commission of South Carolina, to be composed of one member from each judicial circuit and one member from the State at large who shall be designated chairman. The Commissioner of Agriculture shall be a member, ex officio, but without the power to vote. All terms shall be for four years, except that of the chairman, who shall be appointed by the Governor and whose term shall be coterminous with the office of the Governor appointing. <u>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.</u> The chairman shall be an agricultural producer or grower of agricultural products. The member representing a judicial circuit shall be elected by the legislative delegations representing the circuit. Representation on the Commission shall be rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit. The Commissioner of Agriculture shall serve as secretary to the Commission. No one shall be appointed or elected who should attain the mandatory retirement age prior to the expiration of his term.</p> <p>The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Commission to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as a member of the Agriculture Commission of South Carolina. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office.</p> <p>Any vacancy shall be filled in the manner as prescribed herein by election by the legislative delegations of the judicial circuit for the unexpired portion of the term.</p> <p>The Commission shall meet on the call of the chairman or a majority of the members.</p>

A list of the current members on the Agriculture Commission is in Table 12.

*Table 12. Agriculture Commission current members.*

Position	Current Members	Appointed Date	Expiration Date
1st Judicial Circuit	Shirer, Michael Perry	2/4/2015	12/31/2018
<b>2nd Judicial Circuit</b>	McElmurray, Thomas W.	10/21/1987	10/21/1991
<b>3rd Judicial Circuit</b>	VACANT		
4th Judicial Circuit	Robeson, Robert Barton	5/7/2015	12/31/2019
5th Judicial Circuit	Lanham, J. Thomas	9/16/2013	9/16/2017
<b>6th Judicial Circuit</b>	Barfield, Douglas A. Jr.	2/14/1997	2/14/2001
<b>7th Judicial Circuit</b>	Gramling, Ben M. II	3/1/2007	3/1/2011
8th Judicial Circuit	Abercrombie, Billy Ray	1/13/2015	1/13/2019
9th Judicial Circuit	West, Steven Carolye	12/2/2014	12/31/2018
<b>10th Judicial Circuit</b>	Harris, John Robert	1/23/2013	1/23/2017
<b>11th Judicial Circuit</b>	Carr, Chalmers	5/2/2001	5/2/2005
<b>12th Judicial Circuit</b>	Gibson, Michael	3/28/2008	3/28/2012
<b>13th Judicial Circuit</b>	Looper, Franklin	6/30/1995	6/30/1999
<b>14th Judicial Circuit</b>	Sanders, Ross "Mac" Jr.	2/3/2004	2/3/2005
15th Judicial Circuit	Andrew, J. Benjie	2/8/2011	2/8/2015
<b>16th Judicial Circuit</b>	Hicks, Lewis W.	1/30/1994	1/30/1998
At Large	Price, Frances	3/10/2011	
Ex Officio	Commissioner of Agriculture		

*Table Note: Judicial circuits with either a vacancy or members with expired terms are in bold print.*

**3. The Subcommittee recommends the General Assembly consider removing statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.** Various Attorney General Opinions over the years have examined the relationship between the Commission and the Department of Agriculture and have opined that the Commissioner of Agriculture is the governing entity of the Department of Agriculture.<sup>115</sup>

On October 31, 2016, the Commissioner of Agriculture testifies the current responsibilities of the Agriculture Commission include: overseeing the administration of the South Carolina Agricultural Commodities Marketing Act; issuing, amending, or terminating marketing agreements or orders to produce the intended effects; and maintaining the required records, issuing notices, conducting hearings, and ensuring growers have the opportunity to participate in referendums.<sup>116</sup> A summary of the recommendation is in Table 13.

*Table 13. Summary of recommendation to modernize law relating to the Agriculture Commission (powers).*

Statute or Regulation	SECTION 46-5-10. Powers.
Explanation of Revision	3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.
Recommended Language	The Commission shall have the power to:  <del>(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.</del> <del>(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.</del> <del>(3) (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.</del> <del>(4) (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.</del> <del>(5) (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.</del>

### *Recommendations to Improve Customer Service*

4. The Subcommittee recommends the General Assembly consider adopting the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.<sup>117</sup> During the study process, the Commissioner of Agriculture testifies the current feed law has been in place for half a century and places consumers and feed mills at a disadvantage.<sup>118</sup> Among other things, agency representatives testify this proposal: requires registration of facilities with the agency to facilitate recalls and pre-emptive measures to address food borne outbreaks, animal welfare and other potential issues prior to an event occurring.<sup>119</sup> Assistant Commissioner for Consumer Protection testifies adoption of this model law increases efficiencies for the agency more efficient and industry.<sup>120</sup> A summary of the recommendation is in Table 14.

*Table 14. Summary of recommendation to improve consumer services (model feed law).*

Statute or Regulation	S.C. Code of Laws 36-25-210 and 40-7-1
Explanation of Revision	4. Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
Recommended Language	The full text of the proposed language is 160 pages long and is available online for review and in Appendix M on page 731.

5. The Subcommittee recommends the General Assembly consider authorizing an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for "those persons or firms wishing to manufacture, prepare, repack or sell foods to the public."<sup>121</sup> An average of 200 new businesses apply yearly for a registration verification certificate.<sup>122</sup> The process for issuing a registration verification certificate to a business includes a review of business plans, certifications, training, and labels by the Department of Agriculture, and the agency conducts product analysis as part of this process.<sup>123</sup> Currently, there is no fee to offset the cost of administration for issuing a registration verification certificate. The

agency estimates the proposal for an application fee (\$25) generates approximately \$5,000 annually and estimates the tiered annual revenue (i.e., fee based on risk/length of inspection and size of firm) generates \$157,400.<sup>124</sup> With these proposed revenue streams, the agency may hire three to four additional inspectors at entry level salaries (including fringe).<sup>125</sup> A summary of the recommendation is in Table 15.

**Table 15. Summary of recommendation to improve consumer services (registration verification certificate).**

Statute or Regulation	<b>SECTION 39-25-210.</b> Persons subject to inspection pursuant to this chapter; registration requirements; exceptions; annual renewal; civil and criminal penalties.
Explanation of Revision	5. Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” <sup>126</sup>
Recommended Language	<p>(A) A person subject to inspection pursuant to this chapter may not engage in the business of manufacturing, processing, warehousing, or packaging food in any manner without first registering with the department. This section shall not apply to facilities inspected and regulated by the United States Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter on or before the first day of January on forms provided by the department.</p> <p>(B) A person who willfully violates the provisions of this section is subject to a civil penalty of up to one thousand dollars for each violation as determined by the department. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.</p> <p><u>(C) Ability to Operate under Registration Verification Certificate (RVC)</u></p> <p><u>(1)- Prerequisite for operation. A person may not operate a food establishment without a valid Registration Verification Certificate (RVC) issued by the Department</u></p> <p><u>(2)- Form of Submission. A person desiring to engage in a food business regulated by the department shall submit to the Department a written application for a RVC on a form provided by the Department. Fee for this application is \$25.</u></p> <p><u>(D) The Commissioner shall charge annually the following fees for the RVC issued pursuant to the establishment and product type. The fee structure shall be based on the level of risk, employee size, procedural effort and inspection time needed for each food manufacturer establishment. Tier 1 - \$100.00 Tier 2 \$200.00 Tier 3- \$300.00. The RVC shall be renewed annually on July 1. Registration Fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.</u></p>

6. The Subcommittee recommends the General Assembly consider requiring businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.

7. The Subcommittee recommends the General Assembly consider authorizing a registration fee per dispenser (\$5) for businesses dispensing petroleum products.

8. The Subcommittee recommends the General Assembly consider enforcing a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.

While the Department of Agriculture regulates the dispensing of petroleum products (e.g., liquid petroleum gas; natural gas; diesel; kerosene; aviation fuel; and home heating oil), under existing law there is no statutory requirement or enforcement mechanism for a business dispensing petroleum products to register with the agency. Registration is voluntary. The Assistant Commissioner for Consumer Protection testifies registration allows the agency to verify the accuracy of pumps and dispensers prior to a business selling products to the public.<sup>127</sup> The agency estimates a registration fee of \$5 per dispenser (66,000) generates \$330,000 for more inspectors; more testing equipment; and better response time for complaints and accountability.<sup>128</sup> The agency requests authorization to administer a tiered monetary penalty for



repeat violators and habitual offenders that inaccurately advertise cash/ credit prices and/or have repeat dispenser issues (i.e., shorting the consumer). A summary of the recommendations are in Table 16.

*Table 16. Summary of recommendations to improve consumer services (petroleum).*

Statute or Regulation	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p>
Explanation of Revision	<p>6. Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.</p> <p>7. Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.</p> <p>8. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers</p>
Recommended Language	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p>“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.</p> <p>A. <u>Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.</u></p> <p>B. <u>One dispenser registration permit shall be issued to each location for all liquid measuring devices at that location based on the total number of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be five dollars per dispenser, regardless of the number of products or hoses on that dispenser.</u></p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p> <p>The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.</p> <p><u>(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.</u></p>

### *Recommendations to Reduce Restrictions on Businesses*

9. The Subcommittee recommends the General Assembly consider removing reference in statute to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer). A cottage food operation is a home-based food operation in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer.<sup>129</sup> The Department of Agriculture does not regulate retail food sales to the end consumer in South Carolina as this is under the

authority of the Department of Health and Environmental Control's (DHEC) Food Protection Division.<sup>130</sup> DHEC supports this revision.<sup>131</sup> A summary of the recommendation is in Table 17.

**Table 17. Summary of recommendation to reduce restrictions on businesses (home-based food operations).**

Statute or Regulation	<b>SECTION 44-1-143.</b> Requirements for home-based food production operations.
Explanation of Revision	9. Remove reference in statute to the agency's involvement with the "cottage law," which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer).
Recommended Language	<p>(A) For the purposes of this section:</p> <p>(1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.</p> <p>(2) "Nonpotentially hazardous foods" are candy and baked goods that are not potentially hazardous foods.</p> <p>(3) "Person" means an individual consumer.</p> <p>(4) "Potentially hazardous foods" includes:</p> <p>(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;</p> <p>(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:</p> <p>Aw values pH values 4.6 or less &gt; 4.6-5.6 &gt; 5.6 (1) &lt; 0.92 non-PHF non-PHF non-PHF (2) &gt; 0.92-0.95 non-PHF non-PHF PHF (3) &gt; 0.95 non-PHF PHF PHF</p> <p>Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.</p> <p>(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:</p> <p>(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;</p> <p>(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;</p> <p>(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;</p> <p>(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by</p>

food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE-PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

HISTORY: 2012 Act No. 190, Section 1, eff June 7, 2012.

10. The Subcommittee recommends the General Assembly consider modernizing the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). According to the agency, the 2012 census of Agriculture notes 300,036 acres of cotton (587,589 bales) in the state. S.C. Code of Laws Section 39-22-110 requires identification tags placed on cotton bales accepted for storage in a warehouse operated under the state warehouse system. New tags are placed on the bale as it goes to a new gin, even though there are electronic receipts which reflect the location of the cotton bale.<sup>132</sup> A summary of the recommendation is in Table 18.

*Table 18. Summary of recommendation to reduce restrictions on businesses (cotton warehouse receipts).*

Statute or Regulation	SECTION 39-22-110. Required identification tags on bales.
Explanation of Revision	10. Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)
Recommended Language	Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. <u>The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.</u>

11. The Subcommittee recommends the General Assembly consider revising state egg law (i.e., exempt United States Department of Agriculture (USDA) graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration). It is unlawful to sell unlabeled and ungraded eggs at a location other than a farm.<sup>133</sup> For other locations, the sale of eggs requires licensure by the Department of Agriculture, and, currently, there is no fee to offset the cost of administration for licensure.<sup>134</sup> As state law does not authorize licensure of quail eggs, local producers must obtain quail eggs outside of South Carolina.<sup>135</sup> According to the agency, this recommendation reduces restrictions on businesses (1) by exempting USDA-graded facilities from obtaining a state license, and (2) authorizing producers to sell up to 30 dozen eggs per week to the end consumer away from the farm without licensure.<sup>136</sup> Notably, the recommendation includes authorization for a fee not to exceed ten dollars for licensure.<sup>137</sup> A summary of the recommendation is in Table 19.

*Table 19. Summary of recommendation to reduce restrictions on businesses (eggs).*

Statute or Regulation	Title 39 (Trade and Commerce), Chapter 39 (Eggs and Baby Chicks)
Explanation of Revision	11. Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration).

Recommended  
Language**Section 39-39-110.** Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
  - (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
  - (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
  - (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
  - (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
  - (6) "South Carolina eggs" means eggs produced in this State.
  - (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
  - (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to ~~consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.~~
  - (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
  - (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
  - (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
  - (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.  
(New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75.  
(New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-120.** Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, producers, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. ~~The license must be issued at no cost and in a form prescribed by regulations promulgated by the department.~~ The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-121.** Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. ~~There is no fee for this license.~~

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-135.** Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-140.** Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act ~~not less than two inches by four inches or not less than eight square inches on one end of each case~~. On this label must be printed or stamped, legibly in letters ~~not less than one-fourth of an inch in size~~, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin may be given.~~ If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The state of origin also may be given.~~

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type

and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-141.** Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, ~~not less than eight by eleven inches~~, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters ~~not less than one inch in height~~, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The name of the state of origin of eggs may appear on the placard.

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provide to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-150.** Unlawful acts.

(1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;

(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.

(2) use the word "nulaid", "country", "hennery", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;

(3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;

(4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";

(5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-170.** Exemptions.

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;

- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.
- (4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.
- (5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.
- (6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-180.** Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

## INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>138</sup>



## ADDITIONAL INFORMATION OF INTEREST

During the study process, the Subcommittee receives materials of interest to the agency. These materials include: (1) April 28, 2016, Attorney General Opinion<sup>139</sup> that commodity boards are not subject to the State Procurement Code, and (2) agency's draft language for modernizing salvage food<sup>140</sup> (e.g., dented cans) regulations. Both documents are available online.

## SELECTED AGENCY INFORMATION

**Department of Agriculture. "Program Evaluation Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 25, 2017).

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 25, 2017).

**SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 25, 2017).

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You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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## ENDNOTES

<sup>1</sup> Visual Summary Figure 1 is compiled from information in the Department of Agriculture study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Agriculture"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017).

<sup>2</sup> *SC Code of Laws*, § 2-2-20(C).

<sup>3</sup> The Subcommittee's name during the 121<sup>st</sup> General Assembly is the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development, Transportation, and Natural Resources Subcommittee.

<sup>4</sup> Department of Agriculture, under "Divisions," under "Consumer Protection"  
<http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 26, 2017).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Public Survey & Public Input via LOC webpage,"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20SIC.PDF> (accessed July 26, 2017). Hereinafter, "May 2016 Public Survey Results." See Comment #18 received on May 14, 2016, 6:03 p.m. on page 8. SC House of Representatives, House Legislative Oversight Committee, "History, Mission, Vision, and Key Partners presentation provided by the Department of Agriculture (July 6, 2016)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "History Presentation - July 6, 2016".

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<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, “April 28, 2016 Attorney General Opinion,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” and under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “April 28, 2016 Attorney General Opinion.”

SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture's Proposed Revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics)” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture's Proposed Revisions to Regulation 5-360.”

<sup>7</sup> Act 104 of 1879.

<sup>8</sup> *Ibid.* at section 22. The one-time appropriation figure was adjusted for inflation from the nominal figure of \$5,000 using the Consumer Price Index (Urban).

<sup>9</sup> South Carolina, Department of Agriculture, *First Annual Report of the Commissioner of Agriculture of the State of South Carolina* (Charleston, SC: Walker, Evans & Cogswell, 1880), 64. The carried forward balance was calculated by adding the balance of the one-time appropriation to the Department of Agriculture in 1879, and the amounts received by the agency from taxes collected on commercial fertilizers and fees received from land registrations, and then adjusting the resulting nominal sum of \$17,435.20 for inflation using the Consumer Price Index (Urban).

<sup>10</sup> *Ibid.* at pages 3-4. Though the names are similar, Commissioner Butler was not Andrew Pickens Butler, the South Carolina native who served as a member of the United States House of Representatives and as a state judge.

<sup>11</sup> Act 185 of 1981. On July 6, 2016, the Commissioner of Agriculture testifies “twelve other states have an elected Commissioner.”

<sup>12</sup> History Presentation – July 6, 2016 at slide 4.

<sup>13</sup> *Ibid.* at slide 9. Agencies with responsibilities originally housed at the agency include: Clemson Regulatory Services; State Veterinarian’s Office; Department of Labor, Licensing and Regulation; Department of Health and Environmental Control; Forestry Commission; Department of Revenue; State Law Enforcement Division; and Department of Natural Resources (Land Resources, Geological Survey, Wildlife and Marine Resources).

<sup>14</sup> *Ibid.* The current name was established in 1941.

<sup>15</sup> Act 259 of 1904.

<sup>16</sup> *Ibid.* at section 2.

<sup>17</sup> Act 4 of 1909. Act 124 of 1909.

<sup>18</sup> Act 871 of 1936.

<sup>19</sup> *Ibid.*

<sup>20</sup> Act 93 of 1941.

<sup>21</sup> Act 758 of 1960.

<sup>22</sup> History Presentation - July 6, 2016 at slide 10.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* at slide 11.

<sup>25</sup> *Ibid.* at slide 12.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Department of Agriculture, “Introduction to the Agency PowerPoint provided by the Department of Agriculture during the agency’s entry meeting with the Subcommittee (April 28, 2016),” under “Citizen’s Interest,” under “House Legislative Oversight Committee’s Posting and Reports,” under “Department of Agriculture”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/April%2028,%202016%20-%20Department%20of%20Agriculture%20Presentation%20to%20Subcommittee.pdf>

(accessed October 24, 2016). Commissioner Hugh E. Weathers noted in his presentation to the Subcommittee that the agribusiness total includes forestry, and some federal agencies do not recognize forestry as an agriculture.

Commissioner Weather’s comments on this issue begin at 24:36 in the archived video of the subcommittee’s April 28, 2016, meeting available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>30</sup> Department of Agriculture, "About" <https://agriculture.sc.gov/about/> (accessed July 27, 2017). On April 28, 2016, in response to a question as to what are the state's top crops, the Commissioner of Agriculture testifies "Some federal agencies do not count timber as a crop, and I do. When I sell timber, get a check, and it clears the bank, I have sold a crop. Timber is one of our larger numbers around 800 million dollars. Our largest has become poultry. We no longer include tobacco. Peaches barely make the top 10. Anderson County is the largest beef producing county. Horticulture crops were second as of 2008 and 2009, but with the recession that field died." See 24:37 archived video of the April 28, 2017 Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee meeting.

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "Updated Agency PER (December 30, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/SCDA%20PER%2012.30.16.pdf> (accessed July 24, 2017). See Daily Operations Programs Chart at page 4 under "Updated Agency PER." Hereinafter, "Updated Agency PER (December 30, 2016)".

<sup>32</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report Guidelines," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20\(June%202020,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20(June%202020,%202016).pdf) (accessed July 26, 2017).

<sup>33</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed July 24, 2017), See Customer Template.

<sup>34</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 29.

<sup>35</sup> Ibid.

<sup>36</sup> Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (accessed July 21, 2017).

Updated Agency PER (December 30, 2016). See Strategic Spending 2015-16 Chart, Employee Allocation by Objective 2016-17 Chart, and Strategic Budgeting 2016-17 Chart.

<sup>37</sup> The methodology the agency utilizes includes operational and employee costs related to each objective. The expenditures (less employee costs) of each division are analyzed to determine if any cost is associated completely with one objective. If so, that cost is charged entirely to that objective. The remaining costs for the division are multiplied by a percentage based on the objectives related to that division. Likewise, employee cost and fringes are analyzed to ascertain if any one employee or group of employees are associated with a single objective and if so, their salary and fringes are charged to that objective. For example, the agency's investigator spends his entire time working toward Objective 3.2.2 (audit field records to ensure matched with Certification records) even though his position is associated with the Director's office. The remaining employees' salaries and fringes are then charged percentage-wise to the appropriate objectives. The operational costs and employee and fringe costs are added together to determine the total amount spent on each objective.

<sup>38</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>39</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>40</sup> Ibid. See page 3, response to question 11.

<sup>41</sup> Ibid. See page 3, response to question 10. Agency's carryforward amounts include: 2011-12: \$1,757,450; 2012-13: \$2,472,562; 2013-14: \$4,712,809; 2014-15: \$5,426,456; 2015-16: \$5,382,093.

<sup>42</sup> Ibid. See Employee Allocation by Objective 2016-17 Chart.

<sup>43</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>44</sup> 2015-16 Accountability Report. See Performance Measurement Template.

<sup>45</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>46</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

- <sup>47</sup> 2015-16 Accountability Report. See Performance Measurement Template.
- <sup>48</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.
- <sup>49</sup> Ibid. See Strategic Budgeting 2016-17 Chart.
- <sup>50</sup> 2015-16 Accountability Report. See Performance Measurement Template.
- <sup>51</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.
- <sup>52</sup> Ibid. See Strategic Budgeting 2016-17 Chart.
- <sup>53</sup> 2015-16 Accountability Report, See Performance Measurement Template.
- <sup>54</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 28.
- <sup>55</sup> *SC Code of Laws* § 2-2-10(1).
- <sup>56</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed July 26, 2017).
- <sup>57</sup> SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016- Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf> (accessed July 26, 2017). Hereinafter, "January 28, 2016 - Meeting Minutes".
- <sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignment%20-%202017.pdf> (accessed July 26, 2017). Hereinafter, "Subcommittees - 2017".
- <sup>59</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Dept. of Agriculture (February 4, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Agriculture, Department of" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20\(Febuary%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20(Febuary%204,%202016).pdf) (accessed May 24, 2017).
- <sup>60</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - 2017 Summary - House Legislative Oversight Committee" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Committee Information," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20\(Updated%20July%2013,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20(Updated%20July%2013,%202017).pdf) (accessed July 27, 2017). Hereinafter, "Committee Timeline."
- <sup>61</sup> Subcommittees -2017.
- <sup>62</sup> SC House of Representatives, "Tuesday, February 21, 2017, House Journal," [http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result\\_pos=10&keyval=H12220170221&numrows=10#OCC1](http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result_pos=10&keyval=H12220170221&numrows=10#OCC1) (accessed July 26, 2017).
- <sup>63</sup> *S.C. Code of Laws* § 1-30-10.
- <sup>64</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 11, 2015)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed July 26, 2017). Hereinafter, "2015 - Agency ARR Seven-Year Plan".
- <sup>65</sup> *SC Code of Laws*, § 1-30-10.
- <sup>66</sup> 2015 - Agency ARR and Seven-Year Plan.  
SC House of Representatives, House Legislative Oversight Committee, "2016 - Agency ARR (January 12, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed July 26, 2017). 2015-16 Accountability Report.
- <sup>67</sup> 2015-16 Accountability Report.
- <sup>68</sup> *SC Code of Laws*, § 2-2-50.

<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report Guidelines (May 16, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%202016,%202016\)%20-%20Dept%20of%20Agriculture.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%202016,%202016)%20-%20Dept%20of%20Agriculture.pdf) (accessed May 24, 2017).

<sup>70</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER (August 24, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies” Hereinafter, “Agency PER (August 24, 2016)”.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 24, 2017). Updated Agency PER (December 30, 2016).

<sup>71</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>72</sup> SC House of Representatives, House Legislative Oversight Committee

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 19, 2017).

<sup>73</sup> May 2016 Public Survey Results.

<sup>74</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (April 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (accessed June 2, 2017).

<sup>75</sup> Committee Timeline (April 11, 2016).

<sup>76</sup> May 2016 Public Survey Results.

<sup>77</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (accessed July 19, 2017). Hereinafter, “Standard Practice.”

<sup>78</sup> May 2016 Public Survey Results.

<sup>79</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “House Legislative Oversight Committee,”

<https://www.research.net/r/ProvideInputtotheSCHouseLegislativeOversightCommittee?sm=AkgKjSlhdd%2fDwFDaMT4NxAhh50lf%2fLkg2JrDglf%2fB%2f8%3d> (accessed July 26, 2017).

<sup>80</sup> May 2016 Public Survey Results at page 2.

<sup>81</sup> May 2016 Public Survey Results at page 3.

<sup>82</sup> May 2016 Public Survey Results at page 5.

<sup>83</sup> SC House of Representatives, House Legislative Oversight Committee, “July 6, 2016 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/July062016Minutes.pdf> (accessed May 24, 2017). Hereinafter, “July 6, 2016 - Meeting Minutes.”

<sup>84</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Input Meeting (June 28, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Public Survey & Public Input via LOC webpage,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20\(June%2028,%202016\)%20\(2\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20(June%2028,%202016)%20(2).pdf) (accessed May 24, 2017).

<sup>85</sup> SC House of Representatives, House Legislative Oversight Committee, “Economic Development, Transportation, and Natural Resources Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee Information,” under “Meeting Minutes and Handouts,”

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>86</sup> January 28, 2016 - Meeting Minutes. The agency replaces the Department of Employment of Workforce as the next agency to study.

<sup>87</sup> SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/April282016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>88</sup> July 6, 2016 - Meeting Minutes.

<sup>89</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (August 9, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20\(August%209,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20(August%209,%202016).PDF) (accessed July 27, 2017).

<sup>90</sup> Department of Agriculture, "Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(September%202,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(September%202,%202016).pdf) (accessed July 27, 2017).

<sup>91</sup> SC House of Representatives, House Legislative Oversight Committee, "October 31, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/October312016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "October 31, 2016 - Meeting Minutes."

<sup>92</sup> Ibid.

<sup>93</sup> SC House of Representatives, House Legislative Oversight Committee, "January 26, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/January262017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, "February 16, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/February162017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, "May 2, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/05.2.2017%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>96</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)," under "House Legislative Oversight Committee," under "Agriculture, Department of,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/5.3.17%20-%20Follow%20up%20letter%20to%20Department%20of%20Agriculture.pdf> (accessed July 27, 2017).

<sup>97</sup> Department of Agriculture, “Letter from Department of Agriculture to Legislative Oversight Committee (June 6, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(June%206,%202017\).pdf.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(June%206,%202017).pdf.pdf) (accessed July 27, 2017).

<sup>98</sup> SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture’s Recommended Statutory Changes” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture’s Recommended Statutory Changes Presentation (June 15, 2017).”

<sup>99</sup> SC House of Representatives, House Legislative Oversight Committee, “June 15, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/06.15.17%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “June 15, 2017 - Meeting Minutes.”

<sup>100</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee Letter to Department of Agriculture (June 16, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20\(June%2016,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20(June%2016,%202017).pdf) (accessed July 28, 2017).

<sup>101</sup> SC House of Representatives, House Legislative Oversight Committee, “June 22, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/June%2022,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>102</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to the Department of Agriculture (June 27, 2017)” under “House Legislative Oversight Committee,” under “Agriculture, Department of”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(June%2027,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(June%2027,%202017).pdf) (accessed July 27, 2017).

<sup>103</sup> SC House of Representatives, House Legislative Oversight Committee, “July 10, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

[Minutes are posted after approval at the next meeting]. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “July 10, 2017 - Meeting Minutes”.

<sup>104</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee letter to Department of Agriculture (July 12, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(July%2012,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(July%2012,%202017).pdf) (accessed July 27, 2017).

<sup>105</sup> Standard Practice 14.1.

<sup>106</sup> Standard Practice 14.2.

<sup>107</sup> Agency PER (August 24, 2016) at page 2. SC Const. Art. VI, §7.

<sup>108</sup> SC Code of Laws §46-3-40.

<sup>109</sup> SC Code of Laws §46-3-30.

<sup>110</sup> Other duties referenced in statute include: sale of marl or ground limestone (SC Code of Laws §46-3-90); arrangements for inoculating material and disposition of moneys derived from the sale of inoculating material (SC



*Code of Laws* §46-3-100 and 110); provide an annual report of the agency's work to the Governor and General Assembly *SC Code of Laws* (§46-3-140); enter into agreements with the United States government for conduct of aquatic plan control projects *SC Code of Laws* (§46-3-160); revocation of registrations or licenses issued; release of certain items from restraining orders *SC Code of Laws* §46-3-180 - 220); enforcement of regulations relating to food and drugs (*SC Code of Laws* §46-3-240); ability to sue and be sued *SC Code of Laws* (§46-3-170).

<sup>111</sup> Act 644 of 1954. This legislation actually reduced the bond of the Commissioner of Agriculture and limited his liability to not include losses incurred in bonded warehouses, except in the case of tort or neglect of duty on his part.

<sup>112</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>113</sup> *SC Code of Laws* §46-5-10.

<sup>114</sup> SC Secretary of State, "Agriculture Commission" [http://search.scsos.com/boards\\_commissions/default.aspx](http://search.scsos.com/boards_commissions/default.aspx) (accessed October 11, 2016). The Secretary of State's role with regards to boards and commissions is explained on its website. "Pursuant to S.C. Code of Laws §1-5-40, the Secretary of State's Office has a duty to monitor positions on state boards and commissions. The Secretary of State's Office must keep membership information for state boards and commissions as a public record available for inspection by the members of the General Assembly and members of the public. This information must include the term length, expiration date of the term, appointing authority, and any required qualifications for membership." (accessed July 25, 2017).

<sup>115</sup> 1999 WL 387055, at \*5 (S.C.A.G. May 3, 1999). Relevant excerpt: "The people have elected the Commissioner with the expectation that he, and he alone, will run the Department. The essential function of the Commissioner has always been to serve as the head of the Department of Agriculture which executes the laws and policies relating to agriculture in this State. Any interference by the Commission (or by the Legislature) in carrying out or diminishing the Commissioner's duties could now be deemed to contravene the Constitution in the same way that the Constitution was violated in the cases referenced above. Thus, the Commissioner's authority, pursuant to the South Carolina Constitution, must be deemed paramount to and controlling over any authority previously bestowed upon the Commission by statutes enacted prior to the constitutional amendment relating to the Commissioner of Agriculture."

<sup>116</sup> October 31, 2016 - Meeting Minutes. See 00:11:55: in the archived video.

<sup>117</sup> Department of Agriculture's Recommended Statutory Changes Presentation.

<sup>118</sup> June 15, 2017 - Meeting Minutes. Department of Agriculture's Recommended Statutory Changes Presentation. Agency PER (August 24, 2016).

<sup>119</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>120</sup> July 10, 2017 - Meeting Minutes. See 1:08:09 in the archived video.

<sup>121</sup> Department of Agriculture, "Food/Safety Compliance," under "Divisions," <http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 28, 2017). Hereinafter, "Department of Agriculture Food/Feed Safety Compliance website."

<sup>122</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from the Department of Agriculture about the agency's recommendations (July 10, 2017)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Other Materials" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20\(July%2010%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20(July%2010%202017).pdf) (accessed July 24, 2017). Hereinafter, "Agency Email."

<sup>123</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>124</sup> Agency Email.

<sup>125</sup> Currently, there are five inspectors.

<sup>126</sup> Department of Agriculture Food/Feed Safety Compliance website.

<sup>127</sup> June 15, 2017 - Meeting Minutes. See 29:14 in the archived video.

<sup>128</sup> Updated Agency PER (December 30, 2016).

<sup>129</sup> Clemson University Cooperative Extension, "South Carolina's Cottage Food Bill," <http://www.clemson.edu/extension/food/canning/canning-tips/18sc-cottage-food-bill.html> (accessed October 10, 2016).

<sup>130</sup> Updated Agency PER (December 30, 2016).

<sup>131</sup> Department of Health and Environmental Control, under "House Legislative Oversight Committee," under "Agriculture, Department of,"

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Health%20and%20Environmental%20Control%20Correspondence%20with%20Oversight%20Subcommittee%20on%20Cottage%20Law%20Recommendation.PDF> (accessed July 28, 2017).

<sup>132</sup> June 15, 2017 - Meeting Minutes. See 46:45 in the archived video.

<sup>133</sup> Ibid. at 51:12 in the archived video.

<sup>134</sup> Ibid. at 52:55 in the archived video. *SC Code of Laws* § 39-39-120.

<sup>135</sup> June 15, 2017 - Meeting Minutes. See 54:23 in the archived video.

<sup>136</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>137</sup> *SC Code of Laws* § 39-39-120.

<sup>138</sup> May 2016 - Public Survey Results. History Presentation - July 6, 2016.

<sup>139</sup> April 28, 2016 Attorney General Opinion.

<sup>140</sup> Department of Agriculture's Proposed Revisions to Regulation 5-360.

## *Appendix N. October 16, 2017 Meeting Information*

### Appendix Includes:

- Meeting Packet
  - Agenda
  - August 16, 2017 - Meeting Minutes
  - Materials from the Law Enforcement and Criminal Justice Subcommittee's Study of the Department of Public Safety
  - Materials from the Economic Development, Transportation, and Natural Resources Study of the Department of Agriculture
  - Materials from the Law Enforcement and Criminal Justice Subcommittee's Study of the Law Enforcement Training Council and Criminal Justice Academy
  - Materials from the Executive Subcommittee's Study of the State Election Commission

South Carolina  
House of Representatives



Legislative Oversight Committee

*Monday, October 16, 2017*

*Room 110 - Blatt Building*

*1:00 p.m.*

*Pursuant to Committee Rule 4.9, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.*

**AGENDA**

I. Approval of minutes

II. Discussion of the following:

- Law Enforcement and Criminal Justice Subcommittee's Study of the Department of Public Safety (*study presentation made to the full Committee on August 16, 2017*);
- Economic Development, Transportation, and Natural Resources Subcommittee's Study of the Department of Agriculture (*study presentation made to the full Committee on August 16, 2017*);
- Law Enforcement and Criminal Justice Subcommittee's Study of the Law Enforcement Training Council and Criminal Justice Academy (*study presentation made to the full Committee on August 16, 2017*);
- Executive Subcommittee's Study of the State Election Commission; and
- and any other studies of agencies, if notice is received on or before October 16, 2017, in accordance with Standard Practice 12.5

III. Beginning at 2:00 p.m., an opportunity for Public Input about the Adjutant General's Office; Commission for Minority Affairs; Department of Natural Resources; and Patriot's Point Development Authority

Individuals can sign up to testify by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at [hcommlegov@schouse.gov](mailto:hcommlegov@schouse.gov), or signing up in person

**a few minutes prior to the meeting. S.C. Code of Laws Section 2-2-70 provides that all testimony given to the investigating committee must be under oath.**

**An ongoing opportunity for public input is available on the Committee's website, which allows individuals to provide comments to the House Legislative Oversight Committee anonymously.**

**IV. Discussion of Committee administrative matters**

**V. Adjournment**



### **Legislative Oversight Committee Meeting**

Wednesday, August 16, 2017

Blatt Building Room 110

1:00 p.m.

#### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, 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 House Legislative Oversight Committee was called to order by Chair Wm. Weston J. Newton on Wednesday, August 16, 2017, in Room 110 of the Blatt Building. All members of the Committee were present for all or a portion of the meeting, except: Representative MaryGail Douglas; Representative Todd Rutherford; and Representative Tommy M. Stringer.

## 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.
- II. Representative Jefferson moved to approve the minutes from the Committee's meeting on May 10, 2017. A roll call vote was held, and the motion passed.

<b>Representative Jefferson's motion to approve the minutes from the previous meeting:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers	✓			
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas				✓
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.				✓
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

### Discussion of the Healthcare and Regulatory Subcommittee's Activities

- I. Representative Henderson provides an update of the Healthcare and Regulatory Subcommittee's activities, including its study of the Department of Health and Environmental Control.

### Discussion of the Treasurer's Office

- I. Representative Clary provides an overview of the Executive Subcommittee's study of Treasurer's Office.
- II. Representative Clary moved to approve the study of the Treasurer's Office. A roll call vote was held, and the motion passed.

<b>Representative Clary's motion to approve the Subcommittee study of the Treasurer's Office:</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers	✓			
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas				✓
Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson	✓			
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			



## Discussion of the Department of Public Safety

- I. Representative Tallon provides an overview of the Law Enforcement and Criminal Justice Subcommittee’s study of Department of Public Safety.
  - a. Mr. Brian Lamkin, the State Inspector General, provides testimony on his agency’s investigation of the Department of Public Safety.
  - b. Members ask questions about various topics, including, but not limited to:
    - i. Troopers coverage around the state during the eclipse;
    - ii. Residency requirements/policy;
    - iii. Personnel changes;
    - iv. Comp time/annual leave policy;
    - v. Number of troopers working football games/events; and
    - vi. Office of Professional Responsibility (OPR) Investigations.

## Discussion of the Department of Archives and History

- I. Representative Smith provides an overview of the Education and Cultural Subcommittee’s study of the Department of Archives and History.
  - a. Members ask questions about various topics, including, but not limited to:
    - i. Digital storage; and
    - ii. Retention schedules.
- III. Representative Funderburk moved to approve the completed study of the Department of Archives and History. A roll call vote was held, and the motion passed.

<b>Representative Funderburk’s motion to approve the Subcommittee study of the Department of Archives and History</b>	<b>Yea</b>	<b>Nay</b>	<b>Not Voting: Present</b>	<b>Not Voting: Absent</b>
Katherine E. Arrington	✓			
William K. Bowers	✓			
Gary E. Clary	✓			
Neal Collins	✓			
MaryGail Douglas				✓

Raye Felder	✓			
Laurie Slade Funderburk	✓			
Phyllis Henderson				✓
Bill Hixon	✓			
Joseph H. Jefferson, Jr.	✓			
Mandy Powers Norrell	✓			
Robert L. Ridgeway, III	✓			
Todd Rutherford				✓
James E. Smith, Jr.	✓			
Tommy Stringer				✓
Edward R. Tallon	✓			
Bill Taylor	✓			
Robert Q. Williams	✓			
Wm. Weston J. Newton	✓			

### **Discussion of the Department of Agriculture**

- I. Vice-Chair Funderburk provides an overview of the Economic Development, Transportation, and Natural Resources Subcommittee's study of Department of Agriculture.
  - a. Members ask questions about various topics, including, but not limited to:
    - i. Farmers;
    - ii. Commission of Agriculture;
    - iii. Seafood products;
    - iv. Gas/Petroleum;
    - v. Hemp;
    - vi. Cotton;
    - vii. New businesses; and
    - viii. Proposed fee increases.

## **Discussion of the Law Enforcement Training Council and Criminal Justice Academy**

- I. Representative Tallon provides an overview of the Law Enforcement and Criminal Justice Subcommittee's study of the Law Enforcement Training Council and Criminal Justice Academy.
  - a. Members ask questions about various topics, including, but not limited to:
    - i. Active shooter training;
    - ii. National testing; and
    - iii. Drug testing.

## **Administrative Matters**

- I. The Committee received an update on administrative matters.
  - a. Chairman Newton explains the results of the June/July 2017 survey for Minority Affairs; Department of Natural Resources; and Patriots Point Development Authority were not very robust (i.e., only 168 responses from 20 of 46 counties).
  - b. Chairman Newton provides an overview of dates that Program Evaluation reports are due to the Committee from the Department of Minority Affairs (August 30, 2017); Department of Natural Resources (August 30, 2017); and Adjutant General's Office (September 30, 2017). Patriots Point Development Authority has already submitted information in lieu of Program Evaluation Report. The Annual 2016/2017 Accountability reports which will serve as the 2017/18 Restructuring Report to this Committee are due on September 15<sup>th</sup>, as well as a request sent to agencies that have completed studies.
- II. Representative William E. "Bill" Crosby makes brief remarks to the Committee as to why he believes the Department of Corrections should be the next agency to study.
- III. There being no further business; the meeting was adjourned.



September 7, 2017

Director Leroy Smith  
Department of Public Safety  
Post Office Box 1993  
Blythewood, South Carolina 29016

Dear Director Smith:

On August 16, 2017, the Law Enforcement and Criminal Justice Subcommittee presented its study of the Department of Public Safety to the House Legislative Oversight Committee. In preparation for the next full Committee meeting scheduled for October 16, 2017, the purpose of this letter is to request additional information from the agency. Please provide this information by Friday, October 6, 2017.

### ***Records Management***

- Is the agency current with transferring records, including electronic ones, to the Department of Archives and History? If not, why?
- Please provide the Committee a copy of the agency's records management policy, if any. If the agency does not have a records management policy, does the agency intend to create one?

### ***Study Recommendations***

- Does the agency disagree with any of the recommendations arising from the study of the agency? If yes, please share the agency's reason(s) for disagreement.
- Has the agency implemented any of the recommendations arising from the study? If yes, please share which ones.

Director Smith  
Page Two

- Does the agency intend to implement any of the recommendations arising from the study? If yes, please share which ones and the anticipated date for implementation.

### *Residency Policy*

- Please provide information, in an Excel document, with the headings provided in Attachment A.
- If any employees have been re-assigned since the new residency policy was implemented, please state the reason for the re-assignment.

### *Special Events and Transports*

- Please provide information, in an Excel document with the headings provided in Attachment B, related to time spent with special events for the past two years.
- During the August 16, 2017, meeting, Colonel Williamson testified troopers are only pulled off the road to attend “necessary” events. Please provide the following:
  - policy the agency utilizes when determining if an event or function is “necessary,” if any;
  - list of what is considered when determining if an event or function is necessary;
  - list of what is considered when determining which troopers to pull off the road;
  - agency personnel who have authority to make these determinations;
  - number of necessary events or functions in fiscal year 2016-17; and
  - list of some specific events or functions previously authorized which the Committee may consider as examples of the types of events or functions the agency may consider necessary.
- Please provide information, in an Excel document with the headings provided in Attachment C, regarding transport of non-agency personnel from January 1, 2017 to the present.

### *Personnel*

- Please provide information, in an Excel document with the headings provided in Attachment D, related to all agency personnel that have changed positions in the last six months.
- During the August 16, 2017, full Committee meeting, agency representatives were questioned about a communication within a troop advising personnel of an annual leave policy (i.e., annual leave may not be taken on the weekend and further there is a requirement of finding someone else to work.) Please provide an update on what, if anything, has been learned about this communication.

Director Smith  
Page Three

- Please provide the following information as of the most recent date available:
  - Total number of troopers, minus those still at the Criminal Justice Academy;
  - Total number of troopers on the road; and
  - For Troop Two (Abbeville, Edgefield, Greenwood, Laurens, McCormick, Newberry, and Saluda Counties)
    - Total number of troopers available to work the road; and
    - Total number of troopers typically working the road at any given time.

*Resources*

- During the Subcommittee's study of the agency, Colonel Oliver testified there are resources in the budget to hire more Highway Patrol officers and the lack of officers on the road is not the result of lack of funding. Please state whether you agree or disagree with this testimony and why or why not.

Thank you for your service to the citizens of South Carolina and for your continued cooperation during the study process. The Committee looks forward to continuing its discussion of the study of the Department of Public Safety with you on Monday, October 16, 2017.

Sincerely,



Wm. Weston J. Newton  
Committee Chair

cc: House Legislative Oversight Committee Members

# **Attachment A**

**Residency**

Employee with assigned state vehicle*	Troop #	# of miles from employee residence to Troop Headquarters	Estimated travel time from employee residence to Troop Headquarters	Post	Has this employee been assigned to this troop or post after the new residency policy was implemented?	# of miles from employee residence to Post Command	Estimated travel time from employee residence to Post Command	County in Post closest to employee residence	# of miles from employee residence to County line of County in Post closest to employee residence	Estimated travel time from employee residence to County line of County in Post closest to employee residence	Avg. number of shifts employee works per week^

\*Provide the employee’s rank and some other identifier the agency can utilize to double check addresses, other than the employee’s name, to protect the employee’s privacy.

^Please explain if the agency is providing this number based on a five or seven day week, along with any additional information that may help provide further explanation and clarity.



# **Attachment B**

**Special Events**

Date	Event	Type of Work (e.g., traffic control, Coach detail, etc.)	# of Troopers	Total # of Hours	# of Hours provided as Comp Time	# of Hours paid as Overtime

# **Attachment C**

**Transport of Non-Agency Personnel**

Date	Name(s) of Non-Agency Personnel	From City and To City	Purpose (e.g., name of event and/or reason for transport)	Agency Personnel's Name and Rank	Agency Personnel's Troop Number	Agency Personnel Authorizing Transport
		<u>From:</u> <u>To:</u>				

*Table Note: This information does not include transport of individuals due to a vehicle being broken down on the side of the road.*

# **Attachment D**





# South Carolina Department of Public Safety

10311 WILSON BOULEVARD – P. O. BOX 1993  
BLYTHEWOOD, SC 29016  
[www.scdps.gov](http://www.scdps.gov)

HENRY MCMASTER  
GOVERNOR

LEROY SMITH  
DIRECTOR

October 6, 2017

Via E-mail

Hon. Wm. Weston J. Newton  
South Carolina House of Representatives  
P.O. Box 11867  
Columbia, SC 29211

Dear Committee Chairman Newton:

Thank you for your September 7, 2017 letter asking the South Carolina Department of Public Safety ("Department," "SCDPS," or "agency") to provide additional information to the Legislative Oversight Committee. The Committee's questions regarding the six referenced subjects are reproduced below along with the corresponding information requested.

## **Records Management**

Is the agency current with transferring records, including electronic ones, to the Department of Archives and History? If not, why?

### *Response*

The regulations governing the transfer of records to the Department of Archives and History ("DAH") permit a state agency to retain copies of records when the agency believes the records are active and required for daily operational use. The Department exercised this option and maintained copies of many records that would eventually require transfer to the DAH based on its operational needs. While the Department concedes that some older records that are not regularly consulted could be transferred to the DAH, the Department has not destroyed any records that would ultimately require transfer. The Department intends to review the manner in which it transfers records to DAH and implement strategies that would result in a regular transfer of records to DAH.

The agency has made budget requests for the upcoming fiscal year that would include funding for a case management system and corresponding software, which would automate much of the archiving and transfer process. Additionally, the agency has requested funding to migrate its e-mail system to the Department of Administration's ("DOA") e-mail system. The Department was hesitant to migrate to the DOA system until it became CJIS-compliant. The DOA secured that necessary compliance earlier this year, and the Department therefore feels comfortable with the migration if the funding is made available.

Please provide the Committee a copy of the agency's records management policy, if any. If the agency does not have a records management policy, does the agency intend to create one?



SOUTH CAROLINA HIGHWAY PATROL



STATE TRANSPORT POLICE



BUREAU OF PROTECTIVE SERVICES



IMMIGRATION ENFORCEMENT UNIT

Page 2

*Response*

A copy of SCDPS Policy No. 500.02 (Records Management) is attached.

### **Study Recommendations**

Does the agency disagree with any of the recommendations arising from the study of the agency? If yes, please share the agency's reason(s) for disagreement.

Has the agency implemented any of the recommendations arising from the study? If yes, please share which ones.

Does the agency intend to implement any of the recommendations arising from the study? If yes, please share which ones and the anticipated date for implementation.

*Response*

The Department has prepared the attached summary which includes a response to each of the recommendations arising from the study of the agency. In summary:

- The Department has implemented all or part of Recommendation Nos. 3 (partial), 4, 7 (current), 8, 9 (partial), 10, 11, 12, 13, 16, 19, and 27;
- The Department is considering the implementation of all or part of Recommendation Nos. 1, 2, 3, 6, 11, 15, and 20.
- The Department intends to implement all or part of Recommendation Nos. 5, 7 (ongoing), 8, and 26;
- The Department has no objection to Recommendation Nos. 18, 21, 22, 23, 24, and 25 and would support whatever decision was made by the General Assembly; and
- The Department disagrees with Recommendation Nos. 9 (partial), 14, and 17.

### **Residency Policy**

Please provide information, in an Excel document, with the headings provided in Attachment A.

*Response*

Based on the questions posed at the August 16, 2017, Legislative Oversight Committee Meeting, the Department understands this inquiry to be limited to officers who have been reassigned since the new residency policy was implemented on August 1, 2017. There is no database that tracks employee addresses as compared to the location of the Troops and Posts. For the individuals in Attachment A, the Department manually looked up the addresses and measured the distances using Google Maps assuming a travel time of Monday at 9:00 a.m. The requested fields are appropriate for an SCHP trooper who is



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assigned to a Post within a Troop; however, some of the fields cannot be completed for other types of officers (MAIT, STP, HQ personnel). Additionally, the majority of the employees described in Attachment A reside in the county where their post is located so the mileage to the county line is irrelevant and was not included.

The average number of shifts that an employee works per week was based on a seven day week for SCHP and STP road personnel and a five day week for HQ and MAIT personnel.

If any employees have been re-assigned since the new residency policy was implemented, please state the reason for the re-assignment.

*Response*

See the attached spreadsheet marked Attachment A(1).

### **Special Events and Transports**

Please provide information, in an Excel document with the headings provided in Attachment B, related to time spent with special events for the past two years.

*Response*

The Department does not track all of the information in the manner requested. Attachment B contains the information that is available. The Department is attaching payroll reports for the officers typically assigned to the road who were assigned to serve at the special events described in Attachment B. These reports capture the working time for these officers, but cannot fully document the amount of compensatory time earned or overtime paid that is specifically related to the special event.

In preparation for a special event, the agency typically schedules additional time off either before or after the event for the officers assigned to work the event. However, it is impossible to determine what additional circumstances might require the officer to work before or after his/her assigned shift at the special event. For instance, an officer enroute to work traffic control at a football game might encounter a serious traffic collision that requires attention. The officer might spend 2 hours working the collision before he arrives to work 10 hours at the game. However, his total hours for the date would reflect 12 total hours of work even though only 10 of those hours were directly related to the event. Time on the dates of these events is simply recorded as working time for the officer on the date of the event but may be associated with some other job function.

The amounts shown on Attachment B for compensatory time, straight time, and overtime reflect the maximum number of potential hours in each of these categories for the particular event. As described above, some of these hours may be more accurately assigned to a function unrelated to the event, but the agency does not track time in that manner.

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During the August 16, 2017, meeting, Colonel Williamson testified troopers are only pulled off the road to attend “necessary” events. Please provide the following:

- policy the agency utilizes when determining if an event or function is “necessary,” if any;
- list of what is considered when determining if an event or function is necessary;
- list of what is considered when determining which troopers to pull off the road;
- agency personnel who have authority to make these determinations;
- number of necessary events or functions in fiscal year 2016-17; and
- list of some specific events or functions previously authorized which the Committee may consider as examples of the types of events or functions the agency may consider necessary.

*Response*

The agency does not have a specific policy that describes when an event or function is necessary. Rather, decisions regarding the use of troopers for special events are made by the Colonel with input from other staff.

The agency considers the following in making a determination if an event or function is necessary:

- the anticipated volume of traffic at the event or function;
- the anticipated volume of attendees at the event or function;
- the anticipated disruption in traffic flow to be caused by the event or function;
- patterns of traffic or attendees at prior events or functions;
- homeland security concerns;
- the manpower available at the current time;
- the availability of other law enforcement agencies to work the event or function;
- requests for assistance from other agencies; and
- the location of the event.

The agency considers the following in determining which troopers to pull off the road.

- trooper's experience in working events or functions of this type;
- continuity of calls for service in other areas;

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- specialized experience or skills that may be needed at the event or function; and
- need for supervisors at the event or function.

The Director and Colonel of the Highway Patrol have the authority to make these determinations concerning special events and functions.

The agency identified 64 special events or functions from April 1, 2016, through September 9, 2017. This count does not account for smaller events where a small number of officers may be temporarily assigned to work an event or function of a short duration, such as escorting a visiting dignitary, providing traffic control for a funeral, or offering a presentation at a local school. Additionally, officers are regularly invited to Blythewood Headquarters to attend promotional and recognition ceremonies, the Public Servant Appreciation Ceremony, Trooper of the Year Ceremony, and other similar events.

The following are examples of the types of events or functions for which the agency has pulled troopers off the road.

- Clemson University football games (2016-2017);
- University of South Carolina football games (2016-2017);
- NASCAR races at Darlington Raceway (2016-2017);
- Atlantic Beach Bikefest (2016-2017); and
- Carolina Cup Horse Races (2016-2017).

Please provide information, in an Excel document with the headings provided in Attachment C, regarding transport of non-agency personnel from January 1, 2017 to the present.

#### *Response*

The Highway Patrol Manual of Operations and the State Transport Police Manual of Operations set the following criteria for transport of non-agency personnel:

Unless when carrying out duties set forth by instruction, orders, or regulations, persons not affiliated with DPS, or persons not a member of the Trooper's (Officer's) immediate family are prohibited from being transported in a Patrol (STP) vehicle unless permission is granted by the Troop Commander (District Commander). Troopers (Officers) may transport disabled motorists, collision victims or others in connection with Patrol (STP) business upon informing the duty supervisor.

The Bureau of Protective Services Manual of Operations sets the following criteria for transport of non-agency personnel:

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Transporting of unauthorized persons in a patrol vehicle is prohibited unless to accomplish a police function or at the direction of a supervisor.

Insofar as these procedures permit agency personnel to transport non-agency personnel in a wide variety of situations without the need for approval, the Department has no way of knowing every instance in which agency personnel may have transported non-agency personnel in accordance with the procedures. The Department has polled those holding the rank of Captain and above in the Highway Patrol, the State Transport Police, and the Bureau of Protective Services. None of these supervisors were aware of any situations (1) where officers were in violation of the above-described procedures or (2) where officers sought permission to transport non-agency personnel in a situation not permitted by the above-described procedures.

### **Personnel**

Please provide information, in an Excel document with the headings provided in Attachment D, related to all agency personnel that have changed positions in the last six months.

#### *Response*

See attached.

During the August 16, 2017, full Committee meeting, agency representatives were questioned about a communication within a troop advising personnel of an annual leave policy (i.e., annual leave may not be taken on the weekend and further there is a requirement of finding someone else to work.) Please provide an update on what, if anything, has been learned about this communication.

#### *Response*

The Department has discovered a series of three e-mails dated March 5, 2017, July 10, 2017, and August 1, 2017 (attached) which it believes form the basis for the inquiry concerning annual leave. In the Troop Seven area, the Post Commander e-mailed troopers under his command asking for cooperation in mitigating scheduling conflicts. All such communications complied with the Department's Leave and Attendance policy, which outlines the guidelines and procedures that all supervisors must follow to ensure compliance with department policy and state regulations. The e-mails in question stated that every effort would be made to accommodate employee leave requests and further stipulated that consideration of workloads, work distribution, and other factors that could result in interruption of critical services may necessitate the denial of an annual leave request.

Please provide the following information as of the most recent date available:

- Total number of troopers, minus those still at the Criminal Justice Academy;
- Total number of troopers on the road; and

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*Response*

As of September 12, 2017, there are 766 troopers, not including those still at the Criminal Justice Academy, and 597 troopers on the road. For purposes of "on the road status," the Department counted troopers holding the rank of Corporal or lower.

For Troop Two (Abbeville, Edgefield, Greenwood, Laurens, McCormick, Newberry, and Saluda Counties)

- Total number of troopers available to work the road; and
- Total number of troopers typically working the road at any given time.

*Response*

As of September 18, 2017, Troop 2 currently has 47 troopers available to work the road. There are an additional two troopers assigned to work the road in Troop 2, but they are currently away on military duty.

In Troop 2, there are typically 7-8 troopers on each shift working the road at any given time.

**Resources**

During the Subcommittee's study of the agency, Colonel Oliver testified there are resources in the budget to hire more Highway Patrol officers and the lack of officers on the road is not t/he result of lack of funding. Please state whether you agree or disagree with this testimony and why or why not.

*Response*

The agency believes that Colonel Oliver's testimony as described above remains accurate but should be expanded upon further. The agency has funding in its budget to hire additional Highway Patrol troopers, but addressing officer recruitment and retention goes beyond having adequate funding to hire them. Manpower is driven by a variety of circumstances – many of which are not under our control. Law enforcement agencies across the state and nation have encountered similar challenges in recruiting and retaining officers – a fact that has been widely reported upon in the media. Since Ferguson, law enforcement has had to work diligently to rebuild trust in communities. Additionally, there have been numerous high-profile slayings of officers nationwide that has had a chilling effect on attracting applicants and sometimes even retaining seasoned officers. In the past, these realities have affected both recruiting efforts and retention for our department.

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While funding alone will not address all of these issues, we believe strongly that creating a more competitive salary structure, as we did in 2015, is one important means of helping attract and retain the most qualified applicants. In addition to salary, we continue to evaluate our efforts across the board and make adjustments that will enhance our manpower.

Sincerely,

Leroy Smith  
Director

LS/mg  
enc.



# South Carolina Department of Public Safety

Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>500.02</b>
<b>EFFECTIVE DATE</b>	<b>MARCH 1, 1995</b>
<b>ISSUE DATE</b>	<b>AUGUST 16, 2004</b>
<b>SUBJECT</b>	<b>RECORDS MANAGEMENT</b>
<b>APPLICABLE STATUTES</b>	<b>Chapter 1, Title 30</b>
<b>APPLICABLE STANDARDS</b>	<b>82.1.3, 82.3.5</b>
<b>DISTRUBTION</b>	<b>TO ALL EMPLOYEES</b>

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

## **I. PURPOSE**

The Department of Public Safety is required by law to establish and maintain a records management system for the proper retention and disposition of official department records. See Chapter 1, Title 30, Code of Laws of South Carolina, 1976, as amended. Accordingly, the purpose of this directive is to establish a records management system within the department that meets the requirements of the State Records Act, and to provide guidelines for the orderly maintenance and storage of records within the department, and for their eventual disposition or disposal as required by law. [82.3.5]

## **II. POLICY**

For purposes of this directive, "record" or "records" means a "public record" as defined by § 30-4-20(c). Code of Laws of South Carolina, 1976, as amended. It is the policy of the department to establish, maintain and administer a records management system within the department. The department's records management system must be designed to preserve, safeguard, and, in cooperation with the Department of Archives and History, eventually dispose of all departmental records in accordance with the requirements of Chapter 1, Title 30, of the code, supra. [82.1.3]

## **III. LEGAL CUSTODIAL OF DEPARTMENTAL PUBLIC RECORDS**

The director is the legal custodian of all public records of the department.

#### **IV. APPOINTMENT AND AUTHORITY OF THE DEPARTMENT RECORDS OFFICER**

The director may appoint a records officer to act on his behalf. [82.1.3] Accordingly, the chief financial officer is appointed as records officer for the department and, as such, will report to the director from time to time regarding the department's record management system. The records officer is authorized to appoint an employee within the Office of Financial Services to serve as the department's records management officer, and to specifically task the records management officer with the actual, day to day, administration and functional management of the department's records management system. The records officer and the records management officer are delegated and have the authority to manage and control public records of the department that is necessary and commensurate with their duties and responsibilities under this directive and Chapter 1, Title 30, of the code, supra. [82.1.3]

#### **V. ADMINISTRATION OF RECORDS MANAGEMENT SYSTEM**

##### **A. Records Officer**

The department's records officer is responsible for ensuring that the department is in compliance with all statutes and regulations relating to the retention of public records.

##### **B. Records Management Officer [82.1.3]**

When designated and appointed by the records officer, the duties of the records management officer include, but are not limited to, the following:

1. Review and approve the adoption, modification or revocation of all record retention schedules for the department.
2. Maintain all original record retention schedules for the department.
3. Review and approve all requests for the disposition or destruction of records in accordance with state regulations before a request or notice for the disposition or destruction of records is forwarded to the Department of Archives and History, and before the records are actually destroyed.
4. Maintain the department's official record copy of all forms, notices and requests forwarded to or received from the Department of Archives and History including, but not limited to the following:
  - a. report on records destroyed (specific schedules);
  - b. authorization to destroy records under general schedule;
  - c. record series inventory forms;
  - d. public records storage standards compliance checklist;
  - e. microfilm transmittal and receipt forms;



- f. microfilm quality certifications for records disposition; and
  - g. state records center transfer forms.
5. Coordinate the procurement of microfilm, microfiche, optical disk systems or other technology for storage of the department's public records with the Information Technology Office.

#### C. Liaison Officers

Deputy directors, office heads, supervisors or unit managers shall appoint an individual from their respective division, office or unit to serve as a liaison officer. When appointed, and in cooperation with the records management officer, the liaison officer will handle the day-to-day administration of the records management system for division, office or unit. In addition to maintaining records for their respective division, office or unit, the duties of a liaison officer include, but are not limited to, the following: [82.3.5]

1. With the assistance and supervision of the Records Management Officer, and the Department of Archives and History, create record retention schedules for the liaison officer's respective division, office or unit. This includes advising the records management officer when a new record series is created that necessitates revising existing schedules.
2. Examine all public records maintained by the division, office or unit for which he is responsible and determine which public records, files or documents may be disposed of under current record retention schedules. Thereafter, upon compiling a list of public records, files or documents which may be properly disposed of, the liaison officer must forward a written request to the records management officer to obtain approval to dispose of the listed public records, files or documents as provided in Chapter 1, Title 30, of the code, supra. Additionally, the liaison officer shall purge records reduced to microfilm and optical disks on an annual basis to determine if, under current record retention schedules, any of the microfilm rolls or optical disks may be disposed. [82.3.5]
3. Provide written notice to and receive approval from the records management officer before transferring public records, files or documents to the State Records Center or to the Department of Archives and History pursuant to established transfer procedures.
4. Provide written notice to and receive approval from the Records Management Officer before authorizing the Department of Archives and History to dispose of records stored in the State Records Center once the retention period for the records has been met.
5. Supervise the reformatting of records onto microfilm, microfiche or optical disks, or any other medium created by new technology for the storage of documents, pursuant to those guidelines and standards established by the Department of Archives and History. This includes

ensuring that the Department of Archives and History receives the necessary security copy of the film or disks. [82.3.5]

6. Provide written notice to and receive approval from the record management officer for the disposal of records approved for destruction after reformatting onto microfilm, optical disk, or another medium suitable for the storage and preservation of records.

<b>By Order of the Director</b> <b>Date: August 16, 2004</b>
<b><i>James K. Schweitzer</i></b>
<b>Director</b> <b>S C Department of Public Safety</b>
<b>The Original Signed Copy of this Policy</b> <b>is on File in the Office of the General</b> <b>Counsel</b>

**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY'S RESPONSE TO THE LAW  
ENFORCEMENT AND CRIMINAL JUSTICE SUBCOMMITTEE'S STUDY OF THE DEPARTMENT  
SAFETY, HIRING, RECRUITMENT, AND RETENTION**

**1. Ensure the appropriate division head is involved in the hiring process. Ensure policies outline clearly which personnel provide input at which stages of the hiring process.**

In accordance with Policy 400.02 (Commissioned Law Enforcement Officer Application and Selection Process), each Law Enforcement Division (LED) has responsibility for and oversight of the recruitment, application, and selection process of potential employees. Each LED is responsible for selecting a coordinator to administer the process for its applicants.

Pre-selection activities include receiving the applications; testing and applicant processing; polygraph examinations; background investigations; and Selection Review Board (SRB). The SRB is composed of officers selected by the Deputy Director/Division Head and one non-voting member from the Office of Human Resources (OHR).

Following its review, the SRB recommends applicants to the Deputy Director/Division Head for review and selection. The Deputy Director/Division Head then submits his/her recommendations to the Director for final approval.

Post-selection activities include physical fitness testing and medical/psychological screenings.

The agency intends to revisit Policy 400.02 to consider changes that would include additional involvement of the LED directors in the final hiring decision.

**2. Research the cost and feasibility of implementing a career path for agency employees.**

The agency will revisit and update the cost and feasibility aspects of a possible Career Path for law enforcement.

**3. Track applicable data to determine which recruiting methods are effective in obtaining applicants with the temperament and ability to successfully complete appropriate Criminal Justice Academy courses. Include this data in the agency's Accountability Report each year.**

The agency currently tracks the various methods it uses for recruitment and the success rate of those efforts. The agency then adjusts its recruiting efforts to maximize its ability to locate successful applicants. Additionally, the agency tracks the stage at which applicants are screened out of the selection process and revises its process based on steps which may affect a disproportionate number of applicants.

The agency will consider revising its Accountability Report to include this information.

**4. Revisit policy which automatically disqualifies job applicants with visible tattoos.**

SCDPS Policy 200.10 (Dress Code) was revised and became effective August 1, 2017.

**5. Update the agency's Personnel Allocation Model to conform to national standards.**

The agency will revisit and update the formula that determines personnel allocation.

**6. Review industry best practices on trooper fatigue under various shift changes.**

The agency will review industry best practices on trooper fatigue under various shift changes and consider potential changes.

**EQUIPMENT REPLACEMENT**

**7. Request a permanent line item, which identifies funding for the equipment replacement schedules, in the General Appropriations Act.**

For the FY18 budget submission, the agency asked for the following sums:

- \$5,443,083 for law enforcement equipment, specifically vehicles, in-car video cameras, radars, portable radios, mobile radios, and TASERS;
  - \*\*The agency received a portion of these funds (\$939,600) dedicated to in-car video cameras
- \$1,006,000 to support a 4 year rotation for laptops/desktop computers; and
  - The agency did not receive these funds but is requesting these funds for the FY 2019 budget request
- \$88,000 to support a 5 year rotation for network infrastructure equipment (routers, switches, wireless access points).
  - The agency received \$88,000

\*\*The agency will continue to make budget requests of this nature.

**8. Develop a computer and technology replacement cycle; include this information in the agency's budget request.**

The agency has developed a plan for information technology equipment replacement. The agency intends to further refine this plan to include factors such as maintenance of the equipment.

**APPLYING POLICIES CONSISTENTLY**

**9. Implement the agency's existing Alcohol and Drug Deterrence Policy and perform random and post-accident drug testing of agency employees.**

The agency revised Policy 200.04 (Alcohol and Drug Deterrence Program, effective May 1, 2017) to include a random drug testing program that began July 1, 2017. Post-accident drug testing will be based upon reasonable suspicion. The revised version of Policy 200.04 is consistent with the alcohol and drug deterrence policies of sister agencies (e.g., SLED, S.C. Department of Corrections).

**10. Revise the agency's Residency Policy to have clear standards of which employees are required, and which are not required, to live within various requisite distances from their troop headquarters or their assigned post. Apply Residency Policy consistently.**

SCDPS Policy 300.47 (Residency Requirements for Commissioned Law Enforcement Officers) was revised and became effective August 1, 2017.

**11. Update the agency's Audio-Video Monitor Report form to include the reason the supervisor is reviewing a video. Track this information in the activity console (i.e., agency's internal database).**

The agency has revised its Audio/Video Monitor Report (DPS-LE-065) to include a space for the supervisor to document the reason that the video is being reviewed, including Supervisory Review, Training, Case Inquiry, or Complaint (see attached).

The agency will review the possibility of adding a tracking mechanism to the Trooper's Console for the purpose of recording time spent reviewing video tapes.

**12. Review the policies and format of the corrective action plans submitted by Troop Commanders in response to Staff Inspection Reports. Ensure these plans include deadlines and appropriate follow up.**

The 2016-2018 Staff Inspection Report has been revised to include sections for follow up actions when deficiencies are noted as well as deadlines to address those deficiencies. Under the new format, Command Staff will implement a plan of action to ensure deficiencies are properly corrected within an appropriate timeframe. The department continues to move toward a goal of electronic reporting for Staff Inspection Reports.

**COMMUNICATION AND MORALE**

**13. Distinguish between the number of active troopers and number of troopers who are still in training when reporting data.**

The agency has adjusted the manner in which it maintains records to ensure that its data distinguishes between the number of active troopers and the number of troopers who are still in training. This will result in reporting that creates the recommended distinction.

**14. Restructure the agency so both the Office of Professional Responsibility and Human Resources Office report to the Legal Department, whose attorneys are subject to requirements of legal ethics and rules of professional responsibility to remain licensed to practice law, then the Director.**

The OHR and the Office of Professional Responsibility (OPR) already consult with the Office of General Counsel (OGC) on a regular basis regarding personnel and disciplinary matters. The proposed restructuring would potentially jeopardize the attorney/client privilege that exists between the OGC and OHR and OPR staff. Additionally, under such an arrangement, attorneys could become witnesses to certain OHR and OPR matters, thereby making them witnesses for purposes of legal proceedings associated with the matters. Finally, the department is unaware of any other state agency which is structured in the suggested fashion.

**15. Adopt a process by which employees can provide feedback to the agency anonymously.**

The agency will investigate if technology will permit the department to establish a truly anonymous mechanism for employees to provide feedback (or) determine the availability of established vendors capable of providing such service and the budgetary requirements necessary to implement and maintenance (recurring funding).

**16. Have an outside entity perform a leadership climate and employee morale survey of the agency beginning this year and once every three years thereafter. Require agency leadership to generate and follow through with improvement plans based upon the results of the surveys.**

The Office of the Inspector General has completed their study of the agency and is in the process of finalizing their report.

**17. Require Troop Commanders and Supervisors in the Blythewood Office, including the Director, to spend one day per month on the road to stay abreast of troopers' daily activities.**

The Director, Deputy Directors (Colonels, Chiefs, Commanders), supervisors assigned to the Blythewood Office, and Administrative Command personnel regularly travel throughout the state in attendance, support, or command of numerous field operation assignments. [e.g., holiday enforcement, special duty assignments (bike weeks, state house rallies), promotional ceremonies, awards ceremonies (HP Trooper of the Year, HP TCO of the Year, STP Officer of the Year, BPS Officer of the Year, Public Servant of the Year), Highway Dedications for fallen troopers, emergency management operations (winter storms, hurricanes, floods, etc.), media-related events (e.g., highway safety campaigns)]. These assignments provide opportunities to interact with officers while gaining insight into their daily activities. These duties require the above requested personnel to far exceed the recommended one day per month on the road.

**FOCUSING ON ITS PRIMARY MISSION**

**18. Transfer the Illegal Immigration Enforcement Unit to the State Law Enforcement Division.**

The department will support the decision made by the General Assembly.

**19. Transfer grants programs unrelated to highway safety (i.e., criminal justice, juvenile justice, and crime victims) to another agency.**

The Victim Services Grant Programs have been transferred to the Office of the Attorney General. The department will support the General Assembly's decision in regard to the remaining Grant Programs.

**20. Coordinate a meeting with the division of State Human Resources and other agencies which may have similar scheduling situations (e.g., Department of Juvenile Justice, Department of Corrections, and Department of Social Services), to discuss ways to reduce the amount of time necessary to enter and update personnel hours in the South Carolina Enterprise Information System.**

The department has no objection to this recommendation and will coordinate a meeting with the division of State Office of Human Resources (SOHR) to discuss ways to reduce the amount of time necessary to enter and update personnel hours in SCEIS as it has the most direct way to impact the manner in which the department utilizes SCEIS. If SOHR is unable to provide workable solutions, the department may reach out to other similarly-situated agencies to seek advice.

**ANALYZING AND UPDATING INFORMATION**

**21. Research the costs involved in the agency producing reports from the Multi-Disciplinary Accident Investigation Team and private sector industry standards related to amounts charged for this type of information to determine appropriate charges for these reports.**

The department would request a change comparable to the fee schedule for private industry entities that provide accident reconstruction services.

**22. Revise S.C. Code § 23-6-187, relating to witness fees for troopers, trained in Advanced Accident Investigation, testifying in civil matters, to allow the agency to adjust the amount it charges each year with inflation.**

The department has no objection to this recommendation and would recommend that the current rate of \$135 per hour, adopted in 2009, be adjusted concomitantly with the proposed change.

**23. Revise S.C. Code § 23-6-20, relating to establishment of the agency, to remove references to transfers of divisions and, instead, require the agency to maintain a list of its divisions.**

The department has no objection to this recommendation. However, the department notes that Title 23, Chapter 6 does not contain any express provision creating the State Transport Police. To the extent that § 23-6-20 is amended as proposed utilizing the "as outlined in this chapter," an additional amendment may be necessary to include the State Transport Police.

The department's [website](#) outlines a brief history of the agency including the various divisions that have made up agency over its history.

**24. Update S.C. Code § 23-6-30, relating to the duties and powers of the agency, to remove a reference to a training program now provided by the Criminal Justice Academy.**

The department has no objection to this recommendation to the extent that S.C. Code § 23-6-30(5) refers to the training program operated by the Criminal Justice Academy. However, the department would not want an amendment that potentially eliminates the department's ability to train its officers through its own training division.

**25. Revise S.C. Code § 23-6-50, relating to an annual audit, carrying funds into the next fiscal year, and retention of revenue to meet the agency's expenses, to remove outdated references and allow the agency to expend certain funds for drug testing.**

The department has no objection to this recommendation.

#### **FOLLOW UP**

**26. Provide an update, in an approved format, once a quarter from April 3, 2017, until April 3, 2018, or the Committee re-visits the need for the updates.**

The department will provide quarterly updates beginning three months after the House Oversight Committee's Report is finalized and for one year following that date.

**27. Provide the Committee an update every 30 days about the status of payments to subgrantees (i.e., crime victim service providers grant requirements).**

The department provided the first of these reports on April 17, 2017 and continued to send these reports on a monthly basis through July 1, 2017 when these functions were transferred to the Office of the Attorney General.

	Employee with assigned state vehicle	Troop Number	Number of miles from employee residence to Troop Headquarters	Estimated travel time from employee residence to Troop Headquarters	Post	Has this employee been assigned to this troop or post after the new residency policy was implemented?	Number of miles from employee residence to Post Command	Estimated travel time from employee residence to Post Command	County in Post closest to employee residence	Number of miles from employee residence to County line of County in Post closest to employee residence	Estimated travel time from employee residence to County line of County in Post closest to employee residence	Average number of shifts employee works per week
1	Trooper	5	50	57 minutes	D	yes	14	21 minutes	Horry	-	-	3-4
2	Trooper	1	22	23 minutes	B	yes	35	35 minutes	Richland	-	-	3-4
3	Sergeant	11	26	28 minutes	11	yes	26	28 minutes	-	-	-	5
4	Lance Corporal	5	62	77 minutes	D	yes	18	32 minutes	Horry	-	-	3-4
5	Lance Corporal	4	9	13 minutes	B	yes	9	13 minutes	York	-	-	3-4
6	Trooper	3	15	26 minutes	D	yes	22	31 minutes	Greenville	-	-	3-4
7	Trooper	5	48	55 minutes	D	yes	5	9 minutes	Horry	-	-	3-4
8	Sergeant	8	10	16 minutes	Low-State	yes	10	16 minutes	Florence	-	-	3-4
9	Captain	TCO	4	8 minutes	11	yes	4	8 minutes	Greenville	-	-	5
10	Trooper	5	44	41 minutes	A	yes	36	42 minutes	Sumter	3	7 minutes	3-4
11	Captain	11	32	35 minutes	11	yes	32	35 minutes	-	-	-	5
12	Trooper	4	38	53 minutes	A	yes	10	18 minutes	Cherokee	-	-	3-4
13	Trooper	7	68	79 minutes	A	yes	71	94 minutes	Aiken	-	-	3-4
14	Lance Corporal	BPS	14	28 minutes	-	yes	14	28 minutes	BPS (Richland)	-	-	1-6
15	Lieutenant	11	5	8 minutes	11	yes	5	8 minutes	-	-	-	5
16	Lance Corporal	4	22	34 minutes	A	yes	30	38 minutes	York	-	-	3-4
17	Lieutenant	11	23	26 minutes	11	yes	23	26 minutes	-	-	-	5
18	Trooper First Class	4	66	81 minutes	A	yes	21	27 minutes	Spartanburg	-	-	3-4
19	Lance Corporal	6	21	32 minutes	A	yes	21	32 minutes	Berkeley	16	28 minutes	3-4
20	Captain	11	49	55 minutes	11	yes	49	55 minutes	-	-	-	5
21	Corporal	6	15	24 minutes	B	yes	35	49 minutes	Berkeley	10	20 minutes	3-4
22	Sergeant	STP	17	28 minutes	Region 1	yes	17	28 minutes	Lexington	-	-	3-4
23	Captain	11	70	81 minutes	11	yes	70	81 minutes	Aiken	-	-	5
24	Trooper	7	47	60 minutes	A	yes	44	53 minutes	Allendale	-	-	3-4
25	Lance Corporal	6	6	12 minutes	A	yes	6	12 minutes	Berkeley	-	-	3-4



Attachment A

	Employee with assigned state vehicle	Troop Number	Number of miles from employee residence to Troop Headquarters	Estimated travel time from employee residence to Troop Headquarters	Post	Has this employee been assigned to this troop or post after the new residency policy was implemented?	Number of miles from employee residence to Post Command	Estimated travel time from employee residence to Post Command	County in Post closest to employee residence	Number of miles from employee residence to County line of County in Post closest to employee residence	Estimated travel time from employee residence to County line of County in Post closest to employee residence	Average number of shifts employee works per week
26	Trooper First Class	7	57	71 minutes	C	yes	20	26 minutes	Aiken	-	-	3-4
27	Lance Corporal	4	7	15 minutes	B	yes	7	15 minutes	York	-	-	3-4
28	Trooper	1	42	42 minutes	B	yes	10	13 minutes	Kershaw	-	-	3-4

	<b>Employee</b>	<b>Reason for Reassignment</b>
1	Trooper	change of supervisor
2	Trooper	change of supervisor and Post
3	Sergeant	change of supervisor
4	Lance Corporal	change of supervisor
5	Lance Corporal	change of supervisor
6	Trooper	change of supervisor
7	Trooper	change of supervisor
8	Sergeant	promotion to Sergeant
9	Captain	Director's appointment
10	Trooper	change of supervisor and Post
11	Captain	Director's appointment
12	Trooper	change of supervisor
13	Trooper	change of supervisor and Post
14	Lance Corporal	change of supervisor
15	Lieutenant	change of supervisor and Post
16	Lance Corporal	change of supervisor
17	Lieutenant	change of supervisor
18	Trooper First Class	change of supervisor
19	Lance Corporal	officer request
20	Captain	Director's appointment
21	Corporal	change of supervisor
22	Sergeant	promotion to Sergeant
23	Captain	Director's appointment
24	Trooper	change of supervisor
25	Lance Corporal	change of supervisor
26	Trooper First Class	change of supervisor
27	Lance Corporal	change of supervisor
28	Trooper	change of supervisor and Post

Date	Event	Type of Work (e.g., traffic control, Coach detail, etc.)	# of Troopers	Total # of Hours worked on date(s) of event	Maximum # of Hours provided as Comp Time Possibly Attributable to the Event	Maximum # of Hours paid as Straight Time Possibly Attributable to the Event	Maximum # of Hours Paid as OT Possibly Attributable to the Event
4/2/2016	2016 Cooper River Bridge Run	Traffic Control	28	284	0	29	9
4/6/2016	Carolina Cup	Traffic Control	35	408.5	0	22.5	7
4/11/2016 - 4/17/2016	2016 Heritage Golf Tournament	Traffic Control	29	1658.5	0	50	37
5/7/2016	Black Cats Motorcycle Rally 2016 (Greenwood)	Traffic Control	8	96	5	8.25	0
5/26/2016 - 5/30/2016	Memorial Bike Fest 2016	Traffic Control	123	6155	49.5	325	472
5/27/2016 - 5/28/2016	Saluda Tractor Pull 2016	Traffic Control	2	40	0	0	40
7/4/2016	July 4th Fireworks 2016 - York County	Traffic Control	18	160	14	0	0
7/10/2016	State House Secessionist Rally	Crowd Control	10	144	2	10	27
8/31/2016 - 9/1/2016	USC VS Vanderbilt	Coach's Detail	2	40	0	6	3
9/1/2016 - 9/4/2016	Clemson VS Auburn	Coach's Detail	1	48	0	0	0
9/2/2016 - 9/3/2016	SC State Football - Orlando, FL	Coach's Detail	1	16	5.5	0	0
9/4/2016	Darlington Race 2016	Traffic Control	52	570.5	301.63	0	0
9/9/2016 - 9/10/2016	USC VS Mississippi State	Coach's Detail	2	40	0	6	3
9/9/2016 - 9/10/2016	SC State Football - Ruston, LA	Coach's Detail	2	43	5.5	0	0
9/10/2016	Clemson VS Troy	Traffic Control	94	1214.5	266.13	17.5	8
9/16/2016 - 9/17/2017	SC State Football - Clemson, SC	Coach's Detail	1	16	3.5	0	0
9/17/2016	USC VS East Carolina	Traffic Control	80	983.33	161.71	26	62
9/17/2016	Clemson VS SC State	Traffic Control	95	1184	96.25	21	33
9/21/2016 - 9/23/2016	Clemson VS Georgia Tech	Coach's Detail	2	48	0	6	4
9/23/2016 - 9/24/2016	USC VS Kentucky	Coach's Detail	2	40	0	0	0
9/23/2016 - 9/24/2016	SC State Football - Tallahassee, FL	Coach's Detail	1	24	3.5	0	0
9/30/2016 - 10/1/2016	Fall Harley Rally 2016	Traffic Control	11	264	35	51.5	177.5
10/1/2016	USC VS Texas A&M	Traffic Control	80	952.08	89	133	715.08
10/1/2016	Clemson VS Louisville	Traffic Control	93	1345.67	156.5	175	1305.17
10/6/2016 - 10/8/2016	Clemson VS Boston College	Coach's Detail	2	72	24	24	8
10/8/2016	USC VS Georgia	Traffic Control	75	879	88	133	649
10/14/2016 - 10/15/2016	SC State Football - Washington, DC	Coach's Detail	1	29	3	5	0
10/15/2016	Clemson VS NC State	Traffic Control	91	1180.83	456.5	191.33	176.5
10/22/2016	USC VS UMASS	Traffic Control	79	980.5	174	104	296
10/22/2016	SC State Football	Traffic Control	14	141	31	21	56
10/27/2016 - 11/6/2016	2016 Coastal Carolina Fair	Traffic Control	5	242	21	1	0
10/28/2016 - 10/29/2016	SC State Football - Hampton, VA	Coach's Detail	1	19	11	0	0
10/28/2016 - 10/30/2016	Clemson VS Florida State	Coach's Detail	2	48	0	0	0
10/29/2016	USC VS Tennessee	Traffic Control	79	1018.5	195.75	45	34
11/4/2016 - 11/5/2016	SC State Football - Greensboro, SC	Coach's Detail	1	20	11	5	0
11/5/2016	USC VS Missouri	Traffic Control	77	898	173.5	24	74
11/5/2016	Clemson VS Syracuse	Traffic Control	94	1285.5	191.5	42	1
11/11/2016 - 11/12/2016	USC VS Florida	Coach's Detail	2	40	0	0	0
11/12/2016	Clemson VS Pittsburgh	Traffic Control	42	672	150	0	14
11/12/2016	SC State Football	Traffic Control	6	48	6	0	0
11/18/2016 - 11/20/2016	Clemson VS Wake Forest	Coach's Detail	2	48	0	0	0
11/19/2016	USC VS Western Carolina	Traffic Control	87	992	147.5	3	0
11/19/2016	SC State Football	Traffic Control	5	44	1	0	0
11/25/2016 - 11/27/2016	USC VS Clemson	Coach's Detail	2	44	0	0	0
11/26/2016	SC State Football	Traffic Control	5	40	4	0	0

Date	Event	Type of Work (e.g., traffic control, Coach detail, etc.)	# of Troopers	Total # of Hours worked on date(s) of event	Maximum # of Hours provided as Comp Time Possibly Attributable to the Event	Maximum # of Hours paid as Straight Time Possibly Attributable to the Event	Maximum # of Hours Paid as OT Possibly Attributable to the Event
11/26/2016	Clemson VS South Carolina	Traffic Control	85	1131.75	150.75	28	12
12/2/2016 - 12/4/2016	Clemson VS Virginia Tech	Coach's Detail	2	48	0	0	0
12/26/2016 - 1/1/2017	Clemson VS Ohio State	Coach's Detail	2	168	21	0	0
12/26/2016 - 12/29/2016	USC VS USF	Coach's Detail	2	76	8	0	0
1/6/2017 - 1/10/2017	Clemson VS Alabama	Coach's Detail	2	120	8	0	0
4/1/2017	Carolina Cup	Traffic Control	38	442.5	57.5	0	33
4/1/2017	2017 Cooper River Bridge Run	Traffic Control	25	271	7.5	0	10
4/10/2017 - 4/16/2017	2017 Heritage Golf Tournament	Traffic Control	27	1625	41.5	0	0
5/5/2017 - 5/7/2017	McEntire Air Show	Traffic Control	10	303	38	0	0
5/6/2017	Black Cats Motorcycle Rally 2017 (Greenwood)	Traffic Control	10	96	11	0	0
5/11/2017 - 5/21/2017	Spring Harley Rally 2017	Traffic Control	72	4857	79.5	82	101
5/24/2017 - 5/29/2017	Memorial Bike Fest 2017	Traffic Control	209	10928	27	280.5	164.5
5/26/2017 - 5/27/2017	Saluda Tractor Pull 2017	Traffic Control	4	88	0	0	0
7/4/2017	July 4th Fireworks 2017 - York County	Traffic Control	19	177	9	0	0
9/1/2017 - 9/3/2017	USC VS NC State	Coach's Detail	2	54	0	3	0
9/2/2017 - 9/3/2017	SC State Football - Baton Rouge, LA	Coach's Detail	1	16	0	6	9
9/2/2017	Clemson VS Kent State	Traffic Control	89	1145	10	313	456
9/3/2017	Darlington Race 2017	Traffic Control	100	1592	83	319.75	423.25
9/9/2017	Clemson VS Auburn	Traffic Control	26	357	0	117	126

**Attachment D**

Individual's Name	Previous Position	Number of years in previous position	If officer then also, number of years as officer	New Position	Date of Position Change	Individual previously in the position	Number of years individual was in the position	If officer then also, number of years as officer	New position, or status, of individual previously in the position
ALLEN, MICHAEL	Corporal	7	20	Corporal	6/2/2017	Matthew Cook	0	26	Separated
BANISTER, DONALD	Lieutenant	1	23	Captain	8/17/2017	Shawn Stankus	1	26	Promoted
BASKIN, THERESA	Fiscal Analyst III	9	NA	Accountant/Fiscal Analyst II	7/2/2017	Peggy McBride	7	NA	Retired
BENNETT, JOSHUA	Trooper First Class	2	4	Trooper First Class	3/17/2017	Danny Calvert	7	10	Promoted
BENNETT, ROLAND	Lance Corporal	9	14	Corporal	7/17/2017	Johnnie Godfrey	1	23	Promoted
BOLAND, JAMES	Fiscal Manager I	0	NA	Director of Accounting	5/17/2017	Bruce Dorman	7	NA	Retired
BOWER, JOSHUA	Lance Corporal	0	5	Corporal	9/5/2017	Shaun Sherriff	5	15	Promoted
BROWN, QUINCY	Sergeant	4	17	First Sergeant	7/17/2017	Patrick Sigwald	0	27	Retired
BROWNING, SUSAN	Payroll Specialist	0	NA	Benefits Counselor I	4/2/2017	Caroline Jackson	0	NA	Separated
BROWNING, SUSAN	Benefits Counselor I	0	NA	Payroll Specialist	4/6/2017	Susan Browning	0	NA	Reassigned
BRUNSON, JOIE	Program Coordinator I	4	NA	Program Manager I	7/2/2017	Bonita Burns	7	NA	Retired
CALHOUN, MATTHEW	Lieutenant	5	18	Major	4/2/2017	John Hancock	2	23	Promoted
CAMPBELL, ANGELA	Fiscal Analyst III	0	NA	Fiscal Analyst III	4/17/2017	Craig Luccy	1	NA	Separated
CARDONA, JAIME	Sergeant	6	14	Lieutenant	8/17/2017	NA	NA	NA	NA
CAUGHMAN, WOFFORD	Lance Corporal	6	12	Corporal	7/17/2017	Joseph White	3	11	Reassigned
CRAVEN, STACY	Lieutenant	4	28	Captain	8/17/2017	Donald Dickerson	1	30	Reassigned
CRAVEN, STEPHEN	Sergeant	2	10	Sergeant	6/17/2017	Joshua Black	2	19	Terminated
CROSBY, SHAWN	Sergeant	5	20	Lieutenant	6/2/2017	Matthew Calhoun	2	18	Promoted
DANBACK, MARK	First Sergeant	2	17	Lieutenant	7/17/2017	Christopher Shelton	1	25	Reassigned
DEMIRER, EREN	Lance Corporal	0	6	Lance Corporal	7/17/2017	Gregory McCrackin	0	10	Reassigned
DEWITT, BRADLEY	Corporal	1	21	Sergeant	8/17/2017	Darrell Smith	1	14	Reassigned
DICKENS, CHARLES	Lance Corporal	14	11	Corporal	7/17/2017	Michael Geter	3	25	Retired
FLOYD, BILLY	Lieutenant	2	20	Captain	8/17/2017	Rickie Grubbs	1	30	Reassigned
FREEMAN, BRIAN	Sergeant	3	11	Sergeant	7/24/2017	Charles Kyzer	5	17	Terminated
GORE, MARCUS	Attorney III	4	NA	Attorney V	7/2/2017	Warren Ganjenshani	4	NA	Separated

**Attachment D**

Individual's Name	Previous Position	Number of years in previous position	If officer then also, number of years as officer	New Position	Date of Position Change	Individual previously in the position	Number of years individual was in the position	If officer then also, number of years as officer	New position, or status, of individual previously in the position
GRUBBS, RICKIE	Captain	1	17	Captain	8/17/2017	NA	NA	NA	NA
HANCOCK, JOHN	Major	4	20	Chief	4/2/2017	Zachary Wise	7	NA	Retired
HARRIS, DAVID	Lance Corporal	2	7	Lance Corporal	7/17/2017	Michael Harrison	3	17	Reassigned
HOFFMAN, GERALD	Lance Corporal	0	11	Lance Corporal	3/2/2017	Jeffrey Michlovitz	4	6	Promoted
HOUP, STEVEN	IT Technician III	0	NA	Network and Systems Administrator I	5/2/2017	Tommy Brooks	0	NA	Separated
HUGHES, ROGER	Lieutenant	4	27	Captain	8/17/2017	NA	NA	NA	NA
JORDAN, ARTHUR	Corporal	8	18	Sergeant	7/17/2017	Timothy Yarborough	6	30	Retired
LADUE, CHRISTOPHER	Lance Corporal	4	9	Corporal	7/17/2017	Toni Gaylord	7	25	Retired
LAFFIN, TARA	Lieutenant	4	23	Captain	6/3/2017	Edward Talbot	2	27	Retired
LLOYD, NATHANIEL	Fiscal Manager I	0	NA	Fiscal Manager I	8/21/2017	Dana Ray	5	NA	Movement
LLOYD, NATHANIEL	Fiscal Analyst III	1	NA	Fiscal Manager I	7/17/2017	Karl Boston	1	NA	Movement
MCCRACKIN, GREGORY	Lance Corporal	0	10	Lance Corporal	3/2/2017	Mitchell Altman	7	12	Promoted
MCDOWELL, STEPHEN	Lance Corporal	4	10	Corporal	7/17/2017	Kevin Brown	1	12	Reassigned
MORF, JOSEPH	First Sergeant	2	13	Lieutenant	7/17/2017	Dennis Kelly	5	30	Retired
MORGAN, CEDRIC	Lance Corporal	0	6	Corporal	7/17/2017	Kirk Winburn	3	21	Promoted
NIMMONS, WILLIAM	Lance Corporal	11	17	Corporal	7/17/2017	Steven Adcox	5	28	Promoted
PARRISH, JACK	Lance Corporal	3	18	Corporal	9/5/2017	Arthur Jordan	8	18	Promoted
PATTERSON, EVERICK	First Sergeant	3	9	Lieutenant	7/17/2017	William Herrington	0	32	Retired
PAXTON, KELVIN	Supply Manager I	16	NA	Supply Manager II	4/2/2017	Thomas Gibbs	7	NA	Retired
PEARSON, CHADWICK	Sergeant	2	19	First Sergeant	7/17/2017	Robert Hardee	3	26	Retired
PROCTOR, TODD	Lance Corporal	5	17	Lance Corporal	8/2/2017	Christopher Sellars	3	4	Terminated
RAY, RICHARD	Captain	3	21	Captain	8/17/2017	Robert Woods	7	25	Promoted
REAP, JAMES	Lance Corporal	1	6	Corporal	7/17/2017	Phillip Harrell	1	12	Separated
RIKARD, JAMES	Corporal	1	2	Sergeant	7/17/2017	Matthew Coffin	4	24	Retired
ROGAN, WILLIAM	Sergeant	4	26	First Sergeant	7/17/2017	Joey Gambrell	1	18	Reassigned

**Attachment D**

Individual's Name	Previous Position	Number of years in previous position	If officer then also, number of years as officer	New Position	Date of Position Change	Individual previously in the position	Number of years individual was in the position	If officer then also, number of years as officer	New position, or status, of individual previously in the position
ROGERS, GEORGE	Lance Corporal	1	6	Corporal	7/17/2017	Lavonda Gabe	5	18	Promoted
ROWELL, DAVID	Lance Corporal	19	4	Corporal	7/17/2017	David Smith	4	18	Promoted
RUST, CHRISTOPHER	Skilled Trades Worker	3	NA	IT Technician II	7/17/2017	Steven Houpt	0	NA	Promoted
SHAW, BRADLEY	Sergeant	1	20	First Sergeant	7/17/2017	Jeffrey Bradley	0	23	Retired
SHERRIFF, SHAUN	Corporal	5	15	Sergeant	7/17/2017	Alfred Warren	6	25	Retired
SHULL, MICHAEL	Supply Manager I	6	NA	Supply Manager I	8/2/2017	Kevin Paxton	7	NA	Promoted
SKIPPER, DAVID	Lance Corporal	3	9	Corporal	7/17/2017	Joseph Alban	2	19	Retired
SMITH, BRONSON	Corporal	2	12	Corporal	7/17/2017	Benjamin Ross	6	18	Promoted
SMITH, GERALD	Corporal	1	17	Sergeant	9/2/2017	Brian Freeman	0	11	Reassigned
SOUTHERLAND, STEPHEN	Corporal	0	6	Immigration Enforcement Officer	7/3/2017	Ryan Shumpert	4	9	Separated
SPIVEY, DAVID	Corporal	6	14	Sergeant	7/2/2017	Shawn Crosby	2	20	Promoted
STEPHENS, CLYDE	Captain	7	27	Captain	8/17/2017	Michael Burgess	1	27	Retired
SUTHERLAND, BRADLEY	Lance Corporal	1	6	Lance Corporal	7/17/2017	Tony Keller	4	25	Retired
THOMPSON, CHARLES	Corporal	1	25	Sergeant	7/17/2017	Therese Alford	2	24	Reassigned
THREATT, JEREMY	Lance Corporal	2	7	Corporal	7/17/2017	Mark Caldwell	7	19	Retired
WAGNER, CHRISTOPHER	Lance Corporal	2	7	Corporal	7/2/2017	Christopher McKeller	3	14	Promoted
WALTERS, ALBERT	First Sergeant	3	26	Lieutenant	7/17/2017	Jeffrey Wade	0	26	Reassigned
WILES, COURTNEY	Administrative Asst.	7	NA	Administrative Coordinator I	7/2/2017	Ada Schmidt	4	NA	Separated
WILLIAMSON, CHRISTOPHER	Lieutenant Colonel	5	29	Colonel	7/17/2017	Michael Oliver	5	35	Retired
WINGO, CHERYL	Lance Corporal	1	4	Lance Corporal	7/17/2017	Gerald Hoffman	0	11	Reassigned
WRIGHT, MARC	Major	5	35	Lieutenant Colonel	7/18/2017	Christopher Williamson	5	29	Promoted

**From:** Rogan, William D.

**Sent:** Sunday, March 05, 2017 10:45 AM

**To:** Brown, Antonio M. <AntonioBrown@SCDPS.GOV>; Burriss, James H. <JamesBurriss@SCDPS.GOV>; Francis, John C. <JohnFrancis@SCDPS.GOV>; McCauley, Willie Jr. (WillieMcCauleyJr@SCDPS.GOV) <WillieMcCauleyJr@SCDPS.GOV>; Bird, Kenneth L. (KennethBird@SCDPS.GOV) <KennethBird@SCDPS.GOV>; Brown, Delvin A. <DelvinBrown@SCDPS.GOV>; David Askins (DGAskins@schp.org) <DGAskins@schp.org>; Enzor, Alan K. <AlanEnzor@SCDPS.GOV>; Gibson, James B. (JamesGibson@SCDPS.GOV) <JamesGibson@SCDPS.GOV>; Gleich, Robert HK. <RobertGleich@SCDPS.GOV>; Kendall, Kevin L. (KevinKendall@SCDPS.GOV) <KevinKendall@SCDPS.GOV>; Metts, Lewis M. <LewisMetts@SCDPS.GOV>; Norton, Aaron I. (AaronNorton@SCDPS.GOV) <AaronNorton@SCDPS.GOV>; Rice Jr., Freddie D. <FreddieRiceJr@SCDPS.GOV>; Shirer, Tessa M. <TessaShirer@SCDPS.GOV>; Tidwell, Tyler J. <TylerTidwell@SCDPS.GOV>; Vandenberg, Jonathan M. <JonathanVandenberg@SCDPS.GOV>; Williams, Steven M. <StevenWilliams@SCDPS.GOV>

**Cc:** King, Nicklous W. <NicklousKing@SCDPS.GOV>

**Subject:** Annual Leave

Post B,

I know that everyone wants to take their annual leave and have time off. I try my best not to deny your leave. But, it has gotten to the point that many of the request for annual leave is overlapping. Due to being short staffed, the annual leave will be first come, first serve (If there is an emergency, come to me). Just because you put in for AL does NOT mean it will be granted. Plus, when requesting, keep specials in mind. Each of you get every other weekend off, try to plan your leave accordingly. I know it cannot be helped some times, but try to avoid putting an unnecessary work load on your teammates on the weekends.

If you have any questions, please call me.

Thanks,

**SERGEANT W. D. ROGAN JR.**  
SC HIGHWAY PATROL- TROOP 7 / Post B  
SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY  
1391 MIDDLETON STREET  
ORANGEBURG, SC 29115  
**803-531-6849 (OFFICE)**  
**803-531-6877 (FAX)**  
**WDROGAN@SCDPS.GOV**  
**WWW.SCDPS.GOV/SCHP**



**From:** Rogan, William D.

**Sent:** Monday, July 10, 2017 3:16 PM

**To:** Brown, Antonio M. ([AntonioBrown@SCDPS.GOV](mailto:AntonioBrown@SCDPS.GOV)) <[AntonioBrown@SCDPS.GOV](mailto:AntonioBrown@SCDPS.GOV)>; Burriss, James H. ([JamesBurriss@SCDPS.GOV](mailto:JamesBurriss@SCDPS.GOV)) <[JamesBurriss@SCDPS.GOV](mailto:JamesBurriss@SCDPS.GOV)>; Francis, John C. ([JohnFrancis@SCDPS.GOV](mailto:JohnFrancis@SCDPS.GOV)) <[JohnFrancis@SCDPS.GOV](mailto:JohnFrancis@SCDPS.GOV)>; McCauley, Willie Jr. ([WillieMcCauleyJr@SCDPS.GOV](mailto:WillieMcCauleyJr@SCDPS.GOV)) <[WillieMcCauleyJr@SCDPS.GOV](mailto:WillieMcCauleyJr@SCDPS.GOV)>; Bird, Kenneth L. ([KennethBird@SCDPS.GOV](mailto:KennethBird@SCDPS.GOV)) <[KennethBird@SCDPS.GOV](mailto:KennethBird@SCDPS.GOV)>; Brown, Delvin A. ([DelvinBrown@SCDPS.GOV](mailto:DelvinBrown@SCDPS.GOV)) <[DelvinBrown@SCDPS.GOV](mailto:DelvinBrown@SCDPS.GOV)>; David Askins ([DGAskins@schp.org](mailto:DGAskins@schp.org)) <[DGAskins@schp.org](mailto:DGAskins@schp.org)>; Enzor, Alan K. ([AlanEnzor@SCDPS.GOV](mailto:AlanEnzor@SCDPS.GOV)) <[AlanEnzor@SCDPS.GOV](mailto:AlanEnzor@SCDPS.GOV)>; Gibson, James B. ([JamesGibson@SCDPS.GOV](mailto:JamesGibson@SCDPS.GOV)) <[JamesGibson@SCDPS.GOV](mailto:JamesGibson@SCDPS.GOV)>; Gleich, Robert HK. ([RobertGleich@SCDPS.GOV](mailto:RobertGleich@SCDPS.GOV)) <[RobertGleich@SCDPS.GOV](mailto:RobertGleich@SCDPS.GOV)>; Kendall, Kevin L. ([KevinKendall@SCDPS.GOV](mailto:KevinKendall@SCDPS.GOV)) <[KevinKendall@SCDPS.GOV](mailto:KevinKendall@SCDPS.GOV)>; Metts, Lewis M. ([LewisMetts@SCDPS.GOV](mailto:LewisMetts@SCDPS.GOV)) <[LewisMetts@SCDPS.GOV](mailto:LewisMetts@SCDPS.GOV)>; Norton, Aaron I. ([AaronNorton@SCDPS.GOV](mailto:AaronNorton@SCDPS.GOV)) <[AaronNorton@SCDPS.GOV](mailto:AaronNorton@SCDPS.GOV)>; Rice Jr., Freddie D. <[FreddieRiceJr@SCDPS.GOV](mailto:FreddieRiceJr@SCDPS.GOV)>; Shirer, Tessa M. <[TessaShirer@SCDPS.GOV](mailto:TessaShirer@SCDPS.GOV)>; Tidwell, Tyler J. <[TylerTidwell@SCDPS.GOV](mailto:TylerTidwell@SCDPS.GOV)>; Vandenberg, Jonathan M. <[JonathanVandenberg@SCDPS.GOV](mailto:JonathanVandenberg@SCDPS.GOV)>; Williams, Steven M. ([StevenWilliams@SCDPS.GOV](mailto:StevenWilliams@SCDPS.GOV)) <[StevenWilliams@SCDPS.GOV](mailto:StevenWilliams@SCDPS.GOV)>

**Cc:** Grice, Anthony K. ([akgrice@schp.org](mailto:akgrice@schp.org)) <[AnthonyGrice@SCDPS.GOV](mailto:AnthonyGrice@SCDPS.GOV)>; King, Nicklous W. ([NW.King@schp.org](mailto:NW.King@schp.org)) <[NicklousKing@SCDPS.GOV](mailto:NicklousKing@SCDPS.GOV)>

**Subject:** FW: Annual Leave

Post B,

Some of you may have forgotten this email that was sent out. (Please read below) I will try to do what I can, but do not expect to have off just because you requested it. If you want off on a weekend that you are scheduled to work, you need to find someone to trade with. Times are tuff right now and I am asking each of you to share in the work load.

Thank you all for the hard work you do,

**SERGEANT W. D. ROGAN JR.**  
**SC HIGHWAY PATROL- TROOP 7 / POST B**  
**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY**  
**1391 MIDDLETON STREET**  
**ORANGEBURG, SC 29115**  
**803-531-6849 (OFFICE)**  
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**From:** Rogan, William D.

**Sent:** Thursday, August 10, 2017 4:01 PM

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**Subject:** FW: Annual Leave

Post B,

( Please read below) Some of you in Post B are not reading my emails. If you want a weekend off, that you are scheduled to work, you will need to find someone that will trade with you. If it is an emergency, I WILL WORK FOR YOU!!! Stop assuming that you can have leave just because it was requested. I have asked you to please plan your vacation accordingly. You are hurting your teammates.

It is now football season. If it is your weekend to work, please do not ask off. I am sorry, but we have to work together on this.

Also, No leave will be granted past December 10<sup>th</sup> due to the holiday season.

If you have any questions, please call me.

Thank you for everything you do,

**FIRST SERGEANT W. D. ROGAN JR.**  
**SC HIGHWAY PATROL- TROOP 7 / POST B**  
**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY**  
**1391 MIDDLETON STREET**  
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Legislative Oversight Committee

**Law Enforcement and Criminal Justice  
Subcommittee's Study of the  
Department of Public Safety**



*April 21, 2017*

FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly**; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations, the **Subcommittee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>1</sup>

## *Study Process*

### Legislative Oversight Committee Actions

- April 14, 2015 - Prioritizes the agencies to study
- April 22, 2015 - Provides the agency with notice about the oversight process
- June 1, 2016 - Holds **Meeting #6** and addresses a matter relating to a potential violation of SC Code 2-2-100 (Contempt of the General Assembly)

### Law Enforcement and Criminal Justice Subcommittee Actions

- April 29, 2015 - Holds **Meeting #1/Entry meeting** and discusses study procedural issues
- May 5, 2015 - Resigns from the Public Safety Coordinating Council – Rep. Tallon
- February 25, 2016 - Holds **Meeting #2** and discusses written questions to send agency
- April 21, 2016 - Holds **Meeting #3** and discusses the agency's history and strategic plan
- May 5, 2016 - Holds **Meeting #4** and provides opportunity for public input and information about agency partners
- May 26, 2016 - Holds **Meeting #5** and addresses a matter relating to a potential violation of SC Code 2-2-100 (Contempt of the General Assembly)
- July 13, 2016 - Holds **Meeting #7** and receives information on agency’s resources and performance
- July 20, 2016 - Holds **Meeting #8** and discusses aspects of the agency's strategic plan
- August 30, 2016 - Holds **Meeting #9** and discusses, among other things, agency’s hiring practices and manpower across regions of the state
- November 1, 2016 - Holds **Meeting #10** and further discusses hiring issues as well as discusses agency’s finances and inconsistencies in applying discipline policies
- January 31, 2017 - Holds **Meeting #11/Work Session** and discusses study progress
- February 21, 2017 - Holds **Meeting #12** and (1) receives constituent testimony; (2) discusses information provided to families of traffic fatality victims; and (3) discusses the length of time in which the agency's Office of Professional Responsibilities cases proceed to disposition
- February 28, 2017 - Holds **Meeting #13** and (1) receive constituent testimony; and (2) discusses grants, drug testing, and technology issues

- March 7, 2017 - Holds **Meeting #14/Work Session** and discusses study recommendations
- April 21, 2017 - Provides notification that the Subcommittee Study on the agency is available for consideration by the full Committee

### Public's Actions

- September 1-31, 2015 - Responds to survey about the agency
- May 5, 2016 - Opportunity to provide testimony at a public input hearing; however, no testimony received from constituents at this time
- February 21, 2017 - Provides testimony during a Subcommittee meeting
- February 28, 2017 - Provides testimony during a Subcommittee meeting
- Ongoing - Submits comments on the Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

### Department of Public Safety Actions

- March 31, 2015 - Submits Restructuring and Seven-Year Plan Report
- August 28, 2015 - Submits Program Evaluation Report
- January 11, 2016 - Submits 2016 Annual Restructuring Report
- April 29, 2016 - Submits response to Committee Staff Study
- May 5, 2016 - Amends its response to Committee Staff Study
- September 14, 2016 - Submits 2015-16 Accountability Report
- November 29, 2016 - Submits Annual Request for Information
- April 2015 - February 2017 - Meets with and responds to Subcommittee's inquiries

*Figure 1. Summary of Key Dates and Actions of the Study Process, 2015-2017*

## ***Recommendations***

The Subcommittee has 27 recommendations relating to the agency. The Subcommittee's **recommendations for revisions to the agency's internal operations and revisions to laws fall into seven categories**. These categories include: (1) recruitment, hiring, retention, and public safety; (2) equipment replacement; (3) applying policies consistently; (4) communication, morale, and leadership issues; (5) focusing on its primary mission; (6) analyzing and updating information; and (7) follow up.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs**.

Table 1. Summary of Recommendations

RECOMMEND AGENCY ADDRESS . . .
<b>...SAFETY, HIRING, RECRUITMENT, and RETENTION</b>
<ol style="list-style-type: none"> <li>1. Ensure the appropriate division head is involved in the hiring process. Ensure policies outline clearly which personnel provide input at which stages of the hiring process.</li> <li>2. Research the cost and feasibility of implementing a career path for agency employees.</li> <li>3. Track applicable data to determine which recruiting methods are effective in obtaining applicants with the temperament and ability to successfully complete appropriate Criminal Justice Academy courses. Include this data in the agency's Accountability Report each year.</li> <li>4. Revisit policy which automatically disqualifies job applicants with visible tattoos.</li> <li>5. Update the agency's Personnel Allocation Model to conform to national standards.</li> <li>6. Review industry best practices on trooper fatigue under various shift changes.</li> </ol>
<b>...EQUIPMENT REPLACEMENT</b>
<ol style="list-style-type: none"> <li>7. Request a permanent line item, which identifies funding for the equipment replacement schedules, in the General Appropriations Act.</li> <li>8. Develop a computer and technology replacement cycle; include this information in the agency's budget request.</li> </ol>
<b>...APPLYING POLICIES CONSISTENTLY</b>
<ol style="list-style-type: none"> <li>9. Implement the agency's existing Alcohol and Drug Deterrence Policy and perform random and post-accident drug testing of agency employees.</li> <li>10. Revise the agency's Residency Policy to have clear standards of which employees are required, and which are not required, to live within various requisite distances from their troop headquarters or their assigned post. Apply Residency Policy consistently.</li> <li>11. Update the agency's Audio-Video Monitor Report Form to include the reason the supervisor is reviewing a video. Track this information in the activity console (i.e., agency's internal database).</li> <li>12. Review the policies and format of the corrective action plans submitted by Troop Commanders in response to Staff Inspection Reports. Ensure these plans include deadlines and appropriate follow-up.</li> </ol>
<b>...COMMUNICATION AND MORALE</b>
<ol style="list-style-type: none"> <li>13. Distinguish between the number of active troopers and number of troopers who are still in training when reporting data.</li> <li>14. Restructure the agency so both the Office of Professional Responsibility and Human Resources Office report to the Legal Department, whose attorneys are subject to requirements of legal ethics and rules of professional responsibility to remain licensed to practice law, then the Director.</li> </ol>



15. Adopt a process by which employees can provide feedback to the agency anonymously.

16. Have an outside entity perform a leadership climate and employee morale survey of the agency beginning this year and once every three years thereafter. Require agency leadership to generate and follow through with improvement plans based upon the results of the surveys.

17. Require Troop Commanders and Supervisors in the Blythewood Office, including the Director, to spend one day per month on the road to stay abreast of troopers' daily activities.

#### **...FOCUSING ON ITS PRIMARY MISSION**

18. Transfer the Illegal Immigration Enforcement Unit to the State Law Enforcement Division.

19. Transfer grants programs unrelated to highway safety (i.e., criminal justice, juvenile justice; and crime victims) to another agency.

20. Coordinate a meeting with the division of State Human Resources and other agencies which may have similar scheduling situations, (e.g., Department of Juvenile Justice; Department of Corrections; and Department of Social Services), to discuss ways to reduce the amount of time necessary to enter and update personnel hours in the South Carolina Enterprise Information System.

#### **...ANALYZING AND UPDATING INFORMATION**

21. Research the costs involved in the agency producing reports from the Multi-disciplinary Accident Investigation Team and private sector industry standards related to amounts charged for this type of information to determine appropriate charges for these reports.

22. Revise SC Code Section 23-6-187, relating to witness fees for troopers, trained in Advanced Accident Investigation, testifying in civil matters, to allow the agency to adjust the amount it charges each year with inflation.

23. Revise SC Code Section 23-6-20, relating to establishment of the agency, to remove references to transfers of divisions and, instead, require the agency to maintain a list of its divisions.

24. Update SC Code Section 23-6-30, relating to the duties and powers of the agency, to remove a reference to a training program now provided by the Criminal Justice Academy.

25. Revise SC Code Section 23-6-50, relating to an annual audit, carrying funds into the next fiscal year, and retention of revenue to meet the agency's expenses, to remove outdated references and allow the agency to expend certain funds for drug testing.

#### **...FOLLOW UP**

26. Provide an update, in an approved format, once a quarter from April 3, 2017, until April 3, 2018, or the Committee re-visits the need for the updates.

27. Provide the Committee an update every 30 days about the status of payments to subgrantees (i.e., crime victim service providers grant requirements).

## DETAILS - STUDY PROCESS

### *House Oversight Committee's Actions*

On January 7, 2015, the House Oversight Committee approves a proposed seven-year study schedule for the Speaker of the House.<sup>2</sup> The Speaker approves the Committee's recommendations, which are published in the House Journal on January 13, 2015.<sup>3</sup> The Department of Public Safety ("DPS" or "agency") is an agency subject to legislative oversight.<sup>4</sup> The **Committee approves DPS as the second state agency for study by the Law Enforcement and Criminal Justice Subcommittee** on April 14, 2015.<sup>5</sup>

The **Committee notifies the agency** about the study on April 22, 2015.<sup>6</sup> As the Committee encourages **collaboration in its legislative oversight process**, the Committee notifies the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor about the agency study.<sup>7</sup>

### *Subcommittee Studying the Agency*

The **Law Enforcement and Criminal Justice Subcommittee ("Subcommittee") of the House Oversight Committee is studying the agency**. The study begins during the 121<sup>st</sup> General Assembly. At this time, the chair of the Subcommittee is the Honorable Kirkman Finlay III; other members include: the Honorable William K. "Bill" Bowers; the Honorable Raye Felder; and the Honorable Edward R. Tallon, Sr.<sup>8</sup> The study continues during the 122<sup>nd</sup> General Assembly. Now, the chair of the Subcommittee is the Honorable Edward R. Tallon, Sr.; other members include: the Honorable Katherine E. "Katie" Arrington, the Honorable William M. "Bill" Hixon; and the Honorable J. Todd Rutherford.<sup>9</sup>

### *Subcommittee & Public Actions*

The **Subcommittee meets with the agency once about process and on ten occasions about the agency's work**.<sup>10</sup> The Subcommittee holds two work sessions and the full Committee meets once on an issue referred to it by the Subcommittee.<sup>11</sup> All meetings are open to the public and streamed live online with videos archived.

**Public input is a cornerstone of the House Legislative Oversight Committee's process**.<sup>12</sup> Members of the public are able to participate anonymously in a public survey about the agency and four other agencies during the month of September in 2015, provide comments via a link on the Committee website at any time, and appear in person before the Subcommittee during the public input meeting in May 2016. Throughout the process, members of the public, including current and former employees, actively provide input to the Subcommittee. This input, including anonymous input, points the Subcommittee to management issues with the agency. **Due to the volume of input from constituents about the Highway Patrol, Human Resources, and Office of Professional Responsibility, the Subcommittee focuses on those aspects of the agency in regards to the agency efficiently and effectively fulfilling its statutory duties**.<sup>13</sup>

Highlights of meetings, public participation, and major events at the agency during the study process are listed below in a **timeline**. A summary of this timeline is set forth in Figure 1 on pages 4-5. Meeting minutes and archived videos of meetings are available online.<sup>14</sup>

## *121<sup>st</sup> General Assembly*

### *April 2015*

On April 29, 2015, the Subcommittee holds an entry meeting with the agency to discuss oversight study procedural issues.<sup>15</sup>

### *May 2015*

In an abundance of caution and to avoid any potential perception of a conflict of interest, **Representative Tallon resigns from his duties on the South Carolina Public Safety Coordinating Council.**<sup>16</sup>

### *September 2015*

The Subcommittee posts an **online survey to solicit comments from the public about the Department of Public Safety** and other agencies. Communication about this survey is sent to all House members who are encouraged to inform their constituents about this opportunity.<sup>17</sup> A statewide media release is issued about this opportunity for public participation.<sup>18</sup> There are 1,010 responses to the survey, with at least one response from 41 of the 46 South Carolina counties.<sup>19</sup> These comments are not considered testimony.<sup>20</sup> The survey notes “input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”<sup>21</sup> The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>22</sup>

### *February 2016*

On February 25, 2016, the Subcommittee meets (**Meeting #2**) and, among other things, provides a brief update on the study of the agency and **discusses written questions for the Department of Public Safety.**<sup>23</sup> Representative Tallon submits a list of inquiries.<sup>24</sup> An agency representative present at the meeting states the agency does not require clarification on any of the questions.<sup>25</sup>

### *March 2016*

On March 2, 2016, the Subcommittee sends a letter with questions from the February 25, 2016, Subcommittee meeting.<sup>26</sup> This letter requests information about the following topics: (1) Illegal Immigration Enforcement Unit; (2) Highway Patrol; (3) Discipline/Office of Professional Responsibility; and (4) Office of Human Resources. On March 16, 2016, the agency provides responses to these topics of interest to the Subcommittee.<sup>27</sup>

### *April 2016*

On April 21, 2016, the Subcommittee meets with the agency (**Meeting #3**) and discusses the **agency’s history and strategic plan.**<sup>28</sup> Chairman Finlay swears in Director Leroy Smith, agency head since 2012, and other agency staff.<sup>29</sup> A summary is provided of the agency’s history.<sup>30</sup> Subcommittee members ask general questions about the agency, which Director Smith answers.<sup>31</sup>

At the direction of the Subcommittee Chair, Committee staff provide a brief background on DPS’ strategic plan.<sup>32</sup> Director Smith provides the Subcommittee details about each aspect of the agency’s strategic plan.<sup>33</sup> Subcommittee members ask follow-up questions for clarification, which Director Smith answers.<sup>34</sup>

In response to questioning, Director Smith agrees the agency's Illegal Immigration Enforcement Unit (IIEU) is aligned more within the State Law Enforcement Division's (SLED) mission than the Department of Public Safety's mission.<sup>35</sup> The Subcommittee approves a recommendation to move IIEU from DPS to SLED.<sup>36</sup>

The next day the agency responds in writing to questions asked by Subcommittee members during the meeting.<sup>37</sup> The agency's responses address the following topics: (1) fees charged to those who request Multi-Disciplinary Accident Investigation Team (MAIT) Reports; and (2) the methodology used to ascertain the safety belt usage rate.<sup>38</sup>

On April 29, 2016, the Subcommittee and all House Members receive the final Staff Study and agency response.<sup>39</sup> A copy is available online.<sup>40</sup>

## *May 2016*

On May 5, 2016, the Subcommittee meets with the agency (**Meeting #4**).<sup>41</sup> The purpose of the meeting is for the Subcommittee to receive **testimony about the agency from members of the public**.<sup>42</sup> While there are no members of the public present to testify about the agency, Chairman Finlay notes members of the public have provided information about the agency to the Subcommittee through other means.<sup>43</sup>

Another purpose of the meeting is for the Subcommittee to obtain information about the entities with which the agency works.<sup>44</sup> Committee staff provide a brief overview of the **agency's partners, customers, and stakeholders**.<sup>45</sup> Subcommittee members ask questions of Ms. Tosha Autry, the agency's Director of Human Resources, to which she responds.<sup>46</sup> During the meeting, a partial audio recording is played and Ms. Autry confirms the recording is of her.<sup>47</sup>

On May 6, 2016, the Subcommittee sends a letter stating its intention at the next meeting to make an inquiry about issues of importance to state employees including, but not limited to, the agency's process and procedures for hiring and firing employees, how the agency addresses employee disciplinary matters, and information employees with grievances are permitted to share.<sup>48</sup> On May 9, 2016, DPS acknowledges the letter.<sup>49</sup>

On May 26, 2016, the Subcommittee meets with the agency (**Meeting #5**).<sup>50</sup> The purpose of the meeting is to **discuss and vote on whether the Subcommittee recommends the full Committee make an inquiry as to whether a violation of S.C. Code 2-2-100 (contempt of the General Assembly) has occurred**.<sup>51</sup> Committee Staff provide a brief background on this statute and other statutes related to Legislative Oversight of Executive Departments.<sup>52</sup> The Subcommittee approves a motion recommending the full Committee make an inquiry as to whether a witness, the agency's Director of Human Resources may have violated S.C. Code Section 2-2-100 when testifying before the Subcommittee on May 5, 2016.<sup>53</sup> On May 31, 2016, the Subcommittee notifies the full Committee of its request.<sup>54</sup>

## *June 2016*

On June 1, 2016, the full Committee meets (**Meeting #6**).<sup>55</sup> Among other things, the **Committee discusses the request from the Subcommittee that the Committee refer an allegation of contempt of the General Assembly to the Attorney General**.<sup>56</sup> Committee Members make comments and ask questions about this issue. A motion is approved to refer the matter to the Attorney General.<sup>57</sup> On June 8, 2016, the Oversight Committee refers the matter to the Attorney General.<sup>58</sup>

On June 15, 2016, the **Subcommittee requests information from the agency** about the following topics: (1) agency spending on legal services; (2) overtime; and (3) discipline/Office of Professional Responsibility. On June 29, 2016, the agency responds to the Subcommittee.<sup>59</sup>

## July 2016

On July 7, 2016, the **agency provides clarification on issues** relating to the Office of Professional Responsibility/Division Investigation (OPR/DI) Case Summary documents the agency previously provided.<sup>60</sup> On the same day, the agency provides clarification relating to overtime documents the agency produced on June 29, 2016.<sup>61</sup>

The Subcommittee meets with the agency (**Meeting #7**) on July 13, 2016.<sup>62</sup> The purpose of this meeting is to obtain information on the **agency's resources and performance**.<sup>63</sup> Director Smith gives a presentation on the agency's resources and fund allocations.<sup>64</sup> During and after the presentation, Subcommittee members ask questions.<sup>65</sup> Next, Director Smith gives a brief overview of the agency's performance measures and objectives.<sup>66</sup> Due to time constraints, Subcommittee members hold questions on performance measures and objectives until the next meeting.<sup>67</sup>

On July 15, 2016, the **Subcommittee requests information from the agency** about the following topics: (1) strategic plan, funding allocation, and performance measures; (2) hiring, retention, and employee makeup; (3) scheduling and activities; (4) finances; (5) Multi-disciplinary Accident Investigation Team; and (6) overtime and compensation time.<sup>68</sup> On July 19, 2016, the agency responds to some of the questions and states it is in the process of compiling information responsive to the other requests.<sup>69</sup>

On July 20, 2016, the Subcommittee meets with the agency (**Meeting #8**) and discusses **aspects of the agency's strategic plan**.<sup>70</sup> Director Smith testifies about aspects of the agency's strategic plan on which Subcommittee members had questions at the previous meeting.<sup>71</sup>

The Subcommittee **discusses hiring, retention, and morale issues** including: applicants in the agency's current class, turnover, employee concerns about possible retribution from leadership when expressing opinions or concerns, employee concerns about the agency's residency policy; employee concerns about consolidation of the communication centers, expenditures for recruitment, timeframes of employee investigations, and an update on the agency's overtime lawsuit.<sup>72</sup>

The Subcommittee discusses with the agency numerous issues relating to **equipment** including, among other things, the condition of and cost to replace various existing equipment, as well as purchase new equipment such as body cameras.<sup>73</sup>

The Subcommittee discusses the **agency's rating from the Commission on Accreditation for Law Enforcement Agencies**, and it requests an **explanation for the low number of trooper and civilian contacts throughout the year**.<sup>74</sup>

Director Smith provides a presentation on **internal changes to improve agency efficiency and outcomes**.<sup>75</sup> Director Smith testifies the agency has no recommendations to improve efficiency and outcomes at this time.<sup>76</sup> He further testifies the agency has improved efficiency and outcomes in a variety of ways, including:

- implementing an electronic traffic collision reporting system;
- merging offices of Highway Safety and Justice Programs;

- consolidating office space in Greenville and Rock Hill;
- implementing a mobile data program;
- creating an Internal Communications Office to support agency enforcement and education efforts;
- creating an Internal Office of Strategic Services, Accreditation, Policy & Inspections; and
- updating the Office of Professional Responsibility's case management system.<sup>77</sup>

**Further discussion is held with Director Smith pertaining to topics addressed at previous meetings** including: (1) the Director's views about the Subcommittee's recommendation to move the Illegal Immigration Enforcement Unit to SLED, and (2) the results of the agency's internal Office of Professional Responsibility investigation of the potential violation of Section 2-2-100.<sup>78</sup>

The **Subcommittee adopts multiple motions for recommendations** which include: (1) process to allow anonymous employee feedback; (2) clarifying residency policy; and (3) distinguishing between the number of active troopers versus personnel still at the Criminal Justice Academy when reporting data.<sup>79</sup>

On July 22, 2016, the **Subcommittee requests additional information from the agency** relating to the following topics: (1) strategic plan, funding allocation, and performance measures; (2) hiring, retention, and employee makeup; (3) scheduling and activities; (4) finances; (5) overtime and compensation time; and (6) Office of Professional Responsibility.<sup>80</sup>

### *August 2016*

On August 15, 2016, the **agency responds to most of the questions posed in the Subcommittee's July 22, 2016, letter.**<sup>81</sup> The agency informs the Subcommittee it is in the process of compiling information responsive to the other requests and will provide that information as soon as it is available.<sup>82</sup>

The Subcommittee meets with the agency (**Meeting #9**) on August 30, 2016.<sup>83</sup> During the meeting, the **Subcommittee addresses multiple issues with the agency** including: hiring; inconsistent application of agency policies; equipment acquisition and replacement scheduling; allocation of manpower across the regions; finances including use of available resources and cost to remodel a conference space at the agency's headquarters.<sup>84</sup>

Various agency employees, with the agency's general counsel and a private attorney for the agency in attendance, respond to the different Subcommittee questions.<sup>85</sup> **Subcommittee Members adopt multiple motions** which include: (1) tracking recruiting data to obtain highest quality applicants; (2) hiring transparency and personnel; (3) leadership climate and employee morale survey; (4) troop commander corrective action plans; (5) shift change fatigue study; (6) laptop and technology replacement; (7) South Carolina Enterprise Information System scheduling; (8) updating charges for multi-accident investigation team reports; and (9) updating charges for depositions.<sup>86</sup>

On August 31, 2016, the **Subcommittee requests additional information from the agency** pertaining to the following topics: (1) staff inspections; (2) body armor; (3) laptops and technology; (4) scheduling and activities; (5) hiring and retention; and (6) finances.<sup>87</sup>

### *November 2016*

On November 1, 2016, the Subcommittee meets with the agency (**Meeting #10**) and **further discusses hiring issues as well as agency finances and inconsistencies in applying discipline policies.**<sup>88</sup> Members of

the Subcommittee ask questions about the following topics: personnel, hiring, and performance; finances; and consistency in applying agency policies.<sup>89</sup>

The **Subcommittee adopts multiple motions for recommendations** which include: (1) researching the feasibility of career path initiative for employees; (2) instituting a Leaders on the Road Program which requires troop commanders and supervisors in the Blythewood Office to spend one day/month on the road to help increase morale with the troopers and stay in touch with troopers daily activities; (3) requesting permanent line item in the agency's budget in the General Appropriations Act which identifies funding for equipment replacement schedules; (4) Office of Professional Responsibility and Office of Human Resources reporting to the Legal Department, then the Director, to ensure the accuracy of information utilized and stored since in-house counsel has a professional obligation; and (5) providing quarterly updates to the Committee.<sup>90</sup>

On November 10, 2016, the **Subcommittee requests additional information** relating to the following subjects: (1) staffing and finances; (2) hiring and retention; (3) agency policies and activities; and (4) Office of Professional Responsibility.<sup>91</sup>

### *December 2016*

On December 2, 2016, the **agency provides answers to most of the questions posed in the Subcommittee's November 10, 2016 letter.**<sup>92</sup> The agency states it is in the process of compiling information responsive to the other requests and will provide that information as soon as it is available.<sup>93</sup>

### *122<sup>nd</sup> General Assembly*

#### *January 2017*

On January 5, 2017, **Representative Tallon requests information** from the agency relating to the following subjects: (1) drug testing; (2) numbers of troopers on the road, in a non-supervisory capacity; (3) number of traffic fatalities; and (4) turnover in the agency's Information Technology department.<sup>94</sup> On January 24, 2017, the agency responds to Representative Tallon's requests.<sup>95</sup> Representative Tallon shares this information with the Subcommittee.<sup>96</sup>

On January 31, 2017, the Subcommittee holds a work session to continue its discussion of the study of the agency (**Meeting #11/Work Session**).<sup>97</sup> Members discuss questions and topics of interest to discuss with the agency at the next meeting.<sup>98</sup> The **Subcommittee adopts multiple motions for recommendations** which include: (1) revisiting automatically disqualifying job applicants with visible tattoos so as to allow those who are willing to cover their tattoos to continue to move through the application process; and (2) updating the agency's audio/video report.<sup>99</sup>

#### *February 2017*

On February 3, 2017, the **Subcommittee requests information from the agency** about the following topics: (1) grants; (2) fatalities and trooper activity; (3) booklets distributed to grieving families of traffic fatalities; (4) drug testing; (5) laptops and technology; (6) essentials to operate; (7) dispatch staffing; (8) remediation; (9) Office of Professional Responsibility; (10) video policies; (11) certification removal and appeals; (12) overtime; and (13) personnel and finances.<sup>100</sup>

On February 17, 2017, the **agency responds to most of the questions** posed in the Subcommittee's February 3, 2017, letter.<sup>101</sup> The agency states the remainder of the responses are forthcoming.<sup>102</sup>

On February 21, 2017, the Subcommittee meets with the agency (**Meeting #12**) and **(1) receives constituent testimony; (2) discusses information provided to families of traffic fatality victims; and (3) length of time in which the agency's Office of Professional Responsibilities cases proceed to disposition.**<sup>103</sup> A constituent, Ms. Avril Wilson, provides testimony to the Subcommittee sharing concerns about the agency. Members ask questions to Ms. Wilson and agency representatives.<sup>104</sup> Members ask questions about the materials the agency provides to families of traffic fatality victims to which agency representatives respond.<sup>105</sup> Chairman Tallon asks additional questions relating to the agency's Office of Professional Responsibility, including the length of time in which investigations are open and what notification is provided to employees under investigation about the status of the investigation.<sup>106</sup>

The Subcommittee meets with the agency on February 28, 2017, (**Meeting #13**) and **(1) receives constituent testimony; and (2) discusses grants, drug testing, and technology issues.**<sup>107</sup> Agency representatives answer questions about the agency's issuance of new guns and reprogramming trooper's radios.<sup>108</sup> A constituent, Ms. Laura Hudson, provides testimony about grants administered by the agency.<sup>109</sup> Members ask questions which Ms. Hudson and various agency representatives answer.<sup>110</sup> Members ask questions about drug testing, laptops, and other technology.<sup>111</sup> Agency representatives respond to the questions.<sup>112</sup> **Subcommittee Members adopt multiple motions for recommendations** which include: (1) moving Criminal Justice, Juvenile Justice, and Crime Victim Grants to another agency; and (2) providing the Committee a document every 30 days which includes a list of the subgrantees that have and have not been paid.<sup>113</sup>

On February 24, 2017, the **agency supplements the responses in its February 17, 2017, letter** by providing information related to the following topics: (1) fatalities and trooper activity<sup>114</sup>; (2) remediation<sup>115</sup>; (3) video policies<sup>116</sup>; and (4) dispatch staffing<sup>117</sup>.

### *March 2017*

On March 3 and 7, 2017, the **agency supplements the responses in its February 17, 2017, letter** by providing information related to the following topics: (1) grants<sup>118</sup>; (2) driving under the influence arrest data for calendar years 2012-2016<sup>119</sup>; (3) traffic collision statistics for calendar year 2015 and 2016<sup>120</sup>; and (4) Highway Patrol Annual Report for each year from 2012 through 2015<sup>121</sup>.

On March 7, 2017, the Subcommittee has a Work Session to discuss the study of the agency and recommendations arising from the study (**Meeting #14/Work Session**).<sup>122</sup> The **Subcommittee reviews its study recommendations.**<sup>123</sup> The **Subcommittee adopts additional recommendations** which include: (1) performing random and post-accident drug testing; (2) updating the Highway Patrol's Personnel Allocation Model; and (3) revising South Carolina Code Sections 23-6-20; 23-6-30; and 23-6-50.<sup>124</sup>

As this timeline evidences, the Subcommittee addresses multiple issues with the agency that relate directly to the agency fulfilling its statutory duty. These topics are discussed in further detail in the "Issues in Fulfilling Statutory Duty" section of the Subcommittee Report.



## *Agency Actions*

The **Committee asks the agency to conduct a self-analysis** by completing and submitting a 2015 Annual Restructuring Report and Seven-Year Plan for cost savings and increased efficiencies, a Program Evaluation Report, and a 2016 Restructuring Report. The agency submits its 2015 Annual Restructuring Report and Seven-Year Plan on March 31, 2015<sup>125</sup>, its Program Evaluation Report on August 28, 2015.<sup>126</sup> Committee staff provide a staff study and agency response to the Subcommittee on April 29, 2016;<sup>127</sup> the agency amends its response on May 5, 2016. The agency submits its 2016 Restructuring Report on January 11, 2016,<sup>128</sup> and its 2015-16 Accountability Report on September 14, 2016.<sup>129</sup> All reports are available online. Additionally, throughout the study process the agency responds to Subcommittee questions.

## *Next Steps*

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee may provide a written statement for inclusion with the Subcommittee's Study.** After an opportunity to provide written statements, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, notifies the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full Committee meeting. During the full Committee meeting at which the Subcommittee Study is discussed, the full Committee may vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's Study; or (3) further evaluate the agency as a full Committee.

When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study.<sup>130</sup> The final study and written statements are published online and the agency, as well as all House Standing Committees, receive a copy.<sup>131</sup>

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee.<sup>132</sup> The Committee Chair may also provide briefings to the public about the final oversight study.<sup>133</sup>

## ISSUES IN FULFILLING STATUTORY DUTY

**Public input is a cornerstone of the House Legislative Oversight Committee's process.**<sup>134</sup> Due to the volume of input from constituents about the Highway Patrol, Human Resources, and Office of Professional Responsibility, the Subcommittee focuses on those aspects of the agency in regards to the agency efficiently and effectively fulfilling its statutory duties.<sup>135</sup>

### *Safety*

The primary purpose of the agency is encompassed in its very name, the Department of Public Safety, with a focus on highway safety. This purpose is embodied in the agency's mission, which is as follows:

As the largest law enforcement agency in South Carolina, it is the mission of the South Carolina Department of Public Safety to **protect and serve the public** with the highest standard of conduct and professionalism; to **save lives** through educating its citizens on highway safety and **diligent enforcement of laws governing traffic**, motor vehicles, and commercial carriers; and to **ensure a safe, secure environment** for the citizens of the state of South Carolina and its visitors. (emphasis added)<sup>136</sup>

As described below, data from fiscal year 2012-13 to the present evidences an annual escalation in the **agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty.**<sup>137</sup>

From 2013 to 2016, the **number of patrol hours decreases by 86,696 hours**, number of warnings and citations decrease by 164,389, and total collisions increase by 23,755.<sup>138</sup> During this same time period, the number of fatal collisions increase by 30.18% and number of fatalities increase by 32.33%.<sup>139</sup> As of February 17, 2017, **the total number of fatalities is the highest since 2007**, and this number may further increase as the agency continues to receive information.<sup>140</sup> Ancillary, there is also a \$318,201 decrease in funding to the Criminal Justice Academy, which trains law enforcement officers across the state, as surcharges on traffic citations have been a source of funding for the Criminal Justice Academy until 2016.<sup>141</sup> Additional information regarding trooper activity, collisions, and fatalities is included in Attachment 1 (Trooper Activity, Collisions, Fatalities, and Budget).

Moreover, the **agency is not tracking data to monitor the performance of dispatch** or Telecommunication Centers (TCCs) which provide telephone access for citizens' calls, dispatch DPS law enforcement officers to collision scenes and other calls for service, and provide officers with accurate and timely information which enhances officer safety and promotes the overall safety of the motoring public.<sup>142</sup> Information from the agency illustrates repeated concerns that are noted from the Bureau of Protective Services and Highway Patrol about the amount of time taken for law enforcement officers to reach TCCs.<sup>143</sup>

Potential causes of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement of laws **include deficiencies in the following areas:** (1) hiring, recruitment, and retention; (3) replacement of equipment; (4) application of agency policies; and (5) communication and morale.

## Hiring, Recruitment, and Retention

A potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement is lack of manpower and turnover.

During the study process, the Subcommittee requests and receives from the agency information pertaining to recruitment, hiring and retention. This information serves as a basis for the Subcommittee's recommendations in this area.

Table 2. Summary of the Subcommittee's Recommendations: Hiring, Recruitment, and Retention

RECOMMEND AGENCY ADDRESS . . .	
...HIRING, RECRUITMENT, AND RETENTION	
1.	Ensure the appropriate division head is involved in the hiring process. Ensure policies outline clearly which personnel provide input at which stages of the hiring process.
2.	Research the cost and feasibility of implementing a career path for agency employees.
3.	Track applicable data to determine which recruiting methods are effective in obtaining applicants with the temperament and ability to successfully complete appropriate Criminal Justice Academy courses. Include this data in the agency's Accountability Report each year.
4.	Revisit policy which automatically disqualifies job applicants with visible tattoos.
5.	Update the agency's Personnel Allocation Model to conform to national standards.
6.	Review industry best practices on trooper fatigue under various shift changes.

On August 30, 2016, in response to questioning, the Colonel of the South Carolina Highway Patrol affirmed there are resources in the budget to hire more and the **lack of officers on the road is not the result of lack of funding.**<sup>144</sup> During each of the last four years there are **more than 200 authorized, but unfilled, positions at the agency** as Table 3 illustrates.<sup>145</sup> Table 3 also illustrates the amount the **agency carries forward in personal services from the General Fund increases each year.**<sup>146</sup> Lastly, a comparison of the agency's total budget, and highway patrol budget, shows an increase of 4% and 13%, as seen in Table 4.<sup>147</sup>

Table 3. Authorized, filled, and vacant full time equivalent positions and Personal Service Carryforward

	Full Time Equivalent Positions			Carryforward
	Authorized	Filled	Vacant	10% of General Fund Personal Service Balance (Does not include: Federal and Other Personal Service carryforward)
FY 2012-13	1,462.00	1,245.00	217.00	\$381,041.95
FY 2013-14	1,495.00	1,274.00	221.00	\$461,046.62
FY 2014-15	1,495.00	1,229.00	266.00	\$540,993.43
FY 2015-16	1,521.00	1,249.00	272.00	\$2,456,912.37

Table 4. Agency and Highway Patrol budget for FY 2012-13 and FY 2015-16

Total Agency Budget and Highway Patrol Division Budget			
	2012-13	2015-16	% Change
Total Agency Budget w/o carry forward <sup>148</sup>	\$154,941,120	\$161,431,719	4.19%
Highway Patrol Division Budget <sup>149</sup>	\$93,086,717	\$105,238,726	13.05%

### Hiring

The **Director makes final hiring decisions<sup>150</sup> without input from division heads.**<sup>151</sup> The hiring process at the agency has numerous stages including an initial administrative review, a physical abilities component, a written test, and an interview with an Oral Interview Board.<sup>152</sup> Follow up data from the agency shows distinct differences in materials available to the Oral Review Board and the Director.<sup>153</sup> Table 5 illustrates the Oral Review Board is not provided the interviewee's application and does not include division heads. Also, division heads do not participate in meetings when final hiring decisions are made.<sup>154</sup> Additional information about the hiring process, which includes number of applicants culled (i.e., not advanced) at each stage and reasons for doing so are included in Attachment 2 (Hiring Process).

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Table 5. Summary of Oral Interview Board v. Director's Review Personnel and Information

<u>Oral Interview Board</u> <sup>155</sup>	<u>Director's Review</u> <sup>156</sup>
<p><u>Present in room:</u></p> <ul style="list-style-type: none"> <li>• Chairman (Major)</li> <li>• Four board members (variety of Captain, Lieutenant, Sergeant, Corporal)</li> <li>• One Human Resources Representative</li> <li>• Applicant</li> </ul>	<p><u>Present in room:</u></p> <ul style="list-style-type: none"> <li>• Agency Director<sup>157</sup></li> <li>• Human Resources Director</li> </ul>
<p><u>Information available to review:</u></p> <ul style="list-style-type: none"> <li>• Schedule of all applicant interview times</li> <li>• Applicant essay which explains why the applicant wants to be a trooper</li> <li>• Employment Board Questions (10 questions for the applicant to answer)</li> <li>• Oral Interview Board (OIB) Rating Sheet (used to rate the applicant on each question asked, written/oral communication, and appearance)</li> <li>• OIB Rating Rubric (A guide to help board members understand each rating category)</li> <li>• OIB Component &amp; Rating Sheet (directions/information for what board members can expect that day)</li> </ul>	<p><u>Information available to review:</u></p> <ul style="list-style-type: none"> <li>• Oral Interview Board Notes/Score Sheet, and</li> </ul>
	<p><u>Information available to review: (continued)</u></p> <ul style="list-style-type: none"> <li>• State Application &amp; Supplemental Application</li> <li>• Physical Ability Test</li> <li>• Nelson Denny Scores (vocabulary, comprehension, and reading)</li> <li>• Background (employment and character references)</li> <li>• Applicant's Essay</li> <li>• Polygraph</li> <li>• Credit Check</li> <li>• DD 214 (discharge information for military candidates, if applicable)</li> <li>• College Transcript (if applicable)</li> <li>• Driver's License Check</li> <li>• National Crime Information Center Check</li> <li>• SC Information Exchange Check</li> <li>• Social Media Check</li> </ul>

## *Recruitment*

The agency's strategy, objectives, and performance measures relating to recruitment do not appear to provide the agency sufficient information to determine whether its recruitment efforts are effective or efficient. As an example, one of the agency's performance measures is simply, "[d]id Highway Patrol Telecommunications Office develop a recruitment plan?"<sup>158</sup> As another example, the agency counts the number of recruitment seminars held, but not the number of individuals that apply, and are hired, to know if the agency's recruitment efforts are effective.<sup>159</sup> Tracking data, in particular outcome data, may allow the agency the ability to analyze which of its efforts are successful.

## *Retention*

**Employee retention is an issue of concern in the Highway Patrol Division** as less manpower means fewer troopers to educate those on the road and to enforce traffic safety laws. **Between 2012 and 2015, \$8.9 to \$21.1 million is spent on training and equipping new troopers, but the net result of this spending is an increase in total trooper strength across the state of only two troopers.**<sup>160</sup> In 2015, Troops across the state have, on average, less than 60% of the manpower the agency's personnel allocation model states is needed in each Troop.<sup>161</sup>

In 2014-15 in particular, 142 employees leave the highway patrol, compared to only 102 in 2011-12.<sup>162</sup> Also, in **FY 2014-15, "personal" reasons account for approximately 59% of all Highway Patrol separations, compared to 27% in 2011-12.**<sup>163</sup> The agency states in a letter that changes have been made in pay scale in an effort to reinstate troopers separated from employment and to retain current troopers.<sup>164</sup> However, the agency acknowledges it is not tracking data in order to determine whether the efforts are effective.<sup>165</sup>

**Employee retention is an issue not isolated to the Highway Patrol Division.** In 2014-15 in particular, 199 employees leave the agency, which is 38.19% more than 2011-12 and 48.51% more than 2010-11.<sup>166</sup> The agency's **Human Resources Office has a turnover rate between approximately 30% and 60% from fiscal year 2012-13 through fiscal year 2014-15.**<sup>167</sup> **During the last four fiscal years, the agency's Information Technology Office is not fully staffed, and currently one-third of the positions are vacant.**<sup>168</sup> During the study, agency representatives mention a potential career path to assist in retention, but the agency has no information on potential costs, implementation dates, or even if it will be implemented.<sup>169</sup> Additional information on separations is available in Attachment 3 (Employee Separations). Statements from the agency's Staff Inspection Reports which relate to how the current number of personnel impact morale and operational effectiveness are included in the Morale section of this Report. Complete copies of Staff Inspection Reports can be found on the Committee's webpage.

## Equipment Replacement

Another potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement is a deficiency in replacing equipment.

The Subcommittee requests and receives from the agency information pertaining to equipment utilized by agency personnel. This information serves as a basis for the Subcommittee's recommendations.

Table 6. Summary of the Subcommittee's Recommendations: Equipment Replacement

RECOMMEND AGENCY ADDRESS . . .
<b>...EQUIPMENT REPLACEMENT</b>
7. Request a permanent line item, which identifies funding for the equipment replacement schedules, in the General Appropriations Act.
8. Develop a computer and technology replacement cycle; include this information in the agency's budget request.

An **issue of concern among Highway Patrol and Telecommunications Units across the state is a lack of reliable, functioning equipment.** As an example, an entire recent graduating class of troopers did not have properly functioning laptops installed in their vehicles.<sup>170</sup> Staff inspection reports note a variety of concerns pertaining to patrol vehicles and technology equipment (e.g., computers; telephones; software, etc.). Among other things, these concerns include both the distance and amount of time required to travel to repair vehicles or other equipment.<sup>171</sup> The agency states it uses grants and non-recurring funding for equipment.<sup>172</sup> Also, the agency states in a letter to the Subcommittee, "SCDPS has neither a formal policy nor a recurring budget regarding a computer and technology replacement cycle."<sup>173</sup>

## Applying Policies Consistently

Another potential cause of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty are deficiencies in consistent application of the agency's policies.

The Subcommittee requests and receives from the agency information pertaining to agency policies and the application of the policies. This information serves as a basis for the Subcommittee's recommendations.

Table 7. Summary of the Subcommittee's Recommendations: Applying Policies Consistently

RECOMMEND AGENCY ADDRESS . . .
<b>...APPLYING POLICIES CONSISTENTLY</b>
9. Implement the agency's existing Alcohol and Drug Deterrence Policy and perform random and post-accident drug testing of agency employees.

- 10.** Revise the agency's Residency Policy to have clear standards of which employees are required, and which are not required, to live within various requisite distances from their troop headquarters or their assigned post. Apply Residency Policy consistently.
- 11.** Update the agency's Audio-Video Monitor Report Form to include the reason the supervisor is reviewing a video. Track this information in the activity console (i.e., agency's internal database).
- 12.** Review the policies and format of the corrective action plans submitted by Troop Commanders in response to Staff Inspection Reports. Ensure these plans include deadlines and appropriate follow-up.

### *Alcohol and Drug Deterrence Policy*

The agency has an Alcohol and Drug Deterrence Policy which allows, among other things, for random drug testing, drug testing based on suspicion, and post-accident drug testing.<sup>174</sup> However, the **agency has opted not to perform any random (i.e., suspicion less) drug testing or post-accident drug testing during the last four years.**<sup>175</sup> The agency states, “[i]nsofar as a very small number of investigations and disciplinary actions over the last few years have been associated with drug/alcohol use, the Department does not view widespread random testing as a critical need at this time.”<sup>176</sup> The Subcommittee notes concerns with not utilizing this policy since troopers are entrusted with state vehicles, which they may operate at high levels of speed, carry weapons, and have the authority to arrest citizens.<sup>177</sup>

### *Disciplinary Policies*

The Subcommittee questions the agency about these policies as public input is received alleging a perception of an inconsistent application of the policy.<sup>178</sup> Discussion of the agency's application of its disciplinary policies is set forth in detail under the Communication and Morale section of this report.

### *Residency Policy*

The agency has a Residency Policy, which requires certain personnel to live within various requisite distances of the area of the state in which they are assigned.<sup>179</sup> The definition of “residence” in the policy states,

The fixed or permanent domicile of a person where s/he has an intention of returning when absent. SCDPS may consider the factors identified in SC Code 7-1-25(D) **and any other matter(s) deemed relevant** in determining the location constituting an officer's domicile under this policy (emphasis added).<sup>180</sup>

The Subcommittee questions the agency about this policy as public input is received alleging a perception of an inconsistent application of the policy.<sup>181</sup> During the study, there are more than ten ranking and ten non-ranking officers living outside the requisite area.<sup>182</sup> The justification for some of the waivers include, “statewide supervisory responsibilities.”<sup>183</sup> However, instead of individuals with statewide responsibility living in the center of the state, to allow for efficient travel throughout the state, several live in the upstate (York and Spartanburg) or on the coast (Horry and Berkeley).<sup>184</sup>



### *Supervisory Review of In-Car Audio/Video Recordings*

The agency has a policy which address supervisory review of in-car audio/video recordings.<sup>185</sup> The Highway Patrol Division Manual of Operations requires supervisory review of these recordings on a regular basis as well as when certain events occur.<sup>186</sup> When a supervisor reviews a trooper’s video, the supervisor is required to complete an “Audio/Video Monitor Report.”<sup>187</sup> However, the “Audio/Video Monitor Report,” does not include any sections which require a supervisor to note the reason the supervisor is reviewing the video, and data relating to supervisory review of a trooper’s video is not tracked in the Highway Patrol Division’s activity console.<sup>188</sup>

The Subcommittee questions the agency about this policy, and inability to readily track the reason for reviewing the video and number of videos reviewed. The basis for the questioning is public input the Subcommittee receives alleging a potential practice whereby the agency, or certain higher ranking personnel within the agency, request supervisors specifically review videos of troopers with alleged low activity to search for any type of violation for which the supervisor may refer the trooper to the Office of Professional Responsibility (OPR), thereby utilizing OPR as punishment for low activity.<sup>189</sup>

### *Implementing Commander Corrective Action Plans*

The agency performs Staff Inspections every three years.<sup>190</sup> The Staff Inspection Reports include recommendations for items to correct/improve and Troop Commanders are required to create plans to address issues.<sup>191</sup> However, during the study the Subcommittee is not made aware of any policies which ensure Commanders follow through with these plans.

### *Communication and Morale*

Another potential cause of the agency’s inefficiency and ineffectiveness in fulfilling its mission and statutory duty is deficiency in communication, particularly in the areas of external communication and internal feedback.

The Subcommittee requests and receives information pertaining to communication at the agency. This information serves as a basis for the Subcommittee’s recommendations.

*Table 8. Summary of the Subcommittee’s Recommendations: Communication and Morale*

RECOMMEND AGENCY ADDRESS . . .
<b>...COMMUNICATION AND MORALE</b>
<b>13.</b> Distinguish between the number of active troopers and number of troopers who are still in training when reporting data.
<b>14.</b> Restructure the agency so both the Office of Professional Responsibility and Human Resources Office report to the Legal Department, whose attorneys are subject to requirements of legal ethics and rules of professional responsibility to remain licensed to practice law, then the Director.
<b>15.</b> Adopt a process by which employees can provide feedback to the agency anonymously.

**16.** Have an outside entity perform a leadership climate and employee morale survey of the agency beginning this year and once every three years thereafter. Require agency leadership to generate and follow through with improvement plans based upon the results of the surveys.

**17.** Require Troop Commanders and Supervisors in the Blythewood Office, including the Director, to spend one day per month on the road to stay abreast of troopers' daily activities.

### *Human Resources Data*

During the study process, the Subcommittee reviews a variety of agency reports including those made to other legislative entities. **Human resources data from the agency may not be reliable as evidenced by inconsistencies in data provided to different House Committees.** While it is not unreasonable to have slight discrepancies in the number of employees for the current year, as the number of employees at an agency can change from day to day, it is reasonable to expect consistency in information from previous years.

As one example, on August 15, 2016, the Subcommittee requests, and the agency provides, information about the number of troopers at the start and end of each fiscal year for the past six fiscal years.<sup>192</sup> When the Subcommittee compares the information to similar data provided to another House Committee, the data is inconsistent.<sup>193</sup> Table 9 illustrates the variance in the data.<sup>194</sup>

*Table 9. Variance in data provided by the agency to two different House Committees*

Highway Patrol Law Enforcement Manpower			
Year	DPS Data to Other House Committee	DPS Data to House Oversight Committee	Variance
2015-16	760	760	0
2014-15	779	770	9
2013-14	761	756	5
2012-13	758	763	5
2011-12	809	793	16
2010-11	840	838	2

As another example, the **human resources information the agency provides to the same legislative entity does not appear to be consistent over multiple years.** Table 10 reflects differences in the agency's presentation of information to the same legislative entity with regards to Highway Patrol Officer Manpower.<sup>195</sup>

Table 10. Differences in the agency's presentation of information to the same legislative entity with regards to Highway Patrol Officer Manpower

Highway Patrol Commissioned Officer Manpower			
Year	DPS 2016-17 Data provided to legislative entity	DPS 2014-15 Data provided to legislative entity	Variance
2015	760		
2014	779	813	34
2013	761	778	17
2012	758	789	31
2011	809	798	11
2010	840	844	4
2009	853	853	0
2008	943	967	24
2007	881	881	0
2006	837	837	0
2005	763	763	0
2004	806	806	0
2003	854	854	0

### *Office of Professional Responsibility /Division Investigations*

Agency policies state **the Director has discretion over (1) which situations are and are not investigated<sup>196</sup> and (2) the discipline issued.<sup>197</sup>** The Office of Human Resources maintains a log containing investigative dispositions for matters investigated by the Office of Professional Responsibility along with disciplinary actions, if any.<sup>198</sup> The agency utilizes this information as a resource and reference for the Director and other members of the Disciplinary Review Committee when they are reviewing and making decisions on potential disciplinary actions.<sup>199</sup>

Data from the agency reveals what some may perceive to be **inconsistencies in addressing disciplinary matters pertaining to veracity.**

- In one situation, an employee is initially untruthful with a supervisor when questioned about the events surrounding another officer's review of in-car video and, later admits the untruthfulness.<sup>200</sup> The agency investigates the situation, classifies it as "Failure to Provide Truthful and Complete Information" and "Improper Conduct/Conduct Unbecoming a State Employee," terminates the employee, and submits a "Notification of Separation Due to Misconduct," form to the Law Enforcement Training Council.<sup>201</sup> This notification begins the process of removing the individual's certification as a law enforcement officer.
- In another situation, evidence shows a troop commander, along with the entire troop under his command, have RADAR training certifications containing false information.<sup>202</sup> The agency investigates the situation and terminates the training officer.<sup>203</sup> Also, there is a finding that "thirteen of the twenty-seven troopers who engaged in this conduct did so after [the troop commander] had participated in this practice. . . ."<sup>204</sup> The troop commander receives a one day suspension as the agency classifies his actions as "Negligence in the Performance of Supervisory

Responsibilities” and “Negligence in Following Rules, Regulations, Policies or Procedures,” instead of “Failure to Provide Truthful and Complete Information,” which requires termination under the agency’s progressive disciplinary policy.<sup>205</sup> Some of the individual troopers specifically acknowledge they signed the Speed Measuring Device (‘SMD’) Field Proficiency Test Form, admitted the signature was theirs, admitted they did not complete a field proficiency test using the speed measuring device, and admitted they issued speeding citations using their measuring device after the date they signed the form.<sup>206</sup> However, even these troopers receive only a letter of reprimand as the agency classifies their actions as “Negligence in Following Rules, Regulations, Policies or Procedures,” which allows for Level I reprimands, instead of “Failure to Provide Truthful and Complete Information,” which requires termination.<sup>207</sup>

- In another situation a trooper makes an arrest for simple possession of marijuana. The trooper allows the individual to plead guilty to the offense, and does not inform the Court the agency’s marijuana analysis report indicates the evidence tests negative for marijuana.<sup>208</sup> The trooper admits to receiving the report prior to the court date but states, “she was in the habit of saving documents on her email without opening the attachments.<sup>209</sup> According to [the trooper], she failed to review the report because she automatically assumed the results were positive based on her observation of the evidence.”<sup>210</sup> The Office of Professional Responsibility concludes the Trooper, “had access to the analysis report” but “failed to review the report prior to her court date.”<sup>211</sup> Conversely, there is not sufficient evidence to show that [the trooper] intentionally withheld this report in order to manipulate the defendant or the court.”<sup>212</sup> The agency classifies the matter as “Negligence in Following Rules, Regulations, Policies or Procedures,” which allows for a Level I reprimand, instead of “Failure to Provide Truthful and Complete Information,” which requires termination.<sup>213</sup>

Data from the agency reveals the **agency expends resources in matters some may consider inconsequential**. As an example, between 2012 and 2016, while only receiving nine citizen complaints about profanity, the Office of Professional Responsibility investigates 48 cases of profanity.<sup>214</sup> Two separate investigations of alleged of profanity each take nine months to reach a disposition.<sup>215</sup> While an officer is under investigation for any matter, including profanity, the officer is not eligible for promotion.<sup>216</sup>

Additionally, data from the agency reveals **the Office of Professional Responsibility and Division Investigations may remain open for years**. Table 11 provides examples of long periods of time some investigations of allegations remain open.<sup>217</sup> The data is current as of June 30, 2016.<sup>218</sup>

*Table 11. Examples of long periods of time some investigations of allegations remain open*

ALLEGATION	TIMEFRAME FOR INVESTIGATION (DPS records provided on June 30, 2016)
Improper conduct	1,173 days (3.1 years)
Insubordination	889 days (2.3 years)
Improper procedures	408 days (1.09 years)
Providing false information	Open since October 2013
Improper procedures	Open since February 2014

## *Morale*

Potential causes of the agency's inefficiency and ineffectiveness in fulfilling its mission and statutory duty to protect the public through enforcement of laws **include deficiencies in the following areas:** (1) hiring, recruitment, and retention; (3) replacement of equipment; (4) application of agency policies; and (5) communication and morale. These deficiencies have negatively impacted the morale of agency personnel across the state.

While agency management assert agency morale is at a 3 out of 4<sup>219</sup>, based on the scores from the Staff Inspection Reports, information received during the study process **indicates morale scores may be skewed based on the agency's directions to employees to not consider manpower issues when reporting morale.** This potential skewing of the data is illustrated by the following comments from the Staff Inspection Reports:

“Although the **post personnel were asked not to base answers regarding morale on manpower issues**, personnel seem to feel that they do not get to maximize their potential as far as their work ethic because they have no time for proactive enforcement activities because of the amount of calls for service compared to the number of troopers working at one time” (emphasis added).<sup>220</sup>

SC Highway Patrol Troop Six, Post B, Colleton and Dorchester

“Although it is **consistently stated by patrol command that this should not be considered**, field personnel relate that the **lack of personnel** does negatively affect morale and operational effectiveness” (emphasis added).<sup>221</sup>

SC Highway Patrol Troop Five, Post B, Dillon, Florence, and Marion

Another factor which may skew the data in the Staff Inspection Report is **morale scores are obtained by field lieutenants or officers with higher ranks** within the agency,<sup>222</sup> and constituents who have contacted Subcommittee Members state they have a fear of retribution when providing feedback to the agency.<sup>223</sup>

Table 12, provides examples of quotes from agency employees around the state, which are within Staff Inspection Reports. These quotes illustrate comments Subcommittee Members receive during the study and continue to receive:<sup>224</sup>

### **Impact of Agency Deficiencies on Personnel and Safety of the Public**

The Highway Patrol separates the state enforcement into seven Troops (i.e., regions).

#### **Troop Three:**

**Anderson, Oconee, Pickens, Greenville, and Spartanburg**

"Most everyone interviewed was disappointed in the disciplinary actions of late. They felt that troopers were being written up for minimal violation and not given second chances; locally and throughout the state. Some troopers mentioned that they were afraid to do their job because of all the disciplinary actions being imposed."<sup>225</sup>

#### **Troop Four:**

**Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield**

"Post personnel consistently describe shortages in staffing as having a negative effect on the overall operational effectiveness of the post."<sup>226</sup>

#### **Troop Two:**

**Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda**

"The troopers feel the troop command staff does not truly understand how things really are out in the field, in particular to activity and the shortage of manpower."<sup>227</sup>

"...many feel they are relegated to being in the area of the city limits in order to satisfy the (20) seat belt citations per month. The lack of patrolling in the county on secondary roadways was expressed as troopers feel they are not being able to do their job as they see it."<sup>228</sup>

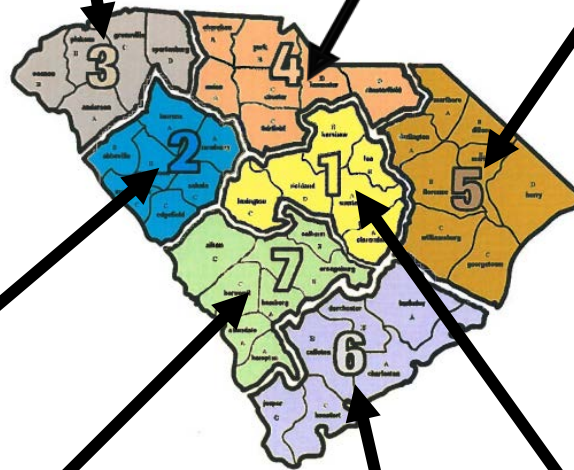
"Supervisors were concerned with low manpower, regaining trust, rebuilding confidence in the troopers..."<sup>229</sup>

#### **Troop Five:**

**Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry**

"Some troopers feel like the DPS Command Staff does not support them; therefore, they find themselves second guessing the decisions they make attempting to avoid making a mistake and possibly generating a District Investigation (DI)."<sup>230</sup>

"The leading cause for concern ... is (1) the low morale of the post - rated by the majority of personnel interviewed as 'poor' and (2) the overall lack of manpower."<sup>231</sup>



#### **Troop Six:**

**Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper**

"The troopers feel like DPS Headquarters does not 'have their backs...'"<sup>232</sup>

"The lack of quality equipment is frustrating. ... Repairs [to vehicles] are stated to normally take a month or two to complete."<sup>233</sup>

"personnel seem to feel that they do not get to maximize their potential as far as their work ethic because they have no time for proactive enforcement activities because of the amount of calls for service compared to the number of troopers working at one time."<sup>234</sup>

#### **Troop One:**

**Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland**

"Some feel that there is a 'disconnect' between the troop command staff and the road trooper"<sup>235</sup>

"Operational effectiveness was directly correlated to the overall lack of manpower; as well as, the lack of experienced personnel assigned to or retained within the post."<sup>236</sup>

"At times, troopers in the post simply investigate collisions one after another with little time available to effectively reduce collisions through enforcement."<sup>237</sup>

#### **Troop Seven:**

**Allendale, Bamberg, Barnwell, Hampton, Orangeburg, Calhoun, and Aiken**

"Personnel expressed concerns regarding the lack of quality applicants; therefore, resulting in less desirable trainees. Personnel, both supervisory and non-supervisory, recognize the lack of 'experienced' personnel as a cause for lower ratings in this area," (area is operational effectiveness),<sup>238</sup>

## *Focusing on Agency's Primary Mission*

The Subcommittee requests and receives from the agency information pertaining to the agency's mission, duties, and powers. This information serves as a basis for the Subcommittee's recommendations.

*Table 13. Summary of the Subcommittee's Recommendations: Focusing on Agency's Primary Mission*

RECOMMEND AGENCY ADDRESS . . .
<b>...FOCUSING ON ITS PRIMARY MISSION</b>
<p><b>18.</b> Transfer the Illegal Immigration Enforcement Unit to the State Law Enforcement Division.</p> <p><b>19.</b> Transfer grants programs unrelated to highway safety (i.e., criminal justice, juvenile justice; and crime victims) to another agency.</p> <p><b>20.</b> Coordinate a meeting with the division of State Human Resources and other agencies which may have similar scheduling situations, (e.g., Department of Juvenile Justice; Department of Corrections; and Department of Social Services), to discuss ways to reduce the amount of time necessary to enter and update personnel hours in the South Carolina Enterprise Information System.</p>

The agency's mission is as follows:

As the largest law enforcement agency in South Carolina, it is the mission of the South Carolina Department of Public Safety to protect and serve the public with the highest standard of conduct and professionalism; to save lives through educating its citizens on **highway safety** and diligent **enforcement of laws governing traffic, motor vehicles, and commercial carriers**; and to ensure a safe, secure environment for the citizens of the state of South Carolina and its visitors (emphasis added).<sup>239</sup>

The duties and powers of the agency as provided in statute are as follows:

- (1) carry out **highway** and other related safety programs;
- (2) engage in **driver training and safety activities**;
- (3) enforce the **traffic, motor vehicle, commercial vehicle**, and related laws;
- (4) enforce size, weight, and safety enforcement **statutes relating to commercial motor vehicles**;
- (5) operate a comprehensive law enforcement personnel training program;
- (6) promulgate such rules and regulations in accordance with the Administrative Procedures Act and Article 7 of this chapter for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;
- (7) operate such programs and disseminate information and material so as to continually improve **highway safety**;
- (8) receive and disburse funds and grants, including any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter; and
- (9) do all other functions and responsibilities as required or provided for by law (emphasis added).<sup>240</sup>

Based on state statute and the agency's mission, the **Subcommittee notes the primary focus of the agency is highway safety.**

### *Illegal Immigration Enforcement Unit*

In 2011, an Illegal Immigration Enforcement Unit (IIEU) is created under the agency by the General Assembly.<sup>241</sup> The Director testifies the unit is performing well.<sup>242</sup> However, in response to questioning, Director Smith agrees the IIEU is aligned more within the State Law Enforcement Division's mission than the Department of Public Safety's mission.<sup>243</sup>

### *Justice Program Grants*

The agency serves as the agent for the State in accepting from the federal government, and then administering to subgrantees throughout the state, two groupings of grants: (1) Highway Safety Grants; and (2) Justice Program Grants.<sup>244</sup> Ms. Laura Hudson, a constituent, provides testimony to the Subcommittee which reveals how **issues with communication between the agency's finance department and grants department significantly impacts crime victim service providers (e.g., rape crisis organizations; domestic violence shelters; and children/sexual assault programs) across the state when there are significant delays in timely grant reimbursement payments (e.g., 30, 60, or in some cases, even 90 days).**<sup>245</sup> Additionally, testimony from the agency reveals position postings of additional personnel necessary for timely administration of these grants remained open for almost twelve months.<sup>246</sup>

### *SCEIS Scheduling*

Agency testimony indicates there are **issues with entering time in the South Carolina Enterprise Information System (SCEIS) since agency personnel do not work on the typical schedule** (i.e., 8:30 a.m. to 5:00 p.m.).

## *Analyzing and Updating Information*

The Subcommittee requests and receives from the agency information pertaining to the agency's analysis of information as well as the currentness of statutes applicable to the agency. This information serves as a basis for the Subcommittee's recommendations.

*Table 14. Summary of the Subcommittee's Recommendations: Analyzing and Updating Information*

RECOMMEND AGENCY ADDRESS . . .
<b>...ANALYZING AND UPDATING INFORMATION</b>
<p><b>21.</b> Research costs involved in the agency producing reports from the Multi-disciplinary Accident Investigation Team and private sector industry standards related to amounts charged for this type of information to determine appropriate charges for these reports.</p>
<p><b>22.</b> Revise SC Code Section 23-6-187, relating to witness fees for trooper trained in Advanced Accident Investigation, testifying in civil matters, to allow agency to adjust the amount it charges each year with inflation.</p>



**23.** Revise SC Code Section 23-6-20, relating to establishment of the agency, to remove references to transfers of divisions and, instead, require the agency to maintain a list of its divisions.

**24.** Update SC Code Section 23-6-30, relating to the duties and powers of the agency, to remove a reference to a training program now provided by the Criminal Justice Academy.

**25.** Revise SC Code Section 23-6-50, relating to an annual audit, carrying funds into the next fiscal year, and retention of revenue to meet the agency's expenses, to remove outdated references and allow the agency to expend certain funds for drug testing.

Some **individuals and companies purchase reports created by the Multi-Accident Investigation Team (MAIT) for use in private civil lawsuits.**

In reviewing statutes applicable to DPS, the Subcommittee notes there is **no provision in the statute which takes into consideration inflation in the amount the agency may charge when its personnel are called for depositions in private lawsuits.**

The Subcommittee notes **some statutes relating to the agency contain references that are either outdated or no longer reflect current practices.**

# RECOMMENDATIONS

## *Recommendations*

### *Generally*

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information, including but not limited to the Staff Study, Program Evaluation Report, Accountability Report, Restructuring Report and videos of meeting with the agency, can all be found on the Committee's website.

The agency has no recommendations to improve efficiency and outcomes.<sup>247</sup>

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

### *Revise (Curtail or Enhance)*

The Subcommittee has 27 recommendations relating to the agency. The Subcommittee's **recommendations for revisions to the agency's internal operations and revisions to laws fall into seven categories**. These categories include: (1) recruitment, hiring, retention, and public safety; (2) equipment replacement; (3) applying policies consistently; (4) communication, morale, and leadership issues; (5) focusing on its primary mission; and (6) analyzing and updating information. For the chart of recommendations and detailed wording, see Attachment 4 (Recommendations Chart and Details).

### *Eliminate*

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs, except for the programs the Subcommittee recommends move to another agency. The programs the Subcommittee recommends move to another agency are discussed in the "Leadership Issues" section and the chart of recommendations in Attachment 4 (Recommendations Chart and Details).

### *Follow Up*

The Subcommittee recommends receipt of quarterly reports from the agency as well as monthly updates on the status of grant payments to subgrantees (i.e., crime victim service providers).

## SELECTED AGENCY INFORMATION

**Department of Public Safety. "Program Evaluation Report, 2015."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (accessed March 20, 2017).

**Department of Public Safety. "Restructuring and Seven-Year Plan Report, 2015."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Public%20Safety.pdf> (accessed March 20, 2017)

**Department of Public Safety. "Annual Restructuring Report, 2016."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DPS.PDF> (accessed March 20, 2017)

**Department of Public Safety. "Accountability Report, 2015-16."** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed March 20, 2017)

**Department of Public Safety. "Annual Request for Information, 2017)** <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Department%20of%20Public%20Safety%20-%20RFI.pdf> (accessed March 20, 2017)

**SC House of Representatives, Legislative Oversight Committee. "September 2015 Survey Results."** [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20\(September%201-30,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20STIB,%20School%20for%20the%20Deaf%20and%20Blind,%20Commission%20for%20the%20Blind,%20Treasurer,%20and%20DPS%20(September%201-30,%202015).pdf) (accessed March 20, 2017).

**SC House of Representatives, Legislative Oversight Committee. "Staff Study of the Department of Public Safety, April 29, 2016, Amended May 5, 2016."** [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20\(originally%20submitted%20April%2029,%202016;%20amended%20May%2005,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20(originally%20submitted%20April%2029,%202016;%20amended%20May%2005,%202016).PDF) (accessed March 20, 2017)

# CONTACT INFORMATION

## Committee Contact Information

Physical:

South Carolina House of Representatives  
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Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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<http://www.scdps.gov>

# ENDNOTES

<sup>1</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>2</sup> SC House of Representatives, House Legislative Oversight Committee, “January 7, 2015 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January072015.pdf> (accessed February 9, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>3</sup> The committee’s recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee’s website under “Committee Postings and Reports,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed February 22, 2017).

<sup>4</sup> *SC Code of Laws*, sec. 2-2-10(1).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, “April 14, 2015 Full Committee Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Meeting Minutes and Handouts” and under “Full Committee Minutes,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/April142015.pdf> (last accessed March 27, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Committee to DPS (April 22, 2015),” under “House Legislative Oversight Committee,” under “Agencies and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Committee%20to%20DPS%20\(April%2022,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Committee%20to%20DPS%20(April%2022,%202015).pdf) (accessed March 27, 2017).

<sup>7</sup> SC House of Representatives, House Legislative Oversight Committee, “2015-2017 Summary – House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20March%206,%202017.pdf> (last accessed March 19, 2017).

<sup>8</sup> SC House of Representatives, House Legislative Oversight Committee, “Subcommittees - 2015,” under “Committee Information,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed February 23, 2017).

<sup>9</sup> SC House of Representatives, House Legislative Oversight Committee, “Subcommittees - 2017,” under “Committee Information,” under “House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignments%20-%202017.pdf> (accessed February 23, 2017).

<sup>10</sup> SC House of Representatives, House Legislative Oversight Committee, “Law Enforcement and Criminal Justice Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee and Other Information,” and under “Meeting Minutes and Handouts,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (last accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>11</sup> *Ibid.*

<sup>12</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>13</sup> Members of the Subcommittee received input from the public via an anonymous public survey about the agency and four other agencies during the month of September in 2015, comments via a link on the Committee website throughout the study, in-person testimony, phone calls, and emails.

<sup>14</sup> SC House of Representatives, House Legislative Oversight Committee, “Law Enforcement and Criminal Justice Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee and Other Information,” and under “Meeting Minutes and Handouts,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (last accessed March 19, 2017). Videos of the meetings are available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>15</sup> SC House of Representatives, House Legislative Oversight Committee, “April 29, 2015 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April292015Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>16</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Rep Tallon to Chairman Delleny, (May 5, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Rep.TallonLetterToChairmanDelleneyResigningFromSCPublicSafetyCoordinatingCouncil.PDF>. (last accessed March 19, 2017). For additional information about the SC Public Safety Coordinating Council, see SC Code of Laws Section 23-6-500 et seq. S.C Code 26-6-530 provides that members serve without pay but are authorized, as eligible, to receive the usual per diem, mileage, and subsistence provided by law.

<sup>17</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release Announcing Public Survey (May 13, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Juvenile Justice, Department of (DJJ),”

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<sup>18</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (September 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Press%20Release%20announcing%20Public%20Survey%20\(September%201,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Press%20Release%20announcing%20Public%20Survey%20(September%201,%202015).pdf) (last accessed March 19, 2017).

<sup>19</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer’s Office (September 1-30, 2015),” under “Committee Information,” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>20</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4

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<sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of STIB, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and Treasurer’s Office (September 1-30, 2015),” under “Committee Information,” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>22</sup> SC House of Representatives, House Legislative Oversight Committee, “Provide Feedback About a State Agency,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee.”

<sup>23</sup> SC House of Representatives, House Legislative Oversight Committee, “February 25, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (March 2, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>27</sup> Ibid.

<sup>28</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>29</sup> Ibid. Director Leroy Smith’s initial term of office is confirmed by the Senate on March 6, 2012.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter DPS to Oversight Subcommittee (April 22, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/April%2022,%202016%20Ltr%20from%20DPS%20to%20Subcommittee.PDF> (last accessed March 19, 2017).

<sup>38</sup> Ibid.

<sup>39</sup> SC House of Representatives, House Legislative Oversight Committee, “2015-2017 Summary – House Legislative Oversight Committee,”

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<sup>40</sup> SC House of Representatives, House Legislative Oversight Committee, “Staff Study and Agency Responses (April 29, 2016 and Amended May 5, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>41</sup> SC House of Representatives, House Legislative Oversight Committee, “May 5, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawsSub/May052016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to DPS (May 6, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>49</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (May 9, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>50</sup> SC House of Representatives, House Legislative Oversight Committee, "May 26, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

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<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Oversight full committee (May 31, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>55</sup> SC House of Representatives, House Legislative Oversight Committee, "June 1, 2016 Meeting Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

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<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to the Attorney General (June 8, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS),"

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<sup>59</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to DPS (June 15, 2016)," under "House Legislative Oversight Committee," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20\(June%2015,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Oversight%20Subcommittee%20to%20DPS%20(June%2015,%202016).PDF) (last accessed March 19, 2017).

<sup>60</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (July 7, 2016)," under "House Legislative Oversight Committee," and under "Public Safety,



Department of (DPS),”

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<sup>61</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter #2 from DPS to Oversight Subcommittee (July 7, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>62</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July132016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>63</sup> Ibid.

<sup>64</sup> SC House of Representatives, House Legislative Oversight Committee, “Resources: Availability and Allocation PowerPoint Presentation by DPS (July 13, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>65</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>66</sup> SC House of Representatives, House Legislative Oversight Committee, “Performance and Recommendations PowerPoint Presentation by DPS (July 13, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>67</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>68</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (July 15, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (July 19, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>70</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> SC House of Representatives, House Legislative Oversight Committee, “Internal Changes to Improve Agency Efficiency & Outcomes PowerPoint Presentation provided by DPS (July 20, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>76</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (July 22, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>81</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (August 15, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>82</sup> Ibid.

<sup>83</sup> SC House of Representatives, House Legislative Oversight Committee, “August 30, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (August 31, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>88</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

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<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (November 10, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>92</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee with attachment (December 2, 2016),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

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<sup>93</sup> Ibid.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Representative Tallon to DPS (January 5, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Rep.%20Tallon%20to%20DPS%20\(January%205,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Rep.%20Tallon%20to%20DPS%20(January%205,%202017).pdf) (last accessed March 19, 2017).

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Representative Tallon (January 24, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20\(January%2024,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20(January%2024,%202017).pdf) (last accessed March 19, 2017).

<sup>96</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Representative Tallon (January 24, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20\(January%2024,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Ltr%20from%20DPS%20to%20Rep.%20Tallon%20with%20attachments%20(January%2024,%202017).pdf) (last accessed March 27, 2017).

<sup>97</sup> SC House of Representatives, House Legislative Oversight Committee, “January 31, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/January312017Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to DPS (February 3, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Subcommittee%20to%20DPS%20\(February%203,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20Subcommittee%20to%20DPS%20(February%203,%202017).pdf) (last accessed March 19, 2017).

<sup>101</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” and under “Public Safety,

Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%202017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%202017,%202017).pdf) (last accessed March 19, 2017).

<sup>102</sup> Ibid.

<sup>103</sup> SC House of Representatives, House Legislative Oversight Committee, “February 21, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February212017Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> SC House of Representatives, House Legislative Oversight Committee, “February 28, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> SC House of Representatives, House Legislative Oversight Committee, “fatalities and trooper activity,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Fatalities%20and%20Trooper%20Activity.pdf> (last accessed March 19, 2017).

<sup>115</sup> SC House of Representatives, House Legislative Oversight Committee, “remediation,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Remediation.pdf> (last accessed March 19, 2017).

<sup>116</sup> SC House of Representatives, House Legislative Oversight Committee, “video policies,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Video%20Policies.pdf> (last accessed March 19, 2017).

<sup>117</sup> SC House of Representatives, House Legislative Oversight Committee, “dispatch staffing,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information from DPS to Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Dispatch%20Staffing.pdf> (last accessed March 19, 2017).

<sup>118</sup> SC House of Representatives, House Legislative Oversight Committee, “grants,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Grants.pdf> (last accessed March 19, 2017).

<sup>119</sup> SC House of Representatives, House Legislative Oversight Committee, “DUI arrest data for calendar years 2012 through 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DUI%20Arrest%20Data%20for%20calendar%20years%202012%20through%202016.pdf> (last accessed March 19, 2017).

<sup>120</sup> SC House of Representatives, House Legislative Oversight Committee, “traffic collision statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>121</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Annual Report for each year 2012 through 2015,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2012%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2013%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2014%20SCHP%20Annual%20Report.pdf>

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/2015%20SCHP%20Annual%20Report.pdf> (last accessed March 19, 2017).

<sup>122</sup> SC House of Representatives, House Legislative Oversight Committee, “March 7, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20and%20Public%20Safety%20-%20March%207%202017%20Minutes%20DPS.pdf>. A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Department of Public Safety, *Restructuring and Seven-Year Plan Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Public%20Safety.pdf> (last accessed March 20, 2017).

<sup>126</sup> Department of Public Safety, *Program Evaluation Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (last accessed March 20, 2017).

<sup>127</sup> SC House of Representatives, House Legislative Oversight Committee, “Staff Study of the Department of Public Safety, April 29, 2016, Amended May 5, 2016,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20\(originally%20submitted%20April%2029,%202016;%20amended%20May%205,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Study%20and%20Agency%20Response%20-%20Amended%20(originally%20submitted%20April%2029,%202016;%20amended%20May%205,%202016).PDF)

(last accessed March 20, 2017).

<sup>128</sup> Department of Public Safety, *Annual Restructuring Report, 2016*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DPS.PDF> (last accessed March 20, 2017)

<sup>129</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>130</sup> Committee Standard Practice 13.4.

<sup>131</sup> Committee Standard Practice 13.5.

<sup>132</sup> Committee Standard Practice 14.1.

<sup>133</sup> Committee Standard Practice 14.5.

<sup>134</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>135</sup> Members of the Subcommittee received input from the public via an anonymous public survey about the agency and four other agencies during the month of September in 2015, comments via a link on the Committee website throughout the study, in-person testimony, phone calls, and emails.

<sup>136</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>137</sup> SC Code Annotated Section 23-6-30.

<sup>138</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%2017,%202017).pdf) (last accessed March 24, 2017). See page 59 of 66; SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2014 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,”

and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2014%20Fact%20Book.pdf> (last accessed March 24, 2017). See page 6

of 136; SC House of Representatives, House Legislative Oversight Committee, “Traffic Collision Statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>139</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%2017,%202017).pdf) (last accessed March 24, 2017). See page 3 of 66;

SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2014 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,” and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2014%20Fact%20Book.pdf> (last accessed March 24, 2017). See page 6

of 136; SC House of Representatives, House Legislative Oversight Committee, “Traffic Collision Statistics for calendar year 2015 and 2016,” under “House Legislative Oversight Committee,” under “Public Safety, Department of (DPS),” and under “Information uploaded from DPS to Oversight Subcommittee (March 3 and 7, 2017),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Traffic%20Collision%20Statistics.pdf> (last accessed March 19, 2017).

<sup>140</sup> SC Department of Public Safety, Office of Highway Safety and Justice Programs, “2010 Traffic Collision Fact Book,” under “Office of Highway Safety and Justice Programs,” and under “Statistical Services,”

<http://www.scdps.gov/ohsjp/fact%20book/2010FactBook.pdf> (last accessed March 24, 2017). See page 7 of 136;

SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%2017,%202017).pdf) (last accessed March 23, 2017) (As of February 7, 2017 the fatality count for 2016 was 1,015).

<sup>141</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(Feb%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(Feb%2017,%202017).pdf)

pdf (last accessed March 23, 2017). See page 59 of 66. (Citations in 2012-13 were 479,654. Citations in 2015-16 were 416,012. Total decrease of 63,642 citations); SC Code Section 14-1-240 (Until 2016, there was a five dollar surcharge on citations went to help fund the Criminal Justice Academy (CJA). This provision sunset on June 30, 2016).

<sup>142</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017).

<sup>143</sup> SC House of Representatives, House Legislative Oversight Committee, "Bureau of Protective Services Staff Inspection Report - Headquarters; Governor's Mansion Division; State Agency Support Division; Statehouse Division; Judicial Division (December 1, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Bureau%20of%20Protective%20Services%20\(December%201,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Bureau%20of%20Protective%20Services%20(December%201,%202015).pdf) (last accessed March 24, 2017). See page 35 of 108 (Governor's Mansion Division) and page 53 of 108 (State Agency Support) ("Officers believe the attentiveness BPS receives from the Blythewood Telecommunications Center (TCC) is poor. They detail significant delays when calling the TCC for on-duty/off-duty calls. Additionally, they express their inability to get a response during several enforcement actions to include foot pursuits, traffic stops, and records checks"). See page 72 of 108 (Statehouse Division) ("Officers expressed concern with the poor service the officers state they are receiving from the Blythewood Telecommunications Center (TCC). Officers describe situations where they get slow or no response from the TCC. These occurrences are described as not only when signing on and off duty, but when officers are attempting to or taking enforcement action."); SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 60-61 (Post A - Anderson) ("A large percentage of the troopers interviewed complained about the Telecommunication Center. Problems with telecommunications began occurring when the Greenwood TCC relocated to Greenville. Troopers feel the TCC Operators are not as familiar with the post area as they should be. Further, it was noted that TCC Operators take an extended time to answer and ultimately provide needed information. Their complaints relate to officer safety issues especially during the nightshift."); SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 62 (Post C - Fairfield and Chester) ("Many of the troopers interviewed complained about the Telecommunications Center. They feel the TCC Operator does not know the area as needed. Further, it takes the TCC Operator too long to answer the radio and to convey the needed information. Troopers state that the problem occurred when the Greenwood Center moved to Blythewood. Troopers believe the telecommunication issue has become a safety issue especially during the nightshift."); See page 57 (Post A - Cherokee and Union) ("The primary area of concern for the personnel assigned to the post is overwhelmingly the service provided by the telecommunications center (TCC). Throughout the interview process, supervisory and non-supervisory personnel alike described the service provided by the TCC as 'an officer safety issue.' Personnel describe the issue not as a personality conflict; moreover, as a 'staffing' concern. Personnel describe a communications channel, providing service to the entire troop, functioning with a single telecommunications operator. Their description of communications (TCC) was the single issue consistently identified as negatively affecting the morale of the personnel in the post.").

<sup>144</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 55:45 in the video. Colonel Oliver stated the agency's challenge is finding qualified applicants.

<sup>145</sup> SC House of Representatives, House Legislative Oversight Committee, "FTE and Personal Service Carryforward for FY2013 - FY2016 (provided by the Executive Budget Office)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/FTE%20and%20Personal%20Service%20Carryforward%20for%20FY2013%20-%20FY2016%20provided%20by%20EBO.pdf> (last accessed March 24, 2017).

<sup>146</sup> Ibid.

<sup>147</sup> 2012-13 General Appropriations Act and 2015-16 General Appropriations Act; SC House of Representatives, House Legislative Oversight Committee, "Budget, Staffing, Trooper Activity (2012-13 thru 2014-15)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Budget,%20Staffing,%20Warnings.pdf> (last accessed March 21, 2017).

<sup>148</sup> 2012-13 General Appropriations Act and 2015-16 General Appropriations Act.

<sup>149</sup> SC House of Representatives, House Legislative Oversight Committee, "Budget, Staffing, Trooper Activity (2012-13 thru 2014-15)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Budget,%20Staffing,%20Warnings.pdf> (last accessed March 21, 2017).

<sup>150</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 5 ("The final decision to hire or reject such applicants has always remained with me, and this authority has not and will not be delegated to another."); SC House of Representatives, House Legislative Oversight Committee, "July 20, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 17:50 in the video. ("At the end of the day, it's not the Colonel's decision, it's not HR's decision, it's not General Counsel's decision, that's my decision."); SC House of Representatives, House Legislative Oversight Committee, "November 1, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 2:48:30 in the video. ("Again, I was appointed by the Governor, confirmed by the Senate to make those hiring decisions, and that's what I do. I don't take that lightly. The governor didn't appoint the Colonel or the Chiefs, the Senate didn't confirm the Colonel or the Chiefs. They confirmed me. It is my job to make those hiring decision, and that is what I do.").

<sup>151</sup> SC House of Representatives, House Legislative Oversight Committee, "Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 22, 2017); SC House of Representatives, House Legislative Oversight Committee, "Director - Applicant materials



available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 22, 2017);  
 SC House of Representatives, House Legislative Oversight Committee, “Number of Applicants the Director Cuts and Reasons Why - Highway Patrol (2015-16 and 2016-17),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Number%20of%20Applicants%20the%20Director%20Cuts%20and%20Reasons%20Why.pdf> (last accessed March 22, 2017).

<sup>152</sup> Ibid.

<sup>153</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 20, 2017);  
 SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 20, 2017).

<sup>154</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 22, 2017);  
 SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 22, 2017);  
 SC House of Representatives, House Legislative Oversight Committee, “Number of Applicants the Director Cuts and Reasons Why - Highway Patrol (2015-16 and 2016-17),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Number%20of%20Applicants%20the%20Director%20Cuts%20and%20Reasons%20Why.pdf> (last accessed March 22, 2017);

SC House of Representatives, House Legislative Oversight Committee, “Applicants Rejected and Hiring Stage at which applicant was Rejected - Highway Patrol (2013-14 thru 2015-16),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Applicants%20Rejected%20and%20Hiring%20Stage%20at%20which%20applicant%20was%20Rejected%20-%20Highway%20Patrol%20\(2013-14%20thru%202015-16\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Applicants%20Rejected%20and%20Hiring%20Stage%20at%20which%20applicant%20was%20Rejected%20-%20Highway%20Patrol%20(2013-14%20thru%202015-16).xlsx) (last accessed March 22, 2017).

<sup>155</sup> SC House of Representatives, House Legislative Oversight Committee, “Oral Interview Board (OIB) - Applicant materials provided to OIB (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20\(OIB\)%20-%20Applicant%20materials%20provided%20to%20OIB%20\(September%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Oral%20Interview%20Board%20(OIB)%20-%20Applicant%20materials%20provided%20to%20OIB%20(September%202016).pdf) (last accessed March 20, 2017).

<sup>156</sup> SC House of Representatives, House Legislative Oversight Committee, “Director - Applicant materials available to Agency Director (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Director%20-%20Applicant%20information%20available%20to%20the%20Director.pdf> (last accessed March 20, 2017).

<sup>157</sup> October 3, 2016 email from Warren V. Ganjehsani, General Counsel for the Department of Public Safety to Charles Appleby, General Counsel for the House Legislative Oversight Committee includes an attachment which provides the following additional information, “Since Director Smith has been the Department’s Director, he has asked the agency’s Human Resources Director to report facts and background information gathered by the Highway Patrol (and, in the case of social media checks, Human Resources staff) regarding all applicants for law enforcement positions. The final decision to hire or reject such applicants has always remained with Director Smith, and this authority has not and will not be delegated to another.”

<sup>158</sup> SC House of Representatives, Archived State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Archived State Agency Reports,” and under “2013-14 Accountability Reports,” <http://www.scstatehouse.gov/Archives/aar2014/K05.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-9; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2014-15 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2015/k050.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-8; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2015-16 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2016/K050.pdf> (last accessed March 23, 2017). See Performance Measure Item HP-8.

<sup>159</sup> Department of Public Safety, *Program Evaluation Report, 2015*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/DPS%20Program%20Evaluation%20Report.pdf> (last accessed March 20, 2017); SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2014-15 Accountability Reports,”

<http://www.scstatehouse.gov/reports/aar2015/k050.pdf> (last accessed March 23, 2017). See Performance Measure Item STP-8; SC House of Representatives, Current State Agency Reports, “Public Safety, Department of,” under “Publications,” under “Current State Agency Reports,” and under “2015-16 Accountability Reports,” <http://www.scstatehouse.gov/reports/aar2016/K050.pdf> (last accessed March 23, 2017). See Performance Measure Item STP-7.

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<sup>160</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (March 16, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/March%2016%202016%20Letter%20from%20DPS%20in%20response%20to%20Subcom's%20March%20202016%20Letter.PDF> (last accessed March 23, 2017). See page 4 where the agency states the cost of training and equipping one new trooper is \$77,982.40 with all new equipment or \$32,982.40 if used equipment such as cars and weapons are utilized. 271 new troopers were added between 2012 and 2015.

<sup>161</sup> SC House of Representatives, House Legislative Oversight Committee, “Manpower per Troop from DPS internal Staff Inspection Reports (2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Manpower%20percentages%20from%20Staff%20Inspection%20Reports.xlsx> (last accessed March 23, 2017). Chart is a compilation of data from the agency’s internal Staff Inspection Reports, which are also available on the Committee’s website.

<sup>162</sup> SC House of Representatives, House Legislative Oversight Committee, “Turnover Details for the last 5 years provided by DPS,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 23, 2017). The agency provides

various reasons for personnel leaving including, but not limited to, conduct, different job, moved out of job area, retirement, and personal.

<sup>163</sup> Ibid.

<sup>164</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 8 of 560 ("the Department of Public Safety implemented a pay plan in September 2015 ... to encourage retention by more clearly defining pay raises and compensation for incumbent employees and to serve as a recruiting tool by making new employee salaries competitive with other departments within South Carolina").

<sup>165</sup> SC House of Representatives, House Legislative Oversight Committee, "November 1, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 21:10 in the video. ("Officially, probably not.")

<sup>166</sup> SC House of Representatives, House Legislative Oversight Committee, "Turnover Details for the last 5 years provided by DPS," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 23, 2017).

<sup>167</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%2015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%2015,%202016).pdf) (last accessed March 23, 2017). See page 22 of 560; SC House of Representatives, House Legislative Oversight Committee, "Employment Data for 2010-11 thru 2015-16 including start and end of year numbers, separations and turnover rates," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Employment%20Data%20for%202010-11%20thru%202015-16%20including%20start%20and%20end%20of%20year%20numbers,%20separations%20and%20turnover%20rates.PDF> (last accessed March 23, 2017). Specific Turnover rates are as follows: 2012-13-52.6%; 2013-14-28.6%; 2014-15-63.6%; 2015-16-33.3%.

<sup>168</sup> SC House of Representatives, House Legislative Oversight Committee, "Turnover Details for the last 5 years provided by DPS," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Turnover%20Details%20for%20the%20last%205%20years.PDF> (last accessed March 20, 2017); SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 23, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 1:40:20 in the video where the agency's Information Technology (IT) Director testified the IT office is funded 30 positions.

<sup>169</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 23, 2017). See page 8 of 560 (“It is expected, however, that further enhancements to the existing pay structure, would assist with retention; for example, the implementation of a career path that rewards the development of identified knowledge, skills, and abilities as well as longevity is a recommended means for retaining personnel. Such a plan would be dependent on recurring funding”).

<sup>170</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%202017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%202017,%202017).pdf) (last accessed March 23, 2017). See page 56 of 66.

<sup>171</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 64-65 (Post B - Kershaw/Lee) (“Equipment issues, especially the condition of patrol vehicles, were cited as negatively affecting operational effectiveness.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 57 (Post C - Greenville) (“The lack of quality equipment is frustrating to Post C personnel. This issue is compounded when their car or equipment requires maintenance by agency staff in Columbia. In part, the travel/repairs consume a full day which has ultimately lead to criticism when their activity is low.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 58 (Post C - Chester and Fairfield) (“Several troopers spoke in a negative manner about vehicle conditions and the length of time to have their vehicles repaired.”); and page 62 (“The overall operational effectiveness in the post is good however, some of the troopers felt like they do not have access to the resources to perform their jobs. They mention vehicle with high mileage, lack of manpower, and lengthy DI investigations.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%202014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%202014-18,%202015).PDF) (last accessed March 23, 2017). See page 87 (Post A - Darlington and Marlboro) (“The most negative issue affecting operational effectiveness communicated by the troopers interviewed was equipment. The troopers specifically commented on the condition of the computers and the LIDARS. Troopers stated if the computer assigned to them needs repairs, it takes weeks to get another computer or to have repairs completed. These factors create an untimely delay for the troopers completing reports. The lack of a working computer creates duplication documenting the public contacts.”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%202016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%202016-19,%202015).PDF) (last accessed March 23,

2017). See page 75 (Post C - Beaufort, Jasper) (“The lack of quality equipment is frustrating. When there are body repair issues with a car, the closest body shop is located in Walterboro. Repairs are stated to normally take a month or two to complete. During that time, the trooper has to drive a spare car. The spare cars are stated to be in very poor shape (faded paint, high mileage, RADARs that are not operational, and the speedometer reportedly does [not] work in either spare car.”); and page 80 (“The most frustrating issues were: the poor condition of the spare cars; the time it takes to get a damaged car repaired (there is no body shop under state contract located within the post); and personnel do not feel like DPS Headquarters ‘has their back.’”); SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Communications Staff Inspection Report (November - December, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Highway%20Patrol%20Communications.PDF> (last accessed March 24, 2017).

See page 20 of 102 (Blythewood TCC) (“Areas of concern were communicated as computers (DPS Tech Support needs to be prompt in solving issues) and telephones (less down time as it relates to breakdowns and upgrades.”); See page 40 of 102 (Charleston TCC) (“TCOs expressed concerns about problems experienced with the CAD and not having GPS to attempt to locate callers. ... The TCC computers are slow. All TCOs interviewed gave special noted attention to the CAD being slow and not being updated with a GPS system.”); See page 59-60 of 102 (Florence TCC) (“Although the overall operational effectiveness was rated as good, there is room for improvement. Those identified areas were related to the computers, the CAD (very slow) - the upgrades made the problem(s) worse, and the telephone equipment (not good). .. The TCOs expressed concerns with CAD being slow and the system not able to keep up with the current communication demands.”); See page 82 of 102 (Greenville TCC) (“Interviews with the TCOs in this assessment revealed that they had the resources needed to perform their jobs; however, they expressed concerns regarding problems they have with the CAD upgrades, computer equipment (often ‘freezing up’), being understaffed, and the fact that some TCOs show no care for the job.”); See page 21 of 102 (Blythewood TCC) (“The supervisors and the TCC manager described several areas of concern. The areas included a need for upgrades (GEO Mapping, CAD, and computer equipment), a need for expedient communication and a coordinated response plan in the rare instance that a suspicious package is delivered to the DPS Office Complex, and manpower shortages (‘Something needs to be done to slow the revolving door of employee turnover.’”).

<sup>172</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20Sub/November%2016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 45:00 in the video. (“That \$2 million is for four hours of every pay period. The issue of that carry over money, is that we needed vehicles, so most of the money goes to equipment;”) and 50:45 in the video (“In the past, we have had to come to the General Assembly to ask money for cars. As gas prices dropped, we were able to use carry over money for those kind of issues without coming to ask for more one-time expenditures.”).

<sup>173</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%2017,%202017).pdf) (last accessed March 23, 2017). See page 55 of 66. As an example, with the most recent graduating class of troopers, none of the 62 laptops installed in their vehicles functioned properly.

<sup>174</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 200.04 Alcohol and Drug Deterrence Program,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20200.04%20Alcohol%20and%20Drug%20Deterrence%20Program%20\(Effective%20June%202022,%202021\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20200.04%20Alcohol%20and%20Drug%20Deterrence%20Program%20(Effective%20June%202022,%202021).pdf) (last accessed March 23, 2017).

<sup>175</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other

Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%2017,%202017).pdf) (last accessed March 23, 2017).

<sup>176</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from DPS to Oversight Subcommittee (February 17, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%2017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%2017,%202017).pdf) (last accessed March 23, 2017). See page 5 of 66.

<sup>177</sup> SC House of Representatives, House Legislative Oversight Committee, “March 7, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/March72017MinutesDPS.pdf>. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 2:23 in the video.

<sup>178</sup> SC House of Representatives, House Legislative Oversight Committee, “November 1, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/November12016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 1:36:45 in the video. (“What you’re saying is that it’s not a consistent disciplinary action? Case by case basis.”).

<sup>179</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 300.47 - Residency Requirements for Commissioned Officers (Effective Date July 2, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Residency%20Requirements.pdf> (last accessed March 23, 2017).

<sup>180</sup> Ibid.

<sup>181</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 53:20 in the video (“Some of your officers out there feel like there is a double standard that some people get to do things that others don’t;”) and 54:51 in this video, (“Maybe you should change your policy to explain that because your troopers don’t understand that and see favoritism,”) and 57:11 in this video (“You got troopers out here that are saying that they have a policy but they are not required to follow it”).

<sup>182</sup> SC House of Representatives, House Legislative Oversight Committee, “Residency Requirement Waivers for Troopers and Supervisors (August 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Domicile%20Policy%20-%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF> (last accessed March 23, 2017).

<sup>183</sup> Ibid.

<sup>184</sup> SC House of Representatives, House Legislative Oversight Committee, “Residency Requirement Waivers for Troopers and Supervisors (August 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Domicile%20Policy%20-%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF>

%20Troopers%20and%20Supervisors%20with%20waivers%20and%20reason%20for%20waiver.PDF (last accessed March 20, 2017).

<sup>185</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 300.06 - In Car Video and Recording February 17, 2016 version; replaced policy dated February 5, 2015," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20\(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015).pdf) (last accessed March 23, 2017).

<sup>186</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Manual of Operations re: Video Recording and Review by Supervisors (Revised Sept. 25, 2013)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20\(Revised%20September%2025,%202013\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20(Revised%20September%2025,%202013).pdf) (last accessed March 23, 2017).

<sup>187</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 300.06 - In Car Video and Recording, February 17, 2016 version; replaced policy dated February 5, 2015," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20\(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20300.06%20-%20In%20Car%20Video%20and%20Recording%20(Febbruary%2017,%202016;%20replaced%20policy%20dated%20February%205,%202015).pdf) (last accessed March 20, 2017); and SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Manual of Operations re: Video Recording and Review by Supervisors (Revised Sept. 25, 2013)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20\(Revised%20September%2025,%202013\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Highway%20Patrol%20Manual%20of%20Operations%20re%20In%20Car%20Video%20Recording%20(Revised%20September%2025,%202013).pdf) (last accessed March 20, 2017).

<sup>188</sup> SC House of Representatives, House Legislative Oversight Committee, "Audio-Video Monitor Report Form (March 2016 - DPS Policy 300.06)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Audio-Video%20Monitor%20Report%20\(March%202016%20-%20DPS%20Policy%20300.06\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Audio-Video%20Monitor%20Report%20(March%202016%20-%20DPS%20Policy%20300.06).pdf) (last accessed March 20, 2017).

<sup>189</sup> Committee staff summary of constituent input email message to the House Legislative Oversight Committee's Law Enforcement and Criminal Justice Subcommittee, September 9, 2016.

<sup>190</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 3:36:00 in the video.

<sup>191</sup> SC House of Representatives, House Legislative Oversight Committee, "August 30, 2016 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 3:47:00 in the video.

<sup>192</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 27, 2017). See page 22 of 560.

<sup>193</sup> Materials the Department of Public Safety (DPS) provided to the House Ways and Means Law Enforcement Subcommittee and Criminal Justice Subcommittee during DPS' budget presentation in early 2016, "Highway Patrol Commissioned Officer Manpower"; SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (August 15, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(August%202015,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(August%202015,%202016).pdf) (last accessed March 23, 2017). See page 6 of 560, ("Please provide the following information, separated for civilians and sworn officers, for each fiscal year from 2010-11 through 2015-16: number of employees at start of the year, number of employees at end of the year, and number of employee separation during the year"); SC House of Representatives, House Legislative Oversight Committee, "Employment Data for 2010-11 thru 2015-16 including start and end of year numbers, separations and turnover rates," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Employment%20Data%20for%202010-11%20thru%202015-16%20including%20start%20and%20end%20of%20year%20numbers,%20separations%20and%20turnover%20rates.PDF> (last accessed March 23, 2017) (See Law Enforcement, SCDPS Highway Patrol; Begin '10-11=838, End '10-11=796; Begin '11-12=793, End '11-12=763; Begin '12-13=763, End '12-13=756; Begin '13-14=756, End '13-14=772; Begin '14-15=770, End '14-15=762; Begin '15-16=760, End '15-16=780).

<sup>194</sup> Ibid.

<sup>195</sup> Materials the Department of Public Safety (DPS) provided to the House Ways and Means Law Enforcement Subcommittee and Criminal Justice Subcommittee during DPS' budget presentation in early 2016 and early 2014.

<sup>196</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 100.07 - OPR November 25, 2015 version; replaced policy dated May 31, 2012," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20\(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012).pdf) (last accessed March 23, 2017). See Section VIII. A. ("Each allegation or complaint made against an employee or the agency will be reviewed by OPR and referred to the director to determine if the matter will be investigated. If the complaint is minor in nature, the complaint may be referred to the appropriate division director to investigate.") (emphasis added).

<sup>197</sup> SC House of Representatives, House Legislative Oversight Committee, "DPS Policy 100.07 - OPR November 25, 2015 version; replaced policy dated May 31, 2012," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20\(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20Policy%20100.07%20-%20OPR%20(November%202015,%202015;%20replaced%20policy%20dated%20May%2031,%202012).pdf) (last accessed March 23, 2017). See Section IX, 2 ("If the director determines that disciplinary action is not warranted, the report will be returned to the chief investigator. If the director determines that disciplinary action is warranted, the director, with the assistance of the Office of Human Resources (HR), will notify the employee of the action by letter.") (emphasis added).

<sup>198</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from DPS to Oversight Subcommittee (February 17, 2017)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS)," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20\(February%202017,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Letter%20from%20DPS%20to%20Oversight%20Subcommittee%20with%20attachments%20(February%202017,%202017).pdf) (last accessed March 23, 2017).

<sup>199</sup> Ibid.

<sup>200</sup> SC House of Representatives, House Legislative Oversight Committee, "OPR File #PR-2101-14-0024-D



(December 8, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20file%20for%20Corporal%20B.E.%20Kyzer%20provided%20by%20DPS%20\(December%208,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20file%20for%20Corporal%20B.E.%20Kyzer%20provided%20by%20DPS%20(December%208,%202014).pdf) (last accessed March 23, 2017).

<sup>201</sup> Ibid.

<sup>202</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0045-D (July 11, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20\(July%202011,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20(July%202011,%202014).pdf) (last accessed March 23, 2017).

<sup>203</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0033-D (June 19, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0033-D%20\(June%202019,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0033-D%20(June%202019,%202014).pdf) (last accessed March 23, 2017).

<sup>204</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-0045-D (July 11, 2014),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20\(July%202011,%202014\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-0045-D%20(July%202011,%202014).pdf) (last accessed March 23, 2017).

<sup>205</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>206</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2105-14-003-D - 27 other related employees disciplined,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20File%20PR-2105-14-003-D%20-%2027%20other%20related%20employees%20disciplined.pdf> (last accessed March 23, 2017). See page 11 of 28.

<sup>207</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>208</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR File #PR-2101-14-0017-D (March 23, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Alford-PR-2101-14-0017-D.pdf> (last accessed March 23, 2017).

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

<sup>213</sup> SC House of Representatives, House Legislative Oversight Committee, “DPS Policy 400.08G - Guidelines for Progressive Disciplinary Action (Effective March 3, 2010),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20\(Effective%20March%203,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Policy%20400.08G%20-%20Guidelines%20for%20Progressive%20Disciplinary%20Action%20(Effective%20March%203,%202010).pdf) (last accessed March 23, 2017).

<sup>214</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 (June 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/DPS%20-%20OPR%20Case%20Summaries%20for%202010%20through%20June%202016.pdf> (last accessed March 23, 2017). Oversight Committee staff compiled this information from the “2010-2015 OPR / DI Case Summaries with demographics” documents provided by DPS on June 29, 2016. DPS personnel testified during the July 13, 2016 Subcommittee meeting that this information was tracked via Microsoft Access, without uniform allegation naming until 2014. In 2014, the data was moved to a new database and DPS began utilizing drop down menus to assist it in naming allegations consistently.

<sup>215</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 Excel Charts (listing of cases provided by DPS via email on June 30, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20\(provided%20via%20email%20on%20June%2030,%202016\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20(provided%20via%20email%20on%20June%2030,%202016).xlsx) (last accessed March 28, 2017). The first matter was opened in August 2013 as OPR File #PR-13-0050 and remained open for 250 days, before it was closed and re-opened as #DI-14-0051-D, which remained open another 29 days, making the investigation a total of 279 days. Another matter, #DI-14-0003-D, was opened in January 2014 and took 281 days to reach a finding.

<sup>216</sup> SC House of Representatives, House Legislative Oversight Committee, “July 13, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20Sub/July132016Minutes.pdf> (last accessed March 23, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. (last accessed March 23, 2017). See 4:37:54 in the video. (“If they are under investigation they cannot be promoted. ... No, they are not eligible for promotions while under investigation.”).

<sup>217</sup> SC House of Representatives, House Legislative Oversight Committee, “OPR Case Summaries for 2010 through June 2016 Excel Charts (listing of cases provided by DPS via email on June 30, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20\(provided%20via%20email%20on%20June%2030,%202016\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/OPR%20Case%20Summaries%20for%202010%20through%20June%202016%20(provided%20via%20email%20on%20June%2030,%202016).xlsx) (last accessed March 28, 2017). See OPR File #PR-12-0027 (1173 days (3.1 years)) with allegation of “improper conduct”; OPR File #PR-13-0013 (889 days (2.3 years)) with allegation of “insubordination”; OPR File #PR-13-0074 (691 days and still counting (1.85 years)) with allegation of “providing false information” that is still pending; OPR File #PR-14-0008-C (592 days and still counting (1.59 years)) with allegation of “improper procedures” that is still listed as active; and OPR File #DI-15-0047-C (408 days (1.09 years)) with allegation of “improper procedures.”

<sup>218</sup> Bonnie Brooks, email message to Charles Appleby, June 30, 2016. (“Mr. Appleby, on behalf of Director Smith, in addition to the information that was hand-delivered to the HLOC on June 29, 2016, attached please find OPR/DI Case Summaries in excel format as requested. Please let us know if you have any questions or need additional information. Thank you so much. B.”)

<sup>219</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20Sub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 39:20 in the video. (“We have staff inspections where we go in and get a good sample set of each component that we’re inspecting. We look at morale, operational

effectiveness, the leadership, and we look at the communication lines. Under our recent inspection, the moral was very good. It was a 3.0 on a 4.0 scale.”)

<sup>220</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 74 (Post B - Colleton, Dorchester)

<sup>221</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). Page 87 (Post B - Dillon, Florence, and Marion)

<sup>222</sup> SC House of Representatives, House Legislative Oversight Committee, “August 30, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/August302016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 4:28:00 in the video. (“The team is composed with field lieutenants or officers with higher ranks. They are pulled from different troops when it is time to inspect another troop.”).

<sup>223</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 1:13:45 in the video. (“I am going to make a comment back to Colonel Oliver. When I was talking to people who did not get promoted or had a grievance filed against them or something like that, some of them yes, and many of them no, there are number of troopers out there that are afraid to say what they feel like they need to say for fear of retribution.”).

<sup>224</sup> SC House of Representatives, House Legislative Oversight Committee, “July 20, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/Laws%20ub/July202016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. See 47:14 in the video (“Since we’ve started this oversight process, I’ve been getting calls from law enforcement officers all over the state. I owe it to them to ask these questions. I have never seen the morale at highway patrol as low as it is now.”).

<sup>225</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 3 Staff Inspection Report - Anderson, Oconee, Pickens, Greenville, and Spartanburg (July 1, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%203%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 66 (Post B - Oconee and Pickens).

<sup>226</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 4 Staff Inspection Report - Cherokee, Union, York, Fairfield, Chester, Lancaster, and Chesterfield (April 27, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20\(April%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%204%20Staff%20Inspection%20(April%202015).PDF) (last accessed March 23, 2017). See page 61 (Post A -

Cherokee and Union).

<sup>227</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 40 (Post A - Laurens and Newberry).

<sup>228</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 42 (Post A - Laurens and Newberry).

<sup>229</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 2 Staff Inspection Report - Laurens, Newberry, Abbeville, Greenwood, Edgefield, McCormick, and Saluda (January 16, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20\(Jan.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%202%20Staff%20Inspection%20(Jan.%202015).PDF) (last accessed March 23, 2017). See page 44 (Summary / Conclusion).

<sup>230</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). See page 83 (Post B - Dillon, Florence, and Marion) ("Very little individual counseling is conducted for performing well. On the other hand, troopers state they get 'talked to' often for poor activity ... Some troopers feel like the DPS Command Staff does not support them; therefore, they find themselves second guessing the decisions they make attempting to avoid making a mistake and possibly generating a District Investigation (DI).").

<sup>231</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 5 Staff Inspection Report - Darlington, Marlboro, Dillon, Florence, Marion, Georgetown, Williamsburg, and Horry (December 14-18, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20\(December%2014-18,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%205%20(December%2014-18,%202015).PDF) (last accessed March 23, 2017). See page 90 (Post D - Horry).

<sup>232</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 75 (Post C - Beaufort and Jasper).

<sup>233</sup> SC House of Representatives, House Legislative Oversight Committee, "Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 75 (Post C - Beaufort and Jasper).

<sup>234</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 6 Staff Inspection Report - Berkeley, Charleston, Colleton, Dorchester, Beaufort, and Jasper (November 16-19, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20\(November%2016-19,%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Staff%20Inspection%20Report%20-%20Troop%206%20(November%2016-19,%202015).PDF) (last accessed March 23, 2017). See page 74 (Post B - Colleton, Dorchester).

<sup>235</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 61 (Post B - Kershaw and Lee).

<sup>236</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 67 (Post D - Richland).

<sup>237</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 1 Staff Inspection Report - Sumter, Clarendon, Kershaw, Lee, Lexington, and Richland (August 4-11, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20\(Aug.%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%201%20Staff%20Inspection%20(Aug.%202015).PDF) (last accessed March 23, 2017). See page 65 (Post B - Kershaw and Lee).

<sup>238</sup> SC House of Representatives, House Legislative Oversight Committee, “Highway Patrol Troop 7 Staff Inspection Report - Allendale, Bamberg, Barnwell, Hampton, Orangeburg, Calhoun, and Aiken (July 24, 2015),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%207%20Staff%20Inspection%20\(July%202015\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Troop%207%20Staff%20Inspection%20(July%202015).PDF) (last accessed March 23, 2017). See page 56 (Post C - Aiken).

<sup>239</sup> Department of Public Safety, *Accountability Report, 2015-16*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed March 20, 2017).

<sup>240</sup> SC Code Annotated Section 23-6-30.

<sup>241</sup> 2011 Act No. 69, section 17, effective upon concurrence of contingency.

<sup>242</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April212016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 39:32 in the video.

<sup>243</sup> SC House of Representatives, House Legislative Oversight Committee, “April 21, 2016 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Public Safety, Department of (DPS),”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April212016Minutes.pdf> (last accessed March 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 40:31-40:59 in the video. (When asked if he feels the Illegal Immigration Enforcement Unit is within the mission of DPS, Director Smith, “To be quite candid, that mission falls under the responsibility of SLED. I would never sit here and try to lead you down the wrong path. The mission, when you look at SLED’s mission, in terms of criminal investigation, it falls under the mission of SLED.”).

<sup>244</sup> SC Department of Public Safety, Office of Highway Safety & Justice Programs, <http://www.scdps.gov/ohsjp/> (last accessed March 24, 2017).

<sup>245</sup> SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 11:33-28:00 in the video.

<sup>246</sup> SC House of Representatives, House Legislative Oversight Committee, "February 28, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/February282017MinutesDPS.pdf> (last accessed March 24, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 46:27-48:10 in the video.

<sup>247</sup> SC House of Representatives, House Legislative Oversight Committee, "Performance and Recommendations PowerPoint presentation by DPS (July 13, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Public Safety, Department of (DPS),"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Performance%20and%20Recommendations%20PowerPoint%20presentation%20by%20DPS%20\(July%2013,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DPS/Performance%20and%20Recommendations%20PowerPoint%20presentation%20by%20DPS%20(July%2013,%202016).pdf) (last accessed March 24, 2017). See slide 34 of 38.

**Legislative Oversight Committee**  
South Carolina House of Representatives  
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Columbia, South Carolina 29211  
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# Notification of the Economic Development, Transportation, and Natural Resources Subcommittee Study

of the Department of Agriculture

Friday, August 4, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Economic Development, Transportation, and Natural Resources Subcommittee oversight study of the Department of Agriculture is available for consideration by the full committee.

The Honorable Laurie Slade Funderburk  
First Vice-Chair, House Legislative Oversight Committee

cc: The Honorable Neal A. Collins  
The Honorable Mandy Powers Norrell  
The Honorable Robert L. Ridgeway III

# Legislative Oversight Committee

## Study of the Department of Agriculture *August 3, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		



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# AGENCY SNAPSHOT

## Department of Agriculture

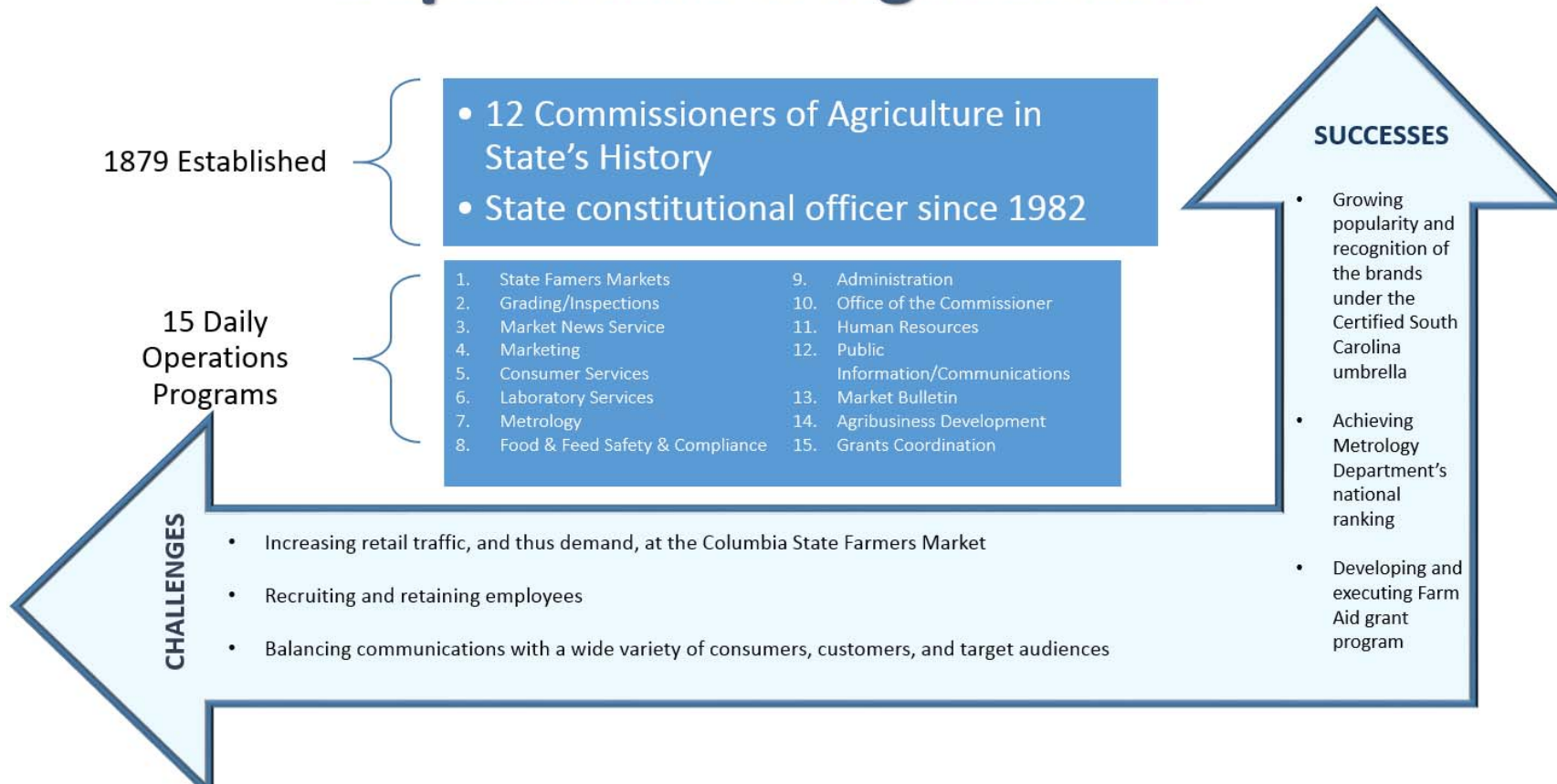


Figure 1. Snapshot of agency's history, daily operations programs, successes, and challenges.<sup>1</sup>

# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

SC Code of Laws § 2-2-20(B) states that “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee:

(1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and**  
 (2) **should be continued, curtailed, or eliminated.”** In making these determinations, the **Committee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## *Study Process*

The House Legislative Oversight Committee’s (Committee) process includes actions by the Committee; Economic Development, Transportation, and Natural Resources Subcommittee (Subcommittee);<sup>3</sup> the Department of Agriculture (agency); and the public. A summary of key dates and actions of the study process are listed in Figure 2.

### House Legislative Oversight Committee’s Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides the agency with notice about the oversight process

### Economic Development, Transportation, and Natural Resources Subcommittee’s Actions

- April 28, 2016 - Holds **Meeting #1**, an entry meeting, to discuss procedures and to receive an overview of the agency’s operations
- July 6, 2016 - Holds **Meeting #2** to offer an opportunity for public testimony and to receive information on the agency’s history, mission, and key partners
- October 31, 2016 - Holds **Meeting #3** to discuss the impact of Hurricane Matthew to the agency and agriculture in the state; commodity boards; and the Agriculture Commission
- January 26, 2017 - Holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly
- February 16, 2017 - Holds **Meeting #5** to discuss the agency’s program structure and strategic plan
- May 2, 2017 - Holds **Meeting #6** to discuss the agency’s successes; challenges; emerging issues; strategic plan objectives; implementation of Legislative Audit Council’s recommendations relating to the State Farmers Market; and its “50 by 20” ten-year goal for agriculture in South Carolina
- June 15, 2017 - Holds **Meeting #7** to discuss the agency’s recommendations
- June 22, 2017 - Holds **Meeting #8**, a work session, to further discuss recommendations

- July 10, 2017 - Holds **Meeting #9**, a work session, to further discuss recommendations

### Department of Agriculture's Actions

- March 21, 2015 - Submits its **Restructuring and Seven-Year Plan Report**
- January 11, 2016 - Submits its **Annual Restructuring Report**
- August 24, 2016 - Submits its **Program Evaluation Report, which serves as the base document for the study**
- September 15, 2016 - Submits its **Fiscal Year 2015-16 Accountability Report, which serves as its 2017 Annual Restructuring Report**
- December 30, 2016 - Submits updates to its Program Evaluation Report

### Public's Actions

- May 1-31, 2016 - Provides input about the agency in the form of an **online public survey**
- July 6, 2016 - Opportunity to provide testimony about the agency
- Ongoing - Opportunity for public to submit written comments on the House Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

*Figure 2. Summary of key dates and actions of the study process.*

## Recommendations

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

*Table 1. Summary of recommendations arising from the study process.*

RECOMMENDATIONS
<b>Modernize Law Relating to the Commissioner of Agriculture</b>
1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
<b>Modernize and Revise Laws Relating to the Agriculture Commission of South Carolina</b>
2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.

<b>Improve Consumer Services</b>	
<b>4.</b>	Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
<b>5.</b>	Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” <sup>4</sup>
<b>6.</b>	Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.
<b>7.</b>	Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.
<b>8.</b>	Enforce a tiered monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.
<b>Reduce Restrictions for Businesses</b>	
<b>9.</b>	Remove statutory reference to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control (i.e., remove an exemption registration burden from small home-based food producers that distribute non-potentially hazardous baked-goods and candy to the end consumer).
<b>10.</b>	Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number).
<b>11.</b>	Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; remove licensure requirements for small producers; authorize the licensure of quail eggs; and authorize a fee for registration).

### *Internal Changes Implemented by Agency Related to Study Process*

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>5</sup>

### *Additional Information of Interest*

The Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest include: (1) April 28, 2016, Attorney General Opinion that commodity boards are not subject to the State Procurement Code, and (2) agency’s draft language for modernizing salvage food (e.g., dented cans) regulations.<sup>6</sup> Both documents are available online.

# AGENCY OVERVIEW

## History

The **General Assembly establishes the South Carolina Department of Agriculture in 1879** and tasks it with a broad scope of responsibilities: fertilizer regulation; soil improvement and analysis; distribution of seeds; sheep husbandry; geology; labor; and more.<sup>7</sup> The General Assembly initially appropriates a one-time sum of approximately \$168,759 (inflation adjusted); the agency is supported by the funds collected from fines, forfeitures, and fees for land registration.<sup>8</sup> In 1880, the agency concludes its first year of operations with a balance of approximately \$565,567 (inflation adjusted).<sup>9</sup>

The first Commissioner of Agriculture is A.P. Butler.<sup>10</sup> More than a century later, in **1982, the Commissioner of Agriculture becomes an elected statewide constitutional officer** directly accountable to the public.<sup>11</sup> There are 12 Commissioners of Agriculture in the state's history, which are listed below in Table 2.<sup>12</sup> The current Commissioner of Agriculture is Hugh E. Weathers (Commissioner).

*Table 2. Commissioners of Agriculture, 1880 to present.*

COMMISSIONER	TERM OF OFFICE
A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
*D. Leslie Tindal	1982-2002
*Charles R. Sharpe	2002-2005
*Hugh E. Weathers	2005-present

*Table Note: Commissioners with an \*beside their names either have served or serve as a constitutional officer.*

In the early part of the twentieth century, **at least a dozen state agencies are created with responsibilities originally housed at the Department of Agriculture.**<sup>13</sup> The agency's name evolves to reflect its responsibilities.<sup>14</sup> In 1904, the Department of Agriculture is renamed the "State Department of Agriculture, Commerce and Immigration."<sup>15</sup> The Commissioner of Agriculture, Commerce and Immigration is appointed by the Governor, with the consent of the Senate.<sup>16</sup> In 1909, the State Department of Agriculture, Commerce and Immigration is renamed the "Department of Agriculture, Commerce and Industries," and the Commissioner of Agriculture, Commerce and Industries gains the authority to collect labor statistics.<sup>17</sup> In 1936, the General Assembly establishes the Department of Labor and vests it with collection of labor statistics.<sup>18</sup> Accordingly, the State Department of Agriculture, Commerce and Industries is renamed the "Department of Agriculture and Commerce."<sup>19</sup> In 1941, the Department of Agriculture and Commerce is renamed the "Department of Agriculture."<sup>20</sup>



In 1960, the **General Assembly authorizes the Department of Agriculture to execute all laws regarding agriculture** unless the laws designate execution by another entity.<sup>21</sup>

In 1968, the **General Assembly creates the Agriculture Commission** and, among other things, authorizes it to create and oversee commodity boards and administer marketing orders.<sup>22</sup>

In 1974, the state acquires the **Columbia Farmers Market** and places it under the supervision of the Department of Agriculture.<sup>23</sup> The agency assumes operations of the Greenville Farmers Market in 1980, and the Pee Dee State Farmers Market opens in 1989.<sup>24</sup>

The **“Certified SC”** campaign launches in 2007, which now has over 1,800 members.

In 2009, the agency launches its **“50 by 20 – A Ten Year Goal for South Carolina Agriculture”** initiative.<sup>25</sup> The agency’s goal is for agriculture to be a \$50 billion industry by the year 2020; the agency is seeking to achieve this goal through increases in market access, partnerships, recruitment, and diversification.<sup>26</sup>

In 2010, the **“Fresh on the Menu”** restaurant program is established, with over 300 restaurants now participating.<sup>27</sup>

In 2011, the agency partners with the Department of Commerce for an agribusiness project manager, and in January 2014, the **agritourism program** is created.<sup>28</sup> In 2013, agribusiness has a total economic impact of \$41.7 billion, representing 10.5% of the state’s workforce (i.e., 212,530 jobs).<sup>29</sup> **South Carolina produces \$3 billion each year from its top agricultural products:** chickens, turkeys, greenhouse nurseries, cotton, corn, cattle, soybeans, peanuts, eggs, and wheat.<sup>30</sup>

## Major Divisions or Programs

An agency’s major divisions or programs are the way the agency is operationally segmented. The **Department of Agriculture has 15 daily operations programs.**<sup>31</sup>

*Table 3. Agency’s daily operations programs.*

PROGRAM	PURPOSE OF PROGRAM
State Farmers Markets	<ul style="list-style-type: none"> <li>Owns and manages three regional (Columbia, Florence, and Greenville) state farmers markets, which provide consumers with a variety of locally grown produce and specialty products.</li> </ul>
Grading/Inspections	<ul style="list-style-type: none"> <li>Provides fruit, vegetable, poultry, egg, and commodity grading and inspection services, including Good Agricultural Practices training, under a cooperative agreement with the United States Department of Agriculture (USDA).</li> </ul>
Market News Services	<ul style="list-style-type: none"> <li>Analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers, pursuant to an agency contract with the USDA.</li> </ul>
Marketing	<ul style="list-style-type: none"> <li>Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality South Carolina agricultural products at local, national, and international levels.</li> </ul>

Consumer Services	<ul style="list-style-type: none"> <li>• Ensures the net content statements on packages and weighing or measuring devices are correct and that agricultural products are measured accurately for commerce to protect consumers.</li> </ul>
Laboratory Services	<ul style="list-style-type: none"> <li>• Assures that goods meet acceptable standards of quality.</li> <li>• Issues registrations, licenses, and permits to certain businesses (e.g., food laboratory, feed laboratory, seed laboratory, chemical residue laboratory, and petroleum products laboratory) to protect consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale.</li> </ul>
Metrology	<ul style="list-style-type: none"> <li>• Provides National Institute of Standards and Technology traceable calibrations for mass and volume standards.</li> <li>• Calibrates equipment for state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.</li> </ul>
Food & Feed Safety and Compliance	<ul style="list-style-type: none"> <li>• Conducts routine surveillance inspections to ensure foods and feeds are manufactured under safe, sanitary conditions.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>• Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management, and other administrative services.</li> </ul>
Office of the Commissioner	<ul style="list-style-type: none"> <li>• Provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development.</li> <li>• Ensures agency personnel practices are compliant with state and federal regulations.</li> </ul>
Public Information / Communications	<ul style="list-style-type: none"> <li>• Communicates the agency's mission and the importance of South Carolina agriculture and agribusiness through traditional and social media, websites, and the Market Bulletin.</li> <li>• Informs industry members and the general public of pertinent agricultural issues.</li> <li>• Responds to various media inquiries.</li> </ul>
Market Bulletin	<ul style="list-style-type: none"> <li>• Issues publication (print and electronic) twice a month as a marketplace for agricultural goods and services.</li> <li>• Provides consumer interest articles.</li> </ul>

Agribusiness Development	<ul style="list-style-type: none"> <li>• Works to continually promote agribusiness in South Carolina through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in the state via the production of South Carolina grown products or value-added services/processing.</li> <li>• Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.</li> </ul>
Grants Coordination	<ul style="list-style-type: none"> <li>• Cooperates with the federal government to implement the Specialty Crop Block Grant, Farm to School Grant, and Manufactured Food and Regulatory Program Standards.</li> <li>• Pursues and secures other grants to benefit the agriculture industry and agency.</li> </ul>

An organizational chart, inclusive of the Agriculture Commission of South Carolina, is provided in Figure 3 on the next page.

# Organizational Chart

Agency FTE Total: 120.8  
 2 TG  
 7 TL

## S.C. Department of Agriculture August 1, 2016

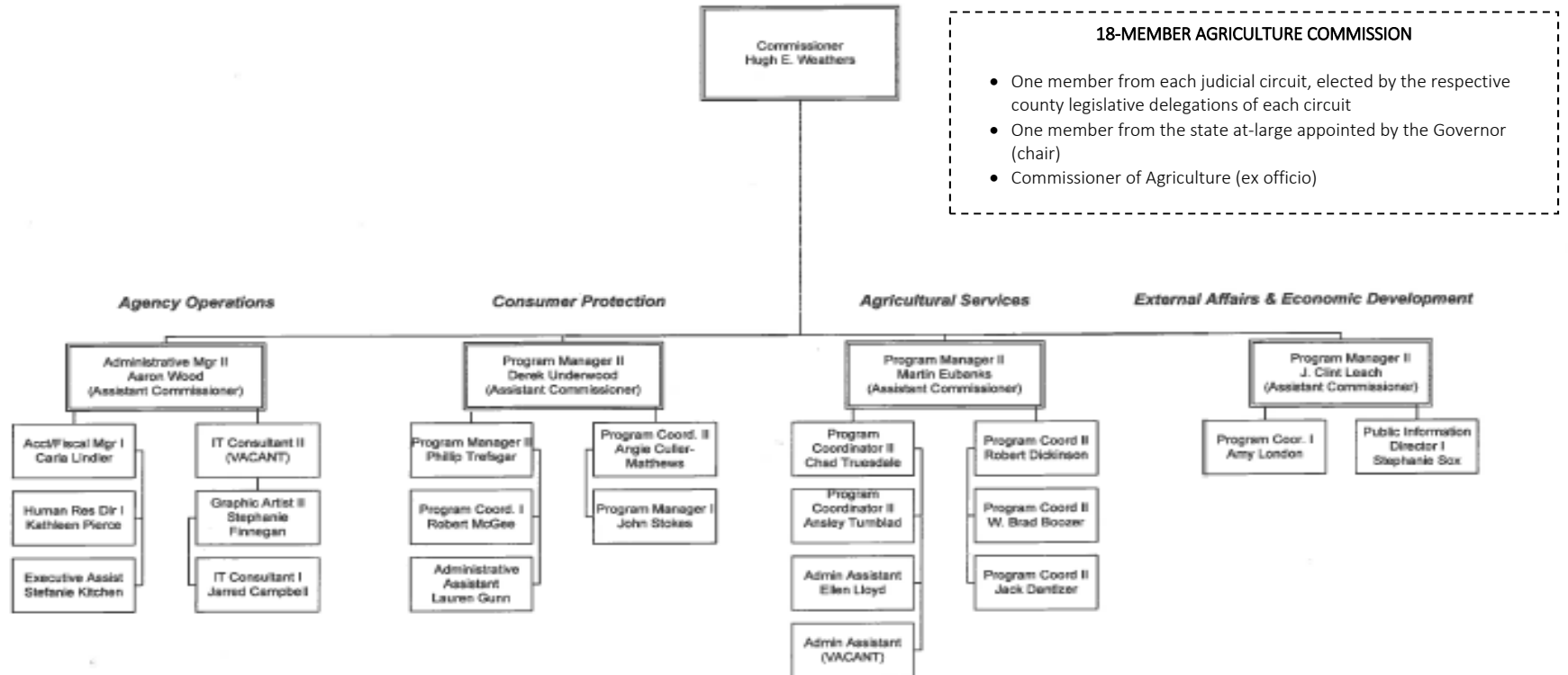


Figure 3. Organizational chart, current as of August 1, 2016.

## Products/Services

The **Department of Agriculture is tasked with executing laws in South Carolina pertaining to agriculture.** The combined Accountability Report and Annual Restructuring Report for fiscal year 2015-16 requests information on the services and products an agency provides.<sup>32</sup> Table 4 lists some of the products and services the agency provides relating to agriculture.

*Table 4. Some of the products and services the agency provides.<sup>33</sup>*

<p><b>Ensures that foods and feeds are manufactured under safe and sanitary conditions</b> via routine:</p> <ul style="list-style-type: none"> <li>• Sampling and analysis; and</li> <li>• Chemical and microscopic analyses of feed products.</li> </ul>
<p><b>Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale and ensures goods meet acceptable standards of quality</b> via:</p> <ul style="list-style-type: none"> <li>• Fruit and vegetable residue testing;</li> <li>• Gasoline and diesel fuel products inspections and analysis; and</li> <li>• Germination and purity testing.</li> </ul>
<p><b>Protects consumers by ensuring the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce</b> via:</p> <ul style="list-style-type: none"> <li>• Weighing and measuring devices inspections;</li> <li>• Public weigh masters;</li> <li>• Bonded dealers and handlers licenses; and</li> <li>• Licensing and bonding of warehouses.</li> </ul>
<p><b>Communicates state agriculture, agribusiness, pertinent agricultural issues and marketplace information for agricultural goods and services</b> via:</p> <ul style="list-style-type: none"> <li>• Traditional media relations;</li> <li>• Social media;</li> <li>• Market bulletin publication; and</li> <li>• Regional state farmers markets; and</li> <li>• Agribusiness recruitment.</li> </ul>

## Other Agencies Serving Similar Customers/Products/Services

During the study of an agency, the **Committee asks what other agencies serve customers, products, or services similar to the agency under study.**<sup>34</sup> While the majority of products and services the Department of Agriculture provides are unique, the agency networks with other agencies in the economic development, transportation, natural resources, and regulatory arena to exchange operational ideas and information.<sup>35</sup>

## Strategic Resources and Allocation

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.<sup>36</sup>

The following tables include an overview of the agency's strategic plan and resources allocated to its goals and objectives.<sup>37</sup> Table 5 lists employees and funding allocated to each goal in fiscal year 2016-17. Tables 6 through 9.1 include additional details, including resource allocation and associated performance measures, for each of these goals.

*Table 5. Resources allocated toward the agency's goals in fiscal year 2016-17.*

Strategic Plan Element	Description	Number of physical FTES and (FTE equivalents) planned <sup>38</sup>	Total budgeted (% of funds available) <sup>39</sup>
Goal 1	Improve agency operational readiness and workforce development	23 (15)	\$1,220,810 (5.46%)
Goal 2	Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59 (55)	\$4,198,306 (18.78%)
Goal 3	Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56 (49.15)	\$11,702,662 (52.35%)
Goal 4	Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17 (8.5)	\$147,643 (0.66%)
Balance remaining	Amount unspent		\$5,085,840 (22.75%)

In regards to carryforward, the agency states the amounts are necessary to support associated programs year-round.<sup>40</sup> Many of the agency's funding sources do not receive a steady stream of revenue throughout the year, rather, the revenue may be received only over a two-to-three month period (e.g., seed licenses, feed registrations, and commodity board assessments). If the agency does not carry forward appropriate revenue, the agency may be unable to meet operating expenses for portions of the year. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (i.e., soybean, peanuts, watermelon, cotton, and tobacco) negatively, the boards may not receive crop assessments sufficient to meet the next year's operating expenses. The agency acts as a fiduciary agent for commodity board assessments, but the agency does not control the amount of remittances or expenditures. Also, built into the carryforward for 2014, 2015, and 2016 are amounts for non-recurring funds received through provisos which will not be available after this fiscal year.<sup>41</sup>

*Table 6. Goal 1: Improve agency operational readiness and workforce development: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>42</sup>	Total budgeted (% of funds available) <sup>43</sup>
<b>Goal 1</b>	<b>Improve agency operational readiness and workforce development</b>	<b>23 (15)</b>	<b>\$1,220,810 (5.46%)</b>
<b>Strategy 1.1</b>	<b><i>Prioritize and deploy Information Technology (IT) products and services</i></b>	<b>5 (3.25)</b>	
Objective 1.1.1	Inventory and establish a replacement schedule for all agency IT equipment	1 (1)	
Objective 1.1.2	Achieve that 100% of appropriate staff complete an annual information security awareness training	1 (0.5)	
Objective 1.1.3	Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2 (1.25)	
Objective 1.1.4	Work with Division of Information Security to develop and implement INFOSEC (i.e., information security) policies	1 (0.5)	
<b>Strategy 1.2</b>	<b><i>Recruit and retain highly qualified and motivated employees</i></b>	<b>7 (4)</b>	
Objective 1.2.1	Perform all actions related to personnel (e.g.: E-Verify, South Carolina Enterprise Information System, NeoGov [job portals], Employee Performance Management System, insurance, retirement, and documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3 (2.75)	
Objective 1.2.2	Complete required Equal Employment Opportunity Commission reporting and focus on potential areas of improvement	1 (0.25)	
Objective 1.2.3	Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1 (0.25)	
Objective 1.2.4	Offer an annual health screening for all employees and purchase Personal Protective Equipment for all field personnel	1 (0.25)	
Objective 1.2.5	Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1 (0.5)	
<b>Strategy 1.3</b>	<b><i>Improve financial reporting and business procedures</i></b>	<b>6 (4.5)</b>	
Objective 1.3.1	Provide monthly financial reports to division directors and program staff	1 (0.5)	
Objective 1.3.2	Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	1 (0.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>42</sup>	Total budgeted (% of funds available) <sup>43</sup>
Objective 1.3.3	Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1 (1)	
Objective 1.3.4	Set up purchase orders, post payments received, and process invoices within two weeks of receipt	3 (2.25)	
<b>Strategy 1.4</b>	<b><i>Set, execute and monitor a strategic plan towards accomplishing the agency mission</i></b>	<b>5 (3.25)</b>	
Objective 1.4.1	Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1 (0.5)	
Objective 1.4.2	Complete Farm Aid application processing, review and disbursements by 1 October 2016	2 (1.25)	
Objective 1.4.3	Respond to constituent contacts within 3 business days of receipt	1 (0.5)	
Objective 1.4.4	Brief Commissioner daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner at meetings, seminars, and events	1(1)	

**Table 6.1. Performance measures associated with goal 1.**

<u>Performance Measures associated with Goal 1<sup>44</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of planning staging documents completed within two months of the calendar year for existing employees and within one month of hiring new employees	100%	94%	100%	July 1-June 30	HR records	Number of completed planning staging documents/ total number of employees required to have an employee performance evaluation	1.2.3
Percent of supervisors receiving supervisory skills training/personal development plan	100%	100%	100%	July 1-June 30	HR records	Number of employees receiving supervisory training/total number of employees eligible for supervisory training	1.2.3, 1.2.5
Percent of computer-using staff that complete annual information security awareness training	new	n/a	100%	July 1-June 30	IT records	Number of completions/total number of required staff	1.1.1



*Table 7. Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>45</sup>	Total budgeted (% of funds available) <sup>46</sup>
<b>Goal 2</b>	<b>Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities</b>	<b>59 (55)</b>	<b>\$4,198,306 (18.78%)</b>
<b>Strategy 2.1</b>	<b><i>Provide food/feed safety oversight of South Carolina food manufactures, processors, and food distribution facilities through routine, risk-based, compliance inspections</i></b>	<b>4 (3.5)</b>	
Objective 2.1.1	Lead implementation plans for federal regulatory mandates such as Food Safety Modernization Act (FSMA), Manufactured Food Regulatory Program Standards, Animal Feed Regulatory Program Standards, and Country of Origin Labeling	1 (0.5)	
Objective 2.1.2	Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1 (1)	
Objective 2.1.3	Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1 (1)	
Objective 2.1.4	Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the United States Food and Drug Administrations' (FDA) FSMA Produce Safety Rule	1 (1)	
<b>Strategy 2.2</b>	<b><i>Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</i></b>	<b>8 (7)</b>	
Objective 2.2.1	Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program	1 (0.75)	
Objective 2.2.2	Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1 (0.25)	
Objective 2.2.3	Build a new metrology laboratory to meet the National Institute of Standards and Technology requirements for Echelon I metrology laboratory environments	2 (2)	
Objective 2.2.4	Perform calibrations within one month of a work order	4 (4)	
<b>Strategy 2.3</b>	<b><i>Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</i></b>	<b>21 (20)</b>	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>45</sup>	Total budgeted (% of funds available) <sup>46</sup>
Objective 2.3.1	Procure and deploy new large mass vehicles to provide service to large scale firms	1 (0.5)	
Objective 2.3.2	Perform routine inspections, consistent with policy, of 100% of firms annually under agency regulatory oversight	18 (18)	
Objective 2.3.3	Provide follow-up communication on 100% of consumer complaints	2 (1.5)	
<b>Strategy 2.4</b>	<b><i>Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i></b>	<b>26 (24.5)</b>	
Objective 2.4.1	Collaborate and ensure open communication with other agencies (e.g., Clemson, Department of Transportation, Department of Health and Environmental Control, Department of Revenue, Animal and Plant Health Inspection Service, Food Emergency Response Network [FERN], FDA, and United States Department of Agriculture) to perform routine and emergency testing	1 (0.5)	
Objective 2.4.2	Develop and install a new Laboratory Information Management System to enhance reporting and interface with FERN and FDA compliant databases	2 (1.5)	
Objective 2.4.3	Develop standard operating procedures and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1 (1)	
Objective 2.4.4	Have 100% staff attendance at all technical trainings and safety meetings	21 (20.5)	
Objective 2.4.5	Analyze official and submitted samples and communicate results within five business days	1 (1)	

Table 7.1. Performance measures associated with goal 2.

<u>Performance Measures associated with Goal 2<sup>47</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of seed inspections performed for Clemson University	new	n/a	350	July 1-June 30	Seed Lab records	Total number of seed inspections performed for Clemson	2.4.1, 2.4.3
Percent of consumer protection requests and complaints with same-day follow-up communication	100%	100%	100%	July 1-June 30	Inspection records	Number of consumer requests with same-day follow-up/total number of requests	2.3.3
Number of firms provided metrology laboratory services	new	381	400	July 1-June 30	Metrology Laboratory Report	Total number of firms provided laboratory services	2.2.1, 2.2.2, 2.2.3, 2.2.4
Percent of time action is taken on inferior petroleum samples	new	n/a	100%	July 1-June 30	Petroleum Lab records	Number of corrective actions taken/total number of fuel deemed inferior or contaminated	2.3.2, 2.3.3
Percent of time action is taken on mislabeled food products	new	n/a	100%	July 1-June 30	Food Safety Records	Number of corrective actions taken/Total number of food label submissions	2.1.1, 2.1.2, 2.1.3,
Percent of producers educated about produce safety rule under Food Safety Modernization Act (FSMA)	new	n/a	80%	July 1-June 30	Records and log from newly created agency FSMA department and Clemson University	Number of producers reached/total inventory of targeted producers	2.1.1, 2.1.4

*Table 8. Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products: agency's fiscal year 2016-17 strategic plan and resources allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>48</sup>	Total budgeted (% of funds available) <sup>49</sup>
<b>Goal 3</b>	<b>Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products</b>	<b>56 (49.15)</b>	<b>\$11,702,662 (52.35%)</b>
<b>Strategy 3.1</b>	<b><i>Expand Certified South Carolina branding and marketing efforts</i></b>	<b>7 (5.5)</b>	
Objective 3.1.1	Increase program membership by 5%	2 (2.5)	
Objective 3.1.2	Actively use social media to engage the public with at least two posts per day	1 (0.75)	
Objective 3.1.3	Grow agritourism operator participation in South Carolina programming by 5% and consumer traffic at those venues by 10%	3 (1.5)	
Objective 3.1.4	Conduct participant evaluation at all events to determine effectiveness and utilization	1 (0.75)	
<b>Strategy 3.2</b>	<b><i>Maximize Return on Investment of producer-led commodity boards through research, promotion and education</i></b>	<b>4 (2)</b>	
Objective 3.2.1	Use merchandising and commodity-specific promotions to increase sales of South Carolina products by 5% in retail food outlets and food service venues	1 (0.5)	
Objective 3.2.2	Fund research of new technologies, science and best management practices for production, packaging and processing	1 (0.5)	
Objective 3.2.3	Place more resources into export market analysis, access, and development	1 (0.5)	
Objective 3.2.4	Use cross-promotion of, and between, commodities to increase demand by 5%	1 (0.5)	
<b>Strategy 3.3</b>	<b><i>Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i></b>	<b>20 (17.9)</b>	
Objective 3.3.1	Identify and prioritize critical upgrades at all three State Farmers Market to ensure producers and consumers have safe and clean facilities	15 (14.5)	
Objective 3.3.2	Provide four training meetings for producers and community based markets to expand Supplemental Nutrition Assistant Program/Women, Infants Children usage of this program	1 (0.75)	
Objective 3.3.3	In conjunction with Clemson University Extension, update producer Good Agricultural Practice training and outreach efforts to increase certification by 5%	2 (1.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>48</sup>	Total budgeted (% of funds available) <sup>49</sup>
Objective 3.3.4	Provide technical assistance and funding to nine new schools and pre-schools	1 (0.5)	
Objective 3.3.5	Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1 (0.4)	
<b>Strategy 3.4</b>	<b><i>Provide daily market news reports and United States Department of Agriculture (USDA) quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i></b>	<b>25 (23.75)</b>	
Objective 3.4.1	Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4 (3.25)	
Objective 3.4.2	Produce and publish information daily and weekly through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2 (1.5)	
Objective 3.4.3	Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17 (17)	
Objective 3.4.4	Increase the diversity of USDA commodity certifications that agency inspectors can issue upon request	2 (2)	

Table 8.1. Performance measures associated with goal 3.

<u>Performance Measures associated with Goal 3<sup>50</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of Certified South Carolina members	1950	1870	1900	July 1- June 30	Member database; Updated monthly	Total of all Certified South Carolina members, including Certified South Carolina seafood	3.1.1
Number of attendees at Certified South Carolina events	235,400	181,132	190,000	July 1- June 30	Car counts, Ticket sales	Totaling number of attendees at agency events via car counts (2.2 PP per car as standard) and ticket sales for paid events	3.1.4
Certified South Carolina brand recognition	66%	n/a	66%	time in between periodic surveys	Statewide consumer survey	Total positive responses on consumer survey of target group sample	3.1.1
Percent of inspection staff able to provide full service to customers without restrictions	new	43%	100%	July 1- June 30	Inspection staff certifications	Number of full certified inspection staff/total number of inspection staff	3.4.4

*Table 9. Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders: agency's fiscal year 2016-17 strategic plan and resource allocation.*

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>51</sup>	Total budgeted (% of funds available) <sup>52</sup>
<b>Goal 4</b>	<b>Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders</b>	<b>17 (8.5)</b>	<b>\$147,643 (0.66%)</b>
<b>Strategy 4.1</b>	<b><i>Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i></b>	<b>5 (2.65)</b>	
Objective 4.1.1	Meet with ten current companies annually to encourage them to use more South Carolina agricultural products in their business processes	1 (0.65)	
Objective 4.1.2	Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1 (0.25)	
Objective 4.1.3	Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1 (0.5)	
Objective 4.1.4	Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1 (1)	
Objective 4.1.5	Perform an annual inventory analysis on agribusiness companies who are primed for expansion in South Carolina or the Southeastern United States	1 (0.25)	
<b>Strategy 4.2</b>	<b><i>Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i></b>	<b>3 (1)</b>	
Objective 4.2.1	Assess all industry policies before each legislative session by gathering input from a cross section of at least ten different producers	1 (0.4)	
Objective 4.2.2	Be an industry voice in communicating factual information to elected officials at the appropriate time	1 (0.2)	
Objective 4.2.3	Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1 (0.4)	
<b>Strategy 4.3</b>	<b><i>Provide credible and timely information to South Carolinians to increase awareness of agriculture</i></b>	<b>3 (1.1)</b>	
Objective 4.3.1	Update agency plan for crisis management and/or regulatory enforcement events	1 (0.1)	
Objective 4.3.2	Respond to 100 percent of website information requests within two business days	1 (0.25)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) <sup>51</sup>	Total budgeted (% of funds available) <sup>52</sup>
Objective 4.3.3	Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1 (0.75)	
<b>Strategy 4.4</b>	<b><i>Continue to foster external and internal communications as educational resources and enhanced customer service tools</i></b>	<b>6 (3.75)</b>	
Objective 4.4.1	Maintain a Market Bulletin subscription of 15,000	3 (2.5)	
Objective 4.4.2	Public Information staff should conduct visits with different program staff at least monthly	1 (0.25)	
Objective 4.4.3	Establish an accurate position on key issues and create consistent messaging across the agency	1 (0.5)	
Objective 4.4.4	Leverage paid media to get a higher return on investment	1 (0.5)	

*Table 9.1. Performance measures associated with goal 4.*

<u>Performance Measures associated with Goal 4<sup>53</sup>:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of website Public Information Requests answered within 2 days	99%	100%	100%	July 1- June 30	Estimate based on PI request records	Number of phone, email, and social media requests answered within 2 days/total number of requests	4.3.2
Market Bulletin subscription reach	16,000	15,894	15,600	July 1- June 30	Kelly Registration Systems	Total number of Market Bulletin subscribers	4.4.1
Number of agribusiness identified for prospective expansion or projects in South Carolina	6	87	75	July 1- June 30	Recruitment log; updated monthly	Totaling monthly number of contacts	4.1.1, 4.1.3, 4.1.4, 4.1.5
Earned media	new	479	500	July 1- June 30	Media tracking records; daily	Total number of all agency media mentions	4.3.3, 4.4.2, 4.4.3, 4.4.4



## *Performance*

Information on individual performance measures are listed in the previous section in Tables 6.1; 7.1; 8.1; and 9.1 for ease of comparison with the agency's goals.

Additionally, the **Program Evaluation Report requests information about the entities the agency views as top in performance areas similar to the agency.**<sup>54</sup> Based on the agency's mission and strategic plan, there are three other entities, the agency considers the best in the country: (1) New Jersey Department of Agriculture (branding state agriculture products); (2) Florida Department of Agriculture & Consumer Services (branding state agriculture products and seafood regulation); and (3) North Carolina Department of Agriculture and Consumer Services (food safety program).

## STUDY PROCESS

### *Agency Selection*

The Department of Agriculture is an agency subject to legislative oversight.<sup>55</sup> During the 121<sup>st</sup> General Assembly,<sup>56</sup> the **Committee prioritizes the agency for study** by the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee on January 28, 2016.<sup>57</sup> When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development Transportation, and Natural Resources Subcommittee.<sup>58</sup>

The **Committee notifies the agency** about the study on February 4, 2016.<sup>59</sup> The notification letter is in Appendix A on page 49. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are notified about the agency study.<sup>60</sup>

### *Subcommittee Membership*

The **Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency.**<sup>61</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. During the 121<sup>st</sup> General Assembly, the Honorable Phyllis J. Henderson serves as chair, and during the 122<sup>nd</sup> General Assembly, the Honorable Ralph W. Norman serves as chair until he resigns from the General Assembly on February 16, 2017.<sup>62</sup> The Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presides at the remainder of the Subcommittee meetings with the agency. Members participating in the study of the agency are listed below:

- The Honorable Neal A. Collins (122<sup>nd</sup> General Assembly);
- The Honorable Laurie Slade Funderburk (122<sup>nd</sup> General Assembly);
- The Honorable Phyllis J. Henderson (121<sup>st</sup> General Assembly);
- The Honorable Ralph W. Norman (121<sup>st</sup> and 122<sup>nd</sup> General Assembly);
- The Honorable Mandy Powers Norrell (122<sup>nd</sup> General Assembly);
- The Honorable Robert L. Ridgeway, III (121<sup>st</sup> and 122<sup>nd</sup> General Assembly); and
- The Honorable Samuel Rivers, Jr. (121<sup>st</sup> General Assembly).

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct a self-analysis** by requiring it to complete and submit a Seven-Year Plan for cost savings and increased efficiencies; annual Restructuring Reports, and a Program Evaluation Report. These reports are available to the public on the Committee's website.

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

S.C. Code of Laws § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period.”<sup>63</sup> The agency submits its plan on March 11, 2015.<sup>64</sup>

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”<sup>65</sup> The **agency submits Annual Restructuring Reports** on March 11, 2015, January 12, 2016, and September 15, 2016.<sup>66</sup> The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Restructuring Report.<sup>67</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee."<sup>68</sup> SC Code of Laws § 2-2-60 outlines what an investigating committee's request for a program evaluation report (PER) must contain. It also provides a list of information an investigating committee may request. The agency’s PER includes information in the following areas: history, structure, strategic plan, programs, strategic allocation of resources, performance measures, comparisons to other agencies, and recommendations.

The **PER serves as the base document for the Subcommittee’s study of the agency.** The Committee sends guidelines for the agency’s PER on May 16, 2016.<sup>69</sup> The agency submits the report on August 24, 2016 and updates the report on December 30, 2016.<sup>70</sup>

### *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee’s process.**<sup>71</sup> Members of the public are provided an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee website, and appear in person before the Subcommittee.<sup>72</sup>

### *Public Survey*

From May 1, 2016, to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Agriculture** and four other agencies.<sup>73</sup> Members of the public are able to participate anonymously in a public survey about the agency. In an effort to communicate this public input opportunity widely, a statewide media release is issued about the public survey on April 29, 2016.<sup>74</sup> House Members are provided copies of this media release and are encouraged to share notice of this public input opportunity with their constituents.<sup>75</sup>

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.<sup>76</sup> These comments are not considered testimony.<sup>77</sup> As noted in the survey, "input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>78</sup> Documents related to the public survey are in Appendix B on page 52. The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>79</sup>

Of those that respond to questions related to the Department of Agriculture, 72% have a positive or very positive opinion of the department.<sup>80</sup> Over 68% of respondents form their opinions via personal or business experience with the agency or from media coverage.<sup>81</sup>

Written comments about the agency are provided by 23 survey participants; often, these comments address more than one topic. Many of the written comments address the agency's customer service and the farmers market.<sup>82</sup> Responses to online surveys are posted on the Committee's webpage verbatim as they are received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

### *Public Input via Committee Website*

Throughout the course of the study, the public is able to submit comments anonymously on the Committee website. No public input is received through this communication method with the Committee.

### *Public Input via In-Person Testimony*

The Committee offers the public an opportunity to appear and provide sworn testimony. A meeting dedicated to public input is held on July 6, 2016.<sup>83</sup> A press release announcing this opportunity is sent to media outlets statewide on June 28, 2016.<sup>84</sup> No public testimony is received about the agency during the meeting. Additionally, the chair of either the Committee or Subcommittee has the discretion to allow the testimony about the agency during meetings.

### *Meetings Regarding the Agency*

The full Committee meets once about the agency, and the Subcommittee meets either with or about the agency on nine occasions. A timeline of meetings is in Figure 2 on page 8. Meeting minutes and archived videos of meetings are available online.<sup>85</sup>

#### *121<sup>st</sup> General Assembly (2015-2016)*

##### **January 2016**

On January 28, 2016, the Committee **meets and prioritizes the Department of Agriculture** for study.<sup>86</sup> Appendix C includes the meeting packet on page 149.

## April 2016

On April 28, 2016, the Subcommittee holds **Meeting #1**, an entry meeting, to discuss **procedural issues and receive a brief overview of the agency's operations** from the Commissioner of Agriculture.<sup>87</sup> Appendix D includes the meeting packet on page 177.

## July 2016

On July 6, 2016, the Subcommittee holds **Meeting #2** to offer an **opportunity for the public to provide testimony about the agency**.<sup>88</sup> No testimony is received. The Commissioner of Agriculture provides information on the **agency's history, mission, and its key partners**. Following the meeting, the Subcommittee requests information on the following: (1) overview of relationships with South Carolina State University Public Service Activities; (2) information about pivot irrigation systems; (3) copies of studies mentioned during the meeting; and (4) recommendations the agency may have for revisions to laws for consideration as part of the study.<sup>89</sup> The agency responds to these requests on September 2, 2016.<sup>90</sup> Appendix E includes the meeting packet on page 254.

## October 2016

On October 31, 2016, the Subcommittee holds **Meeting #3** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) impact of Hurricane Matthew to the agency and agriculture in the state; (2) structure, funding, staffing, and procurement for commodity boards; and (3) the structure and history of the Agriculture Commission**.<sup>91</sup> Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission appointment process; and (2) commodity board staffing and fee assessments.<sup>92</sup> The Commissioner responds to these questions. Appendix F includes the meeting packet on page 312.

## *122<sup>nd</sup> General Assembly (2017-2018)*

### January 2017

On January 26, 2017, the Subcommittee holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly.<sup>93</sup> Appendix G includes the meeting packet on page 352.

### February 2017

On February 16, 2017, the Subcommittee holds **Meeting #5** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) the agency's program structure, and (2) the agency's strategic plan**.<sup>94</sup> Subcommittee members question the Commissioner about the following topics: (1) state aid package to assist farmers, meeting certain criteria, affected by the October 2015 historic flood; (2) agency's budget requests; and (3) the relationship between the state's agricultural production and consumption. The Commissioner responds to these questions. Appendix H includes the meeting packet on page 379.

## May 2017

On May 2, 2017, the Subcommittee holds **Meeting #6** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>95</sup> The Commissioner of Agriculture provides information about the following topics: **(1) successes; (2) challenges; (3) emerging issues; (3) strategic plan objectives; (4) implementation of Legislative Audit Council’s recommendations relating to the State Farmers Market; and (5) the “50 by 20” ten-year goal for South Carolina agriculture [i.e., agribusiness industry flow \$50 billion in the state’s economy by 2020].** Subcommittee members question the Commissioner about the following topics: (1) federal Food Safety Modernization Act; (2) farming profession; (3) surface water withdrawal; (4) farmers market; (5) commodity boards and the procurement code; and (6) marketing and economic development. The Commissioner of Agriculture responds to these questions. Following the meeting, the Subcommittee requests information on the following: (1) the federal Food Safety Modernization Act; and (2) commodity boards and procurement.<sup>96</sup> The agency responds to the Subcommittee’s request on June 6, 2017.<sup>97</sup> Additionally, the agency and the Department of Health and Environmental Control provide the Subcommittee with information relating to the agency’s recommendations for statutory changes.<sup>98</sup> Appendix I includes the meeting packet on page 397.

## June 2017

On June 15, 2017, the Subcommittee holds **Meeting #7** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.<sup>99</sup> The Commissioner of Agriculture provides information about the **agency’s recommendations** for revisions to laws relating to the agency. Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission; (2) model feed law proposed by the American Association of Feed Control Officials; (3) laboratory analysis performed by the agency; (4) agency’s regulation of petroleum dispensers; (5) food inspection; (6) salvaged food; (7) electronic warehouse receipts for cotton; and (8) licensure requirements to sell eggs. The Commissioner of Agriculture, Assistant Commissioner for Consumer Protection, and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee requests information about the agency’s recommendations.<sup>100</sup> Appendix J includes the meeting packet on page 485.

On June 22, 2017, the Subcommittee holds **Meeting #8, a work session to further discuss the agency’s recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>101</sup> Following the meeting, the Subcommittee sends a letter to the agency requesting information relating to its recommendations.<sup>102</sup> Appendix K includes the meeting packet on page 550.

## July 2017

On July 10, 2017, the Subcommittee holds **Meeting #9, a work session to further discuss the agency’s recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.<sup>103</sup> Subcommittee members question agency representatives about the agency’s recommendations. The Assistant Commissioner for Consumer Protection and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee sends a letter to the agency.<sup>104</sup> Appendix L includes the meeting packet on page 676.

## *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee members may provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to (1) refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.<sup>105</sup> The Committee Chair may provide briefings to the public about the final oversight study.<sup>106</sup>

To support the Committee's ongoing oversight by maintaining current information about the Department of Agriculture, the agency receives an annual Request for Information.

# RECOMMENDATIONS

## *General Information*

The following **recommendations include areas identified for potential improvement by the Subcommittee.** The **Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple Subcommittee meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency can all be found on the Committee's website.

### *Continue*

The **Subcommittee does not have any specific recommendations with regards to continuance of agency programs.**

## Curtail (i.e. Revise)

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1 on page 8.

### *Recommendation to Modernize Law Relating to the Commissioner of Agriculture*

1. **The Subcommittee recommends the General Assembly consider removing the bond (\$50,000) requirement of the Commissioner of Agriculture.** The chief executive officer of the agency is the Commissioner of Agriculture, an elected state constitutional officer.<sup>107</sup> If a vacancy occurs in the office, the Governor appoints a successor to fill the unexpired term.<sup>108</sup> State statutes provide general qualifications for the office and outline specific duties for the Commissioner. The general qualifications include “a competent knowledge of agriculture, manufacturing and general industries, commerce, chemistry, and publicity.”<sup>109</sup> A variety of other duties of the Commissioner are referenced in statute, and one of those duties includes the posting of a bond.<sup>110</sup>

The bond requirement has not been updated in more than 60 years.<sup>111</sup> During the study process, the Commissioner of Agriculture testifies 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>112</sup> A summary of the recommendation is in Table 10.

**Table 10. Summary of recommendation to modernize law relating to the Commissioner of Agriculture (bond).**

Statute or Regulation	SECTION 46-3-50. Bond
Explanation of Revision	1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
Recommended Language	<p><del>SECTION 46-3-50. Bond.</del></p> <p>The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.</p> <p>HISTORY: 1962 Code Section 3-3-1; 1954 (48) 1566.</p>

### *Recommendations to Modernize Laws Relating to the Agriculture Commission*

2. **The Subcommittee recommends the General Assembly consider limiting service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.** The Agriculture Commission is composed of one member from each judicial circuit and one member from the state at large appointed by the Governor who serves as chair; the Commissioner of Agriculture serves ex officio.<sup>113</sup> According to information from the South Carolina Secretary of State’s Office, **one judicial circuit has a vacancy on the**



Agriculture Commission; half of the sixteen judicial circuits have members on the commission who are serving in a hold-over capacity with expired terms, including one that expired a quarter of a century ago.<sup>114</sup> A summary of the recommendation is in Table 11.

*Table 11. Summary of recommendation to modernize law relating to the Agriculture Commission (service in a hold-over capacity).*

Statute or Regulation	<b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.
Explanation of Revision	2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
Recommended Language	<p><b>SECTION 46-5-10.</b> Commission created; membership; terms; officers; election of members; vacancies; meetings.</p> <p>There is created the Agriculture Commission of South Carolina, to be composed of one member from each judicial circuit and one member from the State at large who shall be designated chairman. The Commissioner of Agriculture shall be a member, ex officio, but without the power to vote. All terms shall be for four years, except that of the chairman, who shall be appointed by the Governor and whose term shall be coterminous with the office of the Governor appointing. <u>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.</u> The chairman shall be an agricultural producer or grower of agricultural products. The member representing a judicial circuit shall be elected by the legislative delegations representing the circuit. Representation on the Commission shall be rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit. The Commissioner of Agriculture shall serve as secretary to the Commission. No one shall be appointed or elected who should attain the mandatory retirement age prior to the expiration of his term.</p> <p>The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Commission to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as a member of the Agriculture Commission of South Carolina. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office.</p> <p>Any vacancy shall be filled in the manner as prescribed herein by election by the legislative delegations of the judicial circuit for the unexpired portion of the term.</p> <p>The Commission shall meet on the call of the chairman or a majority of the members.</p>

A list of the current members on the Agriculture Commission is in Table 12.

*Table 12. Agriculture Commission current members.*

Position	Current Members	Appointed Date	Expiration Date
1st Judicial Circuit	Shirer, Michael Perry	2/4/2015	12/31/2018
<b>2nd Judicial Circuit</b>	McElmurray, Thomas W.	10/21/1987	10/21/1991
<b>3rd Judicial Circuit</b>	VACANT		
4th Judicial Circuit	Robeson, Robert Barton	5/7/2015	12/31/2019
5th Judicial Circuit	Lanham, J. Thomas	9/16/2013	9/16/2017
<b>6th Judicial Circuit</b>	Barfield, Douglas A. Jr.	2/14/1997	2/14/2001
<b>7th Judicial Circuit</b>	Gramling, Ben M. II	3/1/2007	3/1/2011
8th Judicial Circuit	Abercrombie, Billy Ray	1/13/2015	1/13/2019
9th Judicial Circuit	West, Steven Carolye	12/2/2014	12/31/2018
<b>10th Judicial Circuit</b>	Harris, John Robert	1/23/2013	1/23/2017
<b>11th Judicial Circuit</b>	Carr, Chalmers	5/2/2001	5/2/2005
<b>12th Judicial Circuit</b>	Gibson, Michael	3/28/2008	3/28/2012
<b>13th Judicial Circuit</b>	Looper, Franklin	6/30/1995	6/30/1999
<b>14th Judicial Circuit</b>	Sanders, Ross "Mac" Jr.	2/3/2004	2/3/2005
15th Judicial Circuit	Andrew, J. Benjie	2/8/2011	2/8/2015
<b>16th Judicial Circuit</b>	Hicks, Lewis W.	1/30/1994	1/30/1998
At Large	Price, Frances	3/10/2011	
Ex Officio	Commissioner of Agriculture		

*Table Note: Judicial circuits with either a vacancy or members with expired terms are in bold print.*

**3. The Subcommittee recommends the General Assembly consider removing statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.** Various Attorney General Opinions over the years have examined the relationship between the Commission and the Department of Agriculture and have opined that the Commissioner of Agriculture is the governing entity of the Department of Agriculture.<sup>115</sup>

On October 31, 2016, the Commissioner of Agriculture testifies the current responsibilities of the Agriculture Commission include: overseeing the administration of the South Carolina Agricultural Commodities Marketing Act; issuing, amending, or terminating marketing agreements or orders to produce the intended effects; and maintaining the required records, issuing notices, conducting hearings, and ensuring growers have the opportunity to participate in referendums.<sup>116</sup> A summary of the recommendation is in Table 13.

*Table 13. Summary of recommendation to modernize law relating to the Agriculture Commission (powers).*

Statute or Regulation	SECTION 46-5-10. Powers.
Explanation of Revision	3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.
Recommended Language	The Commission shall have the power to:  <del>(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.</del> <del>(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.</del> <del>(3) (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.</del> <del>(4) (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.</del> <del>(5) (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.</del>

### *Recommendations to Improve Customer Service*

4. The Subcommittee recommends the General Assembly consider adopting the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.<sup>117</sup> During the study process, the Commissioner of Agriculture testifies the current feed law has been in place for half a century and places consumers and feed mills at a disadvantage.<sup>118</sup> Among other things, agency representatives testify this proposal: requires registration of facilities with the agency to facilitate recalls and pre-emptive measures to address food borne outbreaks, animal welfare and other potential issues prior to an event occurring.<sup>119</sup> Assistant Commissioner for Consumer Protection testifies adoption of this model law increases efficiencies for the agency more efficient and industry.<sup>120</sup> A summary of the recommendation is in Table 14.

*Table 14. Summary of recommendation to improve consumer services (model feed law).*

Statute or Regulation	S.C. Code of Laws 36-25-210 and 40-7-1
Explanation of Revision	4. Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
Recommended Language	The full text of the proposed language is 160 pages long and is available online for review and in Appendix M on page 731.

5. The Subcommittee recommends the General Assembly consider authorizing an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for "those persons or firms wishing to manufacture, prepare, repack or sell foods to the public."<sup>121</sup> An average of 200 new businesses apply yearly for a registration verification certificate.<sup>122</sup> The process for issuing a registration verification certificate to a business includes a review of business plans, certifications, training, and labels by the Department of Agriculture, and the agency conducts product analysis as part of this process.<sup>123</sup> Currently, there is no fee to offset the cost of administration for issuing a registration verification certificate. The

agency estimates the proposal for an application fee (\$25) generates approximately \$5,000 annually and estimates the tiered annual revenue (i.e., fee based on risk/length of inspection and size of firm) generates \$157,400.<sup>124</sup> With these proposed revenue streams, the agency may hire three to four additional inspectors at entry level salaries (including fringe).<sup>125</sup> A summary of the recommendation is in Table 15.

**Table 15. Summary of recommendation to improve consumer services (registration verification certificate).**

Statute or Regulation	<b>SECTION 39-25-210.</b> Persons subject to inspection pursuant to this chapter; registration requirements; exceptions; annual renewal; civil and criminal penalties.
Explanation of Revision	5. Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” <sup>126</sup>
Recommended Language	<p>(A) A person subject to inspection pursuant to this chapter may not engage in the business of manufacturing, processing, warehousing, or packaging food in any manner without first registering with the department. This section shall not apply to facilities inspected and regulated by the United States Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter on or before the first day of January on forms provided by the department.</p> <p>(B) A person who willfully violates the provisions of this section is subject to a civil penalty of up to one thousand dollars for each violation as determined by the department. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.</p> <p><u>(C) Ability to Operate under Registration Verification Certificate (RVC)</u></p> <p><u>(1)- Prerequisite for operation. A person may not operate a food establishment without a valid Registration Verification Certificate (RVC) issued by the Department</u></p> <p><u>(2)- Form of Submission. A person desiring to engage in a food business regulated by the department shall submit to the Department a written application for a RVC on a form provided by the Department. Fee for this application is \$25.</u></p> <p><u>(D) The Commissioner shall charge annually the following fees for the RVC issued pursuant to the establishment and product type. The fee structure shall be based on the level of risk, employee size, procedural effort and inspection time needed for each food manufacturer establishment. Tier 1 - \$100.00 Tier 2 \$200.00 Tier 3- \$300.00. The RVC shall be renewed annually on July 1. Registration Fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.</u></p>

6. The Subcommittee recommends the General Assembly consider requiring businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.

7. The Subcommittee recommends the General Assembly consider authorizing a registration fee per dispenser (\$5) for businesses dispensing petroleum products.

8. The Subcommittee recommends the General Assembly consider enforcing a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.

While the Department of Agriculture regulates the dispensing of petroleum products (e.g., liquid petroleum gas; natural gas; diesel; kerosene; aviation fuel; and home heating oil), under existing law there is no statutory requirement or enforcement mechanism for a business dispensing petroleum products to register with the agency. Registration is voluntary. The Assistant Commissioner for Consumer Protection testifies registration allows the agency to verify the accuracy of pumps and dispensers prior to a business selling products to the public.<sup>127</sup> The agency estimates a registration fee of \$5 per dispenser (66,000) generates \$330,000 for more inspectors; more testing equipment; and better response time for complaints and accountability.<sup>128</sup> The agency requests authorization to administer a tiered monetary penalty for

repeat violators and habitual offenders that inaccurately advertise cash/ credit prices and/or have repeat dispenser issues (i.e., shorting the consumer). A summary of the recommendations are in Table 16.

*Table 16. Summary of recommendations to improve consumer services (petroleum).*

Statute or Regulation	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p>
Explanation of Revision	<p>6. Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.</p> <p>7. Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.</p> <p>8. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers</p>
Recommended Language	<p><b>SECTION 39-41-10.</b> “Petroleum” and “petroleum product” defined.</p> <p>“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.</p> <p>A. <u>Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.</u></p> <p>B. <u>One dispenser registration permit shall be issued to each location for all liquid measuring devices at that location based on the total number of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be five dollars per dispenser, regardless of the number of products or hoses on that dispenser.</u></p> <p><b>SECTION 39-41-150.</b> Issuance of rules and regulations.</p> <p>The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.</p> <p><u>(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.</u></p>

### *Recommendations to Reduce Restrictions on Businesses*

9. The Subcommittee recommends the General Assembly consider removing reference in statute to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer). A cottage food operation is a home-based food operation in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer.<sup>129</sup> The Department of Agriculture does not regulate retail food sales to the end consumer in South Carolina as this is under the

authority of the Department of Health and Environmental Control's (DHEC) Food Protection Division.<sup>130</sup> DHEC supports this revision.<sup>131</sup> A summary of the recommendation is in Table 17.

**Table 17. Summary of recommendation to reduce restrictions on businesses (home-based food operations).**

Statute or Regulation	<b>SECTION 44-1-143.</b> Requirements for home-based food production operations.
Explanation of Revision	9. Remove reference in statute to the agency's involvement with the "cottage law," which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer).
Recommended Language	<p>(A) For the purposes of this section:</p> <p>(1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.</p> <p>(2) "Nonpotentially hazardous foods" are candy and baked goods that are not potentially hazardous foods.</p> <p>(3) "Person" means an individual consumer.</p> <p>(4) "Potentially hazardous foods" includes:</p> <p>(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;</p> <p>(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:</p> <p>Aw values pH values 4.6 or less &gt; 4.6-5.6 &gt; 5.6 (1) &lt; 0.92 non-PHF non-PHF non-PHF (2) &gt; 0.92-0.95 non-PHF non-PHF PHF (3) &gt; 0.95 non-PHF PHF PHF</p> <p>Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.</p> <p>(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:</p> <p>(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;</p> <p>(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;</p> <p>(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;</p> <p>(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by</p>

food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

- (1) department-approved water supply;
- (2) a separate storage place for ingredients used in foods intended for sale;
- (3) a properly functioning refrigeration unit;
- (4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;
- (5) adequate facilities for the storage of utensils and equipment;
- (6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;
- (7) a properly functioning toilet facility;
- (8) no evidence of insect or rodent activity; and
- (9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

- (1) the name and address of the home-based food production operation;
- (2) the name of the product being sold;
- (3) the ingredients used to make the product in descending order of predominance by weight; and
- (4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE-PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

HISTORY: 2012 Act No. 190, Section 1, eff June 7, 2012.

10. The Subcommittee recommends the General Assembly consider modernizing the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). According to the agency, the 2012 census of Agriculture notes 300,036 acres of cotton (587,589 bales) in the state. S.C. Code of Laws Section 39-22-110 requires identification tags placed on cotton bales accepted for storage in a warehouse operated under the state warehouse system. New tags are placed on the bale as it goes to a new gin, even though there are electronic receipts which reflect the location of the cotton bale.<sup>132</sup> A summary of the recommendation is in Table 18.

*Table 18. Summary of recommendation to reduce restrictions on businesses (cotton warehouse receipts).*

Statute or Regulation	SECTION 39-22-110. Required identification tags on bales.
Explanation of Revision	10. Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)
Recommended Language	Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. <u>The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.</u>

11. The Subcommittee recommends the General Assembly consider revising state egg law (i.e., exempt United States Department of Agriculture (USDA) graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration). It is unlawful to sell unlabeled and ungraded eggs at a location other than a farm.<sup>133</sup> For other locations, the sale of eggs requires licensure by the Department of Agriculture, and, currently, there is no fee to offset the cost of administration for licensure.<sup>134</sup> As state law does not authorize licensure of quail eggs, local producers must obtain quail eggs outside of South Carolina.<sup>135</sup> According to the agency, this recommendation reduces restrictions on businesses (1) by exempting USDA-graded facilities from obtaining a state license, and (2) authorizing producers to sell up to 30 dozen eggs per week to the end consumer away from the farm without licensure.<sup>136</sup> Notably, the recommendation includes authorization for a fee not to exceed ten dollars for licensure.<sup>137</sup> A summary of the recommendation is in Table 19.

*Table 19. Summary of recommendation to reduce restrictions on businesses (eggs).*

Statute or Regulation	Title 39 (Trade and Commerce), Chapter 39 (Eggs and Baby Chicks)
Explanation of Revision	11. Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration).



Recommended  
Language**Section 39-39-110.** Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
  - (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
  - (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
  - (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
  - (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
  - (6) "South Carolina eggs" means eggs produced in this State.
  - (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
  - (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to ~~consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.~~
  - (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
  - (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
  - (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
  - (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.  
(New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75.  
(New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-120.** Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, producers, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. ~~The license must be issued at no cost and in a form prescribed by regulations promulgated by the department.~~ The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-121.** Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. ~~There is no fee for this license.~~

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-135.** Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-140.** Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act ~~not less than two inches by four inches or not less than eight square inches on one end of each case~~. On this label must be printed or stamped, legibly in letters ~~not less than one-fourth of an inch in size~~, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin may be given.~~ If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The state of origin also may be given.~~

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type

and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-141.** Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, ~~not less than eight by eleven inches~~, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters ~~not less than one inch in height~~, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The name of the state of origin of eggs may appear on the placard.

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provide to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-150.** Unlawful acts.

(1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;

(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.

(2) use the word "nulaid", "country", "hennery", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;

(3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;

(4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";

(5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-170.** Exemptions.

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;

- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.
- (4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.
- (5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.
- (6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

**SECTION 39-39-180.** Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

## INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.<sup>138</sup>

## ADDITIONAL INFORMATION OF INTEREST

During the study process, the Subcommittee receives materials of interest to the agency. These materials include: (1) April 28, 2016, Attorney General Opinion<sup>139</sup> that commodity boards are not subject to the State Procurement Code, and (2) agency's draft language for modernizing salvage food<sup>140</sup> (e.g., dented cans) regulations. Both documents are available online.

## SELECTED AGENCY INFORMATION

**Department of Agriculture. "Program Evaluation Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 25, 2017).

**Department of Agriculture. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed May 25, 2017).

**Department of Agriculture. "Annual Restructuring Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed May 25, 2017).

**Department of Agriculture. "Agency Accountability Report, 2015-2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 25, 2017).

**SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 25, 2017).

## CONTACT INFORMATION

### Committee Contact Information

Physical:

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1105 Pendleton Street, Blatt Building Room 228

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You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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## ENDNOTES

<sup>1</sup> Visual Summary Figure 1 is compiled from information in the Department of Agriculture study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Agriculture"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017).

<sup>2</sup> *SC Code of Laws*, § 2-2-20(C).

<sup>3</sup> The Subcommittee's name during the 121<sup>st</sup> General Assembly is the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development, Transportation, and Natural Resources Subcommittee.

<sup>4</sup> Department of Agriculture, under "Divisions," under "Consumer Protection"  
<http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 26, 2017).

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Public Survey & Public Input via LOC webpage,"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20SIC.PDF> (accessed July 26, 2017). Hereinafter, "May 2016 Public Survey Results." See Comment #18 received on May 14, 2016, 6:03 p.m. on page 8. SC House of Representatives, House Legislative Oversight Committee, "History, Mission, Vision, and Key Partners presentation provided by the Department of Agriculture (July 6, 2016)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "History Presentation - July 6, 2016".

<sup>6</sup> SC House of Representatives, House Legislative Oversight Committee, “April 28, 2016 Attorney General Opinion,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” and under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “April 28, 2016 Attorney General Opinion.”

SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture's Proposed Revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics)” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture's Proposed Revisions to Regulation 5-360.”

<sup>7</sup> Act 104 of 1879.

<sup>8</sup> *Ibid.* at section 22. The one-time appropriation figure was adjusted for inflation from the nominal figure of \$5,000 using the Consumer Price Index (Urban).

<sup>9</sup> South Carolina, Department of Agriculture, *First Annual Report of the Commissioner of Agriculture of the State of South Carolina* (Charleston, SC: Walker, Evans & Cogswell, 1880), 64. The carried forward balance was calculated by adding the balance of the one-time appropriation to the Department of Agriculture in 1879, and the amounts received by the agency from taxes collected on commercial fertilizers and fees received from land registrations, and then adjusting the resulting nominal sum of \$17,435.20 for inflation using the Consumer Price Index (Urban).

<sup>10</sup> *Ibid.* at pages 3-4. Though the names are similar, Commissioner Butler was not Andrew Pickens Butler, the South Carolina native who served as a member of the United States House of Representatives and as a state judge.

<sup>11</sup> Act 185 of 1981. On July 6, 2016, the Commissioner of Agriculture testifies “twelve other states have an elected Commissioner.”

<sup>12</sup> History Presentation – July 6, 2016 at slide 4.

<sup>13</sup> *Ibid.* at slide 9. Agencies with responsibilities originally housed at the agency include: Clemson Regulatory Services; State Veterinarian’s Office; Department of Labor, Licensing and Regulation; Department of Health and Environmental Control; Forestry Commission; Department of Revenue; State Law Enforcement Division; and Department of Natural Resources (Land Resources, Geological Survey, Wildlife and Marine Resources).

<sup>14</sup> *Ibid.* The current name was established in 1941.

<sup>15</sup> Act 259 of 1904.

<sup>16</sup> *Ibid.* at section 2.

<sup>17</sup> Act 4 of 1909. Act 124 of 1909.

<sup>18</sup> Act 871 of 1936.

<sup>19</sup> *Ibid.*

<sup>20</sup> Act 93 of 1941.

<sup>21</sup> Act 758 of 1960.

<sup>22</sup> History Presentation - July 6, 2016 at slide 10.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* at slide 11.

<sup>25</sup> *Ibid.* at slide 12.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Department of Agriculture, “Introduction to the Agency PowerPoint provided by the Department of Agriculture during the agency’s entry meeting with the Subcommittee (April 28, 2016),” under “Citizen’s Interest,” under “House Legislative Oversight Committee’s Posting and Reports,” under “Department of Agriculture”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/April%2028,%202016%20-%20Department%20of%20Agriculture%20Presentation%20to%20Subcommittee.pdf>

(accessed October 24, 2016). Commissioner Hugh E. Weathers noted in his presentation to the Subcommittee that the agribusiness total includes forestry, and some federal agencies do not recognize forestry as an agriculture.

Commissioner Weather’s comments on this issue begin at 24:36 in the archived video of the subcommittee’s April 28, 2016, meeting available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>30</sup> Department of Agriculture, "About" <https://agriculture.sc.gov/about/> (accessed July 27, 2017). On April 28, 2016, in response to a question as to what are the state's top crops, the Commissioner of Agriculture testifies "Some federal agencies do not count timber as a crop, and I do. When I sell timber, get a check, and it clears the bank, I have sold a crop. Timber is one of our larger numbers around 800 million dollars. Our largest has become poultry. We no longer include tobacco. Peaches barely make the top 10. Anderson County is the largest beef producing county. Horticulture crops were second as of 2008 and 2009, but with the recession that field died." See 24:37 archived video of the April 28, 2017 Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee meeting.

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "Updated Agency PER (December 30, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/SCDA%20PER%2012.30.16.pdf> (accessed July 24, 2017). See Daily Operations Programs Chart at page 4 under "Updated Agency PER." Hereinafter, "Updated Agency PER (December 30, 2016)".

<sup>32</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report Guidelines," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20\(June%202020,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20(June%202020,%202016).pdf) (accessed July 26, 2017).

<sup>33</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed July 24, 2017), See Customer Template.

<sup>34</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 29.

<sup>35</sup> Ibid.

<sup>36</sup> Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (accessed July 21, 2017).

Updated Agency PER (December 30, 2016). See Strategic Spending 2015-16 Chart, Employee Allocation by Objective 2016-17 Chart, and Strategic Budgeting 2016-17 Chart.

<sup>37</sup> The methodology the agency utilizes includes operational and employee costs related to each objective. The expenditures (less employee costs) of each division are analyzed to determine if any cost is associated completely with one objective. If so, that cost is charged entirely to that objective. The remaining costs for the division are multiplied by a percentage based on the objectives related to that division. Likewise, employee cost and fringes are analyzed to ascertain if any one employee or group of employees are associated with a single objective and if so, their salary and fringes are charged to that objective. For example, the agency's investigator spends his entire time working toward Objective 3.2.2 (audit field records to ensure matched with Certification records) even though his position is associated with the Director's office. The remaining employees' salaries and fringes are then charged percentage-wise to the appropriate objectives. The operational costs and employee and fringe costs are added together to determine the total amount spent on each objective.

<sup>38</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>39</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>40</sup> Ibid. See page 3, response to question 11.

<sup>41</sup> Ibid. See page 3, response to question 10. Agency's carryforward amounts include: 2011-12: \$1,757,450; 2012-13: \$2,472,562; 2013-14: \$4,712,809; 2014-15: \$5,426,456; 2015-16: \$5,382,093.

<sup>42</sup> Ibid. See Employee Allocation by Objective 2016-17 Chart.

<sup>43</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>44</sup> 2015-16 Accountability Report. See Performance Measurement Template.

<sup>45</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>46</sup> Ibid. See Strategic Budgeting 2016-17 Chart.



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- <sup>47</sup> 2015-16 Accountability Report. See Performance Measurement Template.
- <sup>48</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.
- <sup>49</sup> Ibid. See Strategic Budgeting 2016-17 Chart.
- <sup>50</sup> 2015-16 Accountability Report. See Performance Measurement Template.
- <sup>51</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.
- <sup>52</sup> Ibid. See Strategic Budgeting 2016-17 Chart.
- <sup>53</sup> 2015-16 Accountability Report, See Performance Measurement Template.
- <sup>54</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 28.
- <sup>55</sup> *SC Code of Laws* § 2-2-10(1).
- <sup>56</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed July 26, 2017).
- <sup>57</sup> SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016- Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf> (accessed July 26, 2017). Hereinafter, "January 28, 2016 - Meeting Minutes".
- <sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignment%20-%202017.pdf> (accessed July 26, 2017). Hereinafter, "Subcommittees - 2017".
- <sup>59</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Dept. of Agriculture (February 4, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Agriculture, Department of" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20\(Febuary%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20(Febuary%204,%202016).pdf) (accessed May 24, 2017).
- <sup>60</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - 2017 Summary - House Legislative Oversight Committee" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Committee Information," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20\(Updated%20July%2013,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20(Updated%20July%2013,%202017).pdf) (accessed July 27, 2017). Hereinafter, "Committee Timeline."
- <sup>61</sup> Subcommittees -2017.
- <sup>62</sup> SC House of Representatives, "Tuesday, February 21, 2017, House Journal," [http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result\\_pos=10&keyval=H12220170221&numrows=10#OCC1](http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result_pos=10&keyval=H12220170221&numrows=10#OCC1) (accessed July 26, 2017).
- <sup>63</sup> *S.C. Code of Laws* § 1-30-10.
- <sup>64</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 11, 2015)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed July 26, 2017). Hereinafter, "2015 - Agency ARR Seven-Year Plan".
- <sup>65</sup> *SC Code of Laws*, § 1-30-10.
- <sup>66</sup> 2015 - Agency ARR and Seven-Year Plan.  
SC House of Representatives, House Legislative Oversight Committee, "2016 - Agency ARR (January 12, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed July 26, 2017). 2015-16 Accountability Report.
- <sup>67</sup> 2015-16 Accountability Report.
- <sup>68</sup> *SC Code of Laws*, § 2-2-50.

<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report Guidelines (May 16, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%202016,%202016\)%20-%20Dept%20of%20Agriculture.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%202016,%202016)%20-%20Dept%20of%20Agriculture.pdf) (accessed May 24, 2017).

<sup>70</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER (August 24, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies” Hereinafter, “Agency PER (August 24, 2016)”.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 24, 2017). Updated Agency PER (December 30, 2016).

<sup>71</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>72</sup> SC House of Representatives, House Legislative Oversight Committee

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 19, 2017).

<sup>73</sup> May 2016 Public Survey Results.

<sup>74</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (April 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (accessed June 2, 2017).

<sup>75</sup> Committee Timeline (April 11, 2016).

<sup>76</sup> May 2016 Public Survey Results.

<sup>77</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (accessed July 19, 2017). Hereinafter, “Standard Practice.”

<sup>78</sup> May 2016 Public Survey Results.

<sup>79</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “House Legislative Oversight Committee,”

<https://www.research.net/r/ProvideInputtotheSCHouseLegislativeOversightCommittee?sm=AkgKjSlhdd%2fDwFDaMT4NxAh50lf%2fLkg2JrDglf%2fB%2f8%3d> (accessed July 26, 2017).

<sup>80</sup> May 2016 Public Survey Results at page 2.

<sup>81</sup> May 2016 Public Survey Results at page 3.

<sup>82</sup> May 2016 Public Survey Results at page 5.

<sup>83</sup> SC House of Representatives, House Legislative Oversight Committee, “July 6, 2016 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/July062016Minutes.pdf> (accessed May 24, 2017). Hereinafter, “July 6, 2016 - Meeting Minutes.”

<sup>84</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Input Meeting (June 28, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Public Survey & Public Input via LOC webpage,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20\(June%2028,%202016\)%20\(2\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20(June%2028,%202016)%20(2).pdf) (accessed May 24, 2017).

<sup>85</sup> SC House of Representatives, House Legislative Oversight Committee, “Economic Development, Transportation, and Natural Resources Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee Information,” under “Meeting Minutes and Handouts,”

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>86</sup> January 28, 2016 - Meeting Minutes. The agency replaces the Department of Employment of Workforce as the next agency to study.

<sup>87</sup> SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/April282016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>88</sup> July 6, 2016 - Meeting Minutes.

<sup>89</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (August 9, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20\(August%209,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20(August%209,%202016).PDF) (accessed July 27, 2017).

<sup>90</sup> Department of Agriculture, "Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(September%202,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(September%202,%202016).pdf) (accessed July 27, 2017).

<sup>91</sup> SC House of Representatives, House Legislative Oversight Committee, "October 31, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/October312016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "October 31, 2016 - Meeting Minutes."

<sup>92</sup> Ibid.

<sup>93</sup> SC House of Representatives, House Legislative Oversight Committee, "January 26, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/January262017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, "February 16, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/February162017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, "May 2, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/05.2.2017%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>96</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)," under "House Legislative Oversight Committee," under "Agriculture, Department of,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/5.3.17%20-%20Follow%20up%20letter%20to%20Department%20of%20Agriculture.pdf> (accessed July 27, 2017).

<sup>97</sup> Department of Agriculture, “Letter from Department of Agriculture to Legislative Oversight Committee (June 6, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(June%206,%202017\).pdf.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(June%206,%202017).pdf.pdf) (accessed July 27, 2017).

<sup>98</sup> SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture’s Recommended Statutory Changes” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture’s Recommended Statutory Changes Presentation (June 15, 2017).”

<sup>99</sup> SC House of Representatives, House Legislative Oversight Committee, “June 15, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/06.15.17%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “June 15, 2017 - Meeting Minutes.”

<sup>100</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee Letter to Department of Agriculture (June 16, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20\(June%2016,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20(June%2016,%202017).pdf) (accessed July 28, 2017).

<sup>101</sup> SC House of Representatives, House Legislative Oversight Committee, “June 22, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/June%2022,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>102</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to the Department of Agriculture (June 27, 2017)” under “House Legislative Oversight Committee,” under “Agriculture, Department of”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(June%2027,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(June%2027,%202017).pdf) (accessed July 27, 2017).

<sup>103</sup> SC House of Representatives, House Legislative Oversight Committee, “July 10, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

[Minutes are posted after approval at the next meeting]. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “July 10, 2017 - Meeting Minutes”.

<sup>104</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee letter to Department of Agriculture (July 12, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(July%2012,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(July%2012,%202017).pdf) (accessed July 27, 2017).

<sup>105</sup> Standard Practice 14.1.

<sup>106</sup> Standard Practice 14.2.

<sup>107</sup> Agency PER (August 24, 2016) at page 2. SC Const. Art. VI, §7.

<sup>108</sup> SC Code of Laws §46-3-40.

<sup>109</sup> SC Code of Laws §46-3-30.

<sup>110</sup> Other duties referenced in statute include: sale of marl or ground limestone (SC Code of Laws §46-3-90); arrangements for inoculating material and disposition of moneys derived from the sale of inoculating material (SC

*Code of Laws* §46-3-100 and 110); provide an annual report of the agency's work to the Governor and General Assembly *SC Code of Laws* (§46-3-140); enter into agreements with the United States government for conduct of aquatic plan control projects *SC Code of Laws* (§46-3-160); revocation of registrations or licenses issued; release of certain items from restraining orders *SC Code of Laws* §46-3-180 - 220); enforcement of regulations relating to food and drugs (*SC Code of Laws* §46-3-240); ability to sue and be sued *SC Code of Laws* (§46-3-170).

<sup>111</sup> Act 644 of 1954. This legislation actually reduced the bond of the Commissioner of Agriculture and limited his liability to not include losses incurred in bonded warehouses, except in the case of tort or neglect of duty on his part.

<sup>112</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>113</sup> *SC Code of Laws* §46-5-10.

<sup>114</sup> SC Secretary of State, "Agriculture Commission" [http://search.scsos.com/boards\\_commissions/default.aspx](http://search.scsos.com/boards_commissions/default.aspx) (accessed October 11, 2016). The Secretary of State's role with regards to boards and commissions is explained on its website. "Pursuant to S.C. Code of Laws §1-5-40, the Secretary of State's Office has a duty to monitor positions on state boards and commissions. The Secretary of State's Office must keep membership information for state boards and commissions as a public record available for inspection by the members of the General Assembly and members of the public. This information must include the term length, expiration date of the term, appointing authority, and any required qualifications for membership." (accessed July 25, 2017).

<sup>115</sup> 1999 WL 387055, at \*5 (S.C.A.G. May 3, 1999). Relevant excerpt: "The people have elected the Commissioner with the expectation that he, and he alone, will run the Department. The essential function of the Commissioner has always been to serve as the head of the Department of Agriculture which executes the laws and policies relating to agriculture in this State. Any interference by the Commission (or by the Legislature) in carrying out or diminishing the Commissioner's duties could now be deemed to contravene the Constitution in the same way that the Constitution was violated in the cases referenced above. Thus, the Commissioner's authority, pursuant to the South Carolina Constitution, must be deemed paramount to and controlling over any authority previously bestowed upon the Commission by statutes enacted prior to the constitutional amendment relating to the Commissioner of Agriculture."

<sup>116</sup> October 31, 2016 - Meeting Minutes. See 00:11:55: in the archived video.

<sup>117</sup> Department of Agriculture's Recommended Statutory Changes Presentation.

<sup>118</sup> June 15, 2017 - Meeting Minutes. Department of Agriculture's Recommended Statutory Changes Presentation. Agency PER (August 24, 2016).

<sup>119</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>120</sup> July 10, 2017 - Meeting Minutes. See 1:08:09 in the archived video.

<sup>121</sup> Department of Agriculture, "Food/Safety Compliance," under "Divisions," <http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 28, 2017). Hereinafter, "Department of Agriculture Food/Feed Safety Compliance website."

<sup>122</sup> SC House of Representatives, House Legislative Oversight Committee, "Correspondence from the Department of Agriculture about the agency's recommendations (July 10, 2017)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Other Materials" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20\(July%2010%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20(July%2010%202017).pdf) (accessed July 24, 2017). Hereinafter, "Agency Email."

<sup>123</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>124</sup> Agency Email.

<sup>125</sup> Currently, there are five inspectors.

<sup>126</sup> Department of Agriculture Food/Feed Safety Compliance website.

<sup>127</sup> June 15, 2017 - Meeting Minutes. See 29:14 in the archived video.

<sup>128</sup> Updated Agency PER (December 30, 2016).

<sup>129</sup> Clemson University Cooperative Extension, "South Carolina's Cottage Food Bill," <http://www.clemson.edu/extension/food/canning/canning-tips/18sc-cottage-food-bill.html> (accessed October 10, 2016).

<sup>130</sup> Updated Agency PER (December 30, 2016).

<sup>131</sup> Department of Health and Environmental Control, under "House Legislative Oversight Committee," under "Agriculture, Department of,"

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Health%20and%20Environmental%20Control%20Correspondence%20with%20Oversight%20Subcommittee%20on%20Cottage%20Law%20Recommendation.PDF> (accessed July 28, 2017).

<sup>132</sup> June 15, 2017 - Meeting Minutes. See 46:45 in the archived video.

<sup>133</sup> *Ibid.* at 51:12 in the archived video.

<sup>134</sup> *Ibid.* at 52:55 in the archived video. *SC Code of Laws* § 39-39-120.

<sup>135</sup> June 15, 2017 - Meeting Minutes. See 54:23 in the archived video.

<sup>136</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>137</sup> *SC Code of Laws* § 39-39-120.

<sup>138</sup> May 2016 - Public Survey Results. History Presentation - July 6, 2016.

<sup>139</sup> April 28, 2016 Attorney General Opinion.

<sup>140</sup> Department of Agriculture's Proposed Revisions to Regulation 5-360.



September 7, 2017

Chief Mark A. Keel  
Chair, Law Enforcement Training Council  
Post Office Box 21398  
Columbia, SC 29221

Director Lewis J. "Jackie" Swindler  
Criminal Justice Academy  
5400 Broad River Road  
Columbia, South Carolina 29212

Dear Chief Keel and Director Swindler:

On August 16, 2017, the Law Enforcement and Criminal Justice Subcommittee presented its study of the Law Enforcement Training Council and Criminal Justice Academy to the House Legislative Oversight Committee. In preparation for the next full Committee meeting scheduled for October 16, 2017, the purpose of this letter is to request additional information from the agency. Please provide this information by Friday, October 6, 2017.

***Records Management***

- Is the agency current with transferring records, including electronic ones, to the Department of Archives and History? If not, why?
- Please provide the Committee a copy of the agency's records management policy, if any. If the agency does not have a records management policy, does the agency intend to create one?

Chief Keel and Director Swindler  
Page Two

***Study Recommendations***

- Does the agency disagree with any of the recommendations arising from the study of the agency? If yes, please share the agency's reason(s) for disagreement.
- Has the agency implemented any of the recommendations arising from the study? If yes, please share which ones.
- Does the agency intend to implement any of the recommendations arising from the study? If yes, please share which ones and the anticipated date for implementation.

Thank you for your service to citizens of South Carolina and for your continued cooperation during the study process. The Committee looks forward to continuing its discussion of the study of the Law Enforcement Training Council and Criminal Justice Academy with you on Monday, October 16, 2017.

Sincerely,

A handwritten signature in black ink that reads "Wm. Weston J. Newton". The signature is written in a cursive style with a large initial 'W'.

Wm. Weston J. Newton  
Committee Chair

cc: House Legislative Oversight Committee Members





# South Carolina Criminal Justice Academy

October 4, 2017

Representative Wm. Weston J. Newton  
Committee Chairman, Legislative Oversight Committee  
PO Box 11867  
Columbia, SC 29211

Dear Chairman Newton:

In response to your correspondence of September 7, 2017, please find the following documentation and responses.

### ***Records Management***

In regards to the Records Management query, attached is a memo from the Human Resources Director confirming that the Academy's transference and/or destruction of records is current. Also, included is a copy of the Academy's Policy 2.19 *Records Management: Records Officer Responsibilities* with an original issue date of May 16, 2011.

### ***Study Recommendations***

Please see the agency's responses to the Committee's questions related to study recommendations on the next page.

If you need additional information or further clarification, I will try to obtain the information for the Committee as quickly as possible. Thank you and the Committee for the study and recommendations for the Law Enforcement Training Council and Criminal Justice Academy.

Regards,

A handwritten signature in blue ink that reads "Lewis J. Swindler, Jr." with a stylized flourish at the end.

Lewis J. Swindler, Jr.  
Agency Director

## Study Recommendations - Agency Response

### **Recommendation #1. Aptitude Testing**

Agency Position:           Agrees  
Implementation Status:   General Assembly action needed

The Academy agrees with the recommendation, but notes new law, granting the Training Council authority to establish the recommended prerequisite for entrance into the Academy, would be required. Without new law granting this authority, the Training Council can only try to influence the hiring agencies to utilize one of the nationally recognized aptitude tests by emphasizing the necessity of having an adequate reading level.

### **Recommendation #2. Firearms Qualifications.**

Agency Position:           Agrees  
Implementation Status:   General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

### **Recommendation #3. Continuing Education.**

Agency Position:           Agrees  
Implementation Status:   Plans to implement by July 2018

There are currently classes addressing these topics in the basic law training; however, the Academy will address these programs with an on-line training program and updated curriculum. Once updated, this will be addressed with the Training Council as to requiring these as part of the three-year continuing education cycle.

### **Recommendation #4. Civil Penalties**

Agency Position:           Agrees  
Implementation Status:   General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

### **Recommendation #5. Court Fines and Fees**

Agency Position:           Agrees  
Implementation Status:   General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

**Recommendation #6. Audited Financial Statements**

Agency Position: Agrees  
Implementation Status: General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

**Recommendation #7. Steady Source of Funding**

Agency Position: Agrees  
Implementation Status: General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

**Recommendation #8. Internet**

Agency Position: Agrees  
Implementation Status: Implementation complete

The Academy has implemented this recommendation. Law enforcement entities are required to have access to the Internet and the ability to access on-line forms utilized by the Academy. An individual can only enroll for classes at the Academy via the internet.

**Recommendation #9. Personnel Changes**

Agency Position: Agrees  
Implementation Status: Currently implementing

The Academy recently implemented the first part of this recommendation by creating a web based form through which law enforcement entities may provide personnel change in status information. The Academy is currently working to create formulas and rules in the database to increase the agency's ability to analyze the data contained within the database. Currently, law enforcement entities may also obtain information about the hiring status of an officer through communication with the Academy's Certification unit or Public Relations unit.

**Recommendation #10. Disciplinary Records**

Agency Position: Agrees  
Implementation Status: Currently implementing

The Academy has begun implementation of this recommendation. However, due to the methods used by the vendor, the process of receiving responses is not as seamless as the Academy initially thought. The Academy is currently awaiting the vendor's response, but believes the information should be available by January 9, 2018.

**Recommendation #11. Reporting Data**

Agency Position: Agrees  
Implementation Status: Plans to implement by December 2017

The Academy's Certification unit will provide a monthly report for dissemination via the Academy's website beginning October 1, 2017. The report will include information gathered by the Certification unit. In the near future, the report will also include information gathered by the Academy's Standards unit and the Academy's Registration unit.

**Recommendation #12. Compilation of Data**

Agency Position: Agrees  
Implementation Status: Unable to implement

The Academy is unable to implement this recommendation because it has no jurisdiction to require the submission of, or any method of effectively obtaining and/or maintaining the information to confirm that it is current. However, the Academy understands this recommendation may be a general one which addresses work the Subcommittee desires to be performed, but not necessarily by the Academy.

**Recommendation #13. Dishonesty/Untruthfulness**

Agency Position: Agrees  
Implementation Status: Plans to implement by December 2017

This item is on the Training Council's October 25, 2017 quarterly meeting agenda. During the meeting the Training Council will provide the Academy's General Counsel direction and guidance to implement the recommendation.

**Recommendation #14. Officer Conduct Hearing Process**

Agency Position: Agrees  
Implementation Status: General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

**Recommendation #15. Pass Through Funding**

Agency Position: Agrees  
Implementation Status: General Assembly action needed

The Academy agrees with the recommendation which requires action by the General Assembly for implementation.

**Recommendation #16. Training Facilities**

Agency Position: Agrees  
Implementation Status: General Assembly action needed

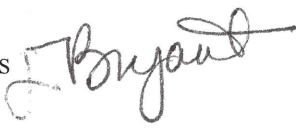
The Academy agrees with the recommendation which requires action by the General Assembly for implementation.



# South Carolina Criminal Justice Academy

## MEMORANDUM

TO: Lewis J. Swindler, Director

FROM: Debbie Bryant, Human Resources 

DATE: September 18, 2017

SUBJECT: Academy Record Retention Status

The Academy adheres to the requirements of the Public Records Act and regulations and procedures established by the South Carolina Department of Archives and History (SCDAH). Please see attached Records Retention Table for your convenience. The Academy Records Officer, Michelle Miller works closely with staff to ensure record retention needs are satisfied.

Ms. Miller has established a system where information regarding the records is logged in a database and flagged for future action. She reviews the database monthly to determine which records have met their retention period. The last set of files sent to SCDAH was Litigation Case Files on May 22, 2017. The last files to be destroyed were Training records on September 15, 2017. Ms. Miller will continue to monitor her log to remain up to date on record retention.


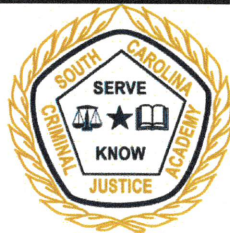
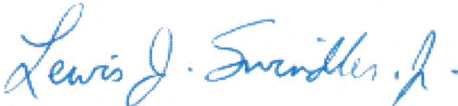
attachment

## S.C. Criminal Justice Academy Records Retention Table

Series #	Record Title	Academy Retention	Final Disposition
<b><i>Specific Schedules:</i></b>			
09762	*Certification Files (3/4/97)	Reference	Destroy
10365	**Non-Compliance Notices (2/24/98)	2 mo.	Destroy
13120	Pre-Offer Assessment Reports (9/18/01)	6 yrs.	Destroy
13121	Post-Offer Psychological Reports (9/18/01)	10 yrs.	Destroy
15380	Mandated, Advanced, and Teleclass Testing Records (r. 7/21/16)	3 yrs.	Destroy
15381	Constable and Advanced Constable Test Results (10/10/09)	3 mo.	Destroy
15415	External Lesson Plans (r. 6/10/14)	2 yrs.	Destroy
15416	**Training Manuals (1/7/10)	3 yrs.	Destroy
15417	**Training Videos: Policeline, CJA Extra, Legal Update & Line Up (1/7/10)	5 yrs.	Destroy
15438	**Internal Lesson Plans (r. 6/10/14)	2 yrs.	Destroy
17251	Basic Training Files (previously #11790) (r. 7/21/16)	3 yrs.	Destroy
17437	Inventory Records (7/26/17)	3 yrs.	Destroy
<b><i>General Schedules (frequently used):</i></b>			
12-302	Meeting Minutes (Executive level)	3 yrs.	<b>SCDAH</b>
12-303	Meeting Minutes (Non-Executive level)	2 yrs.	Destroy
12-305	Administrative Correspondence (Executive level)	3 yrs.	<b>SCDAH</b>
12-306	Administrative Files (Executive level)	3 yrs.	<b>SCDAH</b>
12-307	*Administrative Reference Files (Non-Executive Level)	Reference	Destroy
12-308	Administrative Regulations	Reference	<b>SCDAH</b>
12-312	Litigation Case Files	6 yrs.	<b>SCDAH</b>
12-313	Calendars	1 yr.	Destroy
12-317	*General Correspondence (Non-Executive Level)	Reference	Destroy
12-322	Mailing Lists	1 yr.	Destroy
12-407	Job Applications	2 yrs.	Destroy
12-412	Job Announcements	2 yrs.	Destroy
12-707	Bank Deposits	3 yrs.	Destroy
12-710	Cash Receipts Files & Journal	3 yrs.	Destroy
12-715	Disbursement Vouchers	3 yrs.	Destroy
12-727	Receipt Books	3 yrs.	Destroy
12-734	Travel Vouchers	3 yrs.	Destroy

\*Retention: Until no longer needed for reference, destroy. Provided you are no longer required to hold the records for federal or state audits, for legal purposes, for litigation, for fiscal information and or for any other action.

\*\*Retention: See copy of schedule attached for further retention information.

	<b>South Carolina Criminal Justice Academy</b>  <b>POLICY AND PROCEDURE</b>	
<p style="text-align: center;">Subject:</p> <p style="text-align: center;"><b>Records Management: Records Officer Responsibilities</b></p>	<p style="text-align: center;">Policy Number:</p> <p style="text-align: center;"><b>2.19</b></p> <p style="text-align: center;">Number of Pages:</p> <p style="text-align: center;"><b>3</b></p>	
<p style="text-align: center;">Date of Original Issue:</p> <p style="text-align: center;"><b>May 16, 2011</b></p>	<p style="text-align: center;">Date of Revision:</p> <p style="text-align: center;"><b>March 10, 2017</b></p>	
<p style="text-align: center;">In compliance with CALEA Standards:</p> <p style="text-align: center;"><b>7.2.1, 7.2.4</b></p>		
<p style="text-align: center;">By The Authority Of:</p> <p style="text-align: center;"></p> <p style="text-align: center;">Lewis J. Swindler, Jr., Director</p>		

## I. PURPOSE

The purpose of this directive is to establish a records management program within the Academy that meets the requirements of the State Records Act, and to provide guidelines for the orderly maintenance and storage of records within the Academy, and for their eventual disposition or disposal as required by law.

## II. POLICY

The South Carolina Criminal Justice Academy (Academy) is required by law to establish and maintain a records management system for the proper retention and disposition of official Academy records. See Chapter 1, Title 30, Code of Laws of South Carolina,



<p style="text-align: center;"><b>South Carolina Criminal Justice Academy</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURE</b></p> <p style="text-align: center;">Policy Number:</p> <p style="text-align: center;"><b>2.19</b></p>	<p style="text-align: center;">Subject:</p> <p style="text-align: center;"><b>Records Management: Records Management Officer Responsibilities</b></p>	<p style="text-align: center;">Page:</p> <p style="text-align: center;">2</p>
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1976, as amended. For purposes of this directive, “record” or “records” means a “public record” as defined by § 30-4-20(c), Code of Laws of South Carolina, 1976, as amended. It is the policy of the Academy to establish, maintain and administer a records management program within the Academy.

- A. The Academy’s records management program must be designed to preserve, safeguard, and, in cooperation with the South Carolina Department of Archives and History, eventually dispose of all departmental records, according to approved record retention schedules in accordance with the requirements of Chapter 1, Title 30, of the code, supra.
- B. The Academy Director is the legal custodian of all public records of the Academy.

### **III. PROCEDURE**

- A. Appointment and Authority of the Records Officer
  - 1. The Director may appoint a Records Officer to act on his behalf. Accordingly, the Records Officer is located in the Office of Human Resources.
  - 2. The Records Officer is tasked with the daily administration and functional management of the Academy’s records management program.
  - 3. The Records Officer manages and controls public records of the Academy.
- B. Administration of the Records Management System
  - 1. The Academy Records Officer is responsible for ensuring that the Academy is in compliance with all statutes and regulations relating to the Academy utilization, maintenance, retention, preservation, and disposal of public records.
  - 2. The duties of the Records Officer include but are not limited to, the following:
    - a. Review and approve the adoption, modification or revocation of all record retention schedules for the Academy;

<p style="text-align: center;"><b>South Carolina Criminal Justice Academy</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURE</b></p> <p style="text-align: center;">Policy Number:</p> <p style="text-align: center;"><b>2.19</b></p>	<p style="text-align: center;">Subject:</p> <p style="text-align: center;"><b>Records Management: Records Management Officer Responsibilities</b></p>	<p style="text-align: center;">Page:</p> <p style="text-align: center;">3</p>
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- b. Maintain all original record retention schedules for the Academy;
- c. Review and approve all requests for the disposition or destruction of records in accordance with state regulations before a request or notice for the disposition or destruction of records is forwarded to the South Carolina Department of Archives and History, and before the records are actually destroyed;
- d. Maintain the Academy's official record copy of all forms, notices and requests forwarded to or received from the South Carolina Department of Archives and History including, but not limited to the following:
  - 1. Report on Records Destroyed;
  - 2. Record Series Inventory Forms;
  - 3. Public Records Storage Standards Compliance Checklist;
  - 4. Microfilm Transmittal and Receipt Forms;
  - 5. Microfilm Quality Certifications for Records Disposition;
  - 6. State Records Center Transfer Forms;
  - 7. Coordinate the procurement of microfilm, microfiche, optical disk system or other technology for storage of the Academy's public records with the information Technology Office.

**Legislative Oversight Committee**  
South Carolina House of Representatives  
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# Notification of the Law Enforcement and Criminal Justice Subcommittee Study

of the Law Enforcement Training Council and Criminal Justice Academy

Tuesday, August 15, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Law Enforcement and Criminal Justice Subcommittee oversight study of the Law Enforcement Training Council and Criminal Justice Academy is available for consideration by the full committee.

The Honorable Edward R. Tallon, Sr.  
Law Enforcement and Criminal Justice Subcommittee Chair

cc: The Honorable Katherine E. "Katie" Arrington  
The Honorable William M. "Bill" Hixon  
The Honorable J. Todd Rutherford

# Legislative Oversight Committee

## Study of Law Enforcement Training Council and Criminal Justice Academy *July 28, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# AGENCY SNAPSHOT

## Law Enforcement Training Council and Criminal Justice Academy

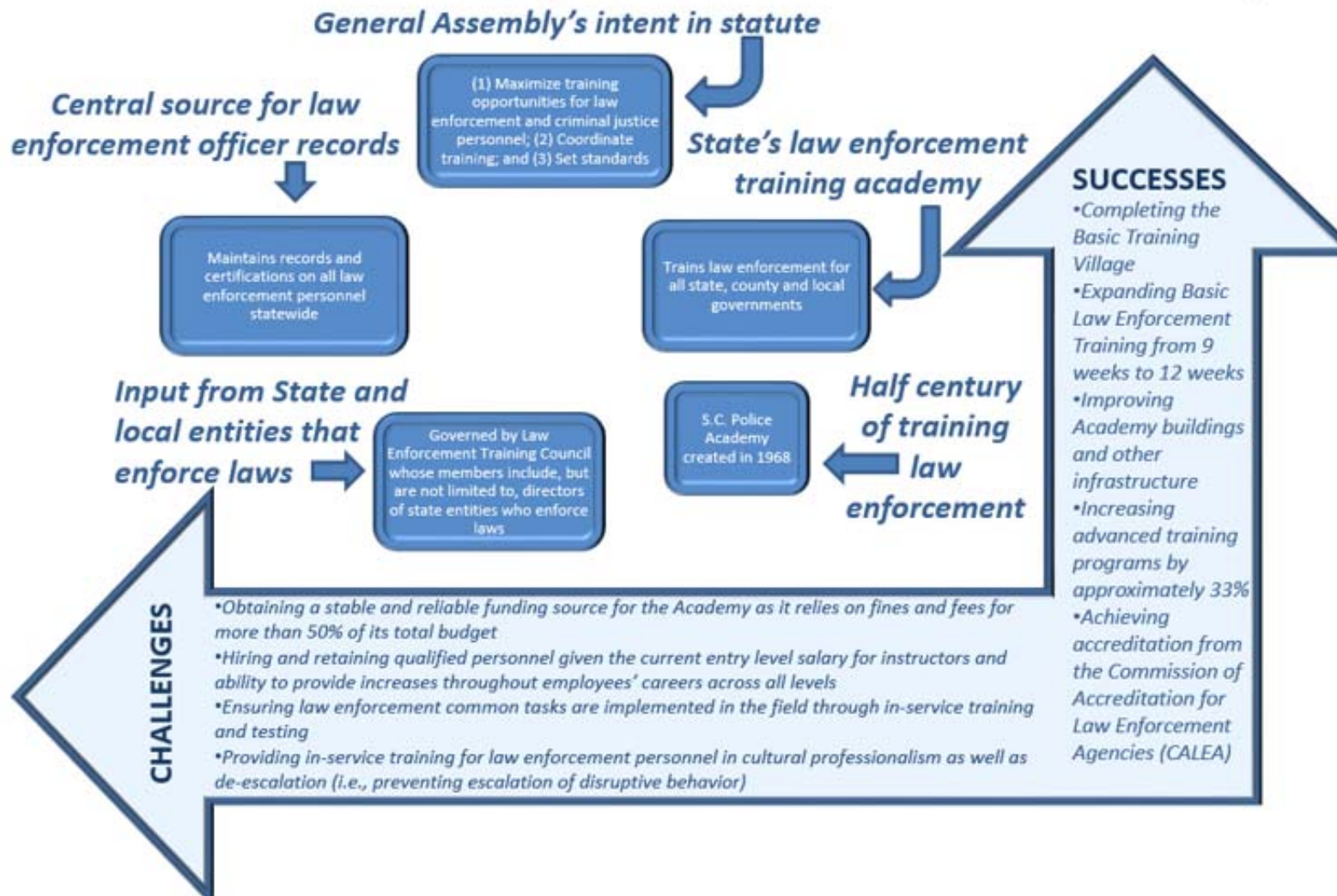


Figure 1. Snapshot of agency's history, purpose, successes, and challenges.



# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

SC Code of Laws § 2-2-20(B) states that “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee:

(1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and**  
 (2) **should be continued, curtailed, or eliminated.”** In making these determinations, the **Committee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>1</sup>

## *Study Process*

The House Legislative Oversight Committee’s (Committee) process for studying the Law Enforcement Training Council (Training Council) and Criminal Justice Academy (Academy, agency, or CJA) includes actions by the Committee; the Law Enforcement and Criminal Justice Subcommittee (Subcommittee); the agency; and the public. A summary of key dates and actions of the study process is provided in Figure 2.

### Legislative Oversight Committee Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides agency with notice about the oversight process
- March 9, 2017- Holds **Meeting #2** to obtain public input about the agency

### Law Enforcement and Criminal Justice Subcommittee Actions

- April 21, 2016 - Holds **Meeting #1**, an entry meeting, to discuss study procedures
- March 21, 2017 - Holds **Meeting #3** to discuss the agency’s history, legal directives, products/services, customers, mission, vision, and strategic goals
- April 4, 2017 - Holds **Meeting #4** to tour the agency
- April 19, 2017 - Holds **Meeting #5** to discuss the agency’s available resources, including financial capital and employees, and relationships with other entities the agency uses to leverage its resources
- April 25, 2017 - Holds **Meeting #6** to discuss the methodology the agency utilizes to allocate resources to accomplish its strategic plan; and, for each of the agency’s goals:
  - (1) strategies and objectives for achieving the goal; (2) individual or individuals at the agency who have primary responsibility and accountability for the strategies and objectives (i.e., responsible employees); (3) what the agency reviews when prioritizing how to allocate its resources;
  - (4) actual amount of resources allocated; and (5) key performance measures
- April 26, 2017 - Holds **Meeting #7** to continue discussion of the agency’s goals
- May 2, 2017 – Holds **Meeting #8** to continue discussion of goal number three; resources utilized on unrelated purposes; fines and fees; and the process of officers separating from law enforcement entities, including, but not limited to, decertification

- May 11, 2017 – Holds **Meeting #9** to continue discussion of timely production of hire and separation forms by State and local government law enforcement entities
- June, 6, 2017 – Holds **Meeting #10** to continue discussion of fines and fees, the process related to officers separating from law enforcement entities, and agency recommendations
- June 8, 2017 – Holds **Meeting #11** to continue discussion of the process related to officers separating from law enforcement entities and agency recommendations
- June 26, 2017 – Holds **Meeting #12** to continue discussion of recommendations

### Law Enforcement Training Council and Criminal Justice Academy Actions

- March 25, 2015 - Submits **Annual Restructuring and Seven-Year Plan Report**
- January 8, 2016 - Submits **Annual Restructuring Report**
- May 16, 2016 - Submits **Program Evaluation Report, which serves as the base document for the study**
- September 14, 2016 - Submits **2015-16 Accountability Report/2017 Annual Restructuring Report**
- November 29, 2016 - Submits **Annual Request for Information**
- April 2016 - June 2017 - Meets with and responds to Subcommittee's inquiries

### Public's Actions

- May 1 - 31, 2016 - Provides input about the agency in the form of an **online public survey**
- March 9, 2017 - **Testifies** about the agency to the full Committee (**Meeting #2/Public Input**)
- May 11, 2017 – **Testifies** during discussion of timely production of hire and separation forms by State and local government law enforcement entities (**Meeting #9**)
- June 26, 2017 – **Testifies** during discussion of agency recommendations (**Meeting #12**)
- Ongoing - **Submits written comments** on the Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov))

*Figure 2. Summary of key dates and actions of the study process, 2016-2017.*

## Findings and Recommendations

The Subcommittee Study includes **two findings** arising from its study of the agency. Both findings relate to the Academy's position as to when someone can perform the duties of a law enforcement officer. These findings are summarized in Table 1.

Table 1. Summary of findings arising from the study process.

TOPIC	FINDINGS
Exercise Law Enforcement Duties	1. It is the agency's position an individual cannot perform any duties of a law enforcement officer involving the control or direction of members of the public (including issuing traffic citations) or exercise the power of arrest until certain criteria are satisfied including successful qualification with firearms.
Firearms Qualification	2. The agency acknowledges it currently does not have a way to confirm if an officer passes a firearms qualification program.

The Subcommittee has **sixteen recommendations** arising from its study of the agency. These recommendations fall into five categories: (1) hiring and training; (2) funding and compliance; (3) utilizing resources to obtain comprehensive data to inform decisions; (4) clarifying the misconduct hearing process; and (5) updating provisions in law. These recommendations are summarized in Table 2.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs**.

Table 2. Summary of recommendations arising from the study process.

TOPIC	RECOMMENDATIONS
	<b>HIRING AND TRAINING</b>
Aptitude Testing	1. Approve nationally recognized aptitude tests and minimum scores as a prerequisite to attending the agency's basic training.
Firearms Qualifications*	2. Clarify hiring requirements and annual firearms qualifications by amending SC Code Section 23-23-40 or applicable regulations.
Continuing Education	3. Require law enforcement officers to receive training in cultural professionalism; prejudice and personality; and/or culture diversity by updating regulations.
	<b>ENSURING COMPLIANCE AND FUNDING</b>
Civil Penalties*	4. Authorize the agency director, in his sole discretion, to issue civil penalties to law enforcement agencies not following laws or regulations with appeal to the Training Council as a final agency decision. Provide a mechanism for the agency to collect penalties issued by amending SC Code Ann. §23-23-100.
Court Fines And Fees*	5. Revise laws to designate an entity in state government responsible for ensuring local governments remit timely and accurate payments of court fines and fees as required in law. Further, work with the designated entity to determine if there are more effective options for obtaining compliance.
Audited Financial Statements*	6. Work with various stakeholders, to determine what revisions to laws, if any, are necessary relating to local government audited financial statements and penalties for non-compliance.

Steady Source of Funding*	7. Provide the agency a steady, reliable base source of funding.
<b>UTILIZING RESOURCES TO OBTAIN COMPREHENSIVE DATA TO INFORM DECISIONS</b>	
Internet	8. Require an employer with a Class I Law Enforcement Officer to certify it has access to the Internet and the ability to access online forms and/or databases utilized by the Training Council and/or Academy.
Personnel Changes	9. Allow law enforcement entities to complete personnel change in status information via a web based form, and create formulas and rules in the database to increase the ability of the agency to analyze information.
Disciplinary Records	10. Determine the cost of tracking law enforcement officer discipline in a central database, with individual records available only with the consent of the individual officer. <b>Follow up:</b> Provide this information to the House Oversight Committee by Tuesday, January 9, 2018, the first day of the 2018 legislative session.
Reporting Data	11. Annotate data and statistics provided to the public and legislators.
Compilation of Data	12. Compile and update annually a list with information about computer systems/databases utilized by each county and municipality to ensure future programs obtained by the State will work across the different technologies utilized.
<b>CLARIFYING THE MISCONDUCT HEARING PROCESS</b>	
Dishonesty / Untruthfulness	13. Define key terms related to misconduct, including “dishonesty” and “untruthfulness,” as well as add and define, “officers of the court,” by updating SC Code of Regulations 37-025 Denial of Certification for Misconduct and 37-026 Withdrawal of Certification of Law Enforcement Officers.
Officer Misconduct Hearing Process*	14. Update laws relating to the officer misconduct hearing process as outlined by the agency. Prohibit receipt of any allegations of law enforcement misconduct impacting certification more than 30 days after an officer’s separation from an agency, unless there are extenuating circumstances.
<b>UPDATING PROVISIONS IN LAW</b>	
Pass Through Funding*	15. Remove the pass through of funds to Education Television Commission (ETV) from the Training Council and Academy’s section of the General Appropriations Act and include those funds in ETV’s section of the General Appropriations Act.
Training Facilities*	16. Authorize the agency director to determine the location of a “training facility” for mandatory training or other types of training by amending SC Code Ann. §23-23-20.

Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.

# AGENCY OVERVIEW

## *Intent of the General Assembly*

SC Code Section 23-23-10(C) includes a statement of the General Assembly's intent with regards to the Law Enforcement Training Council and Criminal Justice Academy:

It is the intent of the General Assembly in creating a facility and a governing council to **maximize training opportunities** for law enforcement officers and criminal justice personnel, to **coordinate training**, and to **set standards** for the law enforcement and criminal justice service, all of which are imperative to upgrading law enforcement to professional status. (emphasis added)

## *History*

The **Law Enforcement Training Council and Criminal Justice Academy has provided the Committee with an overview of the agency's history.**<sup>2</sup> In addition, Committee staff has confirmed the accuracy of any assertion of legislative action.

In 1968, the South Carolina legislature appropriates \$30,000 to the South Carolina Law Enforcement Division (SLED) to establish the Police Academy.<sup>3</sup> The voluntary **training is conducted at SLED** and lasts four weeks.<sup>4</sup> The Criminal Justice Academy becomes a stand-alone agency in 1970.<sup>5</sup> In 1972, **training becomes mandatory for all newly selected officers statewide.**<sup>6</sup>

Also in 1972, the **Academy moves from SLED into a new facility** at 5400 Broad River Road with 186 beds, eight classrooms, and a dining facility.<sup>7</sup> From 1974 through 1979, the following is added to the facility: (1) driving range (1.3 mile) for practice driving maneuvers; (2) garage to support the driving range; (3) classroom at the firearms range; (4) practical problems village created (buildings donated by Fort Jackson); (5) dormitory wing (three-story); and (6) office building (two-story) containing a library and a teaching courtroom.<sup>8</sup> From 1982 to 1983, improvements to the Academy include: completion of a firearms range and an addition of a maintenance support building to accommodate procurement, printing, and graphic arts operations.<sup>9</sup>

In 1985, the **first law enforcement tasks analysis is developed and implemented** by a new formalized standards and support section.<sup>10</sup> From 1987 through 1989, construction is completed on a television studio, microwave tower (i.e., communications system using radio waves for transmission) and equipment building to facilitate teleconferencing and in-service training via closed circuit television supported by ETV.<sup>11</sup>

In 1989, a **mandatory three-year recertification requirement is implemented.**<sup>12</sup> In 1992, the **Academy obtains accreditation from the Southern Association of Colleges and Schools Commission on Occupational Education Institute.**<sup>13</sup>

As part of comprehensive government restructuring in 1993, the Department of Public Safety (DPS) is formed, and the **Academy becomes a division of DPS** with the Academy director serving as a deputy director of DPS.<sup>14</sup> The **Training Council transitions from a governing body to an advisory council.** Because of the

changes, the Academy loses approximately \$12 million dollars in accrued funds intended for capital improvement projects and expansion at the Academy.<sup>15</sup>

In 2001, the Academy receives a **federal grant to establish two interactive distance learning classrooms and computer labs.**<sup>16</sup> Also, **new disciplinary procedures are established** for handling officer misconduct allegations and certification revocation.

In 2003, a **reduction in force eliminates** the following **teaching units:** forensic/investigative; criminal domestic violence; traffic safety; and psychological testing and evaluation.<sup>17</sup> Developed with the assistance of personnel from the Federal Law Enforcement Training Center, the **Physical Abilities Test**<sup>18</sup> is implemented as a standard for the basic law enforcement program in 2004.<sup>19</sup> In 2005, the **traffic safety instructional unit is re-established** through federal grant funding.<sup>20</sup>

In 2006, the legislature **re-establishes the Academy as a stand-alone agency governed by the Law Enforcement Training Council.**<sup>21</sup> Challenges for the Academy include reduced resources, missing infrastructure, declining revenue, facilities issues, and reduced capacity.

In 2008 the **Academy performs a detailed review and evaluation.** The Academy refocuses priorities, and it reorganizes programs, staffing, delivery, and facilities to support an **increased demand for training.** The **Academy transitions to a new automated training and certification tracking system.**<sup>22</sup>

Also in 2008, a **five-dollar surcharge is added to misdemeanor traffic offenses and nontraffic violations.**<sup>23</sup> With the money generated from this revenue stream, plans are made to increase the training capabilities of the Academy through the construction of a basic training complex.<sup>24</sup> Initiatives in capital improvements continue through subsequent years to refurbish the Academy's aging facilities.

In 2010, the **drug recognition expert training program**, which is funded with federal money, **transitions from DPS to the Academy.**<sup>25</sup> Work begins on new curriculum for the basic law enforcement training program, and a task analysis and validation study is conducted with subject matter field experts.<sup>26</sup> Also in 2010, **detention instructors receive national certification from the American Jail Association.**

In July 2011, the basic training village complex opens and **basic law enforcement training expands from nine weeks to twelve weeks.**<sup>27</sup> In 2014, the Academy **enters into an agreement with the Commission of Accreditation for Law Enforcement Agencies (CALEA) to begin the process of acquiring accreditation.**<sup>28</sup>

In 2015, the **Academy provides operational support during the historic October flood.** The Academy is used as a staging area for swiftwater rescue teams and other specialized teams assigned from out-of-state by the Federal Emergency Management Agency.<sup>29</sup> The Academy maintains around-the-clock operations providing housing, food, and logistical support for the various teams.

2016 is a notable year for the Academy. It **completes payment on the construction bond** (\$9,345,000) for the basic law enforcement training village<sup>30</sup> and **obtains CALEA accreditation.**<sup>31</sup> Also, the additional surcharge added to misdemeanor traffic offenses and nontraffic violations terminates as of June 30, 2016.<sup>32</sup>

Currently, the Academy rests on 293 acres, has a total of 21 classrooms, two gyms, two weight rooms, a defensive tactics training room, two cafeterias, studio, library, and 550 beds.<sup>33</sup> The **Academy serves approximately 18,000 officers, either in person or online, across the State representing more than 300 agencies each year.**<sup>34</sup>

## Major Divisions or Programs

An agency's major divisions or programs are the way the agency is operationally segmented. The **agency has eleven operating programs**. Table 3 lists these operating programs and provides a brief overview of their purpose.<sup>35</sup>

Table 3. Law Enforcement Training Council and Criminal Justice Academy operating programs.

OPERATING PROGRAM	PURPOSE OF PROGRAM
Facilities	<ul style="list-style-type: none"> <li>• Maintains a safe, secure and functional environment to enable the staff to perform their assigned duties and allows the students an opportunity to learn.</li> </ul>
Food Service	<ul style="list-style-type: none"> <li>• Provides up to three meals daily for on-campus students.</li> </ul>
Standards & Testing	<ul style="list-style-type: none"> <li>• Establishes and administers all internal and external academic standards, policies, and procedures for both primary certification and oversight of academic standards in areas related to recertification.</li> <li>• Provides test administration and approves test items.</li> </ul>
Certification	<ul style="list-style-type: none"> <li>• Issues initial law enforcement certification.</li> <li>• Provides for renewal and expiration of basic certification.</li> <li>• Monitors officer employment history.</li> <li>• Tracks the training process and updates officers' records.</li> <li>• Researches and processes pre-employment training review requests from agencies hiring previously certified officers.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>• Provides guidance and direction for the agency.</li> <li>• Handles procurement, financial and information technology processes.</li> </ul>
Housing	<ul style="list-style-type: none"> <li>• Provides dorm rooms and linens for on-campus students.</li> </ul>
Basic Law Enforcement	<ul style="list-style-type: none"> <li>• Trains employees hired by a law enforcement agency in South Carolina. <ul style="list-style-type: none"> <li>○ Twelve-week curriculum consists of both classroom participation and proficiency training. Graduates are Class 1 Law Enforcement Officers with full arrest powers.</li> <li>○ Re-certification requires: (1) 40 hours of Continuing Law Enforcement Education (CLEE) over three years; (2) an annual legal update; and (3) annual domestic violence training.</li> </ul> </li> </ul>
Basic Detention	<ul style="list-style-type: none"> <li>• Trains employees hired by a detention agency in South Carolina. <ul style="list-style-type: none"> <li>○ Three-week curriculum consists of both classroom participation and proficiency training. Graduates are a Class 2 Local Detention Officer.</li> <li>○ Re-certification requires 40 hours of CLEE hours each year.</li> </ul> </li> </ul>
Limited Duty	<ul style="list-style-type: none"> <li>• Trains employees hired by a law enforcement agency in South Carolina. <ul style="list-style-type: none"> <li>○ Nine-day curriculum consists of both classroom participation and proficiency training. Graduates are a Class Three Special Law Enforcement Officer with limited powers of arrest or special duties such as administrative, court room security, litter control, animal control, airport security, or other special assignments.</li> <li>○ Re-certification requires an annual legal update.</li> </ul> </li> </ul>

<b>Basic Telecommunications Officer</b>	<ul style="list-style-type: none"> <li>• Trains employees hired by a law enforcement agency in South Carolina. <ul style="list-style-type: none"> <li>○ Two-week curriculum consists of both classroom participation and proficiency training. Graduates are a Class Four Telecommunications Officer employed in an E-911 system to receive, process, transmit and/or dispatch emergency and non-emergency calls for police, fire, emergency medical and other public safety services via communication devices.</li> </ul> </li> </ul>
<b>Advanced Training Programs</b>	<ul style="list-style-type: none"> <li>• Provides specialized training to law enforcement personnel in fields to enhance their knowledge.</li> <li>• Specialized training is available either through classroom settings or via the Internet.</li> </ul>

An agency organizational chart is provided in Figure 3 on the next page.



## Organizational Chart

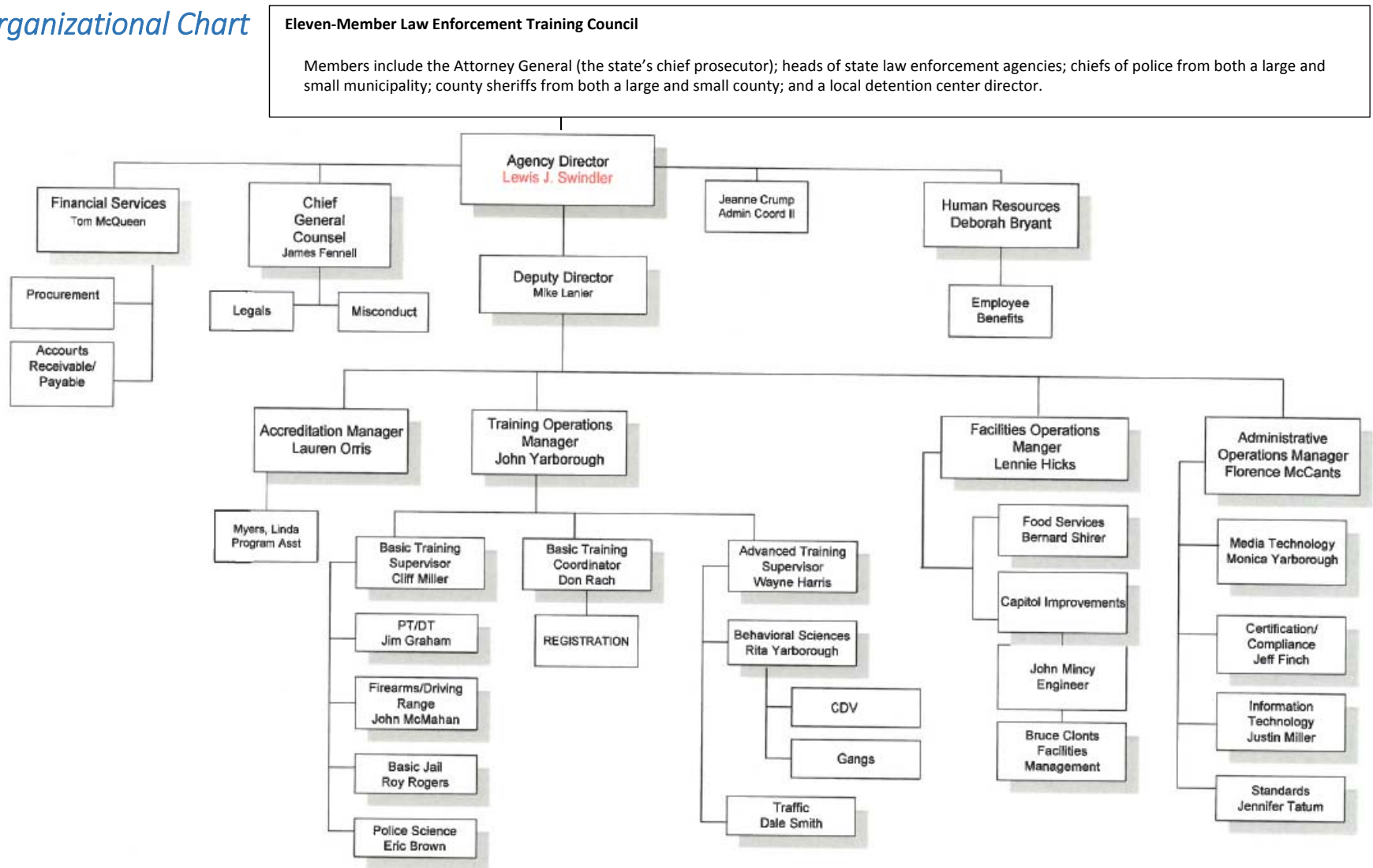


Figure 3. Agency organizational chart (Current as of June 13, 2016).<sup>36</sup>

## *Products/Services*

The Training Council and Academy are tasked with **maximizing training opportunities, coordinating training, and setting standards.**<sup>37</sup> The agency is the only entity in the State authorized to issue law enforcement certifications.<sup>38</sup> Accordingly, the Law Enforcement Training Council, which governs the agency, is responsible for de-certification of law enforcement officers.<sup>39</sup> Charts listing the products and services provided by the agency are in Appendix A. The agency periodically sends surveys to the heads of all law enforcement entities across the state that receive training from the agency to obtain feedback and suggestions for additional training courses.<sup>40</sup>

## *Other Agencies Serving Similar Customers/Products/Services*

During the study of an agency, the Committee asks what other agencies serve customers, products, or services similar to the agency under study.<sup>41</sup> The Law Enforcement Training Council and Criminal Justice Academy **serve as central sources for setting law enforcement standards, providing law enforcement training, and approving law enforcement training curriculum** utilized by other State and local entities. However, there is an **overlap in providing training for detention officers.** The Academy trains local government detention officers. The Academy trains the Department of Corrections (DOC) and Department of Juvenile Justice (DJJ) trainers and approves the training curriculum taught onsite at DOC and DJJ. The DOC and DJJ each train their own detention officers and focus on the specific situations officers face at each facility. While this overlap in providing training for detention officers exists, the service delivery format allows for certain efficiencies to be obtained through onsite training at DOC and DJJ (e.g., no overnight lodging during training).

The diverse composition of the Training Council assists with ensuring the training and curriculum approved by the agency meets the needs of the different law enforcement entities across the State. **Representation on the Training Council includes the Attorney General (the state's top prosecutor); heads of state law enforcement agencies; chiefs of police from both a large and small municipality; and county sheriffs from both a large and small county; and a local detention director.**<sup>42</sup>

## *Strategic Resources and Allocation*

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish the goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal<sup>43</sup>) in the agency's strategic plan.<sup>44</sup> Table 4 includes an overview of the agency's strategic plan and resources allocated to its goals and objectives.<sup>45</sup>

Table 4. **Goal 1: Provide a safe, secure and functional environment to enable the staff to work and the students to learn:** agency's strategic plan, performance measures (if any), and resources allocated to the strategic plan.

Strategic Plan Element	Description	2015-16		2016-17	
		Number of full time equivalents (FTE) <sup>46</sup>	Total spent (percentage of total funds available)	Number of FTEs planned	Total budgeted (percentage of total funds available) <sup>47</sup>
<b>Goal 1</b>	<b>Provide a safe, secure and functional environment to enable the staff to work and the students to learn</b>				
<b>Strategy 1.1</b>	<b>Maintain safety and security of buildings and equipment</b>				
Objective 1.1.1	Maintain buildings and facilities for functionality	35 (16.2)	\$2,535,921 (15.06%)	35 (16.2)	\$2,649,171 (15.68%)
Objective 1.1.2	Maintain security and install additional security cameras throughout campus	2 (2)	\$147,312 (00.87%)	2 (2)	\$153,365 (00.91%)
Objective 1.1.3	Upgrade facilities that have deteriorated due to usage and age	2 (2)	\$1,022,131 (06.07%)	2 (2)	\$949,589 (05.62%)
<b>Strategy 1.2</b>	<b>Re-open the second dining hall</b>				
<b>Strategy 1.3</b>	<b>Upgrade the vehicle fleet for instructional usage</b>				
Performance Measures Associated with Goal 1: None					

Table 5. **Goal 2: Provide meaningful, contemporary and best practice law enforcement, detention and dispatcher training to the SC Criminal Justice Community:** agency's strategic plan, performance measures (if any), and resources allocated to the strategic plan.

Strategic Plan Part	Description	2015-16		2016-17	
		Number of full time equivalents (FTE) <sup>48</sup>	Total spent (Percentage of total funds available)	Number of FTEs planned	Total budgeted (Percentage of total funds available) <sup>49</sup>
<b>Goal 2</b>	<b>Provide meaningful, contemporary and best practice law enforcement, detention and dispatcher training to the SC Criminal Justice Community</b>				
<b>Strategy 2.1</b>	<b>Expand capabilities for Mandated Training</b>				
Objective 2.1.1	Increase the number of programs in the Academy Information System (ACADIS).	14 (6.4)	\$432,063 (02.57%)	14 (6.4)	\$436,272 (02.58%)
Objective 2.1.2	Increase the number of basic law enforcement officers graduating and receiving certification including National Crime Information Center(NCIC) certification as well as decreasing the wait time for enrolled officers to initiate training	61 (47.15)	\$4,109,925 (24.41%)	61 (47.15)	\$4,563,202 (27.00%)
Objective 2.1.3	Increase the number of Class 2 Officers trained	28 (5.1)	\$511,957 (03.04%)	28 (5.1)	\$2,141,251 (12.67%)
<b>Strategy 2.2</b>	<b>Expansion of Advanced Training opportunities</b>				
Objective 2.2.1	Review current advanced training for courses with declining enrollment	44 (19.55)	\$1,844,421 (10.95%)	44 (19.55)	\$2,020,686 (11.96%)
Objective 2.2.2	Increase by 1/3 the advanced training classes stressing contemporary issues	31 (9.8)	\$639,581 (03.80%)	31 (9.8)	\$667,700 (03.95%)
<u>Performance Measures Associated with Goal 2:</u> advanced student graduates; basic law student graduates; total mandated student graduates; online ACADIS training; classes for school resource officers; and decrease wait time for training					

Table 6. Goal 3: Provide continual oversight by South Carolina criminal justice personnel to ensure established standards are maintained: agency's strategic plan, performance measures (if any), and resources allocated to the strategic plan.

Strategic Plan Part	Description	2015-16		2016-17	
		Number of full time equivalents (FTE) <sup>50</sup>	Total spent (Percentage of total funds available)	Number of FTEs planned	Total budgeted (Percentage of total funds available) <sup>51</sup>
<b>Goal 3</b>	<b>Provide continual oversight by South Carolina criminal justice personnel to ensure established standards are maintained</b>				
<i>Strategy 3.1</i>	<i>To acquire national accreditation for the Agency through CALEA</i>				
<i>Strategy 3.2</i>	<i>To continuously review records of certified law enforcement personnel to confirm standards are being maintained</i>				
Objective 3.2.1	Review misconduct process to improve tracking and reporting	16 (3.3)	\$230,353 (01.37%)	16 (3.3)	\$239,837 (01.42%)
Objective 3.2.1	Audit field records to ensure matches with Certification records	8 (5.5)	\$268,617 (01.60%)	8 (5.5)	\$270,166 (01.60%)
<u>Performance Measures Associated with Goal 3:</u> None					

## Performance

The agency's **Program Evaluation Report (PER)** includes information about the entities the agency views as **the best in the country in performance areas similar to the agency**.<sup>52</sup> Based on the agency's mission and strategic plan, there are three other entities, the agency considers the best in the country: (1) Kentucky Department of Criminal Justice Training Basic Training Agency, (2) Wyoming Law Enforcement Agency, and (3) New Hampshire Police Standards and Training Council. These three entities serve as the only law enforcement training facilities in their respective state, have core requirements for training, and provide meals, housing, and classroom materials for officers while they are in training.<sup>53</sup> This structure allows centralization of resources and ensures consistency in officer training regardless of which entity employs the officer.

Table 7 provides a comparison of the agency's basic law enforcement training with the entities it considers the best in the country.

*Table 7. Comparison of the completion times and number of graduating classes of the agency's basic law enforcement training with the States it considers the best in the country (Kentucky, New Hampshire, Wyoming).<sup>54</sup>*

	SOUTH CAROLINA	KENTUCKY	NEW HAMPSHIRE	WYOMING
Completion times	12 weeks 488.25 hours	22 weeks 928 hours	16 weeks 640 hours	13 weeks 542 hours
Graduating Classes	16 per year	9 per year	3 per year	3 per year

## STUDY PROCESS

### *Agency Selection*

The Law Enforcement Training Council and Criminal Justice Agency is a state agency subject to legislative oversight.<sup>55</sup> The **Committee prioritizes the agency for study** by the Law Enforcement and Criminal Justice Subcommittee on January 28, 2016.<sup>56</sup>

The **Committee notifies the agency** about the study on February 4, 2016.<sup>57</sup> The notification letter is in Appendix B. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are also notified about the agency study.

### *Subcommittee Membership*

The **Law Enforcement and Criminal Justice Subcommittee of the House Legislative Oversight Committee is studying the agency**.<sup>58</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. The Honorable Kirkman Finlay, III serves as chair during the 121<sup>st</sup> General Assembly, and the Honorable Edward R. Tallon, Sr., serves as chair during the 122<sup>nd</sup> General Assembly. Subcommittee members are listed below:

- The Honorable Katherine E. Arrington (122<sup>nd</sup> General Assembly);
- The Honorable William K. Bowers (121<sup>st</sup> General Assembly);
- The Honorable Raye Felder (121<sup>st</sup> General Assembly);
- The Honorable Kirkman Finlay, III (121<sup>st</sup> General Assembly);
- The Honorable William M. Hixon (122<sup>nd</sup> General Assembly);
- The Honorable Todd Rutherford (122<sup>nd</sup> General Assembly); and
- The Honorable Edward R. Tallon, Sr. (121<sup>st</sup> and 122<sup>nd</sup> General Assemblies).

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct self-analysis** by requiring it to complete and submit annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report which serves as the base document for the study. These reports are available online to the public on the Committee's website.

#### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

SC Code of Laws § 1-30-10(G) requires agencies to submit "a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period."<sup>59</sup> The agency submit its plan on March 25, 2015.<sup>60</sup>

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”<sup>61</sup> The **agency submits its Annual Restructuring Reports** on March 25, 2015,<sup>62</sup> and January 8, 2016.<sup>63</sup> The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Annual Restructuring Report.<sup>64</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, “requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report (PER) by a date specified by the investigating committee.”<sup>65</sup> SC Code of Laws § 2-2-60 outlines what an investigating committee's request for a program evaluation report must contain. It also provides a list of information an investigating committee may request. The agency’s PER includes information in the following areas: history, structure, strategic plan, programs, strategic allocation of resources, performance measures, comparisons to other agencies, and recommendations.

The **PER serves as the base document for the Subcommittee’s study of the agency**. The Committee sends guidelines for the agency’s Program Evaluation Report on May 16, 2016.<sup>66</sup> The agency submits the report on August 12, 2016, and updates the report on April 13, 2017.<sup>67</sup>

### *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee’s process.**<sup>68</sup>

Members of the public are able to participate anonymously in a public survey about the agency and four other agencies during the month of May in 2016, provide comments anonymously via a link on the Committee website at any time, and appear in person before the Subcommittee during the public input meeting on March 9, 2017.<sup>69</sup> In an effort to communicate these public input opportunities widely, a statewide media release is issued about the public survey on April 29, 2016, and statewide media release is issued about the public input meeting on February 16, 2017.<sup>70</sup> House Members are provided copies of these media releases and encouraged to share notice of these public input opportunities with their constituents.

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina’s 46 counties.<sup>71</sup> These comments are not considered testimony.<sup>72</sup> As noted in the survey, “input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”<sup>73</sup> Documents related to the public survey are in Appendix C. The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.<sup>74</sup> Public input received via the Committee website is included in Appendix D.



Highlights of meetings, public participation, and major events at the agency during the study process are listed below in a **timeline**. A summary of this timeline is set forth in Figure 2 beginning on page 5.

## *Meetings*

The **Subcommittee meets with the agency once about process and on twelve occasions either with or about the agency's work**. Meeting minutes and archived videos of meetings are available online.<sup>75</sup>

### *121<sup>st</sup> General Assembly (2015-2016)*

#### *April 2016*

On **April 21, 2016**, the Subcommittee meets with the agency and discusses procedural issues. The agency plays a short video to share its history and background. Appendix E includes the meeting packet on page 156.

### *122<sup>nd</sup> General Assembly (2017-2018)*

#### *March 2017*

On **March 9, 2017**, the full Committee holds **Meeting #2 to receive public input about the agency**.<sup>76</sup>

Mr. Tiger Wells, a representative of the Municipal Association of South Carolina, provides testimony about the agency.<sup>77</sup> Committee Chairman Wm. Weston J. Newton notes members of the public can provide information to the Subcommittee through other means.<sup>78</sup> Appendix F includes the statewide media release inviting the public to provide testimony and the meeting packet on page 212.

On **March 21, 2017**, the Subcommittee holds **Meeting #3**. The agency director provides information on the following topics: **history; legal directives; products/services; customers; mission; vision; and strategic goals**. Subcommittee members ask questions about diverse topics, which the agency director answers. These topics include: (1) graduation rates; (2) amount law enforcement entities around the State pay to send officers to the agency; (3) differences in training offered at the agency, DOC, and DJJ; and (4) how the agency is funded. Following the meeting, the Subcommittee sends a letter to the agency requesting information on the following: (1) Training Council term limits; (2) agency graduation rates; (3) advanced training classes; (4) forms; and (5) decertification/discipline policies. The agency provides responses to the Subcommittee's letter on March 29, 2017.<sup>79</sup> Appendix G includes the meeting packet, follow up letter from the Subcommittee, and agency response to the follow up letter on page 246.

#### *April 2017*

On **April 4, 2017**, the Subcommittee holds **Meeting #4** to approve prior meeting minutes and **tour the agency**. Appendix H includes the meeting packet on page 464.

On **April 19, 2017**, the Subcommittee holds **Meeting #5** with the agency. The agency director provides information on the following topics: **resources available, including funds and employees; and relationships with other entities the agency utilizes to leverage its resources**. The agency director and other agency representatives answer Subcommittee questions. Questions from the Subcommittee address various

topics: (1) reason for shortage in fines and fees revenue during past several years; (2) other potential ways of generating revenue for the agency (e.g., renting out facilities); (3) employee breakdown by position; and (4) turnover and reasons why instructors leave the agency. Following the meeting, the Subcommittee sends a letter to the agency requesting information on the following topics: (1) audits related to court fines and fees (upon which the agency relies for more than 50% of its budget); (2) employees; (3) costs; and (4) personnel change in status forms.<sup>80</sup> Appendix I includes the meeting packet, follow up letter from the Subcommittee, and agency response to the follow up letter on page 468.

On **April 25, 2017**, the Subcommittee holds **Meeting #6** with the agency. The agency director provides information on the following items related to **agency Goal 1 to provide a safe, secure and functional environment to enable the staff to work and the students to learn**: (1) strategies and objectives for achieving the goal; (2) agency personnel who have primary responsibility and accountability for the strategies and objectives; (3) additional information the agency reviews when prioritizing how to allocate its resources to each strategy and objective; (4) actual amount of resources allocated; and (5) performance measures. The agency director and other agency representatives respond to questions. Subcommittee members question the agency about the following topics:

- Accidents/injuries that occur at the agency;
- Technology, including,
  - modules in the Academy Information System (ACADIS),
  - why some information from law enforcement entities is retyped into the system as opposed to the law enforcement entities entering it directly into the system, and
  - if the agency has the ability to see which entities owe them money from fines and fees;
- Type of training offered, including whether there are any classes on bias and discrimination;
- Target graduation rates and common reasons individuals do not graduate; and
- Aptitude tests.

Appendix J includes the meeting packet on page 537.

On **April 26, 2017**, the Subcommittee holds **Meeting #7** with the agency. The agency director provides information on the following topics: **aptitude tests and how the results may indicate the likelihood of individuals graduating from basic training; and the following items related to agency Goal 2 to provide meaningful, contemporary and best practice law enforcement, detention and dispatcher training to the Academy community**: (1) strategies and objectives for achieving the goal; (2) agency personnel who have primary responsibility and accountability for the strategies and objectives; (3) additional information the agency reviews when prioritizing how to allocate its resources to each strategy and objective; (4) actual amount of resources allocated; and (5) performance measures. Agency representatives respond to Subcommittee questions on various topics. These topics include: (1) aptitude tests; (2) Goal 2 objectives and performance measures; (3) personnel change in status forms; (4) how the agency tracks law enforcement officer certifications; and (5) resources the agency has available to ensure state, county, and municipal law enforcement entities comply with State law as it relates to certification and reporting to the agency. Appendix K includes the meeting packet and agency handout on page 559.

### *May 2017*

On **May 2, 2017**, the Subcommittee holds **Meeting #8** with the agency. The agency director and various agency representatives provide information on the following:

- **Agency Goal 3: to provide continual oversight by South Carolina criminal justice personnel to ensure established standards are maintained:**
  - Strategies and objectives for achieving the goal;
  - Agency personnel who have primary responsibility and accountability for the strategies and objectives;
  - Additional information the agency reviews when prioritizing how to allocate its resources to each strategy and objective;
  - Actual amount of resources allocated; and
  - Performance measures.
- **Hiring and separations at law enforcement agencies and personnel change in status forms:**
  - The agency's general counsel testifies the biggest issue for the agency is not being notified when law enforcement entities around the state hire new officers.<sup>81</sup> State law requires this notification within three days of the hire.<sup>82</sup> Agency representatives believe reporting has improved due to emphasis on this issue during training.<sup>83</sup>
- **Funds the agency receives which are unrelated to the agency's strategic plan and passed through to South Carolina Educational Television.**
- **Court fines and fees which the agency relies on for more than 50% of its budget.**

Subcommittee members question the agency about the information presented. Subcommittee members also question the agency about its facilities, including, but not limited to, leaks in the roofs and showers. The facilities operations manager responds to these questions.

Following the May 2, 2017, meeting, the Subcommittee sends a letter to the agency.<sup>84</sup> The letter requests the Training Council's input on a potential recommendation and attendance at the next Subcommittee meeting. Appendix L includes the meeting packet and follow up letter from the Subcommittee on page 625.

On **May 11, 2017**, the Subcommittee holds **Meeting #9** with the agency. The purpose of the meeting is to further discuss **state, county, and municipal compliance with laws regarding officers hired and separated**. The chair of the Training Council and representatives of various law enforcement and local government associations provide testimony. The chair of the Training Council presents recommendations related to state, county, and municipal law enforcement entities compliance. He recommends consideration of prohibiting non-compliant entities from applying for grant funding. Representatives of various law enforcement and local government associations testify as to their agreement with (1) the importance of local and state law enforcement entities complying with laws, and to (2) their belief that withholding local government funding for non-compliance is not the best solution. Subcommittee members ask questions of all the representatives, which they answer.

Further, during the May 11, 2017, meeting the agency director explains some of the issues may be corrected in the near future when e-ticketing is fully implemented. E-ticketing requires an officer writing a ticket to have an agency number. An officer cannot obtain this number without registering, and registering requires providing the necessary paperwork to the agency. This may prevent law enforcement entities from allowing an officer in the field that has not registered with the agency as required by law.

Appendix M includes the meeting packet on page 688.

*June 2017*

On **June 6, 2017**, the Subcommittee holds **Meeting #10** to obtain information related to court fines and fees, which the agency relies upon for over 50% of its budget. The primary state entities involved in the process of collecting, distributing, and auditing court fines and fees are Court Administration, State Treasurer's Office (STO), and Auditor's Office. Representatives of these entities testify as to their respective roles in this process. The Court of Administration representative presents information on the Case Management System (CMS). The STO representative presents information on STO's authority to withhold state aid to counties and municipalities in certain circumstance and provides a list of local governments for which the STO is currently withholding funds. The Auditor's Office representative presents information on approximate costs of conducting an audit of a county versus a municipality. The Subcommittee questions the representatives of the three offices about the following topics:

- Training offered to those in municipalities and counties who must remit court fines and fees;
- Access to CMS and the information available on the system;
- Other case management systems utilized by municipalities and counties;
- Existing repercussions for municipalities and counties that violate State law by failing to provide financial statements and/or remit court fines and fees, including amounts currently being withheld; and
- Average costs of audits and number of Certified Public Accountant firms the Auditor's Office utilizes to perform audits of municipalities and counties.

Additionally, Subcommittee members ask representatives from the Municipal Association questions regarding municipalities' remittance of fines and fees, which the association representative answers. Appendix N includes the meeting packet, documents provided by entities during the meeting, and documents provided by entities after the meeting on page 782.

On **June 8, 2017**, the Subcommittee holds **Meeting #11** with the agency to continue the discussion from prior meetings about **officer separation and the misconduct/decertification hearing process**. Agency representatives present information on routine separations, separations due to misconduct, and the agency's proposed recommendation for updating the misconduct hearing process. The Subcommittee questions the agency about the following: (1) difference in "dishonesty" and "untruthfulness" in the regulations related to removal of an officer's law enforcement certification; (2) practice of law enforcement entities submitting allegations of officer misconduct months after the officer has left the agency; (3) misconduct hearing process, including time frames after separation by which a law enforcement entity must allege officer misconduct; and (4) centralized versus decentralized law enforcement training. Appendix O includes the meeting packet on page 1041.

On **June 26, 2017**, the Subcommittee holds **Meeting #12** with the agency to discuss **recommendations**. Various representatives of the Training Council and associations are in attendance. Subcommittee members discuss ten potential recommendations, requesting comments on each recommendation from the agency, Training Council, and local government representatives. The chair of the Training Council and agency director provide closing remarks. Appendix P includes the meeting packet on page 1074.

## *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee members have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may provide briefings to the public about the final oversight study.

**To support the Committee's ongoing oversight by maintaining current information about the Law Enforcement Training Council and Criminal Justice Academy, the agency receives an annual Request for Information.**

# FINDINGS & RECOMMENDATIONS

## Findings

The **Subcommittee Study** includes two findings arising from its study of the agency. Both findings relate to the Academy's position as to when an individual can exercise the duties of a law enforcement officer. A summary of these findings is set forth in Table 1 on page 9.

The **Subcommittee** finds it is the agency's position that, pursuant to state law, an individual cannot exercise any duties of a law enforcement officer involving the control or direction of members of the public (including issuing traffic citations) or exercise the power of arrest until there has been timely notification to the agency about the hiring of an individual, and both an offer to the individual and successful completion of a firearms qualification program by the individual. A summary of current prerequisites for an individual to perform any duties of a law enforcement officer or exercise the power of arrest are set forth in Figure 4.

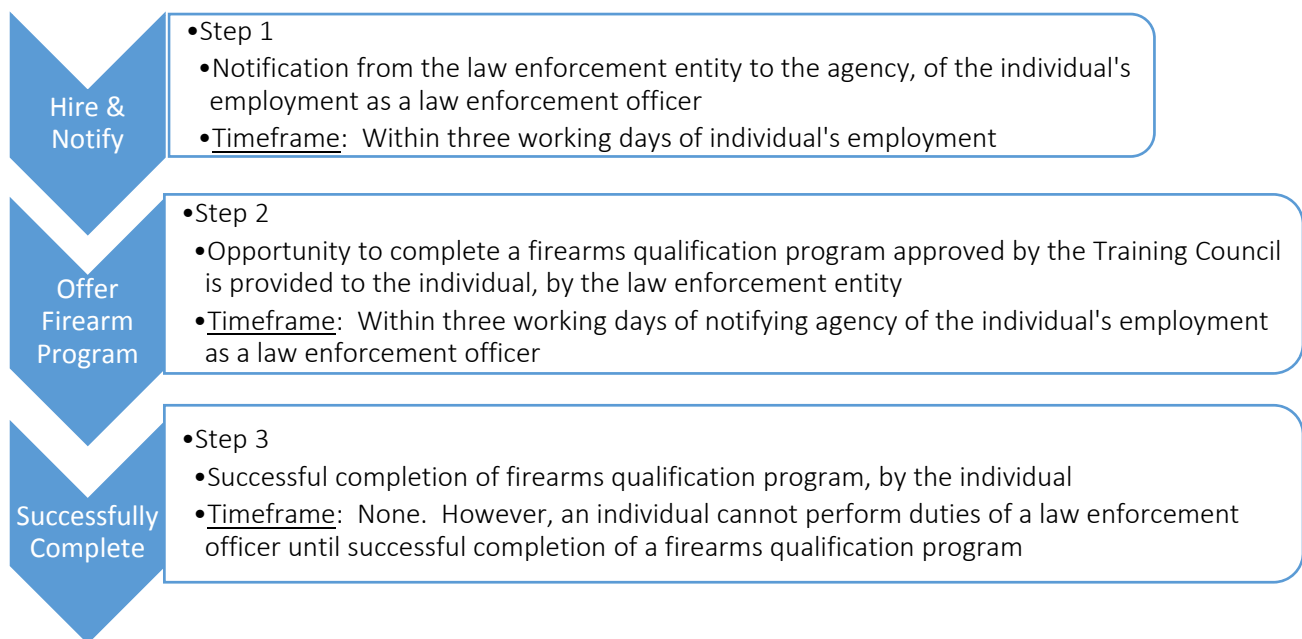


Figure 4. Prerequisites for an individual to perform any duties of a law enforcement officer or exercise the powers of arrest.

Second, the **Subcommittee** finds the agency has acknowledged it does not have a way to confirm an officer's successful completion of a firearms qualification program.

## Recommendations

### General Information

The following **recommendations** include areas identified for potential improvement by the Subcommittee. The **Subcommittee** recognizes these recommendations 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 full Committee, discussions with the agency during multiple meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency, is available on the Committee's website.

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

### *Curtail (i.e., Revise or Enhance)*

The Subcommittee has **sixteen recommendations** arising from its study of the agency. These recommendations fall into five categories: (1) hiring and training; (2) ensuring compliance and funding; (3) utilizing resources to obtain comprehensive data to inform decisions; (4) revising misconduct hearing process; and (5) updating the provisions in law. A summary of these recommendations is included in Table 2 in the Executive Summary of this study report.

### *Recommendations for Hiring and Training*

The Subcommittee has **three recommendations related to hiring and training**, and a summary is set forth in Table 8.

*Table 8. Summary of recommendations for hiring and training.*

Topic	Recommendations for . . .
	<b>HIRING AND TRAINING</b>
<b>Aptitude Testing</b>	1. Approve nationally recognized aptitude tests and minimum scores as a prerequisite to attending the agency's basic training.
<b>Firearms Qualifications*</b>	2. Clarify hiring requirements and annual firearms qualifications by amending SC Code Section 23-23-40 or applicable regulations.
<b>Continuing Education</b>	3. Require law enforcement officers to receive training in cultural professionalism; prejudice and personality; and/or culture diversity by updating regulations.

*Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.*

**1. Aptitude Testing - The Subcommittee recommends the agency approve nationally recognized aptitude tests and minimum scores as a prerequisite for attending the agency's basic training**, to help identify candidates with a strong chance of success at the Academy. Currently, approximately 26% of individuals who enter an Academy training program do not graduate.<sup>85</sup>

Common reasons an officer does not complete training include: (1) failing an academic class; (2) inability to pass physical requirements; (3) medical reasons (e.g., sick or injury); and (4) personal reasons (i.e., deciding law enforcement is not a right fit).<sup>86</sup> The agency's first recommendation attempts to address one of the common reasons for not graduating, failing an academic class. Testimony from agency representatives note the agency performed a study in FY 2008-09 to determine the reading levels for

incoming candidates in basic law enforcement, basic jail, and basic telecommunications officer training programs.<sup>87</sup> Over 42% of candidates who read below a tenth grade level subsequently failed an Academy written test; for those reading below a ninth grade level, the failure rate increased to 52%.<sup>88</sup>

**2. Firearms Qualifications - The Subcommittee recommends the agency clarify hiring requirement and annual firearms qualifications** to assist the agency in its responsibilities to coordinate training and standards for all law enforcement. To effectuate coordination, it is essential for the agency to know who all law enforcement officers are and where they work.<sup>89</sup> Many variables may occur during a year that impact an officer's ability to use a firearm (e.g., injury).<sup>90</sup> On this basis, the Subcommittee Study recommends amending SC Code Section 23-23-40 or applicable regulations to accomplish the following:

- Clarify for a certified or non-certified officer to enforce laws, a hiring law enforcement entity must provide the agency notification of both (1) the hiring of the officer, and (2) the officer's successful completion of firearms qualification, regardless of whether the officer is new to law enforcement or transferring from another law enforcement entity;
- Require the agency to confirm if all officers at a law enforcement entity, with certain exceptions (e.g., military service, etc.), have passed a yearly firearms qualification, including some mechanism for enforcement of this provision; and
- Remove an outdated provision in statute referencing if a firearms qualification program approved by the agency director exists, as an approved program now exists.

**3. Continuing Education - The Subcommittee recommends the agency require law enforcement officers to receive, during the three-year continuing education cycle, education in cultural professionalism; prejudice and personality; and/or culture diversity to maintain their law enforcement certification.**<sup>91</sup>

### *Recommendations for Ensuring Compliance and Funding*

The Subcommittee has **four recommendations related to ensuring compliance and funding**, and a summary is set forth in Table 9.

*Table 9. Summary of recommendations for ensuring compliance and funding.*

Topic	Recommendations for . . .
	<b>ENSURING COMPLIANCE AND FUNDING</b>
<b>Civil Penalties*</b>	4. Authorize the agency director, in his sole discretion, to issue civil penalties to law enforcement agencies not following laws or regulations with appeal to the Training Council as a final agency decision. Provide a mechanism for the agency to collect penalties issued by amending SC Code Ann. §23-23-100.
<b>Court Fines And Fees*</b>	5. Revise laws to designate an entity in state government responsible for ensuring local governments remit timely and accurate payments of court fines and fees as required in law. Further, work with the designated entity to determine if there are more effective options for obtaining compliance.
<b>Audited Financial Statements*</b>	6. Work with various stakeholders, to determine what revisions to laws, if any, are necessary relating to local government audited financial statements and penalties for non-compliance.



<b>Steady Source of Funding*</b>	7. Provide the agency a steady, reliable base source of funding.
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*Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.*

**4. Civil Penalties** - The Subcommittee recommends the General Assembly authorize the director of the agency, in his sole discretion, to issue civil penalties to law enforcement entities not following laws or regulations with appeal to the Training Council as a final agency decision by amending SC Code Section 23-23-100. Further, the Subcommittee recommends inclusion of a mechanism for the agency to collect on civil penalties issued.

**5. Court Fines and Fees** - The Subcommittee recommends the General Assembly designate one entity in state government with the responsibility of ensuring accurate, timely, payments of court fines and fees from local governments. Further, the Subcommittee recommends the General Assembly work with the entity it identifies as responsible for ensuring compliance, to determine if additional revisions to laws may be necessary for obtaining compliance from local governments.

During the study process, the Subcommittee has learned the Academy relies on revenue from court fines and fees for more than 50% of its total budget. The Subcommittee meets with the three entities primarily involved with the complex process of collecting, distributing, and auditing court fines and fees. The only method for obtaining compliance from local governments in timely, accurate remittance of court fines and fees is to withhold local aid to subdivisions assistance. There are some shortcomings in the effectiveness of this process. One shortcoming is the statutes discussing this process are piecemeal and do not designate one state entity as responsible for ensuring compliance. Another shortcoming is it is less costly for some smaller local governments to have state payments withheld than to perform an audit and remit fines and fees. Appendix Q. Court Fines and Fees Process, includes a summary of the fines and fees process and illustrates its shortcomings.

**6. Audited Financial Statements** - The Subcommittee recommends the General Assembly work with relevant stakeholders to determine if revisions to the laws regarding audited financial statements of local governments and greater penalties for non-compliance are necessary.<sup>92</sup> Accurate financial information is a fundamental requirement for public confidence in a government.<sup>93</sup>

**7. Steady Source of Funding** - The Subcommittee recommends the General Assembly seek to provide the agency a steady base source of funding upon which it can rely. Of the entities that receive funding from fines and fees, the Law Enforcement Training Council and Criminal Justice Academy is the only agency that relies on fines and fees for more than 50% of its total budget.<sup>94</sup> A complete listing of entities that receive revenue from fines and fees is included in Appendix R. Notably, during the last seven fiscal years, the revenue to the agency from fines and fees has decreased more than two million dollars.<sup>95</sup> The agency's monthly fines and fees revenue for fiscal year 2009 through fiscal year 2017 are included in Appendix S. Other state agency personnel agree, "Fees and assessments are not a stable way to fund state or county government."<sup>96</sup> Given the fluctuations in fines and fees over the years, the Subcommittee recommends the General Assembly

### *Recommendations for Utilizing Resources to Obtain Comprehensive Data to Inform Decisions*

The Subcommittee has **five recommendations relating to the agency utilizing its resources to obtain comprehensive data to make informed decisions**, and a summary is set forth in Table 10.

*Table 10. Summary of recommendations for utilizing resources to obtain comprehensive data to inform decisions.*

Topic	Recommendations for . . .
	<b>UTILIZING RESOURCES TO OBTAIN COMPREHENSIVE DATA TO INFORM DECISIONS</b>
<b>Internet</b>	8. Require an employer with a Class I Law Enforcement Officer to certify it has access to the Internet and the ability to access online forms and/or databases utilized by the Training Council and/or Academy.
<b>Personnel Changes</b>	9. Allow law enforcement entities to complete personnel change in status information via a web based form, and create formulas and rules in the database to increase the ability of the agency to analyze information.
<b>Disciplinary Records</b>	10. Determine the cost of tracking law enforcement officer discipline in a central database, with individual records available only with the consent of the individual officer. <b>Follow up:</b> Provide this information to the House Oversight Committee by Tuesday, January 9, 2018, the first day of the 2018 legislative session.
<b>Reporting Data</b>	11. Annotate data and statistics provided to the public and legislators.
<b>Compilation of Data</b>	12. Compile and update annually a list with information about computer systems/databases utilized by each county and municipality to ensure future programs obtained by the State will work across the different technologies utilized.

*Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.*

**8. Internet - The Subcommittee recommends the agency revise its regulations to require any employer of a Class I Law Enforcement Officer to certify it has access to the Internet and the ability to access the online forms and/or database utilized by the agency.** A law enforcement employers' access to the Internet allows for additional efficiencies in operation of the law enforcement entity and the agency.

**9. Personnel Changes - The Subcommittee recommends the agency explore methods to allow local and state law enforcement entities to type information directly into the agency's database,** as a way for the agency to utilize agency personnel time more effectively, such as focusing on analyzing personnel changes to ascertain any trends in officer separations, instead of retyping information from paper forms into the agency database.<sup>97</sup>

This recommendation seeks to increase efficiencies in the agency's operations relating to law enforcement personnel changes. During the study process, the Subcommittee has learned that local and state law enforcement entities complete a Personnel Change in Status form (PCS) whenever a law enforcement officer is hired or leaves. The form is available in electronic format, but it must be typed by the law enforcement entity, printed, signed, and then sent by email or mail to the agency. When the agency receives the document, there is inefficiency as an agency employee must retype the information on the form into the agency database.

During 2015-16, the agency processed 5,556 PCS forms along with 1,790 certification requests and 8,000 mandatory reporting notification forms.<sup>98</sup> If the number of PCS forms is multiplied by the number of minutes, per form, it takes to re-type the information into the agency's database, this amounts to one employee spending 40 hours per week for over 20 weeks, solely re-typing information from PCS forms initially completed by the various law enforcement entities.<sup>99</sup> This does not include the amount of time it takes to re-type information related to certification requests, mandatory reporting notification forms, or other forms.

**10. Disciplinary Records - The Subcommittee recommends the agency research the costs and steps necessary to track law enforcement officer discipline in a central database, with individual records available only with the consent of the individual officer,** and provide this information to the House Oversight Committee by Tuesday, January 9, 2018, the first day of the 2018 legislative session. During the study process, the Subcommittee has learned the training records of law enforcement officers are maintained in the Academy Information System (ACADIS).<sup>100</sup> If the disciplinary records of the officers are also maintained in ACADIS, the Academy may, with an officer's consent, provide the record to a potential law enforcement employer.<sup>101</sup> This may provide a law enforcement employer a more complete picture of an officer's background.<sup>102</sup>

**11. Reporting Data - The Subcommittee recommends the agency annotate any data and statistics provided to the public and legislators.** In this annotation, the agency may explain the following: (1) source of the information, (2) specific search parameters, if any; and (3) any other contextual information necessary to assist the end reader.

**12. Compilation of Data - The Subcommittee recommends an entity compile and annually update a list with information about computer systems/databases utilized by each county and municipality.** Creation of such a list may allow the Department of Administration, or a future technology cabinet agency, to perform research on programs to find efficiencies in operations.

### *Recommendations for Clarifying the Misconduct Hearing Process*

The Subcommittee has **two recommendations related to the law enforcement officer misconduct process**, and a summary is set forth in Table 11.

*Table 11. Summary of recommendations for clarifying the misconduct hearing process.*

Topic	Recommendations for . . .
	<b>CLARIFYING THE MISCONDUCT HEARING PROCESS</b>
<b>Dishonesty / Untruthfulness</b>	13. Define key terms related to misconduct, including "dishonesty" and "untruthfulness," as well as add and define, "officers of the court," by updating SC Code of Regulations 37-025 and 37-026.
<b>Officer Misconduct Hearing Process*</b>	14. Update laws relating to the officer misconduct hearing process as outlined by the agency. Prohibit receipt of any allegations of law enforcement misconduct impacting certification more than 30 days after an officer's separation from an agency, unless there are extenuating circumstances.

*Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.*

**13. Dishonesty/Untruthfulness** - The Subcommittee recommends the agency define “dishonesty,” and “untruthfulness,” as well as add and define “officers of the court,” to provide clarity and promote consistency among law enforcement entities by updating SC Code of Regulations 37-025 Denial of Certification for Misconduct and 37-026 Withdrawal of Certification of Law Enforcement Officers.

**14. Officer Misconduct Hearing Process** - The Subcommittee recommends a companion bill be filed in the second session of the 122nd General Assembly as the agency supports, S 518, including an additional provision that any allegations of law enforcement certification misconduct not be accepted more than 30 days after an officer’s separation from an agency, unless there are extenuating circumstances. This addition is at the recommendation of the agency. During the study process, the Subcommittee has obtained information on the steps necessary for a law enforcement officer’s separation from employment. The process begins when a law enforcement entity notifies the agency of a separation through a Personnel Change in Status (PCS) form. There are two types of PCS forms, one for routine separations and one for separations which involve misconduct allegations. An explanation of the steps taken when the agency receives a PCS for routine separation is included in Table 12. Likewise, an explanation of the steps taken when the agency receives a PCS alleging misconduct that rises to the level of removing the officer’s law enforcement certification is included in Table 13.

*Table 12. Summary of steps when agency receives notice of a routine separation*

Steps taken when agency receives Notice of <u>Routine Separation</u>	
<ol style="list-style-type: none"> <li>1. State, county, or municipal law enforcement entity submits a Personnel Change in Status (PCS) - Routine Separation form to the Criminal Justice Academy (CJA).</li> <li>2. CJA’s Certification Unit reviews the form to determine if facts as listed evidence routine separation or potentially evidence officer misconduct.</li> </ol>	
<p><b>2a.</b> If no facts are listed on the form...</p>	<p>Additional facts are provided at the agency’s discretion or CJA’s request. An example is, if an officer has been arrested, CJA encourages the agency to include the charges in the “Other” block of the form so CJA can review it to determine if further action, such as a temporary suspension, is needed.</p>
<p><b>2b.</b> If facts on form evidence....</p> <ul style="list-style-type: none"> <li>o routine separation.....</li> <li>o misconduct.....</li> </ul>	<p>PCS form and information is processed through ACADIS</p> <p>CJA certification unit gathers more information from the agency and encourages the agency to re-submit the form as PCS-Misconduct</p>

Table 13. Summary of steps when agency receives notice of separation due to misconduct.

Steps taken when agency receives Notice of Separation <u>due to Misconduct</u>	
<ol style="list-style-type: none"> <li>1. State, county, or municipal law enforcement entity submits a Personnel Change in Status (PCS) - Separation due to Misconduct form to the Criminal Justice Academy (CJA).</li> <li>2. CJA’s Certification Unit reviews the form to determine if facts as listed evidence misconduct or potentially routine separation.</li> </ol>	
<ol style="list-style-type: none"> <li>2a. If no facts are listed on the form...</li> </ol>	<p>CJA certification unit gathers more information from the agency and, based on the information obtained, moves to one of the next two rows.</p>
<ol style="list-style-type: none"> <li>2b. If facts on form (or gathered by CJA if no facts are on the form) evidence...                             <ul style="list-style-type: none"> <li>o routine separation.....</li> <li>o misconduct.....</li> </ul> </li> </ol>	<p>Information goes to the Law Enforcement Training Council (LETC) for an initial vote.</p> <ul style="list-style-type: none"> <li>• If LETC votes that the facts do not evidence misconduct, CJA’s Certification Unit contacts the agency and encourages the agency to re-submit the form as PCS-Routine.</li> <li>• If LETC votes that the facts potentially evidence misconduct, then the form goes through the normal process of addressing misconduct allegations. See below.</li> </ul> <ul style="list-style-type: none"> <li>• Officer is notified, via certified mail, of the allegation.</li> <li>• See Table 14 for details on this process.</li> </ul>

Table 14 provides a summary of the current process for determining whether an officer’s law enforcement certification is removed based on allegations of misconduct, and revisions to this process recommended by the Academy.

Table 14. Summary of current and proposed misconduct and decertification process.

Misconduct and Process of Determining whether Officer Maintains Law Enforcement Certification		
Topic	Current Process	Proposed Process (S 518)
Timing and Criteria to Contest Misconduct	<p><u>Time Frame:</u> None</p> <ul style="list-style-type: none"> <li>Officer cannot request a contested case hearing until employed by a law enforcement agency. <ul style="list-style-type: none"> <li>Academy Information System (ACADIS) file is flagged “Needs a Contested Case Hearing.”</li> </ul> </li> <li>Officer is hired by a law enforcement agency and requests a contested case hearing.</li> </ul>	<p><u>Time Frame:</u> 60 days after notified of misconduct allegation</p> <ul style="list-style-type: none"> <li>Officer has 60 days, after notification, to request a contested case hearing. <ul style="list-style-type: none"> <li>Officer against whom an allegation of misconduct is alleged is prohibited from being employed as a law enforcement officer until certification issues are resolved.</li> <li>If officer fails to request within this time frame Training Council (LETC) issues a final agency decision permanently denying a law enforcement certification.</li> </ul> </li> </ul>
Hearing Officer Appointed and Hearing Scheduled	<p><u>Time Frame:</u> 45-60 days</p> <ul style="list-style-type: none"> <li>Next LETC member hearing officer is assigned the case and schedules the hearing. Scheduling allows the law enforcement officer time to hire an attorney and for the parties to conduct discovery before the hearing.</li> </ul>	<p><u>Time Frame:</u> 45-60 days 30 days upon officer request</p> <ul style="list-style-type: none"> <li>LETC has authority to appoint Criminal Justice Academy (CJA) attorneys to sit as hearing officers.</li> <li>CJA attorney hearing officer is assigned the case and schedules the hearing. If law enforcement officer has already retained an attorney and the parties agree discovery is not necessary, the hearing can be scheduled within 30 days.</li> </ul>
Hearing	<ul style="list-style-type: none"> <li>Hearing occurs</li> </ul>	<ul style="list-style-type: none"> <li>Hearing occurs</li> </ul>
Hearing Transcript	<p><u>Time Frame:</u> 30 or more days</p> <ul style="list-style-type: none"> <li>CJA receives hearing transcript</li> </ul>	<p><u>Time Frame:</u> 30 or more days</p> <ul style="list-style-type: none"> <li>CJA receives hearing transcript</li> </ul>
CJA Staff Review/Compile materials for Hearing Officer	<p><u>Time Frame:</u> 2 weeks</p> <ul style="list-style-type: none"> <li>CJA staff review the transcript and exhibits, then draft the hearing officer’s recommendation</li> </ul>	<p><u>Time Frame:</u> 2 weeks</p> <ul style="list-style-type: none"> <li>CJA staff review the transcript and exhibits, then draft the hearing officer’s recommendation</li> </ul>

Misconduct and Process of Determining whether Officer Maintains Law Enforcement Certification		
Topic	Current Process	Proposed Process (S 518)
Hearing Officer Final Review and Recommendations	Time Frame: 2 weeks <ul style="list-style-type: none"> <li>Transcript, exhibits, and proposed recommendation are sent to the hearing officer for comments or approval</li> </ul>	Time Frame: 2 weeks <ul style="list-style-type: none"> <li>Transcript, exhibits, and proposed recommendation are sent to the hearing officer for comments or approval</li> </ul>
Parties Receive/Review Hearing Officer Recommendations	<ul style="list-style-type: none"> <li>Parties are provided a copy of the hearing officer's recommendation and may file motions</li> </ul>	<ul style="list-style-type: none"> <li>Parties are provided a copy of the hearing officer's recommendation and may file motions</li> </ul>
Materials Sent to Training Council for Review	<ul style="list-style-type: none"> <li>Recommendation is sent to all LETC members, along with transcript and exhibits</li> </ul>	<ul style="list-style-type: none"> <li>Recommendation, motions, exhibits, and hearing transcript are sent to LETC members for review (i.e., hearing package)</li> </ul>
Final Decision	<ul style="list-style-type: none"> <li>Recommendation is discussed in next quarterly LETC meeting</li> </ul>	<ul style="list-style-type: none"> <li>LETC can schedule oral arguments at the next quarterly meeting or issue a final agency decision at any time, after review of the hearing package</li> </ul>

Table Note: Rows highlighted include differences in the two processes.

### Recommendations for Updating Provisions in Law

The Subcommittee has **two recommendations for updating provisions in law**, and a summary is set forth in Table 15.

Table 15. Summary of recommendations to update provisions in law.

Topic	Recommendations for . . .
	<b>UPDATING PROVISIONS IN LAW</b>
Pass Through Funding*	15. Remove the pass through of funds to Education Television Commission (ETV) from the Training Council and Academy's section of the General Appropriations Act and include those funds in ETV's section of the General Appropriations Act.
Training Facilities*	16. Authorize the agency director to determine the location of a "training facility" for mandatory training or other types of training by amending SC Code Ann. §23-23-20.

Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.

15. Pass through Funding - The Subcommittee recommends the General Assembly remove the pass through of funds to ETV from the Training Council and agency's section of the General Appropriations Act and include those funds in ETV's section of the General Appropriations Act to further transparency.<sup>103</sup>

**16. Training Facilities** - The Subcommittee recommends the General Assembly clarify the term “training facility” in statute by amending SC Code Section 23-23-20 to authorize the agency director to determine the location of a “training facility” for mandatory training or other types of training required for certification. During the study process, the Subcommittee has learned there is a question if training may be provided someplace other than at the agency’s main facility.<sup>104</sup>

### *Eliminate*

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs.

### *Follow Up*

The Subcommittee recommends the agency research the costs and steps needed to track law enforcement officer discipline in a central database, with individual records available only with the consent of the individual officer, and provide this information to the House Oversight Committee by Tuesday, January 9, 2018, the first day of the 2018 legislative session.



## SELECTED AGENCY INFORMATION

**Law Enforcement Training Council and Criminal Justice Academy. "Program Evaluation Report, 2016."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Agency%20PER%20-%20Amended%20\(August%2012,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Agency%20PER%20-%20Amended%20(August%2012,%202016).PDF) (accessed June 2, 2017).

**Law Enforcement Training Council and Criminal Justice Academy. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Law%20Enforcement%20Training%20Center%20Criminal%20Justice%20Academy.pdf> (accessed June 2, 2017).

**Law Enforcement Training Council and Criminal Justice Academy. "Annual Restructuring Report, 2016."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Law%20Enforcement%20Training%20Council.PDF> (accessed June 2, 2017).

**Law Enforcement Training Council and Criminal Justice Academy. "Accountability Report, 2015-16."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed June 2, 2017).

**Law Enforcement Training Council and Criminal Justice Academy. "Annual Request for Information, 2017."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Annual%20Request%20for%20Information%20-%20CJA%20\(PDF\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebPages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Annual%20Request%20for%20Information%20-%20CJA%20(PDF).PDF) (accessed June 2, 2017).

**SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed June 2, 2017).

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## ENDNOTES

<sup>1</sup> *SC Code of Laws*, sec. 2-2-20(C).

<sup>2</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER - Amended (August 12, 2016) (updated April 13, 2017),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Oversight Reports and Studies,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Agency%20PER%20-%20Amended%20\(August%2012,%202016\)%20\(updated%20April%2013,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Agency%20PER%20-%20Amended%20(August%2012,%202016)%20(updated%20April%2013,%202017).pdf) (last accessed July 19, 2017). Hereinafter “Agency PER-Amended (August 12, 2016) (Updated April 13, 2017)”.

<sup>3</sup> 1968 Act No. 1263, sec. 5. Note \$30,000 in 1968 is the equivalent of approximately \$213,000 in 2017 (inflation adjusted).

<sup>4</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>5</sup> 1970 Act No. 1186, sec. 3.

<sup>6</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>7</sup> *Ibid.*

<sup>8</sup> SC House of Representatives, House Legislative Oversight Committee, “SC Criminal Justice Academy Assessment Report from CALEA (September 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Other Materials,” under “CALEA - Commission on Accreditation for Law Enforcement Agencies, Inc.,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/CALEA%20Assessment%20Report%20for%20CJA%20\(September%2026,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/CALEA%20Assessment%20Report%20for%20CJA%20(September%2026,%202016).pdf) (last accessed May 12, 2017). Hereinafter “SC Criminal Justice Academy Assessment Report from CALEA (September 2016).”

<sup>9</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *SC Code of Laws*, sec. 23-23-60.

<sup>13</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>14</sup> SC Criminal Justice Academy Assessment Report from CALEA (September 2016).

<sup>15</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *SC Code of Laws*, sec. 23-23-10.

<sup>22</sup> SC Criminal Justice Academy Assessment Report from CALEA (September 2016). Note: The new automated training and certification tracking system was purchased while the Academy was a part of Department of Public Safety.

<sup>23</sup> Act 310 of 2008 (Proviso 90.7, the General Appropriations Bill for fiscal year 2009-2010). Similar provisos were included in subsequent general appropriation bills: Proviso 90.5, the General Appropriations Bill for fiscal year 2010-2011; Proviso 90.5, the General Appropriations Bill for fiscal year 2011-2012; Proviso 90.5, the General Appropriations Bill for fiscal year 2012-2013; Proviso 118.5, the General Appropriations Bill for fiscal year 2013-2014; Proviso 118.4, the General Appropriations Bill for fiscal year 2014-2015.

<sup>24</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

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<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Act No. 247 of 2014.

<sup>33</sup> SC Criminal Justice Academy Assessment Report from CALEA (September 2016).

<sup>34</sup> Ibid.

<sup>35</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>36</sup> Ibid.

<sup>37</sup> *SC Code of Laws*, sec. 23-23-10.

<sup>38</sup> *SC Code of Laws*, sec. 23-23-40 and 23-23-80; SC House of Representatives, House Legislative Oversight Committee, "March 21, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/March212017Minutes.pdf> (last accessed April 13, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 16:16 in the archived video. Hereinafter "March 21, 2017 Subcommittee Minutes."

<sup>39</sup> Ibid.

<sup>40</sup> SC House of Representatives, House Legislative Oversight Committee, "Physical Fitness Standards Survey" under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Feedback from across the state," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Survey%20-%20Physical%20Fitness%20Standards.pdf> (last accessed July 21, 2017); this survey obtains information on physical fitness requirements and/or training entities have for employees prior to sending the employee to the Academy. SC House of Representatives, House Legislative Oversight Committee, "Training Needs and Services Survey" under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Feedback from across the state," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Survey%20-%20Training%20Needs%20and%20Services.pdf> (last accessed July 21, 2017); this survey obtains information about training needs of entities across the state for the purpose of analyzing revisions to current training provided by the Academy and/or additional training courses needed; past responses to this survey have resulted in the addition of the standard field sobriety course, data master course, and increased hands on/practical scenario based training. SC House of Representatives, House Legislative Oversight Committee, "School Resource Officer Job Task Analysis Survey" under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Feedback from across the state," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Survey%20-%20School%20Resource%20Officer%20Job%20Task%20Analysis.pdf> (last accessed July 21, 2017); this survey obtains information about the tasks performed by School Resource Officers to determine if any revisions are needed to current training provided by the Academy.

<sup>41</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>42</sup> *SC Code of Laws*, sec. 23-23-30.

<sup>43</sup> Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (last accessed July 21, 2017).

<sup>44</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>45</sup> The methodology the agency utilizes includes operational and employee costs related to each objective. The expenditures (less employee costs) of each division are analyzed to determine if any cost is associated completely with one objective. If so, that cost is charged entirely to that objective. The remaining costs for the division are multiplied by a percentage based on the objectives related to that division. Likewise, employee cost and fringes are analyzed to ascertain if any one employee or group of employees are associated with a single objective and if so, their

salary and fringes are charged to that objective. For example, the agency's investigator spends his entire time working toward Objective 3.2.2 (audit field records to ensure matched with Certification records) even though his position is associated with the Director's office. The remaining employees' salaries and fringes are then charged percentage-wise to the appropriate objectives. The operational costs and employee and fringe costs are added together to determine the total amount spent on each objective.

<sup>46</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Most other states utilize colleges, universities, regional academies, and individual agencies to provide this training.

<sup>54</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>55</sup> *SC Code of Laws*, sec. 2-2-10(1).

<sup>56</sup> SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016," under "House Legislative Oversight Committee," under "Committee Information," under "Meeting Minutes and Handouts," under "Full Committee," under "Minutes," under "121st General Assembly," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf> (last accessed May 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>57</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to CJA (February 4, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Correspondence," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20Oversight%20Committee%20to%20CJA%20\(February%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20Oversight%20Committee%20to%20CJA%20(February%204,%202016).pdf) (last accessed June 2, 2017).

<sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2017," under "House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignment%20-%202017.pdf> (last accessed May 19, 2017).

<sup>59</sup> *SC Code of Laws*, sec. 1-30-10.

<sup>60</sup> Law Enforcement Training Council and Criminal Justice Academy, "2015 - Agency ARR and Seven-Year Plan," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Law%20Enforcement%20Training%20Center%20Criminal%20Justice%20Academy.pdf> (last accessed June 2, 2017). Hereinafter "2015-Agency ARR and Seven-Year Plan."

<sup>61</sup> *SC Code of Laws*, sec. 1-30-10.

<sup>62</sup> 2015-Agency ARR and Seven-Year Plan.

<sup>63</sup> SC House of Representatives, House Legislative Oversight Committee, "2016 - Agency ARR," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Law%20Enforcement%20Training%20Council.PDF> (last accessed June 2, 2017).

<sup>64</sup> Law Enforcement Training Council and Criminal Justice Academy, "2015-16 Agency Accountability Report," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed July 19, 2017).

<sup>65</sup> *SC Code of Laws*, sec. 2-2-50.

<sup>66</sup> SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report Guidelines (May 16, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Oversight Reports and Studies,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%2016,%202016\)%20-%20CJA.PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%2016,%202016)%20-%20CJA.PDF) (last accessed May 19, 2017).

<sup>67</sup> Agency PER-Amended (August 12, 2016) (Updated April 13, 2017).

<sup>68</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “March 9, 2017,” under “House Legislative Oversight Committee,” under “Committee Information,” under “Meeting Minutes and Handouts,” under “Full Committee,” under “Minutes,” under “122nd General Assembly,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%209,%202017%20Mtg%20Minutes.pdf> (last assessed June 2, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>70</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (April 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (last accessed June 2, 2017).

<sup>71</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20R SIC.PDF> (last accessed June 2, 2017).

<sup>72</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4 <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (last accessed July 19, 2017).

<sup>73</sup> SC House of Representatives, House Legislative Oversight Committee, “Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20R SIC.PDF> (last accessed June 2, 2017).

<sup>74</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “House Legislative Oversight Committee.”

<sup>75</sup> SC House of Representatives, House Legislative Oversight Committee, “Law Enforcement and Criminal Justice Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee Information,” under “Meeting Minutes and Handouts,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php>

(last accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>76</sup> Purpose of the meeting was to hear public testimony regarding the State Election Commission, Human Affairs Commission, and Law Enforcement Training Council and Criminal Justice Academy.

<sup>77</sup> SC House of Representatives, House Legislative Oversight Committee, "March 9, 2017," under "House Legislative Oversight Committee," under "Committee Information," under "Meeting Minutes and Handouts," under "Full Committee," under "Minutes," under "122nd General Assembly,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%209,%202017%20Mtg%20Minutes.pdf> (last assessed June 2, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 19:36 in the archived video.

<sup>78</sup> *Ibid.*

<sup>79</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from LETC/CJA to Oversight Subcommittee (March 29, 2017)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Correspondence," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20CJA%20to%20Oversight%20Subcommittee%20with%20attachments%20\(March%2029,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20CJA%20to%20Oversight%20Subcommittee%20with%20attachments%20(March%2029,%202017).pdf) (last accessed July 18, 2017).

<sup>80</sup> *Ibid.*

<sup>81</sup> SC House of Representatives, House Legislative Oversight Committee, "May 2, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/May%202,%202017%20-%20Meeting%20Minutes%20-%20CJA.pdf> (last accessed July 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 27:42 in the archived video.

(Agency General Counsel Fennel "One of the biggest problems that we have as an agency is being notified of when an individual is hired by a law enforcement agency"). Hereinafter "May 2, 2017 Subcommittee Minutes."

<sup>82</sup> *SC Code of Laws*, sec. 23-23-40.

<sup>83</sup> May 2, 2017 Subcommittee Minutes. See 31:37 in the archived video.

<sup>84</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to LETC (May 3, 2017)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Correspondence," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20Subcommittee%20to%20LETC%20\(May%203,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Letter%20from%20Subcommittee%20to%20LETC%20(May%203,%202017).pdf) (last accessed July 19, 2017).

<sup>85</sup> March 21, 2017 Subcommittee Minutes.

<sup>86</sup> *Ibid.* at 22:21 in the archived video.

<sup>87</sup> SC House of Representatives, House Legislative Oversight Committee, "April 26, 2017 Subcommittee Minutes," under "House Legislative Oversight Committee," under "Agency and Other Studies," and under "Law Enforcement Training Council and Criminal Justice Academy,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/April%2026,%202017%20-%20Meeting%20Minutes.pdf> (last accessed July 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 2:35 in the archived video; SC House of Representatives, House Legislative Oversight Committee, "Aptitude Testing Memo (April 19, 2010)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Graduation Rates,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Aptitude%20Testing%20Memo%20\(April%2019,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Aptitude%20Testing%20Memo%20(April%2019,%202010).pdf) (last accessed July 14, 2017).

<sup>88</sup> *Ibid.* See 2:35 in the archived video; SC House of Representatives, House Legislative Oversight Committee, "Aptitude Testing Memo (April 19, 2010)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Graduation Rates,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Aptitude%20Testing%20Memo%20\(April%202019,%202010\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Aptitude%20Testing%20Memo%20(April%202019,%202010).pdf) (last accessed July 14, 2017).

<sup>89</sup> SC House of Representatives, House Legislative Oversight Committee, “June 26, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Law Enforcement Training Council and Criminal Justice Academy,” Minutes will be posted once they are approved by the Subcommittee. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 51:40 in the archived video. Hereinafter “June 26, 2017 Subcommittee Minutes.”

<sup>90</sup> Ibid.

<sup>91</sup> Other states which require similar training include (1) Arkansas whose annual training emphasizes prohibition against racial profiling and courses of instruction and guidelines stress understanding and respect for racial, ethnic, national, religious, and cultural differences and development of effective and appropriate methods of carrying out law enforcement duties<sup>91</sup>; and (2) Illinois which requires continuing education to State Police officers concerning cultural diversity, including sensitivity toward racial and ethnic differences.

<sup>92</sup> Relevant stakeholders include, but are not limited to, State Auditor’s Office; State Treasurer’s Office; and local governments.

<sup>93</sup> June 26, 2017 Subcommittee Minutes. See 01:24:00 in the archived video.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, “June 6, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Law Enforcement Training Council and Criminal Justice Academy,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/June%206,%202017%20-%20Meeting%20Minutes.pdf> (last accessed July 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 01:35:20 in the archived video. Hereinafter “June 5, 2017 Subcommittee Minutes.”

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, “Monthly Revenue from fines and fees to the Criminal Justice Academy for FY09-FY17,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Finances & Performance,” under “Finances,” under “Fines and Fees,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Fees%20and%20Fines%20-%20Monthly%20Revenue%20to%20CJA%20for%20FY09-FY17.pdf> (last accessed July 17, 2017).

<sup>96</sup> June 6, 2017 Subcommittee Minutes. See 26:10 in the archived video. (Court Administration Assistant Director Bob McCurdy: Fees and assessments are not a stable way to fund State or county government).

<sup>97</sup> SC House of Representatives, House Legislative Oversight Committee, “May 2, 2017 Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” and under “Law Enforcement Training Council and Criminal Justice Academy,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/May%202,%202017%20-%20Meeting%20Minutes%20-%20CJA.pdf> (last accessed July 19, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 52:05 in the archived video. Hereinafter, “May 2, 2017 Subcommittee Minutes.”

<sup>98</sup> March 21, 2017 Subcommittee Minutes. See 30:25 in the archived video.

<sup>99</sup> April 2017 phone call from Tom McQueen, Chief Financial Officer for the Criminal Justice Academy to Charles Appleby, Legal Counsel for the House Legislative Oversight Committee. Amount of time it takes an employee at the Academy to receive a Personnel Change in Status form and type the information into the Academy’s database is approximately 10 minutes. 5,556 forms x 10 minutes per form = 55,560 minutes; 55,560 minutes / 60 minutes per hour = 926 hours; 926 hours / 40 hours per week = 23.15 weeks.

<sup>100</sup> June 26, 2017 Subcommittee Minutes. See 01:26:00 in the archived video.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> May 2, 2017 Subcommittee Minutes. See 55:25 in the archived video.



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<sup>104</sup> South Carolina Attorney General, under “Opinions,” under “2009 Opinions,” under “August 25, 2009.” <http://2hsvz0l74ah31vgcm16peuy12tz.wpengine.netdna-cdn.com/wp-content/uploads/2011/03/harrell-h-f-os-8854-8-25-09-training-facility.pdf> (last accessed July 14, 2017).

<sup>105</sup> *SC Code of Laws*, sec. 23-23-40.

<sup>106</sup> *Ibid.* See 57:30 in the archived video.

<sup>107</sup> *Ibid.* See 21:54 in the archived video. (Director Swindler testified there was an average failure rate of 26%).

<sup>108</sup> *Ibid.* See 33:51 in the archived video.

<sup>109</sup> SC House of Representatives, House Legislative Oversight Committee, “Sorted by Percentage Graduated,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Other Materials,” under “Graduation Rates,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Graduation%20Rates%20for%20Basic%20Training%20from%201.14%20thru%2012.31.16%20-%20Sorted%20by%20percentage%20graduated%20lowest%20to%20highest.pdf> (last accessed April 13, 2017). Hereinafter, “Sorted by Percentage Graduated.”

<sup>110</sup> *Ibid.*

<sup>111</sup> *Ibid.*

<sup>112</sup> March 21, 2017 Subcommittee Minutes. See 26:03 in the archived video.

<sup>113</sup> Sorted by Percentage Graduated.

<sup>114</sup> SC House of Representatives, House Legislative Oversight Committee, “Advanced Training - How to ensure classes are current; and Are out-of-State students allowed to take courses,” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Other Materials,” under “Class Descriptions and Schedules,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Advanced%20Training%20Courses%20Responses.pdf> (last accessed April 13, 2017). Hereinafter, “Advanced Training.”

<sup>115</sup> March 21, 2017 Subcommittee Minutes. See 57:50 in the archived video.

<sup>116</sup> *Ibid.* See 33:54 in the archived video.

<sup>117</sup> *Ibid.* See 34:34 in the video.

<sup>118</sup> *Ibid.* See 35:20 in the archived video.

<sup>119</sup> *Ibid.* See 39:10 in the archived video.

<sup>120</sup> April 26, 2017 Subcommittee Minutes. See 17:50 in the archived video.

<sup>121</sup> March 21, 2017 Subcommittee Minutes. See 37:41 and 38:50 in the archived video.

<sup>122</sup> Advanced Training.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid.*

<sup>127</sup> March 21, 2017 Subcommittee Minutes. See 40:20 in the archived video.

<sup>128</sup> *Ibid.* See 40:25 in the archived video.

<sup>129</sup> *Ibid.* See 40:50 in the archived video.

<sup>130</sup> *Ibid.* See 40:53 in the archived video.

<sup>131</sup> *Ibid.* See 41:12 in the archived video.

<sup>132</sup> *Ibid.* See 42:37 in the archived video.

<sup>133</sup> *SC Code of Laws*, sec. 23-23-120.

<sup>134</sup> *SC Code of Laws*, sec. 23-23-40.

<sup>135</sup> *Ibid.*

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

<sup>138</sup> *SC Code of Laws*, sec. 59-116-40.

<sup>139</sup> *SC Code of Laws*, sec. 6-11-340. Note: If special purpose district decides to have law enforcement, CJA must train them.

<sup>140</sup> *SC Code of Laws*, sec. 23-23-115.

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- <sup>141</sup> *SC Code of Laws*, sec. 23-23-50; *SC Code of Regulations*, sec. 37-010.
- <sup>142</sup> *SC Code of Regulations*, sec. 37-005 B.1.
- <sup>143</sup> *SC Code of Laws*, sec. 24-5-320; *SC Code of Regulations*, sec. 37-010.
- <sup>144</sup> *SC Code of Regulations*, sec. 37-010.
- <sup>145</sup> *Ibid.*
- <sup>146</sup> *SC Code of Laws*, sec. 17-5-130(C)-(H).
- <sup>147</sup> *SC Code of Regulations*, sec. 37-010.
- <sup>148</sup> *SC Code of Regulations*, sec. 37-066.
- <sup>149</sup> *SC Code of Laws*, sec. 23-47-20(C)(15).
- <sup>150</sup> *SC Code of Regulations*, sec. 37-069.
- <sup>151</sup> *SC Code of Laws*, sec. 23-28-40.
- <sup>152</sup> September 2016 phone call from Mike Lanier, Deputy Director for the Criminal Justice Academy to Charles Appleby, Legal Counsel for the House Legislative Oversight Committee. Hereinafter, "September 2016 phone call."
- <sup>153</sup> *SC Code of Regulations*, sec. 37-010 & 37-030(C).
- <sup>154</sup> SC House of Representatives, House Legislative Oversight Committee, "Mandated Class Students v. Revenues for FY 2009 - 2016 (as of November 23, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Finances & Performance," under "Comparisons,"  
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Mandated%20Class%20Students%20v.%20Revenues%20for%20FY%202009%20-%202016%20\(as%20of%20November%2023,%202016\).xlsx](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Mandated%20Class%20Students%20v.%20Revenues%20for%20FY%202009%20-%202016%20(as%20of%20November%2023,%202016).xlsx) (last accessed April 12, 2017).
- <sup>155</sup> *Ibid.*
- <sup>156</sup> SC House of Representatives, House Legislative Oversight Committee, "Advanced Classes - List of courses and date course was last revised," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Class Descriptions and Schedules,"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Advanced%20Classes%20-%20Dates%20of%20last%20revision%20and%20next%20scheduled%20revisions.pdf> (last accessed April 13, 2017).
- <sup>157</sup> *Ibid.*
- <sup>158</sup> *SC Code of Regulations*, sec. 37-021.
- <sup>159</sup> *Ibid.*
- <sup>160</sup> *SC Code of Regulations*, sec. 37-021.
- <sup>161</sup> *SC Code of Regulations*, sec. 37-012.
- <sup>162</sup> *Ibid.*
- <sup>163</sup> *Ibid.*
- <sup>164</sup> *SC Code of Regulations*, sec. 37-013.
- <sup>165</sup> *Ibid.*
- <sup>166</sup> *SC Code of Regulations*, sec. 37-016.
- <sup>167</sup> *SC Code of Regulations*, sec. 37-015(A).
- <sup>168</sup> *Ibid.*
- <sup>169</sup> *SC Code of Regulations*, sec. 37-017.
- <sup>170</sup> *SC Code of Regulations*, sec. 37-015(B).
- <sup>171</sup> *SC Code of Laws*, sec. 56-5-760.
- <sup>172</sup> *SC Code of Regulations*, sec. 37-015(B).
- <sup>173</sup> *Ibid.*
- <sup>174</sup> September 2016 phone call.
- <sup>175</sup> *SC Code of Regulations*, sec. 37-015(C).
- <sup>176</sup> *Ibid.*
- <sup>177</sup> *Ibid.*
- <sup>178</sup> March 21, 2017 Subcommittee Minutes. See 30:25 in the archived video.
- <sup>179</sup> *SC Code of Regulations*, sec. 37-008.

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<sup>180</sup> *SC Code of Laws*, sec. 23-23-50; *SC Code of Regulations*, sec. 37-010.

<sup>181</sup> *SC Code of Regulations*, sec. 37-016.

<sup>182</sup> *SC Code of Regulations*, sec. 37-022 & 37-070.

<sup>183</sup> *SC Code of Regulations*, sec. 37-023.

<sup>184</sup> *SC Code of Regulations*, sec. 37-003.

<sup>185</sup> *SC Code of Laws*, sec. 23-23-140.

<sup>186</sup> *SC Code of Laws*, sec. 23-3-65.

<sup>187</sup> *SC Code of Laws*, sec. 23-4-110.

<sup>188</sup> *SC Code of Laws*, sec. 43-35-310.

<sup>189</sup> *SC Code of Laws*, sec. 43-35-560.

<sup>190</sup> *SC Code of Laws*, sec. 63-11-1930.

<sup>191</sup> *SC Code of Laws*, sec. 17-5-130.

<sup>192</sup> SC House of Representatives, House Legislative Oversight Committee, "Additional forms provided by the agency on March 29, 2017 include..." under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Other Materials," under "Forms," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Forms%20as%20of%203.29.17.pdf> (last accessed April 13, 2017).

**Legislative Oversight Committee**  
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# Notification of the Executive Subcommittee Study

of the State Election Commission  
Friday, September 1, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Executive Subcommittee's oversight study of the State Election Commission is available for consideration by the full committee.

The Honorable Gary E. Clary  
Executive Subcommittee Chair

cc: The Honorable Laurie Slade Funderburk  
The Honorable Weston J. Newton  
The Honorable Robert Q. Williams

# Legislative Oversight Committee

## Study of the South Carolina State Election Commission *September 1, 2017*




FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# AGENCY SNAPSHOT

## State Election Commission

### History

Independent agency for almost half a century (since 1968)  
 First state in the nation to have a statewide voter registration system

### Major Programs

#### **Voter Services**

- (1) Maintains statewide voter registration system providing election-specific databases to produce ballots for county and municipal election commissions
- (2) Provides election support services and technical assistance related to statewide voting system to counties
- (3) Oversees election security and provides guidance to counties

#### **Public Information/Training**

- (1) Administers mandatory statewide training and certification program for county and municipal election officials
- (2) Conducts ongoing training events and workshops
- (3) Furnishes poll manager training program/materials
- (4) Educates the public on the voter registration and election process
- (5) Dispenses information regarding elections and agency activities

#### **Administration**

Provides leadership and direction for the agency, including administration, finance and support services



#### **ISSUES**

- Replacing aging voting equipment
- Securing elections in an ever changing field of cyber security threats
- Meeting demands of voters (e.g., including more opportunities to vote prior to election day and improved accessibility of polling places)



#### **SUCCESSSES**

- Conducting five statewide elections and partners with federal/state agencies to enhance security in 2016
- Conducting first county compliance audits in 2015, after being given responsibility over county boards of voter registration and elections in 2014
- Holding voting system fair to become familiar with current systems available around the country in 2015
- Implementing photo identification system in 2013

Figure 1. Snapshot of agency's history, major programs, successes, and issues.<sup>1</sup>

# EXECUTIVE SUMMARY

## *Purpose of Oversight Study*

As stated in SC Code of Laws § 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee:

(1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and**  
 (2) **should be continued, curtailed, or eliminated.”** In making these determinations, the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

## *Study Process*

The House Legislative Oversight Committee’s (Committee) process for studying the State Election Commission (agency, Election Commission, or SEC) includes actions by the full Committee; Executive Subcommittee (Subcommittee); the agency; and the public. A summary of the key dates and actions from January 10, 2017, to July 31, 2017 are listed below in Figure 2.

### Legislative Oversight Committee Actions

- January 10, 2017 - Schedules the agency for study by the Executive Subcommittee.
- January 17, 2017 - Informs agency it has been selected for study.
- February 9 - March 13, 2017 - Solicits input from the public about the agency through an **online public survey**.
- March 9, 2017 - Holds **Meeting #2** with the agency to receive **public input**.

### Executive Subcommittee Actions

- February 15, 2017 - Holds **Meeting #1**, a **work session**, to discuss questions to send the agency.
- April 5, 2017 - Holds **Meeting #3** to discuss how county and district boundaries for elections are mapped.
- April 18, 2017 - Holds **Meeting #4** to discuss the agency's mission; responsibilities; successes; challenges and issues; emerging issues; history; and governing body.
- May 3, 2017 - Holds **Meeting #5** to receive testimony from a constituent and discuss deliverables (i.e. products and services); organizational units; and goals.
- May 9, 2017 - Holds **Meeting #6** to continue discussion of deliverables; organizational units; and goals.
- June 13, 2017 - Holds **Meeting #7** to tour the agency and to discuss resources available; methodology utilized to allocate resources to accomplish its strategic plan; and details about each of its goals, including, but not limited to, resources allocated, and performance measures.
- June 27, 2017 - Holds **Meeting #8** to discuss recommendations.

- July 31, 2017 - Holds **Meeting #9**, a **work session**, to discuss recommendations.

### State Election Commission Actions

- March 31, 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**.
- January 12, 2016 - Submits its **Annual Restructuring Report**.
- September 20, 2016 - Submits its **2015-16 Accountability Report/2017 Annual Restructuring Report**.
- April 14, 2017 - Submits its **Program Evaluation Report**.

### Public's Actions

- February 9, 2017 - March 13, 2017 - Provides input about agency via **online public survey**.
- March 9, 2017 - Provides **testimony** to the full Committee.
- April 5, 2017 - Provides **testimony** to the Subcommittee.
- May 3, 2017 - Provides **testimony** to the Subcommittee.
- June 27, 2017 - Provides **testimony** to the Subcommittee.
- July 31, 2017 - Provides **testimony** to the Subcommittee.
- **Ongoing** - Public may submit written comments on the Oversight Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov)).

*Figure 2. Summary of key dates and actions of the study process from January 10, 2017, to July 31, 2017.*

## Finding and Recommendations

The Subcommittee has one **finding** arising from its study of the agency, acknowledging differences in interpretations of county boundaries and its potential impact on elections. During the study process, representatives from the Revenue and Fiscal Affairs Office testify if you ask two different counties where the boundary between them is located, you may get two different answers.<sup>3</sup> Also, during the study process, a constituent testifies as to concerns that may arise with county boundary discrepancies including, taxation without representation, if a county tax map is utilized as the boundary of the county instead of the boundary described in state statute.

Acknowledging differences in interpretations of county boundaries and its potential impact on elections, the Subcommittee finds until 2030, or such time as the South Carolina Geodetic Survey Office of Revenue and Fiscal Affairs surveys and maps the county boundaries as expressed in statute, practical problems may arise under various interpretations of a county boundary, including but not limited to, taxation without representation.

The Subcommittee has **eighteen substantive recommendations** arising from its study of the agency. These recommendations fall into four categories: (1) pre-election; (2) election; (3) training; and (4) county boundaries utilized for elections. These recommendations are summarized in Table 1.

There are **no specific recommendations with regards to continuance of agency programs or elimination of agency programs**.

Table 1. Summary of eighteen recommendations arising from the study process.

RECOMMENDATIONS
Pre-Election
1. <b>Voter Registration</b> - Revise state voter registration applications to include a “Yes” and “No” box beside each eligibility qualification.
2. <b>Incapacity</b> - Obtain notification when a court deems an individual mentally incapacitated so the agency may update the voter registration database.
3. <b>Voter Registration Books</b> - Allow additional time for individuals to register to vote by changing the deadline to register to vote from 30 to 25 days prior to an election.*
4. <b>Substitution of Nominee</b> - Limit the time prior to an election when a candidate may resign for non-political reasons and a substitute candidate may be nominated.*
5. <b>Certification of Candidates</b> - Allow the agency sufficient time to prepare for elections by applying the August 15th requirement for certifying candidates in a statewide general election to all candidates and questions to be voted on in the general election except Presidential and Vice-Presidential candidates.*
Elections
6. <b>Municipal Elections</b> - Standardize municipal elections by holding no more than three in an odd numbered year.*
7. <b>Primaries</b> - Hold non-partisan primaries on a different day than partisan primaries.*
8. <b>Poll Workers</b> - Allow a voter registered in South Carolina to serve as a poll worker anywhere in the state.*
9. <b>Absentee Ballots</b> - Remove the requirement of a witness signature on the envelope of a mail-in absentee ballot as the signatures cannot be verified.*
Training
10. <b>County Board Orientation</b> - Require County Registration and Election Board Members to participate in an orientation, approved by the State Election Commission, within 30 days of appointment to a county board.*

## County Boundaries Utilized for Elections

### In General

**11. Official Map** - Clarify South Carolina's official county boundary map is held by Revenue and Fiscal Affairs Office or its successor entity.\*

### Surveying Geographic Coordinates

**12. Initial Public Notice** - Expand notification efforts during the county boundary geographic coordinate surveying process.\*

**13. Streamline Process** - Streamline the geographic coordinate survey process by prohibiting simultaneous occurrence of: (1) a county annexing property impacting an individual boundary line of a county; and (2) SC Geodetic Survey surveying the same boundary line for its geographic coordinates.\*

### After Geographic Coordinates Finalized

**14. Post-Work Notice** - Expand notification efforts after the geographic coordinate surveying process.\*

**15. County Usage** - Confirm usage of boundary geographic coordinates by impacted counties.\*

**16. Voter Database** - Address practical problems with updating the voter database during the geographic coordinate surveying process.\*

**17. Future Annexations** - Provide for accuracy of county boundary lines after initial geographic coordinates are finalized (i.e., update the existing annexation process).\*

**18. Enforcement** - Create an enforcement mechanism to ensure adherence to boundary geographic coordinates (i.e., authorize a private cause of action by a citizen).\*

*Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.*

# AGENCY OVERVIEW

## *History*

The State Election Commission has provided the Committee with an overview of the agency's history.<sup>4</sup> In addition, Committee staff has confirmed the accuracy of any assertion of legislative action.

In 1968, the State Election Commission is created as an independent agency, and Mr. James B. Ellisor is named executive director, a position he holds until 1992. South Carolina organizes the first statewide voter registration system in the country.

In 1984, the SEC implements the federal Voting Accessibility for the Elderly and Handicapped Act. The same year the first two counties, Orangeburg and Spartanburg, in the state are provided online access to the statewide voter registration system.<sup>5</sup>

The State Election Commission launches a statewide project to replace paper ballots in 1986. Also, the agency implements voter registration by mail and the federal Uniformed and Overseas Citizens Absentee Voting Act. It transitions six counties to use electronic voting machines.<sup>6</sup> Those counties include Berkeley, Charleston, Colleton, Dorchester, Fairfield, and Greenwood.<sup>7</sup>

In 1992, the agency begins conducting statewide primaries. Prior to 1992, statewide primaries are conducted by political parties. Ms. Lynn McCants is named executive director of the SEC.

By 1993, all county election boards have online access to the statewide voter registration system. Mr. James F. Hendrix becomes executive director of the SEC in 1994, and he serves in the position for eight years.

The State Election Commission begins a training and certification program for county boards and launches a website providing information to voters in 1995. The SEC implements the National Voter Registration Act (i.e., Motor Voter) and participates in a technology exhibit for the U.S. Department of Commerce showcasing electronic voting machines in the state.

In 2000, the SEC participates in the Voting over the Internet Project, which is sponsored by the U.S. Department of Defense, Federal Voting Assistance Program.

Ms. Marci Andino becomes executive director of the agency in 2003, a position she currently holds. The same year the agency implements the federal Help America Vote Act (HAVA). Prior to enactment of HAVA, counties use different types of voting equipment including: (1) direct recording electronic voting machines; (2) punch cards; and (3) mark sense optical scan system.<sup>8</sup> Additionally, there are a number of dissimilar absentee voting systems in use.<sup>9</sup>

In 2004, the SEC implements a statewide electronic voting system in fifteen counties, moves the agency website to a new platform (i.e., scVOTES.org), and combines its Voter Services and Election Services Divisions to create the Public Information and Training Division. The statewide electronic voting system is completed in 2005. This is the first time South Carolina has a single voting system.

For military and overseas voters, the SEC implements instant voting (i.e., rank choice) in runoffs in 2006. This enables timely reporting of runoff votes from overseas voters, as runoffs are two weeks after a primary. The agency develops and begins using electronic voter registration lists at polling places and launches an intranet site to provide election related information to, as well as communicate with, county election officials.

The agency conducts the presidential preference primaries for the first time in 2008. In total, it conducts five statewide elections that year.

In 2010, the agency implements the federal Military and Overseas Voter Empowerment Act. Also, it develops and implements an electronic ballot delivery system for military and overseas citizens.

The agency implements the statewide voter registration and election management system in 2011. Also, the agency develops a voting system audit program to validate vote totals.

In 2012, the agency implements an online voter registration system, conducts the Republican presidential preference primary, and participates in an audit by the Legislative Audit Council.

During fiscal year 2012-13, the General Assembly provides recurring funding for the agency to conduct primaries and general elections.

In 2013, the agency implements photo identification requirements for voting. Also that year, the U.S. Supreme Court strikes down Section 4 of Voting Rights Act (i.e., requirement for pre-clearance of election changes by the U.S. Department of Justice.)

In 2014, the agency is given supervisory responsibility over county boards of voter registration and elections; responsibility for conducting county compliance audits and other postelection analysis; and responsibility for conducting candidate filing, which was previously conducted by political parties. Also, the agency creates an information security position.

The agency conducts the first county compliance audits in 2015, creates an area representative position, and holds a voting system fair to become familiar with current voting systems available around the country.

In 2016, the agency creates a staff attorney position, four additional area representative positions, and it conducts five statewide elections.<sup>10</sup>

## Organization

### Governing Body

The State Election Commission is composed of five commissioners, with at least one from the majority political party and at least one from the largest minority political party in the General Assembly.<sup>11</sup> Each commissioner is appointed by the Governor for a four-year term, and unless otherwise stated, holds the position until a successor is appointed.<sup>12</sup>

Commissioners are prohibited from (1) participating in political management or in a political campaign during their term of office, (2) making a contribution to a candidate, and (3) knowingly attending a fundraiser held for the benefit of a candidate.<sup>13</sup> Violators are subject to removal by the Governor.<sup>14</sup>

The chairman of the commission is appointed by the Governor and serves a two-year term.<sup>15</sup> Table 2 lists the current commissioners and the date they were appointed.

*Table 2. Agency commissioners and initial appointment dates.*

Commissioner	Date Appointed
Billy Way, Jr., Chair	September 2012 (4.5 years)
Mark A. Benson	September 2010 (6.5 years)
Marilyn Bowers	September 2011 (5.5 years)
Nicole Spain White	November 2011 (5.5 years)
E. Allen Dawson	September 2012 (4.5 years)

The commission meets in Columbia, South Carolina at least once each month and at such times as considered necessary by the commission.<sup>16</sup> The commission may change the location of the meeting for convenience of the commission or any parties scheduled to appear before the commission.<sup>17</sup>

The commission appoints an executive director of the agency who reports directly to, and serves at the pleasure of, the commission.<sup>18</sup> The executive director is the chief administrative officer for the State Election Commission.<sup>19</sup>

*Table 3. Executive directors of the agency and their years of service.*

Executive Director	Years of Service
Marci Andino	2003 - Present (14 years)
James F. Hendrix	1994 - 2002 ( 8 years)
Lynn McCants	1992 - 1994 ( 2 years)
James B. Ellisor	1968 - 1992 (35 years)



## Organizational Units

The agency's Program Evaluation Report (PER) includes information about its organizational units.<sup>20</sup> Every agency has some type of organization and hierarchy as reflected in the agency's organizational chart. Within the organization are separate units. An agency may refer to these units as departments, divisions, functional areas, cost centers, etc. Each unit is responsible for contributing to the agency's ability to provide services and products. Figure 3 includes the agency's organizational chart, current as of May 4, 2017.

To ensure agency employees understand how their work contributes to the agency's overall ability to provide effective services and products in an efficient manner, each organizational unit has at least one (and in most cases multiple), objectives, strategies, or goals for which it is solely responsible.

**Administration** is one of the agency's organizational units. This unit provides leadership and direction for the agency, including administration, finance and support services. Table 4 provides additional information about the unit.

Table 4. State Election Commission Organizational Unit: Administration.

Details:	2013-14	2014-15	2015-16
What is the turnover rate?	60%	0%	0%
Is employee satisfaction evaluated?	Yes	Yes	Yes
Is anonymous employee feedback allowed?	Yes	Yes	Yes
Do any positions require a certification (e.g., teaching, medical, accounting, etc.)	No	No	Yes
Did the agency pay for, or provide classes/instruction needed to maintain all, some, or none of required certifications?	N/A	N/A	Yes

**Voter Services** is another organizational unit of the agency. This unit provides and supports the statewide voter registration system; provides election-specific databases to produce ballots for county and municipal election commissions; provides counties with election support services and technical assistance related to statewide voting system; and provides election security oversight and guidance to counties. Table 5 provides additional information about the unit.

Table 5. State Election Commission Organizational Unit: Voter Services.

Details:	2013-14	2014-15	2015-16
What is the turnover rate?	13%	10%	15%
Is employee satisfaction evaluated?	Yes	Yes	Yes
Is anonymous employee feedback allowed?	Yes	Yes	Yes
Do any positions require a certification (e.g., teaching, medical, accounting, etc.)	No	No	No
Did the agency pay for, or provide classes/instruction needed to maintain all, some, or none of required certifications?	No	No	No

**Public Information/Training** is the third organizational unit of the agency. This unit administers mandatory statewide training and certification programs for county and municipal election officials; provides ongoing training events and workshops; provides a poll manager training program and materials; educates the public on the voter registration and election process; and provides information regarding elections and agency activities. Table 6 includes additional information about the unit.

Table 6. State Election Commission Organizational Unit: Public Information/Training.

Details:	2013-14	2014-15	2015-16
What is the turnover rate?	0%	0%	0%
Is employee satisfaction evaluated?	Yes	Yes	Yes
Is anonymous employee feedback allowed?	Yes	Yes	Yes
Do any positions require a certification (e.g., teaching, medical, accounting, etc.)	No	No	No
Did the agency pay for, or provide classes/instruction needed to maintain all, some, or none of required certifications?	No	No	No

**Organizational Chart**

Figure 3 includes an organizational chart, current as of May 4, 2017. In the chart, Administrative Manager I, Janet Reynolds, serves as Director of the Administration unit; Program Manager I, Chris Whitmire, serves as Director of the Public Information/Training unit; and Program Manager I, Howard Snider, serves as Director of the Voter Services unit. Program Manager I, Vacant, supervises the area representatives the agency has recently hired.<sup>21</sup>

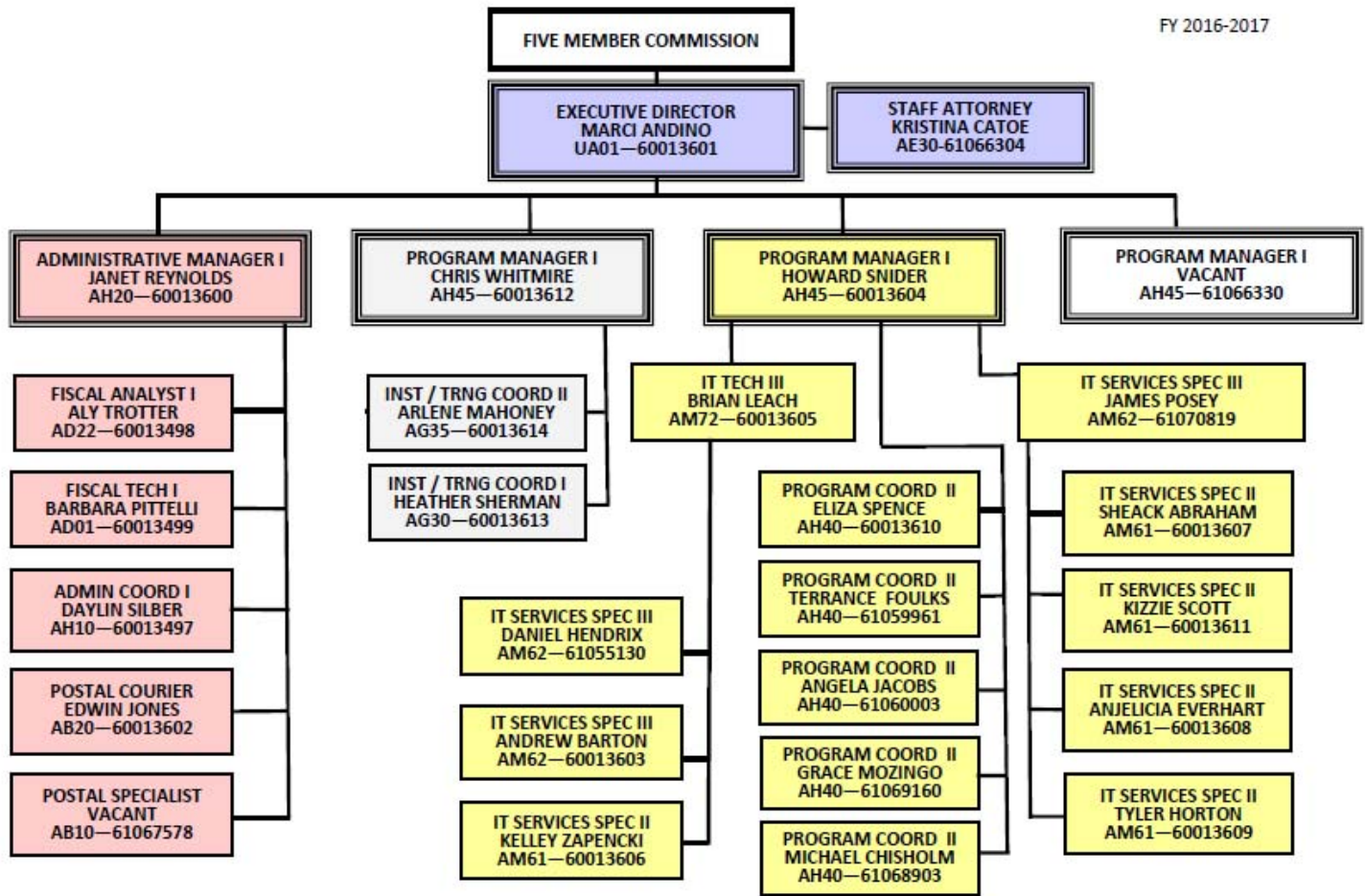


Figure 3. Organizational chart provided by the agency, current as of May 4, 2017.<sup>22</sup>

### *Relationship with County Boards of Registration and Elections*

County Boards of Registration and Elections are separate entities from the State Election Commission. While the **agency is not involved in the appointment of members to these boards, it is responsible for setting standards for these boards**. Appendix A includes information about the appointment of members, names of members by county, and a list of County Boards of Registration and Elections responsibilities.

### *Products, Services, and Customers*

During the study process, the **agency is asked to provide a list of all its deliverables** (i.e., products and services) as well as additional information related to laws, customers, costs, and potential negatives impacts, about each deliverable. Table 7 includes a list of the agency's 53 deliverables.

Table 7. List of agency's 53 products and services.

Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
1	Provide registration offices and polling places that are accessible to voters with disabilities and voters age 65 and older	Require; 42 U.S.C. §§ 1973ee-ee6. (1984); (Voting Accessibility for the Elderly and Handicapped)	No	No	No	No	No
2	Take appropriate steps to ensure communication with applicants, participants and members of the public with disabilities are as effective as communications with other individuals	Require; 42 U.S.C. § 12101, et seq. (1990); (Americans with Disabilities Act)	No	No	No	No	No
3	Provide opportunity to register to vote at certain agencies	Require; 52 U.S.C. § 20501, et seq. (1993); (National Voter Registration Act)	No	No	No	No	No
4	Provide programs and procedures for provisional voting, voting information, updating and upgrading voting equipment, establishing statewide voter registration databases, voter identification and administrative complaints	Require; 52 U.S.C. §§ 20901-21145 (2002); (Help America Vote Act)	No	No	No	No	No
5	Allow qualified service members and overseas citizens to register to vote and vote absentee	Require; 52 U.S.C. §§ 20301-20311, (1986); (Uniformed and Overseas Citizens Absentee Voting Act)	No	No	No	No	No

Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
6	Send electronic communications materials and absentee ballots to UOCAVA voters at least 45 days prior to the election	Require; 42 U.S.C. § 1973ff-1 (2009); (Military and Overseas Voter Empowerment Act)	No	No	No	No	No
7	Conduct a training and certification program for municipal officials	Require; 7-3-20	No	Yes	Yes	No	Yes
8	Furnish precinct lists to a qualified elector	Require; 7-3-20	Yes	Yes	No	Yes	Yes
9	Audit the County Board of Voter Registration and Elections	Require; 7-3-20	Yes	Yes	No	No	No
10	Maintain master file of all qualified electors by county and precinct	Require; 7-3-20	No	No	No	No	No
11	Delete names of electors for certain statutory reasons	Require; 7-3-20	No	No	No	No	No
12	Furnish County Boards of Voter Registration and Elections with a master list of all registered voters in the county	Require; 7-3-20	Yes	Yes	No	Yes	No
13	Provide corrective action plan for non-compliant county Board of Voter Registration and Election members	Require; 7-3-25	Yes	Yes	No	No	No
14	Notify the Governor of any county board of voter registration and election official that fails to meet training and certification requirements	Require; 7-3-25	Yes	Yes	No	No	No
15	Notify any elector whose name has been deleted for reason of conviction or change of address	Require; 7-3-30	No	Yes	No	No	No

Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
16	Provide training and certification for County officials	Require; 7-5-10	Yes	Yes	Yes	Yes	Yes
17	Provide supplement to county boards to defray expenses of the voter registration office	Require; 7-5-40	Yes	Yes	No	No	No
18	Provide written notification to any person who registers to vote and is found qualified to vote	Require; 7-5-125	No	Yes	No	No	No
19	Furnish voter registration forms to County Boards of Voter Registration and Elections	Require; 7-5-155	No	Yes	No	Yes	No
20	Maintain electronic voter registration application on the SEC website	Require; 7-5-185	No	Yes	No	No	No
21	Maintain statewide voter registration database	Require; 7-5-186	Yes	Yes	No	No	No
22	Provide method of complaint regarding interference with voter registration or privacy of decision to register	Require; 7-5-310	No	Yes	No	No	No
23	Remove of elector from official list	Require; 7-5-340	No	No	No	No	No
24	Prepare duplicate registration books for each ward or precinct for every county	Require; 7-5-660	Yes	Yes	No	No	No
25	Conduct candidate filing	Require; 7-11-15	No	Yes	No	No	No
26	Conduct presidential preference primary for certified political parties receiving at least five percent of the popular vote	Require; 7-11-20	Yes	Yes	No	Yes	No

Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
27	Furnish petition forms to county election officials and interested persons	Allows; 7-11-80	No	No	No	Yes	No
28	Conduct primaries for federal, state and offices included in more than one county, countywide and less than countywide offices, specialist purpose districts	Require; 7-13-15	Yes	Yes	No	Yes	No
29	Conduct party primaries	Require; 7-13-40	Yes	Yes	No	Yes	No
30	Establish regular hours and publish notice of candidate filing	Require; 7-13-45	No	Yes	No	Yes	No
31	Conduct second or other primaries	Require; 7-13-50	Yes	Yes	No	Yes	No
32	Provide training and certification program for poll managers	Require; 7-13-72	Yes	Yes	No	No	No
33	Direct size and the color of the ballot	Require; 7-13-320	No	No	No	No	No
34	Place petition nominee on appropriate ballot	Require; 7-13-351	No	No	No	No	No
35	Print and deliver ballots for presidential electors, state officers, US Senators and members of Congress	Require; 7-13-340	Yes	No	No	No	No
36	Provide ballots that have proposed constitutional amendments	Require; 7-13-410	No	No	No	No	No
37	Prepare separate ballots for each political party holding a primary	Require; 7-13-610	Yes	No	No	No	No
38	Provide ballot labels	Require; 7-13-1360	No	No	No	No	No

Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
39	Establish form of a sign to be displayed at polling places using optical scan devise	Require; 7-13-1371	No	No	No	No	No
40	Establish ballot forms	Require; 7-13-1371	No	No	No	No	No
41	Approve Voting System	Require; 7-13-1620	No	No	No	No	No
42	Approve One Voting System	Require; 7-13-1655	No	No	No	No	No
43	Determine form application for absentee ballot	Require; 7-15-340	Yes	Yes	No	Yes	No
44	Send ballots to qualified electors under Uniformed and Overseas Citizens Absentee Voting Act at least forty-five days prior to any election	Require; 7-15-406	Yes	Yes	No	Yes	No
45	Standards and guidelines for voting systems to count absentee ballots	Require; 7-15-470	No	No	No	No	No
46	Certify statement of all votes cast	Require; 7-17-240	No	Yes	No	No	No
47	Document declaration of elected officials	Require; 7-17-250	No	No	No	No	No
48	Decide cases held by State Board of Canvassers	Require; 7-17-260	No	No	No	No	No
49	Furnish jury list	Require; 14-7-130	Yes	Yes	No	Yes	No
50	Disburse aid to counties for county voter registration and elections board members	Require; Proviso 101.1 (County Boards of Voter Registration and Election Compensation), 2016-2017, Appropriations Act Part 1B)	Yes	Yes	No	Yes	No
51	Disburse additional funds to State Board of Canvassers for Protests and Hearings	Allows; Proviso 101.3 (Board of State Canvassers Compensation), 2016-2017, Appropriations Act Part 1B	Yes	Yes	No	Yes	No



Item #	Product or Service	Does law require, allow, or not address it?	Does agency know the number of potential customers?	Does agency know the number of customers served?	Does the agency evaluate customer service?	Does the agency know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
52	Provide training courses with common curriculum available in various locations of the state	Require; Proviso 101.7 (Training and Certification Program), 2016-2017, Appropriations Act Part 1B	Yes	Yes	Yes	Yes	Yes
53	Submit information technology and security plan to Department of Administration	Require; Proviso 117.114 (Information Technology and Security Plans), 2016, 2017, Appropriations Act Part 1B	No	No	No	No	No

The **agency has various sources of revenue including both recurring and one-time revenue**. Table 8 provides information about the agency's revenue sources for the past three fiscal years.

Table 8. Sources of agency revenue for fiscal year 2014-15, fiscal year 2015-16, and estimates for fiscal year 2016-17.

Source of Revenue	Recurring or one-time?	2014-15 Revenue	2015-16 Revenue	2016-17 Revenue Estimate
General Appropriations	Recurring	\$0	\$0	\$0
General Revenue	Recurring	\$539	\$2,012	\$0
Candidate Filing Fees	Recurring	\$78,287	\$1,215,574	\$10,000
Training Program	Recurring	\$15,165	\$18,500	\$15,000
Sale of List Program	Recurring	\$104,637	\$175,957	\$100,000
Presidential Preference Primaries	One-time	\$0	\$360,000	\$0
Help America Vote Act Grant	One-time	\$5,476	\$4,755	\$4,000
Federal Voting Assistance Program Grant	One-time	\$0	\$8,652	\$0
Totals		\$204,104	\$1,785,450	\$129,000

### *Other Agencies Serving Similar Customers/Products/Services*

During the study of an agency the **Committee asks the agency if there are any other agencies serving similar customers or providing similar products or services**. The State Election Commission does not believe the products and services it provides are within the mission of any other state agency.<sup>23</sup>

### *Strategic Resource Allocation and Performance*

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.<sup>24</sup> The agency states it does not spend any funds on items not directly related to its strategic plan. Tables 9-13 includes an overview of the agency's strategic plan and resources allocated to its goals and objectives and amounts not utilized.<sup>25</sup>

Table 9.1. Agency Goal 1: Provide for a system of voter registration that is free of barriers - strategies, objectives, and resource (human and financial) allocations.

## GOAL 1 Provide for a system of voter registration that is free of barriers.

Responsible Employee(s): Mr. Howard Snider (responsible for more than three years)

Strategies and Objectives:	2015-16		2016-17	
	Number of FTEs authorized <sup>26</sup> (Number of equivalents)	Total spent (Percentage of total funds spent)	Number of FTEs authorized (Number of equivalents)	Total budgeted (Percentage of total funds spent)
<ul style="list-style-type: none"> <li>• Strategy 1.1 - Maintain a statewide voter registration system that is convenient, accessible and meets the needs of counties               <ul style="list-style-type: none"> <li>○ Objective 1.1.1 - Provide a system that is available and take all reasonable measures to ensure cyber security of the voter registration system</li> <li>○ Objective 1.1.2 - Support county users in use of system to maintain accurate voter records</li> </ul> </li> <li>• Strategy 1.2 - Ensure citizens have accessible methods to register to vote               <ul style="list-style-type: none"> <li>○ Objective 1.2.1 - Provide registration by mail, online voter registration, and in person registration at county offices and other designated voter registration agencies</li> </ul> </li> </ul>	26.5 (1.2)	\$413,930 (6.567%)	26.5 (1.3)	\$500,000 (5.46%)
	26.5 (1.8)	\$444,870 (7.05%)	26.5 (2.1)	\$500,000 (5.46%)
	26.5 (0.5)	\$73,209 (1.16%)	26.5 (0.5)	\$75,000 (0.82%)

Table 9.2. Performance measures associated with goal 1.

Performance Measure	Type of Measure	2012-13	2013-14	2014-15	2015-16	2016-17
Total active registered voters	Input/Activity	Actual: 2,911,101 Target: Did not exist (DNE)	Actual: 2,843,744 Target: DNE	Actual: 2,889,904 Target: DNE	Actual: 3,081,855 Target: DNE	Target: DNE
Voters registered in current fiscal year	Input/Activity	Actual: 218,989 Target: DNE	Actual: 139,903 Target: DNE	Actual: 158,213 Target: DNE	Actual: 244,741 Target: DNE	Target: DNE
Voters made inactive	Input/Activity	Actual: 68,280 Target: DNE	Actual: 180,441 Target: DNE	Actual: 82,610 Target: DNE	Actual: 60,025 Target: DNE	Target: DNE
Percentage of county election officials using electionnet*	Input/Activity	Data Not Available	Actual: 45% Target: 100%	Actual: 49% Target: 100%	Actual: 60% Target: 100%	Target: 100%
Percentage of registrations...						
submitted online	Outcome	Actual: 9.6% Target: DNE	Actual: 3.5% Target: DNE	Actual: 7.2% Target: DNE	Actual: 22.1% Target: DNE	Target: DNE
received by mail	Input/Activity	Actual: 31.3% Target: DNE	Actual: 16.2% Target: DNE	Actual: 15.4% Target: DNE	Actual: 11.3% Target: DNE	Target: DNE
in office	Input/Activity	Actual: 12% Target: DNE	Actual: 5.9% Target: DNE	Actual: 6.5% Target: DNE	Actual: 5.6% Target: DNE	Target: DNE
at Department of Motor Vehicles	Input/Activity	Actual: 46.1% Target: DNE	Actual: 73% Target: DNE	Actual: 68.1% Target: DNE	Actual: 58.5% Target: DNE	Target: DNE
at other public service agencies	Input/Activity	Actual: 0.9% Target: DNE	Actual: 1.4% Target: DNE	Actual: 2.8% Target: DNE	Actual: 1.9% Target: DNE	Target: DNE
Training and certification program ...						
Number of participants	Input/Activity	Actual: 507 Target: DNE	Actual: 493 Target: DNE	Actual: 517 Target: DNE	Actual: 505 Target: DNE	Target: DNE
Percentage not in compliance with requirements	Outcome	Actual: 7.1% Target: 0%	Actual: 4.9% Target: 0%	Actual: 3.9% Target: 0%	Actual: 4.5% Target: 0%	Target: 0%
Classes offered	Output	Actual: 18 Target: DNE	Actual: 28 Target: DNE	Actual: 26 Target: 25	Actual: 28 Target: 25	Target: 25
Total class attendees	Input/Activity	Actual: 504 Target: DNE	Actual: 663 Target: DNE	Actual: 657 Target: 625	Actual: 642 Target: 625	Target: 625
Total other training events	Output	Actual: 17 Target: DNE	Actual: 26 Target: DNE	Actual: 21 Target: DNE	Actual: 22 Target: DNE	Target: DNE

Table Note: All measures are agency selected, except percentage of registrations submitted at Department of Motor Vehicles and at other public service agencies, which are required by the federal government. "DNE" means did not exist. ElectionNET is a secure election portal for sharing information between the SEC and the 46 county voter registration and elections offices. For each measure, the agency identified which "type of measure" it considered the performance measure.

Table 10.1. Agency Goal 2: Certify and support a statewide voting system that meets state law, federal voting system standards and is accessible for all voters - strategies, objectives, and resource (human and financial) allocations.

## GOAL 2 Certify and support a statewide voting system that meets state law, federal voting system standards, and is accessible for all voters

Responsible Employee(s): Mr. Howard Snider (responsible for more than three years)

<u>Strategies and Objectives:</u>	<u>2015-16</u>		<u>2016-17</u>	
	Number of FTEs authorized <sup>27</sup> (Number of equivalents)	Total spent (Percentage of total funds spent)	Number of FTEs authorized (Number of equivalents)	Total budgeted (Percentage of total funds spent)
<ul style="list-style-type: none"> <li>• Strategy 2.1 - Support the statewide voting system ensuring it is easy to use, accurate and secure               <ul style="list-style-type: none"> <li>○ Objective 2.1.1 - Produce election-specific databases and ballots according to state law and ballot standards</li> <li>○ Objective 2.1.2 - Support users in set-up, testing, usage, maintenance and secure storage of voting system</li> <li>○ Objective 2.1.3 - Audit vote totals prior to certification of election results</li> </ul> </li> </ul>	26.5 (3)	\$217,272 (3.44%)	26.5 (3.3)	\$200,000 (2.18%)
	26.5 (1)	\$266,843 (4.23%)	26.5 (1.3)	\$250,000 (2.73%)
	26.5 (0.8)	\$89,767 (1.42%)	26.5 (1.1)	\$100,000 (1.09%)

Table 10.2. Performance measures associated with goal 2.

Performance Measure	Type of Measure	2012-13	2013-14	2014-15	2015-16	2016-17
Number of elections held in state	Input/Activity	Actual: 185 Target: Did not exist (DNE)	Actual: 313 Target: DNE	Actual: 166 Target: 166	Actual: 336 Target: DNE	Target: DNE
Number of counties served by SEC database coders	Input/Activity	Actual: 39 Target: 39	Actual: 39 Target: 39	Actual: 39 Target: 39	Actual: 39 Target: 39	Target: 39
Number of audits conducted on county election results	Input/Activity	Actual: 114 Target: DNE	Actual: 301 Target: DNE	Actual: 312 Target: DNE	Actual: 626 Target: DNE	Target: DNE
Number of final audits failed on county election results	Outcome	Actual: 3 Target: 0	Actual: 2 Target: 0	Actual: 0 Target: 0	Actual: 0 Target: 0	Target: 0

Table Note: All performance measures are agency selected and not required by either the state or federal government. For each measure, the agency identified which "type of measure" it considered the performance measure.

Table 11.1. Agency Goal 3: Support counties in conducting voter registration and fair, open and impartial elections - strategies, objectives, and resource (human and financial) allocations.

## GOAL 3 Support counties in conducting voter registration and fair, open and impartial elections

Responsible Employee(s): Mr. Chris Whitmire and Mr. Howard Snider (Both responsible for more than three years)

<u>Strategies and Objectives Associated:</u>	<u>2015-16</u>		<u>2016-17</u>	
	Number of FTEs authorized <sup>28</sup> (Number of equivalents)	Total spent (Percentage of total funds spent)	Number of FTEs authorized (Number of equivalents)	Total budgeted (Percentage of total funds spent)
<ul style="list-style-type: none"> <li>• Strategy 3.1 - Provide supervision, training, guidance and resources to counties to aid in voter registration and elections               <ul style="list-style-type: none"> <li>○ Objective 3.1.1 - Provide guidance and training for county and municipal election officials and poll managers</li> <li>○ Objective 3.2.1 - Provide candidate filing system, absentee tracking and ballot delivery tools, photo ID production, paper and electronic voter registration lists and capturing voter history</li> </ul> </li> <li>• Strategy 3.2 - Ensure compliance with state and federal laws and agency policies and procedures               <ul style="list-style-type: none"> <li>○ Objective 3.2.1 - Conduct county compliance audits and assessments</li> </ul> </li> <li>• Strategy 3.3 - Provide public education and information               <ul style="list-style-type: none"> <li>○ Objective 3.3.1 - Provide voters with online access to their voter record, polling place, absentee ballot request and tracking, sample ballot, and status of provisional ballot</li> <li>○ Objective 3.3.2 - Increase public knowledge of voting rights, responsibilities, and procedures</li> <li>○ Objective 3.3.3 - Provide information, statistics and election results</li> </ul> </li> </ul>	26.5 (2.8)	\$388,429 (6.15%)	26.5 (3.1)	\$410,000 (4.47%)
	26.5 (1.4)	\$98,291 (1.56%)	26.5 (1.4)	\$150,000 (1.64%)
	26.5 (1.4)	\$140,228 (2.22%)	26.5 (3.0)	\$200,000 (2.18%)
	26.5 (0.3)	\$44,428 (0.70%)	26.5 (0.3)	\$100,000 (1.09%)
	26.5 (0.8)	\$280,335 (4.44%)	26.5 (0.9)	\$220,000 (2.40%)
	26.5 (1.1)	\$120,691 (1.91%)	26.5 (1.2)	\$150,000 (1.64%)

Table 11.2. Performance measures associated with goal 3.

Performance Measure	Type of Measure	2012-13	2013-14	2014-15	2015-16	2016-17
Number of SEC voter educations events	Output	Actual: 66 Target: Did not exist (DNE)	Actual: 32 Target: DNE	Actual: 25 Target: DNE	Actual: 41 Target: DNE	Target: DNE
Twitter followers	Input/Activity	Data Not Available	Actual: 968 Target: DNE	Actual: 1,084 Target: DNE	Actual: 1,341 Target: DNE	Target: DNE
Facebook likes	Input/Activity	Data Not Available	Actual: 3,080 Target: DNE	Actual: 3,091 Target: DNE	Actual: 3,509 Target: DNE	Target: DNE
Number of candidates filed for federal, state and county level offices in most recent general election	Input/Activity	Data Not Available	Actual: 1,339 (2014 GE) Target: DNE	Actual: 1,339 (2014 GE) Target: DNE	Actual: 1,604 (2016 GE) Target: DNE	Target: DNE
Filing Fees collected for...						
Statewide primaries	Input/Activity	Actual: \$5,936 Target: DNE	Actual: \$907,396 Target: DNE	Actual: N/A	Actual: \$1,210,926 Target: DNE	Target: DNE
Special primaries	Input/Activity	Actual: \$69,424 Target: DNE	Actual: \$14,651 Target: DNE	Actual: \$78,287 Target: DNE	Actual: \$4,648 Target: DNE	Target: DNE
Presidential preference primaries	Input/Activity	N/A	N/A	N/A	Actual: \$360,000 Target: DNE	Target: DNE
Scvotes.org...						
Total visits	Input/Activity	Actual: 370,524 Target: DNE	Actual: 176,420 Target: DNE	Actual: 169,247 Target: DNE	Actual: 237,217 Target: DNE	Target: DNE
Percentage returning visits	Input/Activity	Actual: 19.1% Target: DNE	Actual: 35% Target: DNE	Actual: 27% Target: DNE	Actual: 26% Target: DNE	Target: DNE
Percentage new visits	Input/Activity	Actual: 80.9% Target: DNE	Actual: 65% Target: DNE	Actual: 73% Target: DNE	Actual: 74% Target: DNE	Target: DNE

Table Note: All measures are agency selected except, tracking filing fees collected for statewide primaries; special primaries; and presidential preference primaries, which are required by state government. Also, agency selected for goal 3, all measures listed with goal 2 in Table 10.2; and the following listed with goal 1 in Table 9.2: Percentage of county election officials using electionnet; and Training and certification program number of participants, percentage not in compliance with requirements, classes offered, total class attendees, and total other training events. For each measure, the agency identified which "type of measure" it considered the performance measure.

Table 12.1. Agency Goal 4: Effectively oversee all agency programs and operations - strategies, objectives, and resource (human and financial) allocations.

## GOAL 4 Effectively oversee all agency programs and operations

Responsible Employee(s): Ms. Janet Reynolds (Responsible for more than three years)

Strategies and Objectives Associated:	2015-16		2016-17	
	Number of FTEs authorized <sup>29</sup> (Number of equivalents)	Total spent (Percentage of total funds spent)	Number of FTEs authorized (Number of equivalents)	Total budgeted (Percentage of total funds spent)
<ul style="list-style-type: none"> <li>• Strategy 4.1 - Manage administrative and business activities of the agency               <ul style="list-style-type: none"> <li>○ Objective 4.1.1 - Prepare annual budget and fiscal impact statements, and process payroll, accounts payable, accounts receivable, county election reimbursements, and county board member stipends</li> <li>○ Objective 4.2.1 - Provide support services to include human resources, legal, procurement, records management, fleet management, election supplies and shipping</li> </ul> </li> </ul>	26.5 (1.7)	\$3,477,377 (55.08%)	26.5 (1.7)	\$6,010,000 (65.58%)
	26.5 (2.2)	\$257,598 (04.08%)	26.5 (2.8)	\$300,000 (03.27%)



Table 12.2. Performance measures associated with goal 4.

Performance Measure	Type of Measure	2012-13	2013-14	2014-15	2015-16	2016-17
Training and certification program fees	Input/Activity	Actual: \$7,700 Target: DNE	Actual: \$16,725 Target: DNE	Actual: \$15,165 Target: DNE	Actual: \$18,500 Target: DNE	Target: DNE
Sale of voter registration lists	Input/Activity	Actual: \$78,736 Target: DNE	Actual: \$108,621 Target: DNE	Actual: \$104,637 Target: DNE	Actual: \$175,957 Target: DNE	Target: DNE
Sale of publications	Input/Activity	Actual: \$55 Target: DNE	Actual: \$12 Target: DNE	Actual: \$39 Target: DNE	Actual: \$12 Target: DNE	Target: DNE
Voting system update/certification fees	Input/Activity	Actual: \$0 Target: DNE	Actual: \$1,000 Target: DNE	Actual: \$500 Target: DNE	Actual: \$2,000 Target: DNE	Target: DNE
Number of poll managers used (general election or primary/runoff)	Input/Activity	Actual: 14,306 (General) Target: DNE	Actual: 18,782 (Primary/Runoff) Target: DNE	Actual: 13,168 (General Election) Target: DNE	Actual: 12,274 (Primary/Runoff) Target: DNE	Target: DNE
Protests heard	Outcome	Actual: 3 Target: 0	Actual: 0 Target: 0	Actual: 0 Target: 0	Actual: 0 Target: 0	Target: 0
Appeals heard	Outcome	Actual: 5 Target: 0	Actual: 0 Target: 0	Actual: 3 Target: 0	Actual: 1 Target: 0	Target: 0

Table Note: Number of poll managers used, protests heard, and appeals heard are agency selected; all others are required by state government. For each measure, the agency identified which "type of measure" it considered the performance measure.

During the study, **the agency is asked to provide the amount of funds remaining at the end of the year by fund source and restrictions** on how the funds may be utilized. Table 13 includes this information.

Table 13. Details about the agency's different sources of funds and amounts remaining at the end of fiscal years 2015-16 and 2016-17 available to the agency.

Source of funds	State, other or federal funding?	Recurring or one-time?	External restrictions (from state or federal government, grant issuer, etc.) on use of funds:	2015-16		2016-17	
				Total available to spend this fiscal year:	Cash Balance Remaining (Percentage of total available from source)	Total est. to have available to spend this fiscal year:	Cash Balance Not Budgeted to Spend (Percentage of total available from source)
• General Appropriations	State	Recurring	None	\$7,264,086	\$4,116,468 56.67%	\$9,622,787	\$747,787 7.77%
• General Revenue	Other	Recurring	No authority to spend funds	\$0	\$0 0%	\$0	\$0 0%
• Candidate Filing Fees	Other	Recurring	SC Code of Law 7-11-15	\$1,300,000	\$500,927 38.53%	\$1,300,000	\$1,290,000 99.23%
• Training Program	Other	Recurring	Proviso 101.70	\$35,000	\$26,136 74.67%	\$35,000	\$5,000 14.29%
• Sale of List Program	Other	Recurring	SC Code of Law 7-3-20(C)(10); Proviso 101.4	\$305,700	\$206,960 67.70%	\$305,700	\$155,700 50.93%
• Help America Vote Act Grant	Federal	One-Time	Help America Vote Act; State Plan Proviso 101.10	\$450,249	\$399,929 88.82%	\$403,929	\$303,929 75.24%
• Presidential Preference Primaries	State	One-Time	SC Code of Law 7-11-20(B)(2)(a)	\$2,200,000	\$0 0%	\$0	\$0 0%
• FVAP/EVAT Grant	Federal	One-Time	Federal Voting Assistance Program	\$8,652	\$0 0%	\$0	\$0 0%
<b>Totals</b>				<b>\$11,563,687</b>	<b>\$5,250,418 45.40%</b>	<b>\$11,672,171</b>	<b>\$2,502,416 21.45%</b>

# STUDY PROCESS

## *Agency Selection*

The State Election Commission is a state agency subject to legislative oversight.<sup>30</sup> On January 10, 2017, the **Committee schedules SEC for study** by the Executive Subcommittee.<sup>31</sup>

The **Committee notifies the agency** about the study on January 17, 2017.<sup>32</sup> The notification letter is in Appendix B. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor receive notice about the agency study.

## *Subcommittee Membership*

The **Executive Subcommittee of the House Legislative Oversight Committee is studying the agency**.<sup>33</sup> The study begins during the 122<sup>nd</sup> General Assembly. Throughout the study, the Honorable Gary E. Clary serves as chair. Subcommittee Members are listed below:

- The Honorable Gary E. Clary (122<sup>nd</sup> General Assembly);
- The Honorable Laurie Slade Funderburk (122<sup>nd</sup> General Assembly);
- The Honorable Wm. Weston J. Newton (122<sup>nd</sup> General Assembly); and
- The Honorable Robert Q. Williams (122<sup>nd</sup> General Assembly).

## *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct self-analysis** by requiring it to complete and submit Annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report which serves as the base document for the study. These reports are available to the public on the Committee's website.

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

S.C. Code of Laws § 1-30-10 requires agencies to submit "a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period."<sup>34</sup> The agency submits its plan on March 31, 2015.<sup>35</sup>

### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly "detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services."<sup>36</sup> The **agency submits its Annual Restructuring Reports (ARR)** on January 12, 2016, and September 20, 2016.<sup>37</sup> The agency's 2015-16 Agency Accountability Report to the Governor and General Assembly serves as its 2017 Annual Restructuring Report.<sup>38</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report (PER) by a date specified by the investigating committee."<sup>39</sup> SC Code of Laws § 2-2-60 outlines what an investigating committee's request for a program evaluation report must contain. It also provides a list of information an investigating committee may request.

The **PER serves as the base document for the Subcommittee's study of the agency.** The Committee sends guidelines for the agency's PER on February 13, 2017. The agency submits the report on April 14, 2017.<sup>40</sup>

### *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee's process.**<sup>41</sup> There are a variety of opportunities for public input during the legislative oversight process. Members of the public have an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee's website, and appear in person before the Subcommittee.<sup>42</sup>

#### *Public Survey*

From February 9, 2017, to March 13, 2017, the Committee posts an **online survey to solicit comments from the public about the State Election Commission** and three other agencies.<sup>43</sup> In an effort to communicate this public input opportunity widely, a statewide media release is issued.<sup>44</sup> House Members are provided copies of this media release and are encouraged to share notice of this public input opportunity with their constituents.

There are 619 responses to the survey, with at least one response coming from 45 of South Carolina's 46 counties.<sup>45</sup> These comments are not considered testimony.<sup>46</sup> As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>47</sup> Documents related to the public survey are in Appendix C. The **public is informed of a continuous opportunity to submit written comments about agencies online** after the public survey closes.<sup>48</sup>

Of those that respond to questions related to the SEC, 67% have a positive or very positive opinion of the agency.<sup>49</sup> Over 69% of respondents form their opinions via personal or business experience with the agency. Most of the respondents that provide written comments refer to the county boundary lines, agency's helpfulness during elections, and voter registration systems.<sup>50</sup> Responses to online surveys are posted on the Committee's webpage verbatim. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

#### *Public Input via Committee Website*

Throughout the course of the study, the public is able to submit comments anonymously on the Committee website.<sup>51</sup> Any comments received are posted to the Committee's webpage verbatim. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives. One person submits a comment sharing a link to a 2015 report issued by Protection and Advocacy for People with Disabilities, Inc., entitled, "The Right to Vote in South Carolina:

People with disabilities still have unequal access to the electoral process.”<sup>52</sup> Appendix D includes public input received via the Committee website.

### *Public Input via In-Person Testimony*

The Committee offers the public an opportunity to appear and provide sworn testimony.<sup>53</sup> A meeting dedicated to public input is held on March 9, 2017.<sup>54</sup> A press release announcing this opportunity is sent to media outlets statewide on February 16, 2017.<sup>55</sup> Public testimony is received at the full Committee meeting and multiple Subcommittee meetings.

## *Meetings*

The full Committee meets with, or about, the agency on two occasions, and the Subcommittee meets with, or about, the agency on eight occasions. All meetings are open to the public and stream live online; also, the videos are archived and the minutes are available online. A timeline of meetings is in Figure 2 beginning on page seven.

### *122<sup>nd</sup> General Assembly (2017-2018)*

#### *January 2017*

On **January 10, 2017**, the full Committee selects the agency for study.<sup>56</sup> Appendix E includes the meeting packet.

#### *February 2017*

On **February 15, 2017**, the Subcommittee holds **Meeting # 1**, a member work session.<sup>57</sup> Among other things, the Subcommittee Chair provides an update on the status of the study of the agency, and the Subcommittee discusses questions to send the agency. Appendix F includes the meeting packet; Subcommittee’s February 21, 2017, letter to the agency; and agency’s March 3, 2017, response.

#### *March 2017*

On **March 9, 2017**, the full Committee holds **Meeting # 2** to receive public input about the agency.<sup>58</sup> A constituent from Richland County/Lexington County, and the Government Affairs Liaison for the Municipal Association of South Carolina testify about the agency.<sup>59</sup> As the constituent from Richland County/Lexington County testifies at subsequent meetings, unless otherwise noted, the term “constituent” refers to this individual. Members ask questions, which the constituent answers. The Subcommittee Chair requests the agency provide information related to the constituents’ testimony. Appendix G includes the statewide media release inviting the public to provide testimony; meeting packet; and documents provided by the agency after the meeting related to the county boundary and school board election dispute.

#### *April 2017*

On **April 5, 2017**, the Subcommittee holds **Meeting # 3** with the agency to receive an overview of how boundary lines applicable to elections are set within a county or election district.<sup>60</sup> Representatives from the Revenue and Fiscal Affairs Office (RFA) provide a presentation entitled, “Election Boundaries: Precincts, Districts, Census, Counties.”<sup>61</sup> Members ask questions, which representatives from RFA answer. Also,

present at the meeting are various representatives from the State Election Commission.<sup>62</sup> Members ask questions to agency representatives about the agency's role in determining boundaries applicable to elections. The agency executive director answers these questions. Further testimony is received from the constituent about election boundaries. Members ask questions, which the constituent answers. Appendix H includes the meeting packet.

On **April 18, 2017**, the Subcommittee holds **Meeting # 4** with the agency to discuss and analyze information related to the agency's mission; responsibilities; successes; challenges and issues; emerging issues; history; and governing body.<sup>63</sup> Members ask questions about topics including, but not limited to, (1) voter registration, including methods by which an individual's qualifications to vote (e.g., over 18, citizenship, etc.) are verified and locations where individuals can register to vote; (2) measures in place to prevent hacking of voter systems; (3) poll worker training; (4) precinct locations; and (5) early voting. Appendix I includes the meeting packet; agency's presentation; Subcommittee's April 19, 2017, letter to the agency; Subcommittee's April 19, 2017, letter to the Department of Motor Vehicles (DMV) about drivers' licenses and identification cards utilized to verify an individual is qualified to vote; DMV's April 26, 2017, response to the Subcommittee; and the SEC's April 28, 2017, response to the Subcommittee.

### *May 2017*

On **May 3, 2017**, the Subcommittee holds **Meeting # 5** with the agency. The Subcommittee receives further testimony from the constituent on county precinct lines and boundary maps.<sup>64</sup> Members ask questions, which the constituent and the RFA Precinct Demographics Manager answer. The SEC discusses its services, products, customers, organizational units, and goals. Members ask questions on topics including, but not limited to, (1) customer service, (2) cost to the agency per product/service it provides, and (3) training of County Registration and Election Board members. The agency executive director answers the questions. Appendix J includes the meeting packet and documents the constituent provides to the Subcommittee during the meeting.

On **May 9, 2017**, the Subcommittee holds **Meeting # 6** with the agency.<sup>65</sup> The agency executive director presents information on the agency's services and products, organizational units, overall agency goals, resources, and methodology for allocating its resources. Members ask questions related to the following topics: (1) ballot printing; (2) verification of citizenship voter qualification; (3) voter information for sale including what is for sale, revenue generated from sales, entities who typically purchase the information, and limitations on how information can be used; and (4) fees charged in presidential preference primaries. The agency executive director answers the questions.

The agency's Director of the Public Information and Training Division, presents information on the agency's training and certification program. Members ask questions on the following topics, which the SEC Director of the Public Information and Training Division answers: (1) compliance requirements for appointed County Registration and Election Board members; (2) steps taken when a county board member is non-compliant, including removal; (3) training schedule; (4) number of required classes; and (4) possible board member orientation/primer.

SEC Director of Administration, presents information related to the organizational chart, new area representatives, and employee demographics. Members ask questions which the SEC Director of Administration answers. Appendix K includes the meeting packet; agency presentation; Subcommittee's May 11, 2017, letter to the agency; agency's May 24, 2017, response to the Subcommittee; Subcommittee's June 12, 2017, letter to interested parties to invite public input on revisions to statutes

that may help clarify any situations relating county boundaries; and South Carolina Association of Registration and Election Officials, Inc.'s June 22, 2017, letter to the Subcommittee.<sup>66</sup>

### *June 2017*

On **June 13, 2017**, the Subcommittee holds **Meeting # 7** with the agency.<sup>67</sup> The Subcommittee tours the agency. After the tour, the Subcommittee discusses resources available to the agency, including funding and employees; relationships with other entities the agency utilizes to leverage its resources; methodology the agency utilizes to allocate resources to accomplish its strategic plan; and the following for each agency goal:

- a. strategies and objectives for achieving the goal;
- b. agency personnel who have primary responsibility and accountability for the strategies and objectives;
- c. additional information the agency reviews when prioritizing how to allocate its resources to each strategy and objective;
- d. actual amount of resources allocated; and
- e. key outcome and efficiency performance measures.

The agency executive director presents information on issues impacting the agency's budget, including cybersecurity, voting system, and special elections to fill vacancies. Members ask questions, which the agency executive director answers.

SEC Director of Administration, presents information on appropriations/authorization of funds, carry forward funds, revenue generated, cash balances, other similar agencies, and methodology for allocation of resources. Members ask questions on topics including: (1) election fees, total costs, and how elections are funded since fees do not cover the costs, and (2) national grants (e.g., federal Voter Assistance Program and Help America Vote Act), including limitations on how those funds can be used. SEC Director of Administration answers the questions.

SEC Director of Voter Services, presents information on the organizational units, agency goal one - system voter registration, and agency goal two - statewide voting system. SEC Director of the Public Information and Training Division, presents information on agency goal three - support counties in conducting voter registration and elections.

Further, the SEC Director of the Public Information and Training Division presents the agency's response to the Subcommittee's May 11, 2017, letter. Topics of the letter include: (1) SC political party fees, (2) candidate filing fees in other states; and (3) removal from the voter registration list. Members ask questions about (1) citizenship verification when individuals register to vote, (2) updating voter lists; and (3) voter information available for sale. SEC Director of the Public Information and Training Division answers the questions. SEC Director of Administration presents information on the agency's goal four - oversee agency programs. Members ask various questions, which agency representatives answer. Appendix L includes the meeting packet and agency presentation.

On **June 27, 2017**, the Subcommittee holds **Meeting # 8** with the agency to discuss the agency's recommendations for law changes and/or major internal changes that may improve efficiency and outcomes or update laws; to receive any constituent testimony about these, or any other, recommendations; and to discuss additional potential recommendations and findings.<sup>68</sup> The agency

executive director presents responses to the Subcommittee's follow up questions from the prior meeting. Further, the agency director discusses the agency's recommendations.

Subcommittee members ask questions about municipal and special elections, which the agency executive director answers. A representative of the Municipal Association of South Carolina (MASC), provides testimony municipality election dates.<sup>69</sup> Subcommittee members question the MASC representative about uniform election dates, referendums and municipal voter turnout, which the representative answers. Members ask agency representatives questions about hacking preventive measures, which agency representatives answer. A representative from The League of Women Voters of South Carolina comments on the work of the Subcommittee.<sup>70</sup> The constituent further testifies about county boundaries and potential issues in SC Code of Law § 27-2-105 (clarification of county boundaries; role of South Carolina Geodetic Survey; contested case hearings). Subcommittee members ask questions about recommendations, state mapping, and boundary lines, which the constituent answers. RFA Executive Director and RFA Precinct Demographics Manager, further testify about county boundary line issues. Subcommittee members ask questions, which the RFA representatives answer. Appendix M includes the meeting packet; agency presentation; Subcommittee's June 29, 2017, letter to the agency; MASC's June 28, 2017, letter to the Subcommittee; correspondence related to the Presidential Advisory Commission on Election Integrity (PACEI) request for SC voter information (June - July 2017); U.S. Department of Justice's June 28, 2017, letter to the agency; and agency's July 7, 2017, response to the Subcommittee.

### *July 2017*

On **July 31, 2017**, the Subcommittee holds **Meeting #9** with the agency to receive an update on the requests the agency received from PACEI and the U.S. Department of Justice; further discuss potential recommendations and findings; and receive any constituent testimony.<sup>71</sup> The agency executive director testifies about the requests from PACEI and the U.S. Department of Justice and the status of the agency's communication with these federal entities. The First Vice President of SC Association of Registration and Election Officials (SCARE), comments on the work of the SEC.<sup>72</sup> The Director of Elections in York County, who is also the Chair of the Legislative Committee of SCARE, provides testimony on SCARE's legislative priorities.<sup>73</sup> Members ask questions about the following topics, which SCARE's legislative committee chair answers: (1) early voting and (2) pay for poll workers. Members ask about procedures if a natural disaster disrupts an election, which SCARE's legislative committee chair and SEC's executive director answer. The constituent further testifies about county boundary lines. Appendix N includes the meeting packet and potential recommendations and findings.

### *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee members may provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to (1) refer the study and



investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.<sup>74</sup> The Committee Chair may provide briefings to the public about the final oversight study.<sup>75</sup>

**To support the Committee's ongoing oversight by maintaining current information about the agency, the agency receives an annual Request for Information.**

# FINDING & RECOMMENDATIONS

## *Finding*

The Subcommittee has one **finding** arising from its study of the agency, acknowledging differences in interpretations of county boundaries and its potential impact on elections. During the study process, representatives from the Revenue and Fiscal Affairs Office testify if you ask two different counties where the boundary between them is located, you may get two different answers.<sup>76</sup> Also, during the study process, a constituent testifies as to concerns that may arise with county boundary discrepancies including, taxation without representation, if a county tax map is utilized as the boundary of the county instead of the boundary described in state statute.

Acknowledging differences in interpretations of county boundaries and its potential impact on elections, the Subcommittee finds until 2030, or such time as the South Carolina Geodetic Survey Office of Revenue and Fiscal Affairs surveys and maps the county boundaries as expressed in statute, practical problems may arise under various interpretations of a county boundary, including but not limited to, taxation without representation.

## *Recommendations*

### *General Information*

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations 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 full Committee, discussions with the agency and constituents during multiple meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency, is available on the Committee's website.

### *Continue*

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

### *Curtail (i.e. Revise)*

The Subcommittee has **eighteen substantive recommendations** arising from its study of the agency. These recommendations fall into four categories: (1) pre-election; (2) election; (3) training; and (4) county boundaries utilized for elections. An overview of these recommendations is provided in Table 1 on page 9. Appendix O includes the text of recommendations as adopted by the Subcommittee.

### *Recommendations for pre-election*

The Subcommittee has **five recommendations related to pre-election issues**, and a summary is in Table 14.

Table 14. Summary of recommendations for pre-election.

RECOMMENDATIONS	
Pre-Election	
1.	<b>Voter Registration</b> - Revise state voter registration applications to include a “Yes” and “No” box beside each eligibility qualification.
2.	<b>Incapacity</b> - Obtain notification when a court deems an individual mentally incapacitated so the agency may update the voter registration database.
3.	<b>Voter Registration Books</b> - Allow additional time for individuals to register to vote by changing the deadline to register to vote from 30 to 25 days prior to an election.*
4.	<b>Substitution of Nominee</b> - Limit the time prior to an election when a candidate may resign for non-political reasons and a substitute candidate may be nominated.*
5.	<b>Certification of Candidates</b> - Allow the agency sufficient time to prepare for elections by applying the August 15th requirement for certifying candidates in a statewide general election to all candidates and questions to be voted on in the general election except Presidential and Vice-Presidential candidates.*

Table Note: Asterisks denote recommendations to the General Assembly; all other recommendations are to the agency.

1. **Voter Registration** - The Subcommittee recommends the agency revise state voter registration applications to include a “Yes” and “No” box beside each eligibility qualification. Currently, the application requires the person registering to individually indicate yes or no beside two of the qualifications at the top of the form, but then groups other qualifications together at the bottom, as seen in Figure 4. The County Registration and Election Board relies on an individual’s signed affirmation that the individual meets all of the qualifications required to vote.<sup>77</sup>

**SOUTH CAROLINA VOTER REGISTRATION MAIL APPLICATION**

Registration Number: \_\_\_\_\_

Are you a citizen of the United States of America? Yes  No   
 Will you be 18 years of age on or before election day? Yes  No   
 If you checked 'NO' in response to either of these questions, DO NOT complete this form.

New Registration (Check above if moving from one county to another)  
 Address or name change within the same county

**NAME** Last: \_\_\_\_\_ First: \_\_\_\_\_ MI: \_\_\_\_\_

**SEX** Male  Female

**RACE** Black/African American  White  Asian  Hispanic  Native American  Other

**ADDRESS WHERE YOU LIVE (Physical Address)**  
 Street: \_\_\_\_\_ Apt Number: \_\_\_\_\_ City Limits: No   
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Do you like to be a poll worker?  No

**MAILING ADDRESS (if different from above)**  
 Street or Post Office Box: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Code: \_\_\_\_\_

**BIRTHDATE** Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ **PHONE #** ( ) \_\_\_\_\_ Work ( ) \_\_\_\_\_

**PREVIOUS REGISTRATION/NAME** Precinct: \_\_\_\_\_ County: \_\_\_\_\_ Previous Name: \_\_\_\_\_

**Voter Declaration – (read and sign below)**  
 I swear or affirm that:  
 -I am a citizen of the United States of America  
 -I will be 18 years of age on or before Election Day  
 -I am a resident of South Carolina, this county and precinct  
 -I am not under a court order declaring me mentally incompetent  
 -I am not confined in any public prison resulting from a conviction of a crime  
 -I have never been convicted of a felony or offense against the election laws OR if previously convicted, I have served my entire sentence, including probation or parole, or I have received a pardon for the conviction  
 -the address listed above is my only legal place of residence, and I claim no other place as my legal residence

Signature: \_\_\_\_\_ Date of Application: \_\_\_\_\_

Whoever shall, willfully and knowingly, swear (or affirm) falsely in taking any oath required by law shall be guilty of perjury and, on conviction, incur the pains and penalties of the offense.

Attach ID Here

Figure 4. SC mail-in voter registration application.

**2. Incapacity** - The Subcommittee recommends the agency obtain notification when a court deems an individual mentally incapacitated so the agency may update the voter registration database. Pursuant to statute, an individual “is disqualified from being registered or voting if he: is mentally incompetent as adjudicated by a court of competent jurisdiction.”<sup>78</sup> Changes in mental capacity may occur after initial registration (e.g. accident or illness). The agency updates the voter database based on information it receives about voter qualifications. Currently, there is no requirement for courts to send a notice to the agency when this occurs.<sup>79</sup>

**3. Voter Registration Books** - The Subcommittee recommends the General Assembly allow additional time for individuals to register to vote by changing the deadline to register to vote from 30 to 25 days prior to an election. Proposed language to implement this recommendation is included in Table 15.

The deadline to register to vote varies depending on the method of registration (e.g., in person, by mail, or online).<sup>80</sup> A 25-day time period allows the deadline to occur on a weekday for elections held on both Tuesdays and Saturdays.<sup>81</sup> According to the SEC executive director, the 30-day deadline has been in place for decades.<sup>82</sup> A deadline is necessary to allow for receipt and review of registrations and production and distribution of a voter registration list.<sup>83</sup> However, the agency asserts 30 days is no longer necessary. The agency believes it may be possible to shorten the time even more in the future, but it prefers to reduce the time in small increments to gauge effectiveness.<sup>84</sup> In regards to federal regulations, the agency states the time period can be no more than 30-days.<sup>85</sup>

Table 15. Proposed statutory changes to allow additional time for individuals to vote.

Statute	Proposed Language <sup>86</sup>
7-5-150	<p><b>§ 7-5-150. Closing registration books; registration of persons coming of age while books closed.</b></p> <p>The registration books shall be closed <del>thirty</del> <u>twenty four</u> days before each election, but only as to that election or any second race or runoff resulting from that election, and shall remain closed until the election has taken place, anything in this article to the contrary notwithstanding; provided that the registration books shall be closed <del>thirty</del> <u>twenty four</u> days before the June primary and shall remain closed until after the second primary and shall likewise be closed <del>thirty</del> <u>twenty four</u> days before the November general election. They shall thereafter be opened from time to time in accordance with the provisions of this article. Any person eligible to register who has been discharged or separated from his service in the Armed Forces of the United States, and returned home too late to register at the time when registration is required, is entitled to register for the purpose of voting in the next ensuing election after the discharge or separation from service, up to 5:00 p.m. on the day of the election. This application for registration must be made at the office of the board of voter registration and elections in the county in which the person wishes to register, and if qualified, the person must be issued a registration notification stating the precinct in which he is entitled to vote and a certification to the managers of the precinct that he is entitled to vote and should be placed on the registration rolls of the precinct. Persons who become of age during this period of <del>thirty</del> <u>twenty four</u> days shall be entitled to register before the closing of the books if otherwise qualified.</p>

7-5-155	<p><b>§ 7-5-155. Registration of electors by mail.</b></p> <p>(a) Notwithstanding any other provision of law, the following procedures may be used in the registration of elections in addition to the procedure otherwise provided by law.</p> <p>(1) Subject to the provision of § 7-5-150, any qualified citizen may register to vote by mailing or having delivered a complete state registration by mail application form or a completed national registration by mail application form prescribed by the Federal Election Commission not later than <u>thirty twenty five</u> days before any election to his county board of voter registration and elections. The postmark date of a mailed application is considered the day of mailing. If the postmark date is missing or illegible, the county board of voter registration and elections must accept the application if it is received by mail no later than five days after the close of registration books before any election.</p> <p>(2) If the county board of voter registration and election determines that the applicant is qualified and his application is legible and complete, the board shall mail the voter written notification of approval on a form to be prescribed and provided by the State Election Commission pursuant to § 7-5-180. When the county board of voter registration and elections mails the written notification of approval, it must do so without requiring the elector to sign anything in the presence of a member of the board, a deputy member, or a registration clerk and the attestation of the elector's signature is not required so long as the conditions set forth above are met.</p> <p>(3) Any application must be rejected for any of the following reasons:</p> <ul style="list-style-type: none"> <li>(i) any portion of the application is not complete;</li> <li>(ii) any portion of the application is illegible in the opinion of a member and the clerk of the board;</li> <li>(iii) the board is unable to determine, from the address stated on the application, the precinct in which the voter should be assigned or the election districts in which he is entitled to vote.</li> </ul> <p>(4) Any person whose application is rejected must be notified of the rejection together with the reason for rejection. The applicant must further be informed that he still has a right to register by appearing in person before the county board of voter registration and elections or by submitting the information by mail necessary to correct his rejected application. The form for notifying applicants of rejection must be prescribed and provided by the State Election Commission pursuant to § 7-5-180.</p> <p>(b) Every application for registration by mail shall contain spaces for home and work telephones numbers of the applicant and the applicant shall enter the numbers on the application where applicable.</p> <p>(c) The State Election Commission shall furnish a sufficient number of application forms to the county boards of voter registration and elections and voter registration agencies specified in § 7-5-310(B) so that distribution of the application forms may be made to various locations throughout the counties and mailed to persons requesting them.</p> <p>County boards of voter registration and elections shall distribute application forms to various locations in their respective counties, including city halls and public libraries, where they must be readily available to the public.</p>
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	<p>(d) The original application must remain on file in the office of the county board of voter registration and elections.</p> <p>(e) The State Election Commission may promulgate regulations to implement the provisions of this section.</p>
7-5-185	<p><b>§ 7-5-185. Electronic applications for voter registration.</b></p> <p>(A) A person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles may submit an application for voter registration electronically on the Internet website of the State Election Commission.</p> <p>(B)(1) An application submitted pursuant to this section is effective upon receipt of the application by the State Election Commission if the application is received <del>thirty two</del> <u>five</u> days before an election to be held in the precinct of the person submitting the application.</p> <p>(2) The applicant shall attest to the truth of the information provided in the application.</p> <p>(3) For voter registration purposes, the applicant shall assent to the use of his signature from his driver's license or state identification card issued by the Department of Motor Vehicles.</p> <p>(4) For each electronic application, the State Election Commission shall obtain an electronic copy of the applicant's signature from his driver's license or state identification card issued by the Department of Motor Vehicles directly from the Department of Motor Vehicles with no fee.</p> <p>(5) An application submitted pursuant to this section must contain the applicant's name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in a public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must attest to the following: "I do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence." An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.</p> <p>(C) Upon submission of an application pursuant to this section, the electronic voter registration system shall provide immediate verification that the:</p> <p>(1) applicant has a South Carolina driver's license or state identification card issued by the Department of Motor Vehicles and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or state identification card that is on file with the Department of Motor Vehicles;</p> <p>(2) date of birth provided by the applicant matches the date of birth for that person, which is on file with the Department of Motor Vehicles;</p>

	<p>(3) name provided by the applicant matches the name for the person which is on file with the Department of Motor Vehicles; and</p> <p>(4) State Election Commission employs security measures to ensure the accuracy and integrity of voter registration applications submitted electronically pursuant to this section.</p> <p>(D) Should there be a failure to match any of the information required in this section with the Department of Motor Vehicles, the State Election Commission immediately shall notify the applicant of the failure to match information and inform the applicant that his application for registration was not accepted.</p> <p>(E) The State Election Commission may promulgate regulations necessary to effectuate the provisions of this section.</p>
7-5-220	<p><b>§ 7-5-220. Certificates shall be invalid at election within <del>thirty</del> <u>twenty four</u> days of issuance.</b></p> <p>Except as provided in Section 7-5-150, registration made <del>thirty</del> <u>twenty four</u> days or less before any election is not valid for that election or any second race or runoff resulting from that election but such registration shall be valid in any other election.</p>
7-5-330	<p><b>§ 7-5-330. Voter registration application; discretionary removal of elector.</b></p> <p>(A) In the case of registration with a motor vehicle application under Section 7-5-320, the valid voter registration form of the applicant must be completed at the Department of Motor Vehicles no later than <del>thirty</del> <u>twenty five</u> days before the date of the election.</p> <p>(B) In the case of registration by mail under Section 7-5-155, the valid voter registration form of the applicant must be postmarked no later than <del>thirty</del> <u>twenty five</u> days before the date of the election.</p> <p>(C) In the case of registration at a voter registration agency, the valid voter registration form of the applicant must be completed at the voter registration agency no later than <del>thirty</del> <u>twenty five</u> days before the date of the election.</p> <p>(D) In any other case, the valid voter registration form of the applicant must be received by the county board of voter registration and elections no later than <del>thirty</del> <u>twenty five</u> days before the date of the election.</p> <p>(E)(1) The county board of voter registration and elections shall:</p> <p>(a) send notice to each applicant of the disposition of the application; and</p> <p>(b) ensure that the identity of the voter registration agency through which a particular voter is registered is not disclosed to the public.</p> <p>(2) If the notice sent pursuant to the provisions of subitem (a) of this item is returned to the county board of voter registration and elections as undeliverable, the elector to whom it was sent must be reported by the board to the State Election Commission. The State Election Commission must place the elector in an inactive status on the master file and may remove this elector upon compliance with the provisions of Section 7-5-330(F).</p> <p>(F)(1) The State Election Commission may not remove the name of a qualified elector from the official list of eligible voters on the ground that the qualified elector has changed residence unless the qualified elector:</p> <p>(a) confirms in writing that the qualified elector has changed residence to a place outside the county in which the qualified elector is registered; or</p> <p>(b)(i) has failed to respond to a notice described in item (2); and</p>

	<p>(ii) has not voted or appeared to vote and, if necessary, correct the county board of voter registration and elections record of the qualified elector's address, in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice.</p> <p>(2) "Notice", as used in this item, means a postage prepaid and preaddressed return card, sent by forwardable mail, on which the qualified elector may state his current address, together with a statement to the following effect:</p> <p>(a) if the qualified elector did not change his residence, or changed residence but remained in the same county, the qualified elector shall return the card no later than <del>thirty</del> <u>twenty five</u> days before the date of the election. If the card is not returned, affirmation or confirmation of the qualified elector's address may be required before the qualified elector is permitted to vote during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice, and if the qualified elector does not vote in an election during that period, the qualified elector's name must be removed from the list of eligible voters;</p> <p>(b) if the qualified elector has changed residence to a place outside the county in which the qualified elector is registered, information as to how the qualified elector can re-register to vote.</p> <p>(3) The county board of voter registration and elections shall correct an official list of eligible voters in accordance with change of residence information obtained pursuant to the provisions of this subsection.</p> <p>(4) The program required pursuant to the provisions of subsection (F) of this section must be completed no later than ninety days before the date of a statewide primary or general election.</p>
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**4. Substitution of Nominee** - The Subcommittee recommends the General Assembly limit the time prior to an election when a candidate may resign for non-political reasons and a substitute candidate may be nominated.<sup>87</sup> Currently, there is no time limit specified for candidate resignations which creates the potential for a candidate resignation to impact the timing of the election.<sup>88</sup> Also, this proposed change assists overseas citizens and members of the military, to whom the agency must mail a ballot at least 45 days prior to an election, in voting for the replacement candidate in an election.<sup>89</sup>

**5. Certification of Candidates** - The Subcommittee recommends the General Assembly allow the agency sufficient time to prepare for elections by applying the August 15th requirement for certifying candidates in a statewide general election to all candidates and questions to be voted on in the general election except Presidential and Vice-Presidential candidates. For a statewide general election, political parties currently must certify candidates by noon on August 15th, but several school districts and municipalities do not comply because candidate filing opens/closes after the certification date.<sup>90</sup> This recommendation affords the agency and counties time to prepare databases for the ballots to be used in the general election to be built and tested; further, it helps ensure overseas citizens and members of the military voting absentee are mailed ballots at least 45 days prior to an election as required by law.<sup>91</sup>

### *Recommendations for elections*

The Subcommittee has **four recommendations related to elections**, and a summary is in Table 16.



Table 16. Summary of recommendations for elections.

RECOMMENDATIONS	
Elections	
6.	<b>Municipal Elections</b> - Standardize municipal elections by holding no more than three in an odd numbered year.*
7.	<b>Primaries</b> - Hold non-partisan primaries on a different day than partisan primaries.*
8.	<b>Poll Workers</b> - Allow a voter registered in South Carolina to serve as a poll worker anywhere in the state.*
9.	<b>Absentee Ballots</b> - Remove the requirement of a witness signature on the envelope of a mail-in absentee ballot as the signatures cannot be verified.*

Table Note: Asterisks denote recommendations to the General Assembly.

**6. Municipal Elections** - The Subcommittee recommends the General Assembly standardize municipal elections by holding no more than three in an odd numbered year. Municipal general elections are held in all twelve months of the year.<sup>92</sup> Each municipality governing body may, by ordinance, establish ward lines and times for general and special elections within the municipality.<sup>93</sup> According to the agency, as of January 2015, 45% of municipalities hold elections in November of odd years, 13% hold elections in November of even years, and 42% hold elections on Tuesdays throughout the year.<sup>94</sup>

The agency requests the general elections of municipalities be standardized to the first Tuesday of November in odd numbered years to avoid conflict with statewide general elections held in even calendar years, simplify the conduct of elections, provide cost savings for counties and municipalities, improve voter education on the dates of municipal elections, and encourage more participation in municipal elections.<sup>95</sup> When asked about cost savings for the agency, the agency executive director testifies those savings, if any, may be seen at the county level.<sup>96</sup>

The SC Association of Registration and Election Officials, Inc. (SCARE) supports a single date as expressed in testimony and a letter to the Subcommittee.<sup>97</sup> The Municipal Association of South Carolina (MASC) agrees standardization of general election dates is helpful but prefers several potential dates for municipalities to hold their general elections.<sup>98</sup>

Appendix P includes a chart with election types, dates, coordinating entities, and average costs.

**7. Primaries** - The Subcommittee recommends the General Assembly hold non-partisan primaries on a different day than partisan primaries. Most elections of school district trustees include a non-partisan filing period with candidate placement on the general election ballot.<sup>99</sup> At least, one school district holds a non-partisan primary on the same day as the statewide primaries (i.e., the second Tuesday in June of even-numbered years).<sup>100</sup> This recommendation seeks to provide uniformity in the election of school district trustees and to avoid voter confusion on primary day for the general election as all other ballots issued to voters are based upon party preference expressed by the voter at the polls.<sup>101</sup>

**8. Poll Workers** - The Subcommittee recommends the General Assembly allow a voter registered in South Carolina to serve as a poll worker anywhere in the state.<sup>102</sup> This recommendation seeks to expand the pool of potential poll workers to include colleges students and those who live further than an adjoining county, among others.<sup>103</sup> During the study process, a representative from SCARE testifies there are counties that have difficulty recruiting poll workers.<sup>104</sup>

**9. Absentee Ballots** - The Subcommittee recommends the General Assembly remove the requirement of a witness signature on the envelope of a mail-in absentee ballot as the signatures cannot be verified. This recommendation seeks to streamline the absentee voting process by acknowledging there is no way to validate the witness signature required on the back of the envelope when an individual submits an absentee ballot.<sup>105</sup>

### *Recommendation for training*

The Subcommittee has **one recommendation related to training**.

**10. County Board Orientation** - The Subcommittee recommends the General Assembly require County Registration and Election Board Members to participate in an orientation, approved by the State Election Commission, within 30 days of appointment to a county board. This recommendation seeks to provide new board members basic training, relative to their duties, in a timely manner.<sup>106</sup> Currently, each member of the board must complete a training and certification program conducted by the agency within 18 months after initial appointment.<sup>107</sup> If a member does not complete the program within that time, the Governor, upon notification, must remove the member from the board unless an extension is granted to complete the program based upon exceptional circumstances.<sup>108</sup> In making this concept recommendation, the Subcommittee anticipates these compliance provisions being applicable to the new orientation program. While the agency currently does not have an orientation, during the study process testimony is received that it is open to considering an online orientation available to newly appointed board members.<sup>109</sup>

### *Recommendations for county boundaries utilized for elections*

The Subcommittee has **eight recommendations related to county boundaries utilized for elections**, and a summary is in Table 18.

*Table 18. Summary of recommendations for county boundaries utilized for elections.*

RECOMMENDATIONS
County Boundaries Utilized for Elections
<u>In General</u>
<b>11. Official Map</b> - Clarify South Carolina's official county boundary map is held by Revenue and Fiscal Affairs Office or its successor entity.*
<u>Surveying Geographic Coordinates</u>
<b>12. Initial Public Notice</b> - Expand notification efforts during the county boundary geographic coordinate surveying process.*
<b>13. Streamline Process</b> - Streamline the geographic coordinate survey process by prohibiting simultaneous occurrence of: (1) a county annexing property impacting an individual boundary line of a county; and (2) SC Geodetic Survey surveying the same boundary line for its geographic coordinates.*
<u>After Geographic Coordinates Finalized</u>
<b>14. Post-Work Notice</b> - Expand notification efforts after the geographic coordinate surveying process.*
<b>15. County Usage</b> - Confirm usage of boundary geographic coordinates by impacted counties.*
<b>16. Voter Database</b> - Address practical problems with updating the voter database during the geographic coordinate surveying process.*

- 17. Future Annexations** - Provide for accuracy of county boundary lines after initial geographic coordinates are finalized (i.e., update the existing annexation process).\*
- 18. Enforcement** - Create an enforcement mechanism to ensure adherence to boundary geographic coordinates (i.e., authorize a private cause of action by a citizen).\*

*Table Note: Asterisks denote recommendations to the General Assembly.*

**11. Official Map** - The Subcommittee recommends the General Assembly clarify South Carolina's official county boundary map is held by Revenue and Fiscal Affairs Office (RFA) or its successor entity. This recommendation seeks to provide clarity to government and private entities on the issue of the authority of maps held by RFA.<sup>110</sup> During the study process, RFA personnel testify the federal Census Bureau has requested statutes that show the state has authority to determine county boundaries.<sup>111</sup> Notably, individual boundaries of each of the states' 46 counties are described in separate state statutes.<sup>112</sup>

**12. Initial Public Notice** - The Subcommittee recommends the General Assembly expand notification efforts during the county boundary geographic coordinate surveying process. More specifically, the Subcommittee recommends the General Assembly require SCGS: (1) send notice to the county administrator and publish this notice (a) in a local newspaper, and (b) on RFA's website 30 days prior to SCGS starting their work of surveying the geographic coordinates of an individual county boundary; and (2) work with the county administrator to hold a public meeting, after SCGS has preliminary geographic coordinates, to provide information on the preliminary coordinates and obtain additional public input prior to finalizing the plat of the individual county boundary line. This recommendation seeks to provide more opportunities for public involvement at the start of the process of geographically surveying a county boundary line.<sup>113</sup> Currently, SCGS has an informal process for communicating with counties prior to starting its work and there is a process outlined in statute after SCGS finishes its work.<sup>114</sup> Appendix P includes a flow chart of the process with sample correspondence sent to involved parties. The Subcommittee recommendation seeks to codify SCGS' informal process.

**13. Streamline Process** - The Subcommittee recommends the General Assembly streamline the geographic coordinate surveying process by prohibiting simultaneous occurrence of: (1) a county annexing property impacting an individual boundary line of a county; and (2) SC Geodetic Survey surveying the same boundary line to position geographic coordinates. This recommendation seeks to minimize potential confusion over boundaries while SCGS is in the process of surveying a particular boundary line.<sup>115</sup> Notably, the recommendation impacts only counties - not municipalities.<sup>116</sup> According to representatives of SCGS and the Municipal Association of South Carolina, municipal annexations have no effect on county lines.<sup>117</sup>

**14. Post-Work Notice** - The Subcommittee recommends the General Assembly expand notification efforts after the geographic coordinate surveying process. Under current law, RFA is required to provide geographic coordinates of a boundary to the Secretary of State, Department of Archives, and Register of Deeds in each affected county.<sup>118</sup> This recommendation seeks to alert additional impacted entities as to which map of the county boundary to utilize.<sup>119</sup> Additional impacted entities include: State Election Commission; County Registration and Election Boards; county council; county assessor; county emergency services; and affected school boards. RFA testifies this is no great additional burden.<sup>120</sup>

**15. County Usage** - The Subcommittee recommends the General Assembly confirm usage of boundary geographic coordinates by impacted counties. More specifically, the Subcommittee recommends the General Assembly require a county council, within 180 days of receiving the geographic coordinates of a boundary (which may only be one boundary line of the county and not the county's entire boundary) from SCGS, to provide written confirmation to RFA that the county has taken necessary steps, which may include

grandfathering in certain residents for periods of time as long as those residents are not being taxed in an area in which they cannot vote, to adhere to the boundary geographic coordinates for all purposes, including but not limited to, elections, tax assessments, emergency services, school districts, and permits. This recommendation seeks to minimize discrepancies in county boundary interpretations (e.g., avoid taxation without representation).<sup>121</sup>

During the study process, RFA provides an example of unclear county boundaries, which is included in Figure 5.<sup>122</sup>

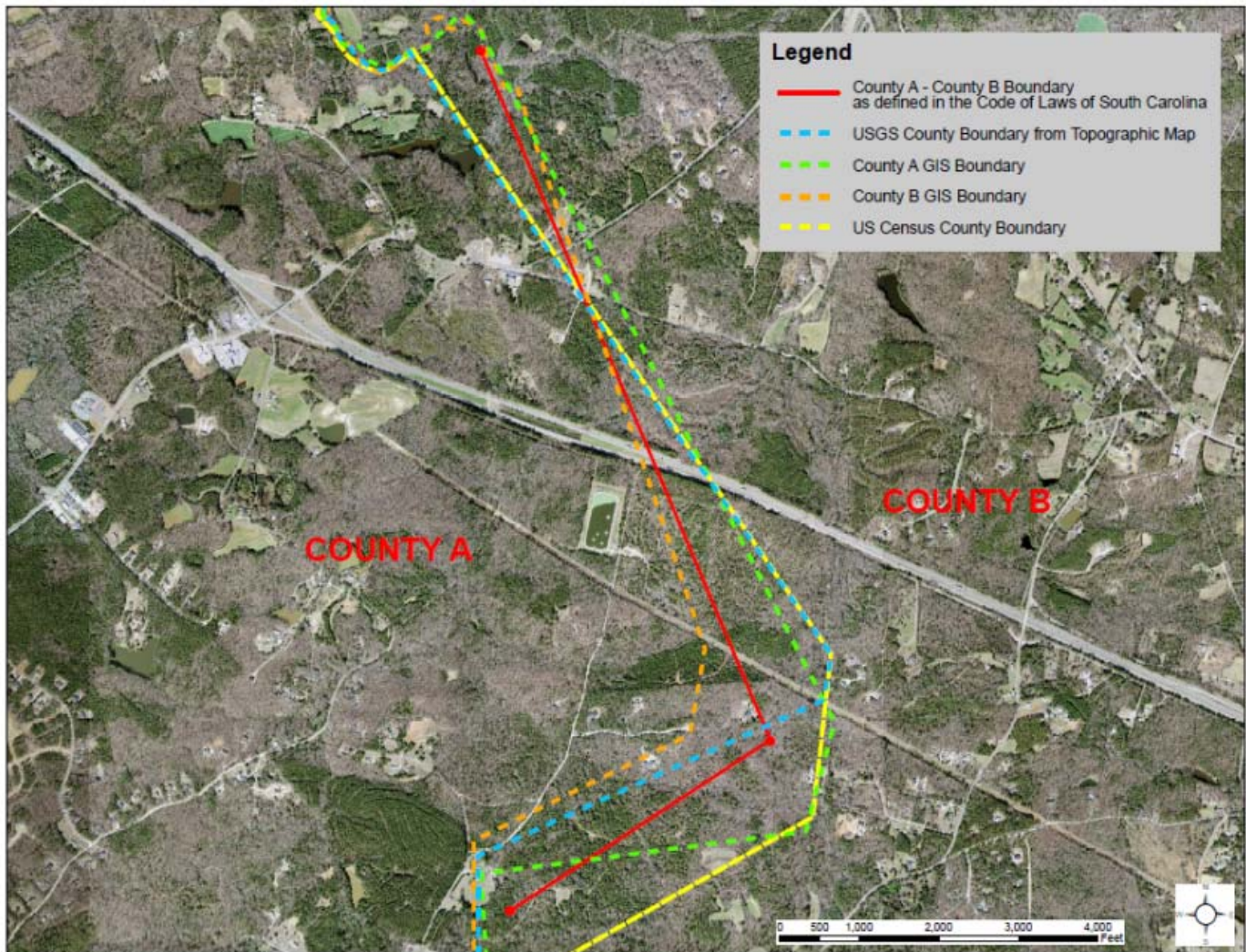


Figure 5. Example of different interpretations of county boundary line provided by SCGS (Best viewed in color).

As background, in Act 262 of 2014, the General Assembly has found:

1. that exact and **precise locations of boundaries** of this state's political subdivisions **are critical for the efficient provision of services**, enforcement of property rights, and election of public officials;
2. that the **passage of time and growth in society has led to confusion over statutory county descriptions and the locations of county boundary lines**;
3. that **technology now exists to cost-effectively provide definite and permanent markers** of boundary lines;
4. that it is necessary for the effective and efficient operation of state government and its political subdivisions that county boundaries are clearly and accurately determined as expeditiously as possible; and
5. that the South Carolina Geodetic Survey is the appropriate instrument to vest with the necessary authority to resolve county boundary issues.<sup>123</sup> (emphasis added)

The General Assembly has further found it appropriate to statutorily allow SCGS to clarify unclear boundaries.<sup>124</sup> The statutory geographic coordinate surveying process is conducted on each individual county boundary line - not the entire county boundary at once - as the statutory description of a county is broken down into the different individual boundary lines (e.g., Abbeville County is bounded as follows: **on the southwest** by the Savannah River, by which it is separated from Georgia; **on the northwest** by Anderson County, from which it is separated by a line (the old Indian boundary) drawn from a marked black gum, on the east bank of the Savannah River, at the foot of Grape Shoals, N. 50° E. to a willow oak, marked "A. & P.," on the south side of Saluda River; **on the northeast** by Laurens County, from which it is separated by the Saluda River, and by Greenwood County; and on the southeast by McCormick County.)<sup>125</sup> At the completion of the process the geographic coordinates of the individual line surveyed take effect since the geographic coordinates mark the individual line already described in statute.<sup>126</sup>

If a county desires a different boundary, there is a process for annexing land of another county. The State Constitution states in part, "[t]hat before any existing County line is altered the question shall be first submitted to the qualified electors of the territory proposed to be taken from one County and given to another, and shall have received two thirds of the votes cast."<sup>127</sup>

**16. Voter Database** - The Subcommittee recommends the General Assembly address practical problems with updating the voter database during the geographic coordinate surveying process, which SCGS strives to complete by the 2030 census.<sup>128</sup> Given the amount of time SCGS anticipates it will take to complete this process, this recommendation seeks to ensure the map which governs where a citizen votes is the same map which governs the county in which a citizen is taxed.<sup>129</sup>

**17. Future Annexations** - The Subcommittee recommends the General Assembly provide for accuracy of county boundary lines after initial geographic coordinate surveying (i.e., update the existing annexation process). More specifically, the Subcommittee recommends the General Assembly update statutes to ensure that after initial geographic coordinates of a boundary line take effect, (1) any future annexations impacting that line include geographic coordinates and descriptions of the proposed new line, which SCGS will verify, as part of the information available to those within the counties who are voting on the annexation (vote by citizens is required as part of the current process to annex), and (2) within 30 days of the certification of election results approving an annexation, counties must provide the geographic coordinates and description of the new boundary line to SCGS who will update the official map. This recommendation seeks greater efficiency in utilization of government resources.<sup>130</sup>

**18. Enforcement** - The Subcommittee recommends the General Assembly authorize a private cause of action, which includes reasonable attorney's fees, against any county that, after 180 days of receiving the geographic coordinates of a boundary line from SCGS, taxes citizens outside the county boundary's geographic coordinates, contained in the official county boundary map held by RFA.<sup>131</sup> While statute states the geographic coordinates of a boundary line take effect at the end of the geographic coordinate surveying process, RFA representatives testify that when a county actually complies with the geographic coordinates is out of their control.<sup>132</sup>

### *Eliminate*

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs.

### *Follow Up*

The Subcommittee recommends the full Committee may follow up with the agency at any time about (1) the status of implementing the Committee's recommendations, and (2) any other questions the full Committee has for the agency.

## SELECTED AGENCY INFORMATION

**State Election Commission. "Program Evaluation Report, 2017."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/PER%20Extension%20Request%20Granted%203.31.17.pdf> (last accessed July 10, 2017).

**State Election Commission. "Restructuring and Seven-Year Plan Report, 2015."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Election%20Commission.pdf> (last accessed July 10, 2017).

**State Election Commission. "Agency Accountability Report, 2015-16."**

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (last accessed July 10, 2017).

**State Election Commission. "Annual Request for Information, 2017."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20\(June%2020,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20(June%2020,%202016).pdf) (last accessed July 10, 2017).

**SC House of Representatives, Legislative Oversight Committee. "February/March 2017 Survey Results."**

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20\(2\\_9%20-3\\_13\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20(2_9%20-3_13).PDF) (last accessed July 10, 2017).

## CONTACT INFORMATION

### Committee Contact Information

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You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

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Online: <https://www.scvotes.org/>

## ENDNOTES

<sup>1</sup> Visual Summary Figure 1 is compiled from information in the State Election Commission study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "State Election Commission," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/ElectionCommission.php> (accessed July 7, 2017).

<sup>2</sup> *SC Code of Laws* § 2-2-20(C).

<sup>3</sup> SC House of Representatives, House Legislative Oversight Committee, "April 5, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/April%205,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 27:36 in the archived video. Hereinafter, "April 5, 2017 - Subcommittee Meeting Minutes." See also, SC House of Representatives, House Legislative Oversight Committee, "June 27, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/June%2027,%202017%20-%20Meeting%20Minutes%20-%20SEC.pdf> (accessed August 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 01:22:09 in the archived video. Hereinafter, "June 27, 2017 - Subcommittee Meeting Minutes."



<sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER (Updated May 2017),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “State Election Commission”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/PER%20Submission%20-%20UPDATED%20pdf%20-%20Election%20Commission%20\(May%209,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/PER%20Submission%20-%20UPDATED%20pdf%20-%20Election%20Commission%20(May%209,%202017).pdf). Hereinafter, “Agency PER.”

<sup>5</sup> Janet Reynolds, State Election Commission Director of Administration, email message to Charles Appleby, Legal Counsel to House Legislative Oversight Committee, August 24, 2017.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> In 2016, the State Election Commission conducted the following: two presidential preference primaries, statewide primary and runoff, and general election.

<sup>11</sup> *SC Code of Laws Sec. 7-3-10(a)*.

<sup>12</sup> Ibid.

<sup>13</sup> *SC Code of Laws Sec. 7-3-10(e)*.

<sup>14</sup> Ibid.

<sup>15</sup> *SC Code of Laws Sec. 7-3-10(b)*.

<sup>16</sup> *SC Code of Laws Sec. 7-3-10(c)*.

<sup>17</sup> Ibid.

<sup>18</sup> *SC Code of Laws Sec. 7-3-20(A)*.

<sup>19</sup> Ibid.

<sup>20</sup> Agency PER at page 47.

<sup>21</sup> SC House of Representatives, House Legislative Oversight Committee, “May 9, 2017 - Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The State Election Commission,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/May%209,%202017%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 01:16:48 in the archived video. Hereinafter, “May 9, 2017 - Subcommittee Meeting Minutes.”

<sup>22</sup> SC House of Representatives, House Legislative Oversight Committee, “Organization Chart (as of May 2017),” under “Structure/Employees,” under “The State Election Commission,” and under “House Legislative Oversight Committee,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Structure&Laws%20-%20Org%20Chart%20&%20Employees/Organization%20Chart%20\(as%20of%20May%209,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Structure&Laws%20-%20Org%20Chart%20&%20Employees/Organization%20Chart%20(as%20of%20May%209,%202017).pdf) (accessed July 10, 2017).

<sup>23</sup> Agency PER.

<sup>24</sup> Department of Administration, Executive Budget Office, “2016-17 Accountability Report Technical Assistance Guide,” under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (accessed July 21, 2017). See also, Agency PER.

<sup>25</sup> SC House of Representatives, House Legislative Oversight Committee, “Presentation by Election Commission (May 9, 2017 Subcommittee Meeting),” under “Mission, Goals & Strategic Plan,” under “The State Election Commission,” and under “House Legislative Oversight Committee,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Presentation%20by%20Election%20Commission%20\(May%209,%202017%20Subcommittee%20Meeting\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Presentation%20by%20Election%20Commission%20(May%209,%202017%20Subcommittee%20Meeting).pdf) (accessed August 24, 2017). The methodology the agency utilizes includes the agency assigning expenditures to objectives. The agency compares each employee’s job duties to individual objectives based on percentage of time spent performing job duties related to the objective. All agency expenditures and cost of employee salaries/benefits are included in the amount assigned to each objective.

<sup>26</sup> Kevin Paul, Assistant Director of State Human Resources, Department of Administration, email message to House Oversight Committee Legal Counsel Charles Appleby, May 5, 2017.

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> *SC Code of Laws Sec. 2-2-10(1)*.

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "January 10, 2017 Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January102017.pdf> (accessed July 10, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "January 10, 2017 - Full Committee Meeting Minutes."

<sup>32</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to the Election Commission (January 17, 2017)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Election%20Commission%20-Notification%20Letter%20to%20Agency%201.17.17.pdf> (accessed July 10, 2017).

<sup>33</sup> SC House of representatives, House Legislative Oversight Committee, "Subcommittees -2017," under "Committee Information," under "House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignments%20-%202017.pdf> (accessed July 10, 2017).

<sup>34</sup> *S.C. Code of Laws Sec. 1-30-10*.

<sup>35</sup> SC House of Representatives, House Legislative Oversight Committee, "Restructuring & Seven Year Plan," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Election%20Commission.pdf> (accessed July 10, 2017).

<sup>36</sup> *SC Code of Laws Sec. 1-30-10*.

<sup>37</sup> SC House of Representatives, House Legislative Oversight Committee, "2016 Annual Restructuring Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20Agency%20Restructuring%20ReportElectionCommission.PDF> (accessed July 10, 2017). SC House of Representatives, House Legislative Oversight Committee, "2017 Annual Restructuring Report," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed July 10, 2017).

<sup>38</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Agency Accountability Report/2017ARR," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed August 24, 2017).

<sup>39</sup> *SC Code of Laws Sec. 2-2-50*.

<sup>40</sup> Agency PER.

<sup>41</sup> A brochure about the House Legislative Oversight's Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Brochure%205.18.17.pdf> (accessed August 10, 2017).

<sup>42</sup> SC House of Representatives, House Legislative Oversight Committee.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed July 10, 2017).

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<sup>43</sup> Other agencies in the public survey include Department of Disabilities and Special Needs; Human Affairs Commission; and John de la Howe School.

<sup>44</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (February 9, 2017),” under “Public Survey & Public Input via LOC webpage” under “Committee Postings and Reports,” under “The State Election Commission,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Media%20Release%20-%20Public%20Survey%20Open%20\(February%209,%202017\)%20\(pdf\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Media%20Release%20-%20Public%20Survey%20Open%20(February%209,%202017)%20(pdf).pdf) (accessed July 10, 2017).

<sup>45</sup> SC House of Representatives, House Legislative Oversight Committee, “Results from the 2017 Survey of the Department of Disabilities and Special Needs; State Election Commission; Human Affairs Commission; and John de la Howe School,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The State Election Commission,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20\(2\\_9%20-3\\_13\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20from%202017%20Survey%20of%20DDSN;%20Election%20Commission;%20Human%20Affairs%20Commission;%20and%20John%20de%20la%20Howe%20School%20(2_9%20-3_13).PDF) (accessed July 10, 2017). Hereinafter, “February/March 2017 Survey Results.”

<sup>46</sup> Committee Standard Practice 10.4.

<sup>47</sup> February/March 2017 Survey Results.

<sup>48</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed July 10, 2017).

<sup>49</sup> February/March 2017 Survey Results.

<sup>50</sup> Ibid.

<sup>51</sup> Committee Standard Practice 10.4.2. This standard practice allows for the redaction of profanity.

<sup>52</sup> SC House of Representatives, House Legislative Oversight Committee, “Public input about Election Commission received via Committee webpage,” under “Public Survey & Public Input via LOC webpage” under “Committee Postings and Reports,” under “The State Election Commission,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/2.21.17%20Public%20Input%20Recieved%20Via%20Web%20Link.pdf> (accessed July 10, 2017).

<sup>53</sup> The Chair of either the Committee or Executive Subcommittee has the discretion to allow testimony during meetings.

<sup>54</sup> SC House of Representatives, House Legislative Oversight Committee, “March 9, 2017 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Full Committee Minutes,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/March%209,%202017%20Mtg%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “March 9, 2017 - Full Committee Meeting Minutes.”

<sup>55</sup> SC House of Representatives, House Legislative Oversight Committee, “Statewide Media Release Inviting the Public to Provide Testimony About Six Agencies Under Study (February 16, 2017),” under “Public Survey & Public Input via LOC webpage” under “Committee Postings and Reports,” under “The State Election Commission,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/2.16.17%20Media%20Release.PDF> (accessed July 10, 2017).

<sup>56</sup> January 10, 2017 - Full Committee Meeting Minutes.

<sup>57</sup> SC House of Representatives, House Legislative Oversight Committee, “February 15 , 2017 - Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “The State Election Commission,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/February%2015,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>58</sup> March 9, 2017 - Full Committee Meeting Minutes.

<sup>59</sup> Ms. Kim Murphy, constituent from Richland County/Lexington County; Mr. Tiger Wells, the Government Affairs Liaison for the Municipal Association of South Carolina testify about the agency.

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<sup>60</sup> April 5, 2017 - Subcommittee Meeting Minutes.

<sup>61</sup> Mr. Frank Rainwater, Executive Director; Mr. Will Roberts, Precinct Demographics Manager; Mr. David Ballard, County Boundary Program Manager, Professional Land Surveyor.

<sup>62</sup> Ms. Marci Andino, Executive Director; Ms. Janet Reynolds, Director of Administration; Mr. Chris Whitmire, Director of Training and Public Information; Mr. Howard Snider, Director of Voter Services; and Ms. Kristina Catoe, Staff Attorney.

<sup>63</sup> SC House of Representatives, House Legislative Oversight Committee, "April 18, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/April182017Minutes.pdf> (accessed July 10, 2017). A video of the meeting is available at

<http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "April 18, 2017 - Subcommittee Meeting Minutes."

<sup>64</sup> SC House of Representatives, House Legislative Oversight Committee, "May 3, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/May%203,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is

available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "May 3, 2017 - Subcommittee Meeting Minutes."

<sup>65</sup> May 9, 2017 - Subcommittee Meeting Minutes.

<sup>66</sup> Interested parties include: The League of Women Voters of South Carolina; Municipal Association of South Carolina; South Carolina Association of Counties; and South Carolina Association of Registration and Election Officials, Inc.

<sup>67</sup> SC House of Representatives, House Legislative Oversight Committee, "June 13, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/June%2013,%202017%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is

available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "June 13, 2017 - Subcommittee Meeting Minutes."

<sup>68</sup> June 27, 2017 - Subcommittee Meeting Minutes.

<sup>69</sup> Mr. Scott Slatton is the representative from the Municipal Association of South Carolina.

<sup>70</sup> Ms. Lynn Teague is the representative from The League of Women Voters of South Carolina. See June 27, 2017 - Subcommittee Meeting Minutes at 52:25 in the archived video.

<sup>71</sup> SC House of Representatives, House Legislative Oversight Committee, "July 31, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission," (Minutes will be posted once they are approved by the Subcommittee). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "July 31, 2017 - Subcommittee Meeting Minutes."

<sup>72</sup> Ms. Katy Smith is First Vice President of SC Association of Registration and Election Officials.

<sup>73</sup> Ms. Wanda Hemphill is the Director of Elections in York County and Chairman of the Legislative Committee of the South Carolina Association of Registration and Election Officials, Inc.

<sup>74</sup> Committee Standard Practice 14.1.

<sup>75</sup> Committee Standard Practice 14.2.

<sup>76</sup> SC House of Representatives, House Legislative Oversight Committee, "April 5, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/April%205,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 10, 2017). A video of the meeting is

available at <http://www.scstatehouse.gov/video/videofeed.php>. See 27:36 in the archived video. Hereinafter, "April 5, 2017 - Subcommittee Meeting Minutes." See also, SC House of Representatives, House Legislative

Oversight Committee, "June 27, 2017 - Meeting Minutes," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "The State Election Commission," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/ExecutiveSub/June%2027,%202017%20-%20Meeting%20Minutes%20-%20SEC.pdf> (accessed August 10, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. See 01:22:09 in the archived video. Hereinafter, "June 27, 2017 - Subcommittee Meeting Minutes."

<sup>77</sup> May 9, 2017 - Subcommittee Meeting Minutes at 22:57 in the archived video. See also, June 13, 2017 - Subcommittee Meeting Minutes at 46:41 in the archived video.

<sup>78</sup> *SC Code of Laws Sec. 7-5-120(B)(1)*.

<sup>79</sup> June 13, 2017 - Subcommittee Meeting Minutes at 01:06:20 in the archived video.

<sup>80</sup> SC House of Representatives, House Legislative Oversight Committee, "Presentation by Election Commission regarding agency recommendations (June 27, 2017 Subcommittee Meeting)," under "Mission, Goals & Strategic Plan," under "House Legislative Oversight Committee," and under "The State Election Commission," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/SEC%20Presentation%20\(June%2027,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/SEC%20Presentation%20(June%2027,%202017).pdf) (accessed August 24, 2017). Hereinafter, "Agency June 27, 2017 Presentation." See also, June 27, 2017 - Subcommittee Meeting Minutes.

<sup>81</sup> June 27, 2017 - Subcommittee Meeting Minutes at 13:57 in the archived video. See also, SC House of Representatives, House Legislative Oversight Committee, "Letter from Election Commission to Oversight Subcommittee (July 7, 2017)," under "Correspondence," under "House Legislative Oversight Committee," and under "The State Election Commission,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20Election%20Commission%20to%20Oversight%20Subcommittee%20with%20attachment%20\(July%207,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20Election%20Commission%20to%20Oversight%20Subcommittee%20with%20attachment%20(July%207,%202017).pdf) (accessed August 24, 2017). Hereinafter, "Agency July 7, 2017 letter to the Subcommittee."

<sup>82</sup> April 18, 2017 - Subcommittee Meeting Minutes at 16:51 in the archived video.

<sup>83</sup> *Ibid.*

<sup>84</sup> June 27, 2017 - Subcommittee Meeting Minutes at 12:07 in the archived video.

<sup>85</sup> *Ibid.* at 13:24 in the archived video.

<sup>86</sup> Agency July 7, 2017 letter to the Subcommittee at page 5.

<sup>87</sup> *SC Code of Laws Sec. 7-11-50*.

<sup>88</sup> Agency June 27, 2017 Presentation.

<sup>89</sup> SC House of Representatives, House Legislative Oversight Committee, "Summary Chart (see Meeting Minutes for list of recommendations approved by the Subcommittee)," under "Potential Recommendations," under "Other Materials," under "House Legislative Oversight Committee," and under "The State Election Commission," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Potential%20Recommendations%20and%20Findings%20-%20Summary%20Chart.pdf> (accessed August 24, 2017). Hereinafter, "Potential Recommendations and Findings - Excel Chart." See also, Agency PER (Recommendations section).

<sup>90</sup> S.C. Code Ann. § 7-13-350. All nominees in a party primary or party convention must be submitted to the party charged with preparing the ballot no later than noon on August 15 for a general election; Presidential and Vice-Presidential candidates must be certified by noon on the first Tuesday following the first Monday in September. See also, June 27, 2017 - Subcommittee Meeting Minutes at 9:40 in the video. See also, Act No. 505 of 1996. All persons desiring to be a candidate for District Board of Education in Chesterfield County must file notice of candidacy during the filing period beginning on the first Tuesday in September at noon and running for two weeks. See also, Act No. 185 of 1997. All candidates for the McCormick County Board of Trustees must file not later than noon September 1 of a general election year. See also, Agency June 27, 2017 Presentation (Law Change #2).

<sup>91</sup> Agency PER (Recommendations Section). See also, Potential Recommendations and Findings - Excel Chart.

<sup>92</sup> July 31, 2017 - Subcommittee Meeting Minutes at 15:40 in the video. (Rep. Williams Q: How this will make it better than previous? Director Andino A: Thank you. The recommendation is to have all municipal elections held in November of the odd year. Currently, municipal elections are held throughout the calendar year with a high concentration in November of the odd year. We do have some that fall in November of even year which would be the general election it makes the ballot longer and it also requires two voter registration lists. So it would reduce long lines, moving the municipals off of the general election ballot. It also provides for some consistency. Right now,

they are held in 12 months of the year, so voters experience confusion because they don't know when the election is. If they're all held at the same time, then it would become a standard that November is time for a municipal election.)

<sup>93</sup> *SC Code of Laws Sec. 5-15-50.*

<sup>94</sup> June 27, 2017 - Subcommittee Meeting Minutes at 18:00 in the archived video.

<sup>95</sup> Agency PER (Recommendations section). See also, Potential Recommendations and Findings - Excel Chart.

<sup>96</sup> June 27, 2017 - Subcommittee Meeting Minutes at 35:15 in the archived video.

<sup>97</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from SC Association of Registration and Election Officials, Inc. to Oversight Subcommittee (June 22, 2017)," under "Correspondence," under "House Legislative Oversight Committee," and under "The State Election Commission,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20SC%20Association%20of%20Registration%20and%20Election%20Officials,%20Inc.%20\(June%2022,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20SC%20Association%20of%20Registration%20and%20Election%20Officials,%20Inc.%20(June%2022,%202017).pdf) (accessed August 24, 2017). South Carolina Association of Registration and Election Officials, Inc., is strongly in support of election standardization for a variety of reasons. By limited and standardized dates, the logistics of conducting elections would be better streamlined, and it would create a measure of cost savings to both the state and counties. It would also assist in reducing voter confusion and fatigue and decreasing the strain on facilities and poll workers.

<sup>98</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Municipal Association of South Carolina (MASC) to the Oversight Subcommittee (June 28, 2017)," under "Correspondence," under "House Legislative Oversight Committee," and under "The State Election Commission,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20Municipal%20Association%20to%20Oversight%20Subcommittee%20\(June%2028,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Letter%20from%20Municipal%20Association%20to%20Oversight%20Subcommittee%20(June%2028,%202017).pdf) (accessed August 24, 2017). Municipal Association of South Carolina (MASC) previously proposed that general elections could be held once per calendar quarter in an even or odd year to provide cities and towns the option to choose a date closest to their current election dates but is willing to discuss other potential options. MASC believes the following effects of changing election dates should be considered: (1) Terms of many elected council members across the state will have to be shortened or lengthened (currently councils choose whether or not to shorten or lengthen their terms when they change their election dates and MASC believes council prerogative should be retained); and (2) Councils will need to modify their existing election ordinances to accommodate a new election date, so legislation should allow councils time to modify their ordinances. See also, June 27, 2017 - Subcommittee Meeting Minutes at 22:00 and 27:21 in the archived video. See also, July 31, 2017 - Subcommittee Meeting Minutes at 20:45 in the archived video.

<sup>99</sup> Agency PER (Recommendations section).

<sup>100</sup> The school district is in Kershaw County. See also, Agency July 7, 2017 letter to the Subcommittee. See also, Act. No. 930 of 1970.

<sup>101</sup> Agency PER (Recommendations section).

<sup>102</sup> *SC Code of Laws Sec. 7-13-110.* Poll managers to be residents and registered electors of counties; assistants.

<sup>103</sup> July 31, 2017 - Subcommittee Meeting Minutes at 1:43:25 in the archived video.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.* at 1:44:30 in the archived video.

<sup>106</sup> The agency explained the certification and training for individuals newly appointed to a county board as follows,

Once appointed to a county board, they have 18 months to complete our training and certification.

We offer classes every month mainly in Columbia, but do go out to various locations. We also offer classes in conjunction with county association meetings (summer and winter). We also offer some classes on Saturday, and go to different locations. There are some core classes. There are classes that county board chairs are required to take. There is a different curriculum for staff and board members. Board members have to take 6 classes to become certified. Once certified, we ask them to take one continuing education class. We give continuing education credit if they attend a county legislative conference. We also accept credits from technical school or college, through the county association. If it is something that is a minimum 3 hour class, we let them use that as well.

The core classes and electives are election related. Then there is a long list of professional development classes also offered. At the beginning and end of each year, the agency performs an analysis of the needs of the participants and, based on that analysis sets a schedule of classes for the year. As part of this analysis the agency reviews the needs of

new appointments, continuing education needs of existing board members, and needs the agency has identified during an election year. The agency believes there is a need for an onboarding process before the individual assumes the position and has a document which provides an overview of the county, online training, and expects the County Director to provide some introduction as well. May 3, 2017 - Subcommittee Meeting Minutes at 1:09:00; 1:11:04; and 1:11:45 in the archived video. See also, May 9, 2017 - Subcommittee Meeting Minutes at 36:20; 37:30; 38:14; 38:40; and 39:44 in the archived video.

<sup>107</sup> *SC Code of Laws Sec. 7-5-10(D)(1)*.

<sup>108</sup> *SC Code of Laws Sec. 7-5-10(D)(2)*.

<sup>109</sup> May 9, 2017 - Subcommittee Meeting Minutes at 41:55; 45:05; and 49:15 in the archived video.

<sup>110</sup> SC House of Representatives, House Legislative Oversight Committee, "Additional Information," under "Potential Recommendation," under "Other Materials," under "House Legislative Oversight Committee," and under "The State Election Commission,

"<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Potential%20Recommendations%20and%20Findings%20-%20Additional%20Information.pdf> (accessed August 24, 2017). Hereinafter, "Potential Recommendations and Findings - Additional Information."

<sup>111</sup> May 3, 2017 - Subcommittee Meeting Minutes at 43:50 and 47:44 in the archived video.

<sup>112</sup> *SC Code of Laws Sec. 4-1-10*. See also, SC Code of Laws Title 4, Chapter 3.

<sup>113</sup> Potential Recommendations and Findings - Additional Information. See also, July 31, 2017 - Subcommittee Meeting Minutes at 01:09:00 in the archived video.

<sup>114</sup> *SC Code of Laws Sec. 27-2-105(A)(3)*.

<sup>115</sup> Potential Recommendations and Findings - Additional Information.

<sup>116</sup> July 31, 2017 - Subcommittee Meeting Minutes at 52:52 and 54:10 in the archived video.

<sup>117</sup> *Ibid.* at 59:45 and 01:03:41 in the archived video.

<sup>118</sup> *SC Code of Laws Sec. 27-2-105(B)(6)*.

<sup>119</sup> Potential Recommendations and Findings - Additional Information.

<sup>120</sup> David Ballard, County Boundary Program Manager, Professional Land Surveyor with the Revenue and Fiscal Affairs Office, telephone call with House Oversight Committee Legal Counsel Charles Appleby, July 2017.

<sup>121</sup> Potential Recommendations and Findings - Additional Information.

<sup>122</sup> SC House of Representatives, House Legislative Oversight Committee, "Election Boundaries: Precincts, Districts, Census, Counties - presentation by SC Revenue and Fiscal Affairs Office to Oversight Subcommittee (April 5, 2017)," under "County Boundaries," under "Other Materials," under "House Legislative Oversight Committee," and under "The State Election Commission,

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ElectionCommission/Election%20Boundaries%20-%20Precincts,%20Districts,%20Census,%20Counties%20-%20presentation%20by%20RFA%20to%20Oversight%20Subcommittee.pdf> (accessed August 24, 2017).

<sup>123</sup> Act 262 of 2014, Section 1(A).

<sup>124</sup> Act 262 of 2014, Section 1(B). The General Assembly further finds that it is appropriate statutorily to allow the South Carolina Geodetic Survey, with appropriate procedural safeguards, administratively to adjust or otherwise clarify disputed or unclear boundaries. However, in providing the statutory administrative process and procedural safeguards in the amendments to Section 27-2-105 of the 1976 Code as contained in this act, the General Assembly in no way restricts the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries.

<sup>125</sup> *SC Code of Laws Sec. 27-2-105(A)(6)*. When the certified boundary plat is no longer subject to appeal, the SCGS under cover of a letter signed by the Chief of the SCGS shall provide an appropriate revised boundary map to the Secretary of State, the South Carolina Department of Archives, and the register of deeds in each affected county. The date of the SCGS director's cover letter is the date the revised boundaries take effect. See also, *SC Code of Laws Sec. 4-3-10*. Abbeville County.

<sup>126</sup> *Ibid.*

<sup>127</sup> SC Constitution, Article 7, Section 7.

<sup>128</sup> April 5, 2017 - Subcommittee Meeting Minutes at 25:45 in the archived video.

<sup>129</sup> Potential Recommendations and Findings - Additional Information.

<sup>130</sup> Potential Recommendations and Findings - Additional Information.

<sup>131</sup> April 5, 2017 - Subcommittee Meeting Minutes at 32:40 in the archived video.

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<sup>132</sup> Ibid. at 30:52 in the archived video. If a county does not follow the geographically positioned boundary as required in statute, no state entity enforces the requirement. July 31, 2017 - Subcommittee Meeting Minutes at 01:21:25 in the archived video. A private cause of action serves as the mechanism of enforcement to avoid taxation of a citizen in a county where they do not have representation. July 31, 2017 - Subcommittee Meeting Minutes at 01:21:06; 01:22:08; and 01:23:00 in the archived video. As opposed requiring a county to immediately make all of the changes, if any are needed, the Subcommittee's recommendation 15 provides the county half a year. Notably, if the geographically positioned line, which is positioned based on the current description of the boundary in state law, is the same as the county has been utilizing, no changes are needed by the county.

<sup>133</sup> Agency July 7, 2017 letter to the Subcommittee.

<sup>134</sup> Ibid.



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# **Notification of the Healthcare and Regulatory Subcommittee Study**

## **Department of Health and Environmental Control**

September 29, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Healthcare and Regulatory Subcommittee oversight study of the Department of Health and Environmental Control is available for consideration by the full committee.

Honorable Phyllis J. Henderson  
Healthcare and Regulatory Subcommittee Chair

cc: The Honorable William K. "Bill" Bowers  
The Honorable MaryGail K. Douglas  
The Honorable Bill Taylor

# Legislative Oversight Committee

## Study of the Department of Health and Environmental Control *September 29, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

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# AGENCY SNAPSHOT

## Department of Health and Environmental Control

**HISTORY**  
 Formed from separate entities dating back to 1848, the Department of Health and Environmental Control is formed in 1973 to comprehensively address the state's public health needs.

4 Central Office Locations  
 59 Health Department Locations  
 17 Environmental Affairs Locations

Service Locations

**Agency Mission**  
 To improve the quality of life for all South Carolinians by protecting and promoting the health of the public and the environment.

3,492,440 Authorized Positions

\$812,609,798 .00

Fiscal Year 2015-16 Resources

**Challenges**

- Obsolete and outdated information technology systems reduce performance and security (e.g. DHEC data center and network).
- Inadequate space, degraded facilities, and outdated structures affect morale and reduce operational efficiency and productivity.
- Noncompetitive compensation and condition of facilities impact talent recruitment and retention.

**Highlights**

Successful event responses reduce adverse impacts on public and environmental health (e.g. October 2015 flood, food handler Hepatitis A outbreak, and tuberculosis outbreak).

Permit and license time reduction result in better service to businesses (e.g. reducing Certificate of Need average decision time from 118 to 40 days).

High-quality work to protect public and environmental health gains national prominence for emergency medical services (EMS) breakthroughs, Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Brownsfield cleanup, Environmental justice, Underground Storage Tank Program, Central Cancer Registry, Radiochemistry Lab, Defense Installation Restoration Program, Best Chance Network, and Food Protection.

Figure 1. Snapshot of agency's history, highlights, challenges, and Fiscal Year 2016-17 resources.<sup>1</sup>

## EXECUTIVE SUMMARY

### *Purpose of Oversight Study*

As stated in SC Code §2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**” In making these determinations the **Subcommittee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.<sup>2</sup>

### *Study Process*

The House Legislative Oversight Committee’s (Committee) process for studying the Department of Health and Environmental Control (agency, department, or DHEC) **includes actions by the full Committee; Healthcare and Regulatory Subcommittee (Subcommittee); the agency; and the public.** Key dates and actions from January 28, 2016, to July 19, 2017, are listed below in Figure 2.

#### Legislative Oversight Committee’s Actions

- January 28, 2016 - Schedules the agency for study.
- February 4, 2016 - Informs agency it has been selected for study.
- May 1-31, 2016 - Solicits input from the public about the agency in the form of an **online public survey.**

#### Healthcare and Regulatory Subcommittee’s Actions

- April 27, 2016 - Holds **entry meeting** with the agency, to discuss study procedural issues.
- January 24, 2017 - Holds **Meeting #1**, a **public input meeting**, and receives an overview of the agency.
- February 9, 2017 - Holds **Meeting #2** to discuss the agency’s mission; vision; strategic plan; performance; improvements; development of new budgeting techniques; regulatory authority; and Savannah River Site.
- February 23, 2017 - Holds **Meeting #3** to receive an overview of the agency's history and programs.
- March 23, 2017 - Holds **Meeting #4** to address questions relating to strategic planning; environmental issues; and health issues.
- April 20, 2017 - Holds **Meeting #5** to discuss the agency's strategic planning, performance measures, and partners relating to Goal 1 (Health Services) and Goal 2 (Environmental Affairs)

- May 9, 2017 - Holds **Meeting #6** to discuss the agency's strategic planning, performance measures, and partners relating to Goal 3 (Health Regulations) and Goal 4 (Operations).
- June 20, 2017 - Holds **Meeting #7** to discuss the agency's recommendations for statutory changes.
- July 19, 2017 - Holds **Meeting #8**, a work session, to address recommendations.

### Department of Health and Environmental Control's Actions

- March 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**.
- January 12, 2016 - Submits its **2016 Annual Restructuring Report**.
- August 24, 2016 - Submits its **Program Evaluation Report**.
- January 2017 - Meets with constituents that provide input at the January 24, 2017, Subcommittee meeting.

### Public's Actions

- May 1, 2016 - May 31, 2016 - Provides input about agency via **online public survey**.
- January 24, 2017 - Provides **testimony** to Subcommittee.
- Ongoing - Public may submit written comments on the Committee's webpage on the General Assembly's website ([www.scstatehouse.gov](http://www.scstatehouse.gov)).

*Figure 2. Summary of key dates and actions of the study process, January 28, 2016, - July 19, 2017.*

## Recommendations

The Subcommittee has **47 recommendations arising** from its study of the agency, 42 to curtail or revise programs and five to eliminate programs. These recommendations fall into four categories: (1) general (i.e., agency-wide), (2) environmental, (3) health regulations, and (4) health services; recommendation topics are included in Table 1.<sup>3</sup>

*Table 1. List of recommendation topics by agency program division.<sup>4</sup>*

Program Division	Topics
	<b>Curtail (Revise)</b>
<b>Agency wide</b>	<ul style="list-style-type: none"> <li>• Email Notice of Decisions</li> </ul>
<b>Environmental Affairs</b>	<ul style="list-style-type: none"> <li>• Solid Waste Policy and Management Act</li> <li>• Hazardous Waste Management Act (5)</li> </ul>
<b>Health Regulations</b>	<ul style="list-style-type: none"> <li>• Certificate and Need (2)</li> <li>• Hearing Aids (6)</li> <li>• Body Piercing</li> <li>• Tattooing</li> <li>• Emergency Medical Services Act (2)</li> </ul>
<b>Health Services</b>	<ul style="list-style-type: none"> <li>• Vital Statistics (5)</li> <li>• Contagious and Infectious Diseases (8)</li> <li>• Emergency Health Powers Act</li> </ul>



	<ul style="list-style-type: none"> <li>• Tuberculosis (3)</li> <li>• Community Oral Health Coordinator</li> <li>• Dental Practices Act</li> <li>• Care of the Newly Born</li> <li>• SC Health Care Professional Compliance Act</li> <li>• Infants and Toddlers with Disabilities Act</li> </ul>
<b>Eliminate</b>	
<b>Agency wide</b>	<ul style="list-style-type: none"> <li>• District Advisory Boards of Health</li> <li>• Catawba Health District</li> </ul>
<b>Environmental Affairs</b>	<ul style="list-style-type: none"> <li>• Hazardous Waste Management Research Fund</li> <li>• Coastal Zone Appellate Panel</li> </ul>
<b>Health Services</b>	<ul style="list-style-type: none"> <li>• Contagious and Infectious Diseases</li> <li>• Osteoporosis Prevention and Treatment Act</li> </ul>

*Table Note: A number in parentheses indicates the number of recommendations relating to a topic, if more than one.*

There are no **recommendations relating to continuing agency programs.**

In its Program Evaluation Report, the Department of Health and Environmental Control proposes **three agency wide recommendations.** The Subcommittee adopts one of these recommendations as a statutory revision. It proposes clarifying that notice of department decisions or staff decisions may be sent by email or other appropriate means.<sup>5</sup>

In its Program Evaluation Report, the Department of Health and Environmental Control proposes 14 **recommendations regarding the environmental affairs division;** the Subcommittee adopts six of these as statutory revisions, five in total and one with an exception.<sup>6</sup> Table 2 summarizes the environmental recommendations.

*Table 2. Summary of environmental affairs division recommendations.<sup>7</sup>*

Subcommittee Recommendation Number	Summary
2 (Exception)	<b>Solid Waste Policy and Management Act</b> SC Code §44-96-110 et seq., establishes standards for the management of solid waste, and authorizes the department to regulate and permit solid waste management facilities. Also it establishes goals for the State in waste reduction and recycling, and requires local and state solid waste management planning. This recommendation proposes changes pertaining to construction and demolition debris, zoning, and permittee demonstration of need. (2.3)*
3	<b>Hazardous Waste Management Act</b> SC Code §44-56-140(E) requires DHEC to report any violations of the Hazardous Waste Management Act to the governing body of the county or city where the violation occurred within 24 hours. This recommendation proposes to delete this requirement. (2.5)*

4	<b>Hazardous Waste Management Act</b> SC Code §44-56-59 includes findings and conclusions of the General Assembly related to existing land disposal facility capacity, preference to in-state hazardous waste generators, and restrictions on the importation of out-of-state hazardous waste. This recommendation proposes deleting preferences for in state hazardous waste generators and restrictions on out of state hazardous waste, which have been determined to be unconstitutional by a federal court. (3.1)*
5	<b>Hazardous Waste Management Act</b> SC Code §44-56-60(a)(1), (2), and (3) require annual reporting to the General Assembly to determine if landfill capacity should be reduced; restrict land disposal of hazardous waste; and limit the amount of land disposal of out-of-state hazardous waste. This recommendation proposes deleting preferences for in state hazardous waste generators and restrictions on out of state hazardous waste, which have been determined to be unconstitutional by a federal court. (3.2)*
6	<b>Hazardous Waste Management Act</b> SC Code §44-56-130 (4),(5), and (6) make it unlawful for a person who owns or operates a hazardous waste for treatment, storage or disposal facility to accept hazardous waste from any jurisdiction that prohibits the treatment, storage or disposal of such waste or that has not entered into an interstate or regional agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This recommendation proposes deleting these sections, which have been determined to be unconstitutional by a federal court. (3.3)*
7	<b>Hazardous Waste Management Act</b> SC Code §44-56-205 provides that all hazardous waste treatment and disposal facilities shall give preference to in-state hazardous waste generators. This recommendation proposes deleting this section, which has been determined to be unconstitutional by a federal court. (3.4)*

*Table Note: A number in parentheses with an asterisk symbol beside it indicates the number of the recommendation in the agency's materials the Subcommittee utilizes during the study process.*

In its Program Evaluation Report, the Department of Health and Environmental Control proposes 16 **health regulation division recommendations**; the Subcommittee adopts 11 of these as statutory revisions, six with no exceptions and five with a request for additional information. The Subcommittee adopts one additional recommendation.<sup>8</sup> Table 3 summarizes the health regulation recommendations.

Table 3. Summary of health regulation division recommendations.<sup>9</sup>

Subcommittee Recommendation Number	Summary
8	<b>Certification of Need and Health Facility Licensure Act</b> SC Code §44-7-110 et seq., requires a certificate of need (CON) in certain circumstances and requires licensure for certain types of health care facilities. Section 44-7-170 delineates institutions and transactions exempt from these licensure provisions and certain institutions and transactions exempt from only the CON provisions. This recommendation proposes modification to §44-7-170(B)(6) to clarify that kidney disease centers are exempt only from the CON provisions, but these centers are still subject to the licensure provisions. (1.4)*
9	<b>Certification of Need and Health Facility Licensure Act</b> SC Code§44-7-310 and 315 delineate requirements and prohibitions on disclosure of certain information obtained by the department in the course of performing its licensure duties. This recommendation proposes revisions allowing greater ability to publish information online and modifications clarifying disclosure requirements and prohibitions. (2.15)*
10	<b>Hearing Aids</b> SC Code §40-25-10 et seq., authorizes DHEC to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Section 40-25-20(2) requires the Commission of Hearing Aid Specialists to prepare the examinations. This recommendation proposes to modify §40-25-20(2) to delete the requirement for this commission to formulate the examination. (1.5)*
11	<b>Hearing Aids</b> SC Code §40-25-30 lists the powers of DHEC related to the Practice of Specializing in Hearing Aids. Subsection 40-25-30(6) authorizes DHEC to suspend or revoke a license or require that a refund be made. This recommendation proposes to authorize DHEC to issue a monetary penalty. (1.6)*
12	<b>Hearing Aids</b> SC Code §40-25-150(C)-(D) require the Commission of Hearing Aid Specialists to monitor continuing education compliance. The recommendation proposes to replace the commission with DHEC in §40-25-150(C) and (D), so as to authorize DHEC, rather than this commission, to perform these duties. (2.19)*
13	<b>Hearing Aids</b> This recommendation proposes to modify §40-25-110 to authorize the department to charge a fee for the examination of persons seeking to specialize in hearing aids to subsidize the cost of administering the examination. (2.20)*
14	<b>Hearing Aids</b> SC Code §40-25-30(2) allows DHEC to administer a qualifying examination to applicants for licensure. This recommendation proposes to modify this duty to include the authority to facilitate the administration of the qualifying examinations (i.e., allow usage of vendors for testing). (2.21)*

15	<b>Hearing Aids</b> The Subcommittee recommends DHEC and the Department of Labor, Licensing, and Regulation jointly make a recommendation about which agency the Practice of Specializing in Hearing Aids Act best fits within.
16	<b>Body Piercing</b> SC Code §44-32-10 et seq., requires the department to establish sterilization, sanitation, and safety standards for persons engaged in the business of body piercing, issue permits to facilities to engage in body piercing, and charge annual permitting fees. This recommendation proposes to authorize DHEC to assess a monetary penalty as a method of enforcement, in addition to the existing options of revoking, suspending, refusing to issue or renew a permit, or placing a body piercing facility on probation. In addition, the recommendation proposes new language authorizing imposition of a monetary penalty apply to any person who violates the act or regulation, (e.g., a person or entity that performs body piercing without a license). (1.7)*
17	<b>Tattooing</b> SC Code §44-34-10 et seq., requires DHEC to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing and to issue licenses to facilities to engage in tattooing and charge licensing fees and inspection fees. The recommendation proposes adding language to §44-34-80 authorizing the imposition of a monetary penalty against any person who violates the act or regulation (e.g., a person or entity that performs tattooing without a license) and not only a licensee of the facility. (1.8)*
18	<b>Emergency Medical Services Act</b> SC Code §44-61-10 et seq., authorizes DHEC to develop standards for emergency medical services (EMS) in the state; license, certify, and permit ambulance services, emergency medical technicians, and ambulance vehicles in the state; and take certain enforcement actions. Section 44-61-160 establishes an Investigative Review Committee and provides for its composition. This recommendation proposes modifying the definition of “Investigative Review Committee” to indicate that DHEC <i>may</i> convene the committee regarding an official investigation that may warrant suspension or revocation of a license or certification. The recommendation further proposes modifying the definition to reflect that appointment to the committee is made by the Chief of the Bureau of EMS and Trauma, rather than the Director of the Division of EMS and Trauma. (2.16)*
19	<b>Emergency Medical Services Act</b> This recommendation proposes adding new statutory provisions authorizing DHEC to become a member of the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA) with other states. (2.17)*

*Table Note: A number in parentheses with an asterisk symbol beside it indicates the number of the recommendation in the agency’s materials the Subcommittee utilizes during the study process.*

In its Program Evaluation Report, the Department of Health and Environmental Control proposes 25 **health services division recommendations**; the Subcommittee adopts 22 these recommendations as statutory revisions.<sup>10</sup> Table 4 summarizes these health services recommendations.

Table 4. Summary of health services division recommendations.<sup>11</sup>

Subcommittee Recommendation Number	Summary
20	<b>Vital Statistics</b> SC Code §44-63-10 through 180 empowers DHEC to establish a bureau of vital statistics and to provide a system for the registration and certification of births, deaths, marriages, and divorces. To remain consistent with the national model, the recommendation proposes clarifying terminology, recognize the transition to an electronic system, remove obsolete references, clarify treatment of sealed records and paternity acknowledgements, and reflect changes to DHEC's organization. (1.3)*
21	<b>Vital Statistics</b> SC Code §44-63-74 provides for the electronic filing and transmission of death certificates, including the authority to assess penalties for noncompliance. This recommendation proposes allowing DHEC discretion in assessing civil penalties, including the amount, and adding civil enforcement powers in cases other than late filing of death certificates. (2.11)*
22	<b>Vital Statistics</b> SC Code §44-63-100(A) provides for the registration of birth through petition for delayed certificate of birth established by court order. This recommendation proposes removing the provision allowing to petition for delayed birth certificate to be filed outside of South Carolina (i.e., state of petitioner's residence). (2.12)*
23	<b>Vital Statistics</b> SC Code §44-63-163, §44-63-165, and §63-17-10 relate to paternity determinations. This recommendation proposes removing references to an administrative determination of paternity or acknowledgement of paternity pursuant to §63-17-10. It also proposes to clarify whether paternity determinations by courts outside of South Carolina may be accepted as sufficient, and if pre-birth orders in surrogacy cases are effective to determine parentage for purposes of birth registration. (2.13)*
24	<b>Vital Statistics</b> SC Code §44-63-150 provides for the correction of mistakes in birth or death certificates. Section 62-1-302 provides the subject matters over which the probate courts have exclusive jurisdiction. Section 63-3-530 provides the subject matters over which the family courts have exclusive jurisdiction. This recommendation proposes allowing parents to make changes to adult children's birth certificates only when the child is legally incompetent, clarifying that the family court has jurisdiction over amendments to birth certificates that may not be considered corrections, and giving the probate court express jurisdiction over corrections to death certificates. (2.14)*
25	<b>Contagious and Infectious Diseases</b> SC Code §44-29-10(A) addresses physician reporting of contagious or infectious diseases. The recommendation proposes removing the requirement that physicians report to the county health department and replacing it with an instruction that the reporting be provided to DHEC. (1.13)*

26	<b>Contagious and Infectious Diseases</b> SC Code §44-29-70 requires certain healthcare professionals to report cases of sexually transmitted diseases to health authorities. This recommendation proposes adding the term “sexually transmitted infection” to both the title and body of the section. (1.14)*
27	<b>Contagious and Infectious Diseases</b> SC Code §49-29-80 requires laboratories to report positive tests for sexually transmitted disease to DHEC and local boards of health. This recommendation proposes adding the term “sexually transmitted infection” to both the title and body of the section and removing the reference to local boards of health. (1.15)*
28	<b>Contagious and Infectious Diseases</b> SC Code §44-29-90 addresses the examination, treatment and isolation of persons infected with venereal disease. This recommendation proposes replacing the term “venereal disease” with “sexually transmitted disease and sexually transmitted infection” and adding the term “sexually transmitted infection” to each phrase where “sexually transmitted disease” is used alone. (1.16)*
29	<b>Contagious and Infectious Diseases</b> SC Code §44-29-100 addresses the examination, treatment, and isolation of prisoners for sexually transmitted diseases. This recommendation proposes removing the requirement that prisoners remain incarcerated after their terms expire for treatment. Also, it proposes adding the term “sexually transmitted infection” to each phrase where “sexually transmitted disease” is used alone. (1.17)*
30	<b>Contagious and Infectious Diseases</b> SC Code §44-29-136 addresses court orders for disclosure of records for law enforcement purposes. This recommendation proposes adding the term “sexually transmitted infection” to each phrase where “sexually transmitted disease” is used alone. (1.18)*
31	<b>Contagious and Infectious Diseases</b> SC Code §44-29-140 addresses penalties related to venereal disease. This recommendation proposes replacing the term “venereal disease” with “sexually transmitted disease and sexually transmitted infection.” (1.19)*
32	<b>Contagious and Infectious Diseases</b> SC Code §44-29-135(f) requires DHEC notify public schools when a student in kindergarten through fifth grade has Acquired Immune Deficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV). This recommendation proposes repealing the section. (1.20)*
33	<b>Emergency Health Powers Act</b> SC Code §44-4-130(R) provides a definition of “qualifying health condition” which supports the definition of a “public health emergency” in §44-4-130(P). This recommendation proposes expanding the definition of a “qualifying health condition” to include “a nuclear attack or accident,” “a chemical attack or release,” “a man-made disaster widely affecting public health or the environment,” and “an act of

	terrorism or bioterrorism affecting public health or the environment.” (2.22)*
34	<b>Tuberculosis Camps</b> SC Code §44-7-610 through 780 relate to county, township or municipal hospitals or tuberculosis camps. This recommendation proposes deleting any reference to tuberculosis camps in these sections as DHEC no longer treats or controls tuberculosis disease using tuberculosis camps. (1.10)*
35	<b>Reports of Records of Tuberculosis Cases</b> SC Code §44-31-10 requiring certain medical providers and entities to report cases of tuberculosis to DHEC has not been updated since 1970. This recommendation proposes updating the language to reflect current medical recommendations and reporting practices. (1.23)*
36	<b>Reports and Records of Tuberculosis Cases</b> SC Code §44-31-105 authorizes DHEC to issue and enforce emergency orders for the control and treatment of tuberculosis. This recommendation proposes clarifying that a petition is filed in the probate court in the county in which the person is being detained in the event that the individual has not requested a hearing and the 20-day detainment is nearing an end. (2.26)*
37	<b>Community Oral Health Coordinator</b> SC Code §44-8-10 through 60 provide for the creation and implementation of a targeted community program for dental health education, screening, and treatment referral. This recommendation proposes expanding the provision of services facilitated by the community oral health coordinator to persons of any age in underserved and vulnerable populations in designated counties. (1.11)*
38	<b>Dental Practices Act of 2003</b> SC Code §40-15-110 (E) requires DHEC to target dental services in a public health setting to under-served populations. This recommendation proposes moving §40-15-110 (E) to Title 44 (Health) where the majority of DHEC’s health-related responsibilities are located. In addition, to ensure that these services are being properly implemented, this recommendation also proposes adding to Title 44 a requirement that any dental provider operating in a public health setting must submit specific data to DHEC and use DHEC surveillance tools for the implementation of public health core functions. (1.12)*
39	<b>Care of the Newly Born</b> SC Code §44-37-30 addresses neonatal testing of children. This recommendation proposes removing the requirement for indefinite storage of the sample. (1.21)*

40	<b>SC Health Care Professional Compliance Act</b> SC Code §44-30-10 through 90 provide for the creation of expert review panels to determine if health care worker who is either HIV or HBV (hep-b) positive can receive recommendations for participating in certain invasive procedures in the health care setting. This recommendation proposes including current CDC (Centers for Disease Control) or equivalent guidelines, allowing DHEC to appoint at least one or approve an existing expert review panel if needed, and requiring enforcement, and providing an enforcement mechanism for the requirement that educational institutions to provide current training in infection control practices for health care professionals participating in the institutions' education programs. (2.23)*
41	<b>Infants and Toddlers with Disabilities Act</b> SC Code §44-7-2510 through 2610 grant the Governor discretion to designate the lead agency for the implementation of the Infants and Toddlers with Disabilities Act (i.e., BabyNet). As the lead agency is subject to change (e.g., DHEC, First Steps to School Readiness, and the Department of Health and Human Services have all served as lead agency), DHEC recommends moving these provisions from Title 44 (Health) to Title 63, the South Carolina Children's Code. (5.2)*

*Table Note: A number in parentheses with an asterisk symbol beside it indicates the number of the recommendation in the agency's materials the Subcommittee utilizes during the study process.*

### *Eliminate*

In its Program Evaluation Report, the Department of Health and Environmental Control proposes seven **recommendations for eliminating programs**; the Subcommittee adopts six.<sup>12</sup> Table 5 summarizes the recommendations to eliminate programs.

*Table 5. Summary of recommendations to eliminate programs.<sup>13</sup>*

Subcommittee Recommendation Number	Summary
42	<b>Contagious and Infectious Diseases</b> SC Code §44-29-195 relates to head lice, school children, and vouchers for treatment products. This recommendation proposes removing the requirement that DHEC make products available for treatment of pediculosis (i.e., head lice infestation). (4.2)*
43	<b>District Advisory Boards of Health</b> - SC Code §44-1-130 establishes health districts and district advisory boards. This recommendation proposes eliminating reference to "district advisory boards of health," as they no longer exist, and changing all mention of "districts" to "regions," to reflect current terminology. (1.2)*
44	<b>Catawba Health District</b> - SC Code §44-3-110 through 140 establish and organize the "Catawba Health District," which includes Chester, Lancaster and York Counties. This recommendation proposes deleting this section as the district no longer exists. (1.9)*



45	<b>Hazardous Waste Management Research Fund</b> SC Code §44-56-810 through 840 creates the Hazardous Waste Management Research Fund, funded by fees from the Pinewood Site in Sumter County. This recommendation proposes to delete this section as the Pinewood Site in Sumter County no longer collects fees since its closure in 2000. (2.6)*
46	<b>Coastal Zone Management Appellate Panel</b> SC Code §48-39-40 creates the Coastal Zone Management Appellate Panel, including terms and membership, which acts as an advisory council to DHEC to hear appeals of staff decisions on Coastal Division permits. This recommendation proposes eliminating the panel as there is now a uniform procedure for contested cases and appeals. (2.9)*
47	<b>Osteoporosis Prevention and Treatment Education Act</b> SC Code §44-125-10 through 40 establish an Osteoporosis Education Fund and an Osteoporosis Prevention and Treatment Education Program to promote public awareness, prevention, and treatment of osteoporosis. This recommendation proposes repealing these sections as the fund has not been established and no funds have been allocated to carry out this purpose. (4.3)*

*Table Note: A number in parentheses with an asterisk symbol beside it indicates the number of the recommendation in the agency's materials the Subcommittee utilizes during the study process.*

## *Internal Changes Implemented by Agency Related to Study Process*

During the study of DHEC the agency implements several improvements directly related to its participation in the study process. Those improvements are listed below.

- While prior to the Healthcare and Regulatory Subcommittee's study DHEC staff begin evaluating agency programs and legal mandates to determine if there are gaps, the study helps expedite and prioritize the review.

The program evaluation report template allows DHEC staff to assess programs using the same metrics, which provides for greater consistency across the agency.<sup>14</sup>

## *Additional Information*

The Department of Health and Environmental Control makes 11 **recommendations that the Subcommittee receives for information purposes only**. Table 20 summarizes these recommendations.

Notably, the **Subcommittee rejects the agency's recommendation for the General Assembly to repeal statutes relating to (SC Code §59-111-150 through 580) the South Carolina Medical and Dental Loan Fund**, which assists loan recipients with the costs of medical and dental education in return for commitments to practice in underserved areas. In making this recommendation, agency representatives note funds have not been allocated to carry out this purpose for many years.<sup>15</sup>

# AGENCY OVERVIEW

## *History*

The Department of Health and Environmental Control has provided the Committee with an overview of the agency's history.<sup>16</sup> In addition, Committee staff has confirmed the accuracy of any assertion of legislative action.

In 1848, the South Carolina Medical Association is constituted as a corporate body by the General Assembly.<sup>17</sup> It is formed from the Medical Society of South Carolina to give physicians a platform to engage in health advocacy.<sup>18</sup>

In 1878, the General Assembly creates the State Board of Health, which is composed of the South Carolina Medical Association, the Attorney General, and the Comptroller General.<sup>19</sup> The State Board of Health serves as the exclusive advisor to the state in matters of public health and is tasked with preventing disease and supervising quarantine matters.<sup>20</sup> The same year the General Assembly establishes a nine-member Executive Committee of the State Board of Health, which is composed of the Attorney General, Comptroller General, and seven men nominated by the South Carolina Medical Association. The Executive Committee has wide-ranging authority (e.g., act in the intervals between meetings of the State Board of Health; divide the state into health districts; appoint local health boards in districts that do not already have one; and regulate all health boards; and collect public health statistics).<sup>21</sup> Additionally, the Executive Committee has broad regulatory powers (e.g., sanitation of steamboats, jails, passenger cars, schools, hotels, restaurants, hot dog stands, nursing homes, meat markets, canneries, swimming pools, and fairs; production or processing of milk and seafood; and control of insects, industrial plants, water used in air humidifiers, persons quarantined due to disease; and sewage and garbage disposal.)<sup>22</sup>

In 1950, the General Assembly establishes a ten-member Water Pollution Control Authority and tasks it with abating, controlling, and preventing the pollution of South Carolina's waters.<sup>23</sup> The authority begins as a division of the State Board of Health and two decades later becomes an independent agency in 1971.<sup>24</sup>

In 1973, the Reorganization Commission issues a reorganization plan recommending consolidation of state public health. The same year General Assembly creates the Department of Health and Environmental Control by consolidating the State Board of Health, the Executive Committee of the State Board of Health, and the Water Pollution Control Authority.<sup>25</sup> All of the functions, powers, duties records, property, personnel, and unexpended appropriations of the consolidated agencies are devolved to the Department of Health and Environmental Control.<sup>26</sup> A Board of Health and Environmental Control, which is appointed by the Governor with the advice and consent of the Senate, supervises the agency.<sup>27</sup> This supervising entity selects an agency head, which is initially referred to a commissioner, and after 1993 is referred to as a director.<sup>28</sup>

## Purpose, Mission, and Vision

The purpose of the agency is reflected in the enabling legislation of the separate health and environmental entities consolidated to form DHEC. The 1878 enabling legislation of the Board of Health tasks it with being the “sole advisor of the State in all questions involving the protection of the public health within its limits.”<sup>29</sup> The 1950 enabling legislation of the Water Pollution Control Authority declares the following as the public policy of the state of South Carolina:

that reasonable standards of purity of the waters of the State consistent with public health and public enjoyment thereof, propagation and protection of fish, shellfish, wildlife, operation of existing industries and the future industrial development of the State with a reasonable balance of consideration of the public welfare be maintained, and to that end require the use of reasonable methods to prevent and control the pollution of waters of the State of South Carolina.<sup>30</sup>

In 1973, the General Assembly consolidates these purposes under one agency, the Department of Health and Environmental Control.<sup>31</sup> DHEC’s mission is “to improve the quality of life for all South Carolinians by protecting and promoting the health of the public and the environment.”<sup>32</sup> Its vision is “healthy people living in healthy communities.”<sup>33</sup>

## Agency Organization

### Governing Body

DHEC is governed by the South Carolina Board of Health and Environmental Control (Board). The Board consists of eight members appointed by the Governor, with the advice and consent of the Senate, from each congressional district with a chairman from the state at large. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired term. In making these appointments, race, gender, and other demographic factors are considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

*Table 6. Current Board of Health and Environmental Control members.*<sup>34</sup>

Position	Members	Appointment Date	Term Expiration Date
1st Congressional District	VACANT		
2nd Congressional District	Robert Kenyon Wells	6/3/2016	6/30/2017
3rd Congressional District	Charles M. Joye II	6/3/2016	6/30/2019
4th Congressional District	Lemia Clarence Batts Jr.	6/3/2016	6/30/2017
5th Congressional District	Ann B. Kirol	6/3/2016	6/30/2017
6th Congressional District	David W. Gillespie	6/3/2016	6/30/2019
7th Congressional District	VACANT		
At-Large, Chairman	Allen Amsler	6/3/2016	6/30/2017

*Table Note: Board of Health and Environmental Control members are appointed by the Governor with the advice and consent of the Senate.*

The Board's duties include, but are not limited to the following:

- Selecting a director, in consultation with the Governor, and with the advice and consent of the Senate;
- Conducting administrative reviews to render final agency determinations in matters involving the issuance, denial, renewal, or revocation of permits, licenses, or other actions of the department;
- Providing for the administrative organization of the department;
- Promulgating regulations; and
- Investigating causes of and prescribing preventative measures to suppress communicable or epidemic diseases.<sup>35</sup>

### *Agency's Organization Units*

Every agency has some type of organization and hierarchy as reflected in the agency's organizational chart. Within the organization are separate units. An agency may refer to these units as departments, divisions, functional areas, cost centers, etc. Each unit is responsible for contributing to the agency's ability to provide services and products.

During the study process the agency is asked about its organization and major operating programs.<sup>36</sup> DHEC has three major organizational units referred to as divisions, which are described in Table 7. The organization of the agency is shown in Figure 3.

**Table 7. Department of Health and Environmental Control divisions: name, area, and purpose.**<sup>37</sup>

DIVISION NAME	AREA AND PURPOSE
Environmental Affairs	<p><b>Area:</b> Consists of five bureaus: Air Quality; Environmental Health Services; Land and Waste Management; Water; and the Office of Ocean and Coastal Resource Management.</p> <p><b>Purpose:</b> Environmental Affairs Administration includes support for bureaus and customers in areas of permitting, community engagement, and toxicology resources.</p>
Health Services	<p><b>Area:</b> Includes four areas: Maternal and Child Health; Community Health and Chronic Disease Prevention; Disease Control; Client Services; and Public Health Statistics and Information Services.</p> <p><b>Purpose:</b> Health Services works with the four health regions, the federal Centers for Disease Control and Prevention, and community partners to prevent disease and injury, promote healthy families, and prevent and control communicable diseases and outbreaks in South Carolina.</p>
Health Regulations	<p><b>Area:</b> Includes six areas: Health Facilities Licensing and Certification; Certificate of Need; Emergency Medical Services and Trauma; Radiological Health; Construction, Fire and Life Safety; and Drug Control.</p> <p><b>Purpose:</b> These areas support the primary purpose of working with health facilities and services to protect the public's health by assuring provision of safe, quality care.</p>

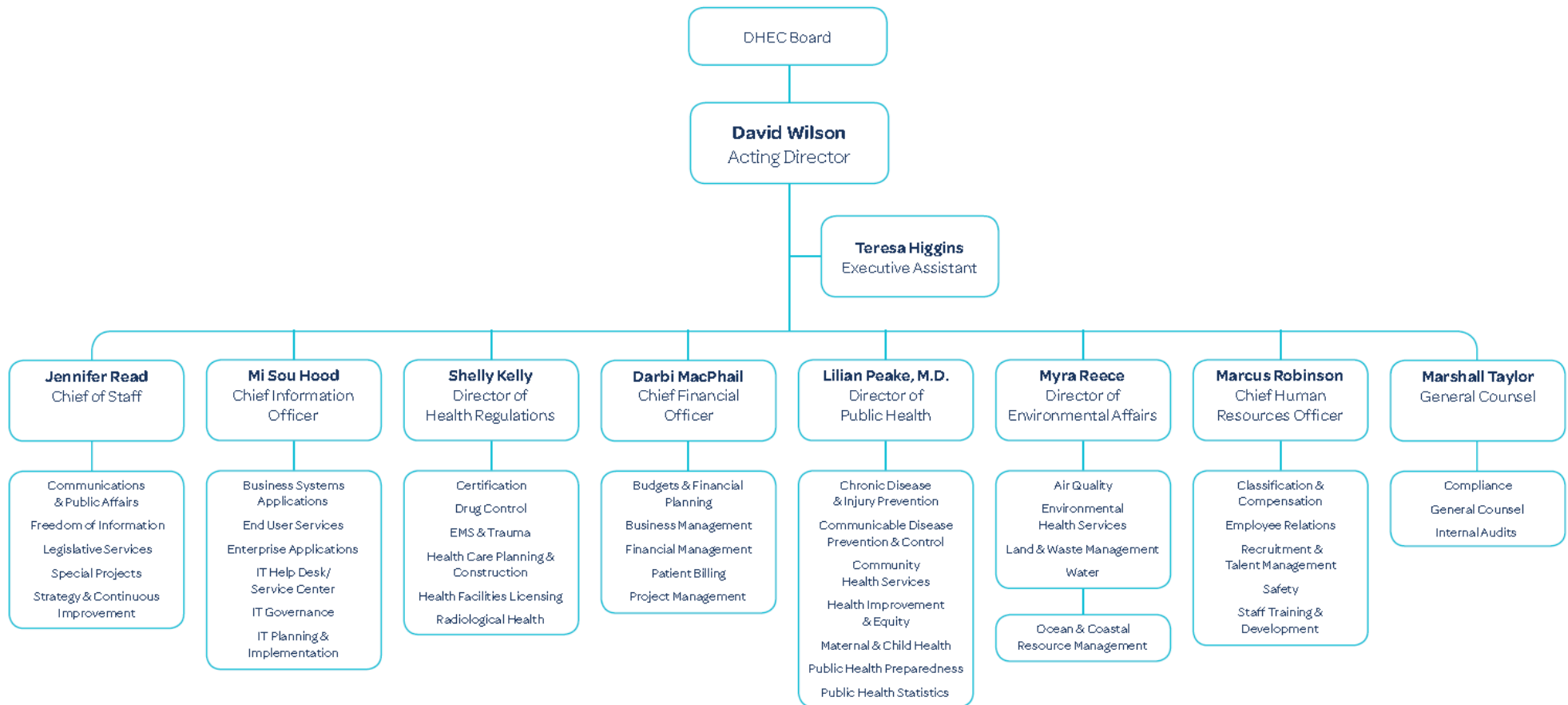


Figure 3. Agency organizational chart, current as of August 5, 2017.<sup>38</sup>

## *Internal Audit*

In its Program Evaluation Report, DHEC describes the agency's internal audit function, which is summarized below.

DHEC has had an internal audit function for at least 20 years. The most recent Internal Audit Policy of the Board establishing the Office of Internal Audits (OIA) is dated March 12, 2012. The Director of Internal Audit reports administratively to general counsel and functionally to the audit committee of the DHEC Board. In addition to a director, the internal audit staff consists of an audit manager, auditor IV, and administrative support.<sup>39</sup>

Beginning in December 2016, the OIA makes substantial changes in the way it determines what subject matters will be audited and included in the audit plan. In June 2017, DHEC's first audit universe is developed. It is based on information obtained from the agency's executive leadership team, knowledge acquired by the OIA from past audit projects, and from the agency's Enterprise Risk Management (ERM) process. A risk assessment is conducted by OIA for each of the potential audit projects that are included in the audit universe and is scored based on various risk factors to determine a risk ranking of highest to lowest. The OIA prepares a five-year audit plan for fiscal years 2018-2022 for DHEC, based on the highest risk ranked audit projects from the audit universe. The plan has been approved by the director and the audit committee.

Between 2006 and 2016, the OIA staff completes 65 audits across the agency - health, environmental, and administrative. The most recent peer review of the internal audit function is conducted in 2016.<sup>40</sup>

## *Products, Services, and Customers*

The Department of Health and Environmental Control is **the sole advisor of the State in all questions involving the protection of the public health within its limits.**<sup>41</sup> To fulfill this purpose, DHEC provides a variety of products and services.

In 2015-2016, the General Assembly and Governor's Office begin requesting an agency provide information on the services and products it provides as part of the combined Accountability Report and Annual Restructuring Report. The Department of Health and Environmental Control lists a variety of services it provides relating to environmental affairs, health services, health regulations, and administration in the 2015-2016 Accountability Report. Table 8 includes a sample of the products and services the agency provides.<sup>42</sup>

Table 8. Sample of products and services the agency provides.<sup>43</sup>

Program Name	Product or Service	Customer
Administration	Provides critical support services such as legal, financial, business management, human resources, and information technology that allow the programs to conduct daily business.	Executive Branch/State Agencies
Water Quality Improvement - Underground Storage Tanks -	Reviews applications according to regulation and issuing permit, certification, registration and license decisions	Local Governments
Health Care Standards - Radiological Monitoring -	Licenses, registers, and permits radiation sources	General Public - People with potential for unnecessary exposure from radiation
Family Health - Maternal/Infant Health - Childhood Lead Poisoning Prevention	Provides surveillance of and response to pediatric blood lead levels, including clinical guidance, education, environmental assessments, and long-term surveillance	General Public - Children under 16 years of age; healthcare providers

### Other Agencies with Similar Goals

During the study of an agency, the **Committee asks the agency if there are any other agencies serving similar customers or providing similar products or services.** In the Program Evaluation Report and during the study of an agency, the Committee asks how the agencies work together to effectively and efficiently achieve both agencies' goals. DHEC lists the following agencies as having similar goals.

- Clemson Extension Service
- Clemson Public Service/Livestock Poultry Health
- Rural Infrastructure Authority (RIA)
- South Carolina Department of Agriculture (SCDA)
- South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS)
- South Carolina Department of Disabilities and Special Needs (DDSN)
- South Carolina Department of Health and Human Services (DHHS)
- South Carolina Department of Labor, Licensing and Regulation (LLR)
- South Carolina Department of Mental Health (DMH)
- South Carolina Department of Natural Resources (DNR)
- South Carolina Department of Social Services
- South Carolina Emergency Management Division (EMD)
- South Carolina Lieutenant Governor's Office on Aging
- South Carolina Sea Grant Consortium
- State College/University Laboratories
- State Law Enforcement Division (SLED) Laboratories<sup>44</sup>

Table 9 is an example of the agency's analysis of how it works with two agencies, the Department of Labor, Licensing and Regulation and the Department of Natural Resources, to effectively and efficiently achieve both agencies' goals.

**Table 9. Sample of agencies with goals similar to DHEC.<sup>45</sup>**

DHEC and LLR both promote public safety (Construction and Fire and Life Safety)	
Similarities	Both agencies promote public safety through the application of adopted building codes.
Differences	DHEC public safety focuses exclusively on health care facilities. LLR public safety includes all types of facilities.
Opportunities for Efficiency	Continue and expand the practice of depending upon local jurisdiction inspections of outpatient facilities such as dialysis clinics.
Opportunities for Effectiveness	Cooperate on education and outreach activities for the health care community.
DHEC and DNR both oversee coastal and marine resources.	
Similarities	Both agencies administer and enforce laws related to marine and natural coastal resources.
Differences	While both agencies monitor coastal resources, DHEC has direct permitting responsibility for proposed activities within the critical areas of the coast, which are defined as coastal waters, tidelands, beach/dune systems and beaches. Specific regulatory activities include private docks, marinas, estuarine erosion control, beach renourishment, structural maintenance and repair, and beachfront emergency orders. Also DHEC reviews other state and federal permits within the Coastal Zone to ensure that permitted activities are consistent with enforceable policies of the Coastal Zone Management Plan to the maximum extent practicable.
Opportunities for Efficiency	Maintain lines of communication between the agencies and continue to seek opportunities to share resources and data.
Opportunities for Effectiveness	Update the outdated Coastal Program Document Memorandum of Understanding between the agencies to coordinate efforts in mutual areas of concern and ensure a coordinated process for reviews of permits.



## Available Resources

During the study process, the **Committee asks the agency about its available resources**. Table 10 provides historical data about available human resources, and Table 11 provides historical data about the agency's available financial resources.

**Table 10. Agency's human resources: historical data for the past five years.**<sup>46</sup>

	Jul-12	Jul-13	Jul-14	Jul-15	Jul-16
Authorized State	1,164.960	1,164.060	1,150.080	1,150.080	1,172.980
Actual State	1,112.481	1,135.033	1,137.304	1,155.560	1,150.522
Filled State	1,010.189	955.885	981.963	1,008.869	1,024.510
Authorized Federal	1,410.670	1,367.600	1,355.020	1,317.440	1,313.100
Actual Federal	1,484.481	1,414.669	1,408.628	1,383.538	1,387.163
Filled Federal	1,327.743	1,203.644	1,201.167	1,174.088	1,187.832
Authorized Other	1,163.400	1,114.370	1,089.430	1,018.920	1,006.360
Actual Other	1,102.428	1,065.677	1,048.842	981.904	968.515
Filled Other	951.743	901.871	838.756	844.443	789.008
<b>Total Authorized</b>	<b>3,739.030</b>	<b>3,646.030</b>	<b>3,594.530</b>	<b>3,486.440</b>	<b>3,492.440</b>
<b>Total Actual</b>	<b>3,699.390</b>	<b>3,615.379</b>	<b>3,594.774</b>	<b>3,521.002</b>	<b>3,506.200</b>
<b>Total Filled</b>	<b>3,289.675</b>	<b>3,061.400</b>	<b>3,021.886</b>	<b>3,027.400</b>	<b>3,001.350</b>

*Table Note: The numbers are as of July 1 of each year. The Authorized Total FTE is as of July 1 of the fiscal year, as stated in the Appropriations Act. Total FTE is the sum of Filled FTE and Vacant FTE, and is based on what the agency has entered in SCEIS and is as of June 30. If Actual is less than Authorized, it may be because during the course of the year, the Executive Budget Office has authorized interim FTE positions. If Actual is less than Authorized, it may not have setup all of the authorized positions in the South Carolina Enterprise Information System (SCEIS) yet. Filled FTEs are positions that are filled in SCEIS (i.e., a position in which someone is actually working).*

Table 11. Agency's financial resources: historical data for the past five fiscal years.<sup>47</sup>

	2012-13	2013-14	2014-15	2015-16	2016-17
<b>Recurring</b>					
<b>General</b>	<b>\$96,430,583</b>	<b>\$98,746,114</b>	<b>\$ 102,329,927</b>	<b>\$ 108,008,710</b>	<b>\$ 122,547,832</b>
	BB: \$88,923,197 IP: \$2,924,787 BPI: \$2,718,255 AHA: \$64,344	BB: \$94,566,239 IP: \$3,500,769 BPI: \$614,762 AHA: \$64,344	BB: \$98,746,114 IP: \$1,734,141 BPI: \$1,849,672	BB: \$102,329,927 IP: \$4,531,000 BPI: \$376,255	BB: \$107,237,182 IP: \$12,679,638 BPI: \$2,631,012
<b>Other</b>	<b>\$200,899,732</b>	<b>\$200,745,660</b>	<b>\$200,899,732</b>	<b>\$200,899,732</b>	<b>\$200,899,732</b>
<b>Federal</b>	<b>\$ 279,140,200</b>	<b>\$285,976,928</b>	<b>\$286,140,200</b>	<b>\$286,140,200</b>	<b>\$286,140,200</b>
<b>Total Recurring</b>	<b>\$576,470,515</b>	<b>\$585,468,702</b>	<b>\$589,369,859</b>	<b>\$595,048,642</b>	<b>\$609,587,764</b>
<b>Non Recurring</b>					
<b>Non Recurring</b>	<b>\$953,680</b>	<b>\$5,050,000</b>	<b>\$8,550,700</b>	<b>\$3,196,529</b>	<b>\$11,250,000</b>
	Proviso 90.20	Proviso 118.17	Proviso 118.16: \$6,550,700 CRF: \$2,000,000	Proviso 118.14: \$2,425,0101 EB: \$771,528	Proviso 118.6
<b>Carry Forward</b>					
<b>Carry Forward*</b>	From 2011-12, available to spend in 2012-13: <b>\$122,942,637</b>	From 2012-13, available to spend in 2013-14: <b>\$139,627,160</b>	From 2013-14, available to spend in 2014-15: <b>\$156,306,255</b>	From 2014-15, available to spend in 2015-16: <b>\$174,042,308</b>	From 2014-15, available to spend in 2016-17: <b>\$191,772,034</b>
	State: \$6,729,481 Federal: \$116,213,156	State: \$5,358,764 Federal: \$134,268,396	State: \$7,442,879 Federal: \$148,863,376	State: \$11,059,191 Federal: \$162,983,117	State: \$8,088,511 Federal: \$183,683,523
<b>TOTAL agency controls</b>	<b>\$700,366,832</b>	<b>\$730,145,862</b>	<b>\$754,226,814</b>	<b>\$772,287,479</b>	<b>\$812,609,798</b>

Table Note: These amounts do not include Aid to Subdivisions funds.

Abbreviations Key: BB = Beginning Base; IP = Incremental Part 1A; BPI = BPI, Health/Retirement Allocation, Trans; AHA = Allocations Held in Arrears; O = Other Funds; TBA=Transfers Between Agencies; CPSA=Capitol Projects State Appropriation; EB=Employee Bonuses; and CRF: Capital Reserve Fund.

## Strategic Resource Allocation and Performance

Annually, each agency submits a strategic plan.<sup>48</sup> Of interest to the oversight process is how an agency's human and financial resources are allocated to the goals and objectives in the agency's strategic plan. Tables 12, 13, 14, 15, and 16 illustrate the agency's allocation of its financial and human resources among its goals and strategies in fiscal years 2015-2016 and 2016-2017. Similar information, at the objective level, is available in agency's Program Evaluation Report. Also of interest during the study process is how the agency measures its performance in implementing the goals, strategies, and objectives of its strategic plan. Tables 13.1, 14.1, 15.1, and 16.1 show DHEC's performance in measures associated with the strategic plan.

**Table 12. Agency's total resource allocations in fiscal years 2015-16 and 2016-17.<sup>49</sup>**

	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
<b>Total</b>	<b>3,827.5</b>	<b>3,640.22</b>	<b>\$504,392,648</b>	<b>3,855.5</b>	<b>3,668.22</b>	<b>\$691,614,811</b>

**Table 13. Agency's resource allocations to Goal 1 (improve and protect the health and quality of life for all) in fiscal years 2015-16 and 2016-17.<sup>50</sup>**

Strategic Plan Part	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
<b>Goal 1 - Improve and protect the health and quality of life for all.</b>	<b>2,219.13</b>	<b>2,035.32</b>	<b>\$341,648,113</b>	<b>2,223.13</b>	<b>2,039.32</b>	<b>\$447,686,301</b>
Strategy 1.1— Promote the health of the community by providing health care services and programs, linking community services, and facilitating systems of care for women, children, and infants.	285.23	223.7	\$143,419,004	285.23	223.70	\$196,523,701

Strategic Plan Part	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
Strategy 1.2— Facilitate community-oriented prevention services and work with the Centers for Disease Control, local health departments, and stakeholders to prevent disease and injury and promote healthy lifestyles.	62.77	62.77	\$22,915,988	62.77	62.77	\$32,382,548
Strategy 1.3—Implement strategies to aid in prevention and control of communicable diseases and illnesses in South Carolina.	288.40	288.40	\$85,417,533	292.40	292.40	\$90,032,076
Strategy 1.4—Provide select public health services equitably across the state.	1,426.27	1,306.44	\$74,235,028	1,426.27	1,306.44	\$107,094,992
Strategy 1.5 — Obtain and maintain vital statistics.	111.46	109.01	\$7,297,915	111.46	109.01	\$13,290,339
Strategy 1.6—Facilitate a coordinated, comprehensive public health preparedness and response system for natural or man-made disaster or terrorist event.	45.00	45.00	\$8,362,645	45.00	45.00	\$8,362,645

Table 13.1 Performance measures associated with Goal 1.<sup>51</sup>

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Meet or exceed the American Academy of Pediatrics benchmark of 95% infants screened for hearing loss by one month old.	1.1.1	95.00%	97.10%	95%	January - December (Calendar Year)
% of Medicaid-eligible children 2 years of age who had one or more capillary or venous blood testing for lead poisoning.	1.1.1	NA	NA	60%	January - December (Calendar Year)
The 15 Rape Crisis Centers, in conjunction with its external partners, will inform and educate over 50,000 people in the state about sexual violence issues and prevention methodologies.	1.1.2	50,000	NA	50,000	February-January (Grant Year)
By the end of FY 2017, increase the total number of clients served by 4%, ensuring that low-income clients comprise at least 97% of total clients served.	1.1.2, 1.4.2	Total Clients served: 90,745 Total Low Income Clients: 88,093	Baseline: 87255 Total Clients Served	First report will be available in August 2017	July - June (Fiscal Year)
By the end of FY 2017, make available a broad range of contraception and increase the contraceptive reliability rate from 79% to 82%.	1.1.2, 1.4.2	79%	Baseline 76%	First report will be available in August 2017	July - June (Fiscal Year)
Increase the number of exclusive breastfeeding infants by 5% from 7,712 breastfeeding infants.	1.1.3	7,712	7,314	7,712	October- September (Federal Fiscal Year)

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Improve the Participant Centered Education skills utilized by the Competent Professional Authority-includes physicians, registered dietitians, registered nurses and nutritionists) during the certification and nutrition education process.	1.1.3, 1.4.1	130,646	105,840	130,646	Oct-Sep (Federal Fiscal Year)
Number of policies, programs, or organizations that Bureau of Maternal and Child Health staff contribute data analysis or evaluation results to inform.	1.1.4	NA	NA	7	July - June (Fiscal Year)
By August 2017, increase the number of school aged children receiving at least one dental sealant on permanent molars to 9,784.	1.1.5	9593	NA	9784	September-August
The number of people participating in National Diabetes Prevention Programs.	1.2.1, 1.4.4	450	409	530	September 29 - September 30 and July 1 - June 30
Number of partner organizations with 3 or more Healthy Aging implementation sites (across all interventions).	1.2.1 , 1.2.2	26	NA	29	July - June (Fiscal Year) calculated quarterly
Number of children and adults participating in Supplemental Nutrition Education Programs.	1.2.1	29,000	NA	19,000	October - September
The number of high quality Child Passenger Safety educational presentations provided.	1.2.2	50	To date (67); grant year ends September 30	50	October - September
Number of National Highway, Transportation and Safety Administration	1.2.2	18	To date (17); grant year ends September 30	18	October - September

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
(NHTSA) Certified Child Passenger Safety Technician Classes conducted.					
Proportion of women at least 50 years old or older who have received mammograms through the Best Chance Network.	1.2.3	75%	NA	75%	July-June (Fiscal year) calculated semi-annually
Percent of WISEWOMAN (Well-Integrated Screening and Evaluation for Women Across the Nation) patients who participate in evidence-based cardiovascular health coaching and lifestyle services.	1.2.3	80%	69%	80%	July-June (Fiscal year) calculated monthly
At least 95% of annual newly diagnosed cancer cases in SC collected and reported to CDC and the National Association of Central Cancer Registries (NAACCR) by deadline December. 1.	1.2.4, 1.5.3, 1.5.6	95%	97.20%	95%	January - December (Calendar Year)
South Carolina Behavioral Risk Factor Surveillance System number of survey completions.	1.2.4, 1.5.4, 1.5.6	2500	11699	NA	January - December (Calendar Year)
The proportion of school districts implementing model tobacco-free policies.	1.2.5	77%	77%	81%	April-March
The number of residents living in multi-unit housing facilities that are protected from secondhand smoke in living areas, common areas, and lobbies.	1.2.5	19,428	18,428	Increase by 1,000	April-March
Number of DHEC staff qualified as bilingual workers, interpreters or readers.	1.2.6	NA	NA	10% increase	January - December (Calendar Year)

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Proportion of women screened in the Best Chance Network Program who are minorities.	1.2.6	60%	NA	60%	July-June (Fiscal year) calculated semi-annually
Percent of violent death records obtained for data abstraction purposes from SC Coroner Offices for incidents meeting ICD-10 Coding Standards (i.e., a medical classification list by the World Health Organization); expectation.	1.2.7	75% (CY2014 Data Year)	88.13%	75% (CY2015 Data Year)	January - December (Calendar Year)
Percent of violent death records obtained for data abstraction purposes from SC Law Enforcement Offices for incidents meeting ICD-10 Coding Standards; expectation.	1.2.7	70% (CY2014 Data Year)	75.71%	70% (CY2015 Data Year)	January - December (Calendar Year)
Make summary data available with regards to reports by healthcare providers of diseases and conditions on the DHEC List of Reportable Conditions.	1.3.1	Publish 2016 Annual Report on Reportable Conditions by October 31, 2017	In progress	Publish 2017 Annual Report on Reportable Conditions by October 31, 2018	October 31
Prevent the occurrence and spread of HIV, AIDS, STDs and Viral Hepatitis.	1.3.2	80%	NA	80%	January - December (Calendar Year)
All immunization providers will be mandated to report administered immunization into the Immunization Registry by January 1, 2017.	1.3.3, 1.4.7	100%	NA	100%	3-year phase in period ends Dec. 2016. Required for all providers 1/1/17
Identify and report persons with HIV. At least 85% of the expected number of cases diagnosed will be reported to the HIV/AIDS	1.3.4	85%	99%	85%	January - December (Calendar Year)



Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Surveillance program within twelve months of diagnosis year.					
Conduct STD and HIV testing, treatment and partner service investigations.	1.4.3	80%	NA	80%	January - December (Calendar Year)
Number of SC Health + Planning Toolkit trainings offered.	1.4.4	6	8	NA	July 1 - June 30
Percent of salmonellosis cases with exposure history.	1.4.5	74%	85% (1291/1521)	85%	August-July (Grant Year)
For TB patients with positive acid-fast bacilli (AFB) sputum-smear results, increase the proportion who have contacts elicited.	1.4.6	100%	NA	100%	Calendar Year
Meet Vital Statistics Cooperative Program deliverables for closeout of statistical files for birth records.	1.5.1	2016 data due March 1, 2017	NA	2017 data due March 1, 2018	March 1
Meet Vital Statistics Cooperative Program deliverables for closeout of statistical files for death records.	1.5.1	2016 data due May 1, 2017	NA	2017 data due May 1, 2018	May 1
100% of applications for certified copies of vital events that are received through the mail are receipted within 5 business days.	1.5.2	100%	99.90%	100%	Each Fiscal Year
Less than 3% of new cancer cases are identified only through death certificates (standard from National Program of Cancer Registries).	1.5.3, 1.5.6	<3%	2.30%	<3%	January - December (Calendar Year)

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
South Carolina Pregnancy Risk Assessment Monitoring System survey response rate.	1.5.4, 1.5.6	60%	NA	60%	January - December (Calendar Year)
Publish the Annual report on Reportable Conditions by October 31 of each year.	1.5.4	Publish 2016 Annual Reportable Conditions by October 31, 2017	NA	Publish 2017 Annual Report on Reportable Conditions by October 31, 2018	October 31
Publish 2016 interim report for Healthcare-Associated Infection (HAI) by October 15, 2016; and publish HAI Annual report by April 15, 2017.	1.5.5	Publish 2016 interim report for HAI by October 15, 2016; and publish HAI Annual report by April 15, 2017	NA	Publish 2017 Annual Report on HAIs by April 15, 2018	April 15
Review of internal review board requests are completed within 30 days of submission.	1.5.7	100.00%	72.00%	100%	Each Calendar year
Increase health care coalition membership by 10% in each Public Health Region.	1.6.1	10%	NA	10% increase	September 30
Facilitate discussions between DHEC, the American Red Cross, and local facilities to identify potential Special Medical Needs (SMN) shelter locations in three counties currently without any SMN shelter.	1.6.1, 1.6.3	3	NA	Discussions in 3 counties	September 30
Submit all required grant reports on time.	1.6.2	100%	NA	100%	September 30
Increase number of Closed Points of Distribution (POD) by 25%.	1.6.3	25% Statewide	NA	14 new PODs	September 30
Ensure all coalition members are afforded opportunity to participate in at least one exercise annually.	1.6.3, 1.6.4	100%	NA	1 exercise per Region	September 30

Table 14. Agency's resource allocations to Goal 2 (protect, enhance, and sustain environmental and coastal resources) in fiscal years 2015-16 and 2016-17.<sup>52</sup>

Strategic Plan Part	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
<b>Goal 2 - Protect, enhance, and sustain environmental and coastal resources.</b>	<b>1,180.82</b>	<b>1,139.52</b>	<b>\$120,165,616</b>	<b>1,204.82</b>	<b>1,163.52</b>	<b>\$185,082,367</b>
Strategy 2.1 – Implement and enforce strategies to protect and promote air quality.	136.62	132.62	\$9,523,102	152.62	148.62	\$11,834,847
Strategy 2.2 - Implement and enforce strategies to protect individuals from potential environmental and foodborne hazards.	558.97	532.32	\$37,036,700	558.97	532.32	\$41,232,169
Strategy 2.3 – Implement and enforce strategies to protect against hazards associated with waste-related activities and mining.	203.93	202.87	\$46,372,486	203.93	202.87	\$96,034,461
Strategy 2.4— Implement and enforce strategies to protect and promote water quality.	241.80	233.61	\$22,638,524	249.80	241.61	\$28,356,569
Strategy 2.5 – Implement and enforce strategies to preserve sensitive and fragile areas while promoting responsible development in the eight SC coastal counties.	39.50	38.10	\$4,594,804	39.50	38.10	\$7,624,321

Table 14.1 Performance measures associated with Goal 2.<sup>53</sup>

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Maintain or decrease average number of permit process days.	2.1.1, 2.1.5, 2.2.1, 2.3.1, 2.4.1, 2.5.1	139	100	139	Federal Fiscal Year 2015 - Federal Fiscal Year 2016
Meet ozone standard at 100% of ozone monitoring sites and maintain ozone standard by 2018.	2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.2.4	100%	100%	100%	October 31
On an annual basis, inspect at least 15% of all asbestos abatement projects that have been issued an asbestos permit by the department and are subject to the National Emissions Standards for Hazardous Air Pollutants.	2.1.5	15%	15%	15%	September 30
Improve compliance with R.61-25 Retail Food Establishments by the use of Downgrading and Civil Penalties.	2.2.1, 2.2.2, 2.2.3	This measure was not in place for this time period	This measure was not in place for this time period	5% reduction in total downgrades of Retail Food Establishments in 2015-2016	January - December (Calendar Year)
The number of compliance monitoring activities at hazardous waste facilities and the number of hazardous waste facilities on the Government Performance and Results Act (GPRA) Baseline that have: (1) control of unacceptable human exposures from site contamination; (2) control of	2.3.2	Meet or exceed Benchmark of National GPRA Goals for control of human exposure, contaminated groundwater migration, and remedy selection	400 CMAs; 53/53 facilities with human exposure under control; 52/53 facilities with contaminated groundwater migration under control; 35/53 facilities with site-wide remedies constructed	49/53 facilities with human exposure under control; 43/53 facilities with contaminated groundwater migration under control; 34/53 facilities with site-	Federal Fiscal Year

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
migration of contaminated groundwater; and (3) selection and construction of remedies to clean up contaminated sites.		No target for CMAs		wide remedies constructed  No benchmark for CMAs	
The number of teachers educated annually on environmental and recycling curriculum; and amount of municipal solid waste recycled annually.	2.3.3	Not applicable. Goal was set to be met by 2020	1,101,190 tons of municipal solid waste recycled. Number of teacher trained: 1,004. Number of students reached: 44,163 = Total 45,167	In 2011, the state set a goal to recycle 40 percent of its municipal solid waste by 2020	Recycling data is based on the fiscal year; number of teachers educated is compiled annually
Underground Storage Tank Release Cleanup Progress (release closures per federal fiscal year or FFY).	2.3.4	150 releases proposed to be closed during the FFY	To be calculated 9/30/2016	125 releases proposed to be closed during the FFY	Federal Fiscal Year
Number of acres made "ready for Brownfields reuse."	2.3.4	There are no targets driving this measure  This is a measure demonstrating effective use of federal Brownfields funding.	To be calculated 9/30/2016	There are no targets driving this measure  This is a measure demonstrating effective use of federal Brownfields funding	Federal Fiscal Year

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Percent of surface waters meeting numeric standards (fishable, swimmable).	2.4.1, 2.4.2, 2.4.3, 2.4.5, 2.2.4	75%	61.80%	75%	Bi-Annual - Calculated every 5 years
Percent of population served by community public water systems that are in compliance with all health based standards.	2.4.1, 2.4.2	95%	95%	95%	Calendar Year
Percent of high hazard and significant hazard regulated dams receiving appropriate inspection.	2.4.4	High Hazard once every 2 years and Significant Hazard once every 3 years	100% All High and Significant dams were inspected after the flooding in October 2015	High Hazard once every 2 years and Significant Hazard once every 3 years	Calendar Year
Reduce the amount of marine debris in coastal waters and within the beach/dune system by increasing participation in the Adopt a Beach program.	2.5.2	Maintain 700-1000 volunteer hours	1,148 volunteer hours; 2,029 pounds of debris removed	Maintain 1000+ volunteer hours	July - June (Fiscal Year)
Strengthen interactions with local governments through improved technical assistance and beachfront management planning to reduce community vulnerability to coastal hazards.	2.5.3, 2.5.4	Provide technical assistance to at least one beachfront community on Local Comprehensive Beach Management Plan (LCBMP) revision	1 LCBMP revised with technical assistance from Office of Coastal Resource Management (OCRM)	Provide technical assistance to at least two beachfront communities on LCBMP revision in order to achieve goal of 9 communities over the past 5 years	July - June (Fiscal Year)

*Table 15. Agency's resource allocations to Goal 3 (improve the quality, safety, and administration of health care, treatment, and services in South Carolina) in fiscal years 2015-16 and 2016-17.<sup>54</sup>*

Strategic Plan Part	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
<b>Goal 3 – Improve the quality, safety, and administration of health care, treatment, and services in South Carolina.</b>	<b>218.65</b>	<b>216.20</b>	<b>\$18,816,233</b>	<b>218.65</b>	<b>216.20</b>	<b>\$25,970,782</b>
Strategy 3.1 – Implement and enforce standards for licensure, maintenance, and operation of health facilities and services to ensure the safe and adequate treatment of persons served in this State.	77.80	77.80	\$4,029,890	77.80	77.80	\$5,662,632
Strategy 3.2 – Certify that providers and suppliers meet minimum federal health and safety requirements and Clinical Laboratory Improvement Amendments regulatory standards.	61.25	60.68	\$4,086,848	61.25	60.68	\$6,344,449
Strategy 3.3 – Implement and enforce standards for emergency medical services.	16.87	16.87	\$4,187,845	16.87	16.87	\$5,377,949
Strategy 3.4 – Ensure new and modified health care facilities and services throughout the State reflect the needs of the public.	11.55	9.67	\$2,068,351	11.55	9.67	\$2,321,950
Strategy 3.5 – Protect the public by ensuring accountability of controlled substances.	25.83	25.83	\$2,451,376	25.83	25.83	\$3,774,767
Strategy 3.6 – Protect the public from unnecessary exposure from radiation.	25.35	25.35	\$1,991,923	25.35	25.35	\$2,489,035

Table 15.1 Performance measures associated with Goal 3.<sup>55</sup>

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Issue all health facilities and services licenses and permits within 15 calendar days of receipt of completed licensing packet.	3.1.1	Agency did not use performance measure (PM) during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Conduct all routine inspections of health facilities and services within the timeframe prescribed by law or regulation.	3.1.2	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Conduct all initial investigations of health facilities and services within the appropriate timeframe corresponding to the severity of the complaint, i.e., 24-48 hours, 30 days, 60 days, or 90 days.	3.1.3	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Perform and document design reviews and construction inspections of health facilities within 15 calendar days of the date requested.	3.1.4	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Meet the performance standards for the frequency, quality, and enforcement for nursing homes and other health care facilities.	3.2.1	100%	15 of 18 standards met.	100%	October - September (Federal Fiscal Year)
Meet the performance standards for the frequency, quality, and enforcement for CLIA laboratories.	3.2.1	100%	7 of 7 standards met.	100%	October - September (Federal Fiscal Year)



Process and approve 95% of all complete emergency medical technician (EMT) and athletic trainer credential applications within 10 days of receipt.	3.3.1	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Increase the number of emergency service providers trained and certified in this State by in-state training institutions by 5% for EMT level and 10% for paramedic level within the next 12 months.	3.3.2	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Guidelines and transport protocols for trauma patients reviewed and published for public comment by March 1, 2017.	3.3.3	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Establish a statewide stroke registry by July 1, 2018, and ensure that 85% of stroke-certified hospitals are reporting data within 6 months of implementing the registry.	3.3.4	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Implement the Pediatric Facility Recognition Program by September 2018 and ensure that at least 30% of acute care hospitals receive pediatric facility recognition by 2020.	3.3.5	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Revise the State Health Plan every 2 years.	3.4.1	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Improve the turnaround time for all Certificate of Need decisions by 10% each year.	3.4.2	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)

Issue registrations within 10 business days of receiving completed applications.	3.5.1	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Increase the number of practitioners and registrants inspected by 10% each year.	3.5.2	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Increase the usage and participation in South Carolina Reporting and Identification Prescription Training System (SCRIPTS) by 5% each year.	3.5.3	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Issue registration and licensing actions for facilities that use x-ray equipment, radioactive materials, and tanning beds within 30 calendar days of reviewing complete applications.	3.6.1	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Conduct all inspections of facilities that use x-ray equipment, radioactive materials, and tanning beds within the timeframe prescribed by law or regulation.	3.6.2	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)
Conduct all investigations of incidents and allegations related to facilities that use x-ray equipment, radioactive materials, and tanning beds within the appropriate timeframe corresponding to the severity of the complaint.	3.6.3	Agency did not use PM during this year	Agency did not use PM during this year	100%	July - June (Fiscal Year)

Table 16. Agency's resource allocations to Goal 4 (develop our people, strengthen our processes, and invest in our technology to support a high performance organization and a culture of continuous improvement) in fiscal years 2015-16 and 2016-17.<sup>56</sup>

Strategic Plan Part	Number of physical employees working on the goal or strategy in 2015-16	Number of employee equivalents working the goal and strategy in 2015-16	Amount spent on each goal and strategy in 2015 - 2016	Number of physical employees working on the goal or strategy in 2016-17	Number of employee equivalents working the goal and strategy in 2016-17	Amount budgeted to each goal and strategy in 2016 - 2017
<b>Goal 4 – Develop our people, strengthen our processes, and invest in our technology to support a high performance organization and a culture of continuous improvement.</b>	<b>253.90</b>	<b>249.18</b>	<b>\$23,762,686</b>	<b>253.90</b>	<b>249.18</b>	<b>\$32,875,361</b>
Strategy 4.1 – Modernize the Agency’s IT infrastructure and allow for the automation of many Agency functions.	75.00	75.00	\$9,902,256	75.00	75.00	\$16,409,077
Strategy 4.2 – Become the premier employer in South Carolina by recruiting, developing, and retaining high quality employees.	68.50	67.64	\$8,678,531	68.50	67.64	\$8,592,162
Strategy 4.3 – Foster a culture of continuous improvement and operational excellence.	0	0	\$5,181,899	110.40	106.54	\$7,874,122

Table 16.1. Performance measures associated with Goal 4.<sup>57</sup>

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
<b>By June 30, 2019, transition all outdated mainframe applications to modern platforms.</b>	4.1.1	Agency did not use performance measure (PM) during this year	Agency did not use PM during this year	100%	June 30
<b>Fully implement ePermitting solution by June 30, 2020.</b>	4.1.2	Contract awarded	Contract awarded and gap analysis process began	Core system development complete and user acceptance testing complete	June 30

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Deploy statewide Electronic Health Record system by June 30, 2018.	4.1.3	Agency did not use PM during this year	Agency did not use PM during this year	Contract awarded and gap analysis complete	June 30
Relocate DHEC data center to SC Division of Technology facility.	4.1.4	Agency did not use PM during this year	Agency did not use PM during this year	100%	June 30
Maximize the job satisfaction of current teams, identify and develop potential successors for key positions in the Agency, and provide an efficient and welcoming recruitment and onboarding process for new and future team members.	4.2.1	<p>Conduct an Employee Engagement Survey</p> <p>Development of a Succession Plan for critical roles</p> <p>Implementation of a Quarterly Agency New Hire Orientation</p> <p>Conduct Quarter Agency Leadership Meetings</p> <p>Implement Agency Enterprise Human Resources software to streamline the employee performance management, succession planning,</p>	<p>Conducted an Employee Engagement Survey</p> <p>The Agency has identified critical roles and is in the beginning stages of developing a Succession Plan for those critical roles</p> <p>The Agency has been conducting quarterly Agency New Hire Orientations</p> <p>The Agency has been conducting Quarter Agency Leadership Meetings</p> <p>The Agency is currently evaluating vendors for the Enterprise Human Resources software to</p>	<p>Conduct an Employee Engagement Survey</p> <p>Finalize a Succession Plan for critical roles</p> <p>Continue to conduct quarterly Agency New Hire Orientations</p> <p>Continue to conduct Quarter Agency Leadership Meetings</p> <p>Select a vendor and implement the Enterprise Human Resources software</p> <p>Utilize the HR Enterprise software</p>	June 30

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
		<p>recruiting, and onboarding processes</p> <p>Revise the Employee Performance Management Process</p> <p>Develop an Agency recruiting strategy</p>	<p>streamline the employee performance management, succession planning, recruiting, and onboarding processes</p> <p>The Employee Performance Management Process has been revised</p> <p>The Agency is developing a recruiting strategy for critical roles</p>	<p>to conduct the Employee Performance Management Process</p> <p>Finalize the Agency's recruiting strategy for critical roles</p>	
<b>Establish a safety office and determine policies and procedures for this office by June 30, 2017.</b>	4.2.2	Safety Officer to be onboard August 17, 2016	Safety Officer onboard August 17, 2016	Safety Officer working with management to implement policies and procedures for this office	June 30

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
<p><b>Provide new internal and external continuing education opportunities for our teammates to develop and learn new skills and enhance their contributions to the Agency.</b></p>	<p>4.2.3</p>	<p>Identify eight participants for the Certified Public Manager (CPM) program</p> <p>Identify twenty four participants for the Leadership Excellence and Achievement (LEAP) program</p> <p>All supervisors/managers in the agency trained.</p>	<p>Eight participants identified for and enrolled in the CPM process</p> <p>Twenty four employees are enrolled in the LEAP program</p> <p>Training scheduled for supervisors/managers</p>	<p>All eight Certified Manager Program (CPM) participants moving successfully through the process</p> <p>All 24 LEAP participants graduated successfully from the program</p> <p>Training staff will deliver a basic series of courses for new managers on a regular basis</p> <p>New managers will complete basic supervisory courses with 12 months of assuming supervisory roles</p> <p>Training staff will deliver an intermediate series of courses for managers with more than 2 years</p>	<p>June 30</p>

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
				<p>managing experience</p> <p>Experienced managers will complete at least 6 non-program specific hours of continuing education courses each year</p> <p>Non-managers will complete at least 3 non-program specific hours of continuing education courses each year</p>	

Performance Measure	Associated Objective(s)	Target Value	Actual Value	Future Target Value	Time Applicable
Establish the Office of Strategy and Continuous Improvement with standardized and fully implemented policies and procedures by June 30, 2017.	4.3.1	Form Office of Strategy and Continuous Improvement and begin strategic analysis of agency policies and practices.	Office of Strategy and Continuous Improvement formed within DHEC Operations. Developing the procedures for analysis of DHEC policies and practices.	Formal continuous improvement policies and procedures implemented. Standardized DHEC policies and practices evaluation tool developed.	June 30
Establish a Project Management Office (PMO) with standardized and fully implemented policies, procedures, and artifacts by June 30, 2017.	4.3.2	Formalize PMO and expand scope of control to cover strategic projects within all DHEC program areas	PMO formed within DHEC Operations. Team expanded and actively managed approximately 40 strategic and tactical projects spanning all areas of DHEC.	Formal PMO policies and procedures implemented. Standardized project artifacts developed.	June 30



## STUDY PROCESS

### *Agency Selection*

DHEC is an agency subject to legislative oversight.<sup>58</sup> During the 121<sup>st</sup> General Assembly, the Committee prioritizes the agency for study by the Healthcare Subcommittee on January 26, 2016.<sup>59</sup> When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Healthcare and Regulatory Subcommittee.<sup>60</sup>

As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are also notified about the agency study.

### *Subcommittee Membership*

The **Healthcare and Regulatory Subcommittee of the House Oversight Committee is studying the agency**.<sup>61</sup> The study begins during the 121<sup>st</sup> General Assembly and continues during the 122<sup>nd</sup> General Assembly. During the 121<sup>st</sup> General Assembly, the Honorable Nathan Ballentine serves as chair, and during the 122<sup>nd</sup> General Assembly, the Honorable Phyllis J. Henderson serves as chair.<sup>62</sup> Subcommittee Members and their time of service on the Subcommittee are listed below:

- The Honorable Nathan Ballentine (121<sup>st</sup> General Assembly);
- The Honorable William “Bill” Bowers (122<sup>nd</sup> General Assembly);
- The Honorable MaryGail K. Douglas (122<sup>nd</sup> General Assembly);
- The Honorable Phyllis J. Henderson (122<sup>nd</sup> General Assembly);
- The Honorable Mia McLeod (121<sup>st</sup> General Assembly);
- The Honorable Walton J. McLeod (121<sup>st</sup> General Assembly); and
- The Honorable Bill Taylor (121<sup>st</sup> General Assembly and 122<sup>nd</sup> General Assembly).<sup>63</sup>

### *Agency Reports to Legislative Oversight Committee*

During the legislative oversight process, the **Committee asks the agency to conduct a self-analysis** by requiring it to complete and submit annual Restructuring Reports, a Seven-Year Plan for cost savings and increased efficiencies, and a Program Evaluation Report. Each report is posted on the Committee’s website.

#### *Restructuring Report*

The Annual Restructuring Report fulfills the requirement in SC Code §1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”<sup>64</sup> The report, at a minimum, includes information in the following areas - history, mission and vision, laws strategic plan, human and financial resources, performance measures, and restructuring recommendations.

The Department of Health and Environmental Control submits its Annual Restructuring Reports on March 11, 2015, and January 12, 2016.<sup>65</sup> The agency's 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Restructuring Report.<sup>66</sup>

### *Seven-Year Plan for Cost Savings and Increased Efficiencies*

SC Code §1-30-10 requires agencies to submit "a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period."<sup>67</sup> The Department of Health and Environmental Control submits its plan on January 12, 2015.<sup>68</sup>

### *Program Evaluation Report*

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, "requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee."<sup>69</sup> SC Code §2-2-60 outlines what an investigating committee's request for a program evaluation report must contain. Also it provides a list of information an investigating committee may request. The Committee sends guidelines for the Department of Health and Environmental Control's Program Evaluation Report (PER) on May 16, 2016.<sup>70</sup> The department submits the report on August 24, 2016.<sup>71</sup>

## *Information from the Public*

**Public input is a cornerstone of the House Legislative Oversight Committee's process.**<sup>72</sup> There are a variety of opportunities for public input during the legislative oversight process. Members of the public have an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee's website, and appear in person before the Subcommittee.<sup>73</sup>

### *Public Survey*

From May 1, 2016, to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Health and Environmental Control** and four other agencies.<sup>74</sup> Communication about this survey is sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it is also sent to media statewide via a press release.<sup>75</sup>

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.<sup>76</sup> These comments are not considered testimony.<sup>77</sup> As the survey notes, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."<sup>78</sup> The **public is informed they could continue to submit written comments about agencies online** after the public survey closed.<sup>79</sup>

848 participants choose to provide opinions about the agency, and a majority were positive.<sup>80</sup> 578 (81% of those responding to the question) have a positive or very positive opinion of the agency. Of those expressing an opinion, 44.2% think the agency operates better than other state agencies, while 12.3% think it operates worse. 34.4% said it is about the same.<sup>81</sup> Notably, 642 (90% of those that responded to the question) participants respond that their opinions are influenced by either personal or business experience with the agency.<sup>82</sup>

Written comments about the agency are provided by 257 survey participants; often, those comments address more than one topic. Some of the topics addressed in the written comments are listed in Table 19.<sup>83</sup> The complete verbatim comments can be found online.<sup>84</sup> Responses to online surveys posted on the Committee's webpage are provided verbatim as they were received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

*Table 17. Some topics addressed by survey participants in written comments about the agency.<sup>85</sup>*

Topic	Number of Comments
Management	72
Salaries	65
Staffing/Retention	52
Morale	47
Customer Service	40
Funding/Resources	26
Training	13
Internal Processes	12

*Table Note: In most categories there were both positive and negative comments.*

In addition to the comments in the table, a small number of respondents include comments about public health, HIV/STD division, performance, large agency size, vital records, water, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Also, at least 30 respondents share suggestions for improvement.<sup>86</sup>

### *Public Input via Committee Website*

Throughout the course of the study, people are able to submit comments anonymously on the Committee's website. Those comments are posted to the website verbatim.<sup>87</sup> One person submits a comment about the agency regarding DHEC's success and another submits a comment about Aiken County water withdrawals.<sup>88</sup> It is not the comment or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

### *Public Input via In-Person Testimony*

The Committee offers the opportunity for the public to appear and provide sworn testimony. A meeting dedicated to public input is held on January 24, 2017.<sup>89</sup> Further detail on the testimony the Committee receives is in the meetings section of this report.

## *Meetings Regarding the Agency*

The Committee meets with, or about, the agency on two occasions and the Subcommittee meets with the agency on five occasions. All meetings are open to the public and stream live online; also, the videos are archived and the minutes are available online. A timeline of meetings is set forth in Figure 2.

## *121<sup>st</sup> General Assembly (2015-2016)*

### *January 2016*

During the **January 28, 2016**, meeting, the Committee selects the agency for study.<sup>90</sup> See Appendix A for the meeting packet and letter notifying agency of its selection for study.

### *April 2016*

During the **April 27, 2016**, meeting, the Subcommittee Chair states the meeting's purpose is for the Subcommittee to ensure DHEC has a clear understanding of the oversight process and to ensure the agency notifies its employees about the study and the opportunity to participate in the Committee's public survey. The agency director provides an overview of DHEC and answers Members' questions on the following topics: agency surveys regarding employees and the water aquifer.<sup>91</sup> See Appendix B for the meeting packet.

## *122<sup>nd</sup> General Assembly*

### *January 2017*

During the **January 24, 2017**, meeting, the agency director provides an overview of DHEC to the Subcommittee. Members ask questions about various topics, including, agency successes, agency improvements, and home health care services. The agency director answers these questions. The Subcommittee Chair proceeds to the public hearing portion of the meeting. Testimony is provided by numerous citizens on issues, including but not limited to, surface water withdrawal; agency's regulatory authority; and agency's partnerships.<sup>92</sup> After the meeting, the agency meets with constituents that provide input. See Appendix C for the meeting packet, agency overview handout, and agency responses to questions raised by Subcommittee Members and the public during the meeting.

### *February 2017*

The Subcommittee holds the **February 9, 2017**, meeting to learn about the agency's mission, vision, and strategic plan. The agency director summarizes the actions the department has taken in response to testimony given at the public hearing and introduces the members of the agency's leadership team present.<sup>93</sup> Additionally, the agency director gives a presentation about the "state of the agency" addressing such topics as: the agency's need to move its Columbia headquarters into new facilities; improvements over the past few years; Savannah River Site; and the development of new budgeting techniques. Members ask questions about the public's satisfaction with the agency's services; opinions of the agency's employees about its performance; and the agency's requests for legal changes to some of its regulatory authority.<sup>94</sup> See Appendix D for the meeting packet and agency presentation.

The Subcommittee holds is **February 23, 2017**, meeting to receive an overview of the agency's history and programs from the agency director. This overview addresses: agency history; major program areas; misconceptions about the agency; and continuous improvements at DHEC. Members ask questions about the following: restricted revenue; food inspections at festivals, fairs, and farmers markets; inspection authority of hotels and motels; lab equipment; septic tank issues; and the Savannah River Site.

The agency director responds to these questions.<sup>95</sup> See Appendix E for the meeting packet, agency presentation, and meeting related correspondence.

### *March 2017*

The Subcommittee holds its **March 23, 2017** meeting to ask questions about the following topics:

- Agency's strategic plan;
- Savannah River Site;
- Carolina Water Services;
- Agency's coastal management program;
- Rural water systems;
- Disease control response efforts;
- Obesity;
- Prescription Drug Monitoring Program;
- State Fire Marshall;
- Public Health Laboratory;
- Certificate of Need Program;
- Food regulations - festival and food trucks ; and
- Hotel and motel inspections.<sup>96</sup>

See appendix F for the meeting packet.

### *April 2017*

The Subcommittee holds its **April 20, 2017**, meeting to learn about DHEC's performance measures in the context of Goals 1 (health services) and 2 (environmental affairs) of the agency's strategic plan. The agency director provides a presentation about performance in these two areas.

Additionally, the agency director responds to questions asked by Members on a variety of topics: challenges to accomplishing the agency's goals in health services; HIV infection and death rate; teen pregnancy rate; agency partnerships with faith communities; storm water and water infrastructure; adopt-a-stream program; and clean air.<sup>97</sup> See Appendix G for the meeting packet and meeting related correspondence.

### *May 2017*

The Subcommittee holds its **May 9, 2017**, meeting to continue the discussion of DHEC's strategic plan starting with Goal 3 (health regulations and operations). The agency director responds to questions asked by Members on various topics, including: complaints; Freedom of Information Act; and Mercury Awards (i.e., advertising awards).<sup>98</sup> See Appendix H for the meeting packet.

### *June 2017*

The Subcommittee holds its **June 20, 2017**, meeting to discuss the agency's recommendations for statutory changes. The agency head presents the agency's analysis of the gaps between what the law requires and the agency's current practices. She then provides context for the agency's recommendations for statutory changes and highlight recommendations in the following areas:

- Rabies Control Act;
- Solid Waste Policy and Management Act;
- Hearing Aids;
- Emergency Health Powers Act;
- Narcotics and Controlled Substances Act;
- SC Prescription Monitoring Act;
- Vital Statistics; and
- Contagious and Infectious Diseases.<sup>99</sup>

See Appendix I for the meeting packet and meeting related correspondence.

### *July 2017*

On **July 19, 2017**, the Subcommittee meets to discuss and analyze information relating to the agency's statutory recommendations. Agency representatives are not required or requested to attend this work session; however, agency staff are present and respond to Members' questions about the recommendations. The Subcommittee adopts 47 recommendations, receives 11 for information purposes only, and rejects one agency recommendation. Detailed information about the recommendations is found in the Recommendations section of this report.<sup>100</sup> See Appendix J for the meeting packet.

## *Study Process Completion*

Pursuant to Committee Standard Practice 12.4, **Subcommittee members may provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.<sup>101</sup> The Committee Chair may provide briefings to the public about the final oversight study.<sup>102</sup>

**To support the Committee's ongoing oversight by maintaining current information about the Department of Health and Environmental Control, the agency receives an annual Request for Information.**

## RECOMMENDATIONS

The following **recommendations include areas identified for potential improvement by the Subcommittee.** The **Subcommittee recognizes these recommendations 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 full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency can all be found on the Committee's website.

The Subcommittee has **47 recommendations arising from its study of the agency**, 41 to curtail or revise programs and six to eliminate programs. These recommendations fall into four categories: (1) general, (2) environmental, (3) health regulations, and (4) public health. Tables one through five summarize the recommendations.

### *Continue*

The **Subcommittee does not make any recommendations relating to continuing agency programs.**

### *Curtail (i.e. Revise)*

The **Subcommittee recommends 41 revisions to laws relating to the agency.** The laws, and any specific revisions recommended, along with the basis for the recommendation, are listed below.

#### *General (i.e., Agency Wide) Recommendations*

**1. The Subcommittee recommends the General Assembly consider allowing email notice of department decisions and staff decisions, for which a department decision is not required by mail.** SC Code §44-1-60 requires notice of department decisions to be sent by certified mail, return receipt requested, and notice of staff decisions for which a department decision is not required must be sent by mail, delivery, or other appropriate means.

To improve efficiency and in acknowledgement of the general prevalence of email, recommendation 1 proposes the addition of email as an option to provide notice.

#### *Environmental Affairs Division Recommendations*

##### *Solid Waste Policy Management Act*

- 2. The Subcommittee recommends the General Assembly consider amending SC Code §44-96-10 et seq., (Solid Waste Policy and Management Act) as follows:**
- (a) Require a facility that processes construction and demolition debris to be registered with DHEC and obtain a solid waste processing permit, exempting facilities that accept material that has been sorted by type and recycle at least 75% of each material type;**

- (b) Clarify that Demonstration of Need is only required for facility types identified in the regulation; and
- (c) Remove the requirement that DHEC perform a review of local zoning and land-use ordinances prior to issuing a solid waste management facility permit, adding a requirement that the facility provide proof of compliance.<sup>103</sup>

SC Code §44-96-10 et seq., (i.e., the Solid Waste Policy and Management Act) has not been substantially revised since its approval by the General Assembly over 25 years ago.<sup>104</sup> During the study process, DHEC proposes four major changes to improve efficiencies with these provisions; the Subcommittee adopts and recommends three of those changes.

Recommendation 2(a) addresses the claiming of permitting exemptions by “sham recyclers” of construction and demolition debris that accept mixed materials and meet the 75% recycling by weight requirement by processing concrete. Other debris is allowed to accumulate. According to DHEC, these accumulations pose risk to human health and the environment.

Recommendation 2(b) narrows the type of facility required to demonstrate need to those specified in regulation.

Recommendation 2(c) shifts the responsibility for review of compliance with local zoning from DHEC to the permit applicant. Officials from the South Carolina Municipal Association are in agreement with recommendation 2(c) if proof of compliance includes some official acknowledgement of compliance from the affected local government.

### *Hazardous Waste Management Act*

**3. The Subcommittee recommends the General Assembly consider deleting the requirement that within 24 hours of a hazardous waste DHEC notify the governing body of the concerned municipality or county of a violation, by amending SC Code §44-56-140(E).** SC Code §44-56-140(E) requires DHEC to report any violations of the Hazardous Waste Management Act to the governing body of the local government where the violation occurred within 24 hours. During the study, agency representatives inform the Subcommittee agency practice does not conform to this requirement. The agency’s current practice is when a violation presents an imminent or substantial endangerment or triggers an emergency response action, DHEC notifies and works with local officials.<sup>105</sup>

**4. The Subcommittee recommends the General Assembly eliminate preferences for in-state hazardous waste generators and restrictions on out of state hazardous waste, by amending SC Code §44-56-59, as it violates the Commerce Clause of the United States Constitution.**<sup>106</sup>

**5. The Subcommittee recommends the General Assembly eliminate preferences for in-state hazardous waste generators and restrictions on out of state hazardous waste, by amending SC Code §44-56-60(a)(1),(2), and (3), as they violate the Commerce Clause of the United States Constitution.**<sup>107</sup>

**6. The Subcommittee recommends that the General Assembly consider not requiring owners or operators of hazardous waste treatment, storage, or disposal facilities to reject waste from states that have not entered into an agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), by deleting SC Code §44-56-130 (4), (5), and (6), because they violate the Commerce Clause of the United States Constitution.**<sup>108</sup>



**7. The Subcommittee recommends that the General Assembly consider not requiring hazardous waste facilities to give preference to in-state generators, by deleting SC Code §44-56-205, as it violates the Commerce Clause of the United States Constitution.<sup>109</sup>**

Recommendations 4-7 propose revisions to remove statutes that federal court decisions have ruled an unconstitutional violation of the Commerce Clause of the United States Constitution.<sup>110</sup> While these statutes remain in the code of laws, they have all been struck down as a result of litigation challenging laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina. These statutes are not enforced by the agency.

### *Health Regulation Division Recommendations*

#### *Certificate of Need and Health Facility Licensure Act*

**8. The Subcommittee recommends the General Assembly consider clarifying that kidney disease centers are exempt only from the certificate of need provisions and remain subject to the licensure provisions by amending SC Code §44-7-170 (B)(6).** SC Code §44-7-110 et seq., require a certificate of need (CON) in certain circumstances and separately require licensure for certain types of health care facilities.

Recommendation 8 proposes modification to §44-7-170(B)(6) to clarify that kidney disease centers are exempt only from the CON provisions and remain subject to licensure provisions. During the study process, agency representatives note the wording of this statute was changed pursuant to 2010 Act No. 278. The agency seeks clarification on this issues because, although 2010 Act No. 278 modified the language of §44-7-170, it did not change the language in §44-7-260(A)(8) requiring licensure for end-stage renal dialysis units. DHEC currently regulates and licenses these facilities. This recommendation seeks to remove any ambiguity as to the authority of DHEC to license kidney disease centers.

**9. The Subcommittee recommends the General Assembly consider clarifying disclosure requirements and prohibitions related to information obtained during licensing processes and allowing greater ability to publish information on the internet, by amending SC Code §44-7-310 through 315.**

SC Code §44-7-310 and 315 place requirements and prohibitions on disclosure of information obtained by DHEC in the course of performing its licensure duties under the Certificate of Need and Health Facility Licensure Act. This recommendation proposes revisions to allow greater ability to publish information online and to clarify disclosure requirements and prohibitions. During the course of the study, agency representatives note these two provisions in law could be read to conflict with each other as to disclosure requirements.

#### *Practice of Specializing in Hearing Act*

**10. The Subcommittee recommends the General Assembly consider removing formulation of examinations from the Commission of Hearing Aid Specialists' responsibilities, by amending SC Code §40-25-20(2).**

**11. The Subcommittee recommends the General Assembly consider allowing DHEC to issue a monetary penalty for violation of the Practice of Specializing in Hearing Aids Act, by amending SC Code §40-25-30.**

**12. The Subcommittee recommends the General Assembly consider allowing DHEC to assume the duties of**

the Commission of Hearing Aid Specialists related to monitoring continuing education compliance by modifying SC Code §40-25-150 (C) and (D).

13. The Subcommittee recommends the General Assembly consider allowing DHEC to charge a fee for the examination of persons seeking to specialize in hearing aids, by modifying SC Code §40-25-110.

14. The Subcommittee recommends that the General Assembly consider allowing DHEC to facilitate administration of qualifying exams, by modifying SC Code §40-25-30(2).

15. The Subcommittee recommends DHEC and the Department of Labor, Licensing, and Regulation (LLR) jointly make a recommendation as to which agency the administration of the Practice of Specializing in Hearing Aids Act best fits within.

SC Code §40-25-10 et seq., authorizes DHEC, with advice from the Commission of Hearing Aid Specialists, to license qualified persons to engage in the practice of specializing in hearing aids; oversee the examination of persons seeking licensure; conduct periodic inspections of persons, facilities, and equipment; and take enforcement action as authorized by statute. During testimony about these recommendations, Members ask how this particular role differs from the licensure role of the Department of Labor, Licensing, and Regulation (LLR) with many professions.<sup>111</sup> Therefore, recommendation 15 requests DHEC and LLR collaborate to make a recommendation about which agency the Practice of Specializing in Hearing Aids Act best fits within.

The Subcommittee adopts recommendations 10 -14 in an effort to modernize the code of laws and without regard for which agency administers the licensure requirements.

Recommendation 10 proposes to delete the statutory requirement for the Commission of Hearing Aid Specialists to formulate examinations, which leaves discretion to either formulate the exam or procure an outside source to administer the exam. Section 40-25-20(2) requires the commission to prepare the examinations. In past meetings with DHEC, the commissioners have indicated they do not have the time or resources to prepare the examination.

Recommendation 11 proposes allowing DHEC to issue a monetary penalty for violations of the Practice of Hearing Aid Specialist Act. Subsection 40-25-30(6) authorizes DHEC to suspend or revoke a license or require that a refund be made. However, there are no provisions in law authorizing DHEC to issue a monetary penalty for violations.

Recommendation 12 proposes to revising §40-25-150(C) and (D) to require licensees to submit proof of compliance with continuing educational requirements to DHEC and authorize the agency to approve or disapprove training activities and training providers. These are all functions of Commission of Hearing Aid Specialists under current law.

Recommendation 13 proposes to modify §40-25-110 to authorize the agency to charge a fee for the examination of persons seeking to specialize in hearing aids in order to subsidize the cost of administering the examination. SC Code §40-25-30(2) allows DHEC to administer a qualifying examination to applicants for licensure.

Recommendation 14 proposes modifying this duty to include the authority to facilitate the administration of the qualifying examinations. The agency does not currently administer examinations to any other

licensed entities. This modification allows for the examinations to be given by testing vendors.

### *Body Piercing*

**16. The Subcommittee recommends the General Assembly consider allowing DHEC to impose monetary penalties against licensed body piercing facilities and any other persons or entities that violate Title 44 Chapter 32 (Body Piercing) or related regulations, by amending SC Code §44-32-80.** SC Code §44-32-10 et seq., direct the agency to establish sterilization, sanitation, and safety standards for persons engaged in the business of body piercing, issue permits to facilities to engage in body piercing, and charge annual permitting fees. Also, the statutes contains requirements relating to body piercing technicians and prohibitions regarding body piercing of minors. Current law authorizes DHEC to suspend or revoke licenses, or refuse to renew licenses, for body piercing facilities.

Recommendation 16 proposes authorizing DHEC to assess a monetary penalty as a method of enforcement, in addition to the existing options (e.g., revoking, suspending, refusing to issue or renew a permit, or placing a body piercing facility on probation). Further, the recommendation proposes authorizing imposition of a monetary penalty on to any person who violates the act or regulation, (e.g., a person or entity that performs body piercing without a license). This requirement is similar to statutory provisions in other acts, including the State Certification of Need and Health Facility Licensure Act, SC Code §44-7-110, et seq., that authorize the department to assess monetary penalties against any person (not limited to licensee) for violation of applicable regulatory laws.

### *Tattooing*

**17. The Subcommittee recommends the General Assembly consider authorizing DHEC to impose a monetary penalty against licensed tattoo facilities and any person who violates Title 44 Chapter 34 (Tattooing) or related regulations, by amending SC Code §44-34-80.** SC Code §44-34-10 et seq., requires DHEC to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing and to issue licenses to facilities to engage in tattooing and charge licensing fees and inspection fees. The statute outlines requirements relating to tattoo artists and certain prohibitions regarding the tattooing of minors, and makes certain acts criminal in nature. Current law authorizes DHEC to suspend or revoke licenses, refuse to renew licenses, or impose monetary penalties against tattoo facilities for certain violations.

Recommendation 17 proposes authorizing the imposition of a monetary penalty against any person who violates the act or regulation (e.g., a person or entity that performs tattooing without a license) and not just a licensee of the facility.

### *Emergency Medical Services Act*

**18. The Subcommittee recommends the General Assembly consider giving DHEC discretion in convening the Investigative Review Committee that considers revocation of emergency medical services (EMS) licenses and certifications, by amending SC Code §44-61-160 (C), and amending SC Code §44-61-20(16) to reflect that appointment to the Committee is made by the Chief of the Bureau of EMS and Trauma.**

**19. The Subcommittee recommends the General Assembly consider authorizing DHEC to join the Emergency Medical Services Compact.**

Recommendations 18 and 19 both relate to the Emergency Medical Services Act. SC Code §44-61-10 et

seq., authorize DHEC to develop standards for emergency medical services in the state; license, certify, and permit ambulance services, emergency medical technicians, and ambulance vehicles in the state; and take certain enforcement actions. Section 44-61-160 establishes an Investigative Review Committee and provides for its composition.

Recommendation 18 proposes to modify the definition of “Investigative Review Committee” to indicate that DHEC may convene this committee regarding an official investigation that may warrant suspension or revocation of a license or certification, but the agency is not required to convene this committee in every circumstance. This modification seeks efficiency in matters where there is clear evidence supporting the department’s recommended action. According to DHEC staff, this change does not negatively impact the person’s right to request a review of the agency’s decision to the DHEC Board, or right to appeal. Also, recommendation 18 proposes to further modify the definition to reflect that appointment to the committee is made by the Chief of the Bureau of EMS and Trauma, rather than the Director of the Division of EMS and Trauma.

Recommendation 19 proposes authorizing DHEC to become a member of the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA) with other states to help meet the demand for EMS personnel. According to agency officials, medical professionals at other levels (e.g., registered nurse, respiratory therapist, and medical doctors) have interstate compacts allowing for cross-border practice when the licensee meets South Carolina standards for licensure. There is a need for EMTs and paramedics in South Carolina. According to a survey conducted in 2015, there are eight jobs across the state for every one paramedic that graduates. Since 2014, 23 additional EMS agencies have opened adding to the demand for applicants. Becoming a compact state facilitates the day-to-day movement of EMS personnel across state boundaries and allows South Carolina to recognize and accept the EMS credentials from another compact state.

## *Health Services Division Recommendations*

### *Vital Statistics*

**20. The Subcommittee recommends the General Assembly consider modernizing vital statistics statutes by clarifying terminology, recognizing the transition to an electronic system, removing obsolete references, clarifying treatment of sealed records and paternity acknowledgements, and reflecting changes to DHEC’s organization, by amending SC Code §44-63-10 through 180.** SC Code §44-63-10 through 180 empowers DHEC to establish a bureau of vital statistics and to provide a system for the registration and certification of births, deaths, marriages, and divorces.

Recommendation 20 proposes to clarify terminology, recognize the transition to an electronic system, remove obsolete references, clarify treatment of sealed records and paternity acknowledgements, and reflect changes to DHEC’s organization. The recommended changes relate to the agency's desire to remain consistent with the national model. According to an agency official, more people call the agency about vital statistics, than any other issue.<sup>112</sup>

**21. The Subcommittee recommends the General Assembly consider allowing DHEC discretion in assessing civil penalties related to the late filing of death certificates, and giving DHEC civil enforcement powers in all aspects of Section 44-63-74.** SC Code §44-63-74 provides for the electronic filing and transmission of death certificates, including the authority to assess penalties for noncompliance.

Recommendation 21 proposes allowing DHEC discretion in assessing civil penalties, including the amount. Current administrative penalties for violations include \$250 (first violation or warning letter), \$500 (second violation), and \$750 (third or subsequent violation). Also, the recommendation proposes allowing civil enforcement powers in cases other than late filing of death certificates. According to agency staff, the ability to issue orders and assess civil penalties may facilitate enforcement of registration requirements and discretion in setting amounts may prevent accumulation of excessive penalties.

**22. The Subcommittee recommends the General Assembly consider disallowing a person to petition for Delayed Certificate of Birth Established by Court outside of South Carolina, and requiring that DHEC must be a party to the action, by amending SC Code §44-63-100(A).** SC Code §44-63-100 provides for the registration of birth through petition for delayed certificate of birth established by court order.

Recommendation 22 proposes removing the provision allowing a petition for delayed birth certificate to be filed outside of South Carolina (i.e., the state of the petitioner's residence). Further, this recommendation proposes clarifying that DHEC is a party to the action.

**23. The Subcommittee recommends the General Assembly consider deleting reference to an administrative determination of paternity pursuant to SC Code §63-17-10 in SC Code §44-63-163 (birth certificates - administrative determination of paternity) and in SC Code §44-63-165 (birth certificates - acknowledgement of paternity), clarifying whether paternity determinations by courts outside of South Carolina may be accepted, and clarifying if pre-birth orders in surrogacy cases are effective to determine parentage for the purposes of birth registration.** SC Code §44-63-163, §44-63-165, and §63-17-10 relate to paternity. Sections 44-63-163 and 165 relate to birth certificates, and §63-17-10 relates to paternity determinations.

Recommendation 23 proposes removing references to an administrative determination of paternity (§44-63-163) and an acknowledgement of paternity (§44-63-165) pursuant to §63-17-10, as agency representatives note this section does not provide for either of those things.

**24. The Subcommittee recommends the General Assembly consider clarifying the following provisions relating to vital statistics:**

- (a) Clarify parents can only make changes to an adult child's birth certificates when the child is legally incompetent;**
- (b) Clarify the family court has jurisdiction over amendments to birth certificates;**
- (c) Clarify the probate court has express jurisdiction over corrections to death certificates; and**
- (d) Clarify whether an out-of-state court order can serve as the basis for a correction or amendment to a birth certificates or death certificates.**

SC Code §44-63-150 provides for the correction of mistakes in birth or death certificates. Section 62-1-302 provides the subject matters over which the probate courts have exclusive jurisdiction. Section 63-3-530 provides the subject matters over which the family courts have exclusive jurisdiction.

Recommendation 24(a) proposes allowing parents to make changes to adult children's birth certificates only when the adult child is legally incompetent.

Recommendation 24(b) proposes clarifying the family court has jurisdiction over amendments to birth certificates that may not be considered corrections (e.g., name changes or addition of a father's name

after paternity findings).

Recommendation 24(c) proposes granting the probate court express jurisdiction over corrections to death certificates. During the study process, agency representatives note no court has this express authority which leads to confusion and uncertainty within the bench, the bar, and the agency.<sup>113</sup>

Recommendation 24(d) proposes clarifying whether an out-of-state court order can serve as the basis for a correction or amendment to birth certificates or death certificates, which are South Carolina records.

### *Contagious and Infectious Diseases*

**25. The Subcommittee recommends the General Assembly consider removing the requirement that physicians report contagious or infectious diseases to the county health department, and replacing it with a requirement that the report be made to DHEC, by amending SC Code §44-29-10(A).** SC Code §44-29-10(A) addresses physician reporting of contagious or infectious diseases.

Recommendation 25 proposes removing the requirement that physicians report to county health department, and replacing it with an instruction that the reporting be submitted to DHEC.

**26. The Subcommittee recommends the General Assembly consider adding the term “sexually transmitted infection” to SC Code §44-29-70.** SC Code §44-29-70 requires certain healthcare professionals to report cases of sexually transmitted diseases to health authorities.

Recommendation 26 proposes adding the term “sexually transmitted infection” to the title and body of the section. This term is more inclusive and is consistent with current nomenclature.

**27. The Subcommittee recommends the General Assembly consider adding the term “sexually transmitted infection” and remove reference to local boards of health, by amending SC Code §49-29-80.** SC Code §49-29-80 requires laboratories to report positive tests for sexually transmitted disease to DHEC and local boards of health.

Recommendation proposes 27 adding the term “sexually transmitted infection” to the title and body of the section and removing the reference to local boards of health.

**28. The Subcommittee recommends the General Assembly consider replacing “venereal disease” with “sexually transmitted disease and sexually transmitted infection,” and adding “sexually transmitted infection” where “sexually transmitted disease” appears alone, by amending SC Code §44-29-90.** SC Code §44-29-90 addresses the examination, treatment and isolation of persons infected with venereal disease.

Recommendation 28 proposes to replace the term “venereal disease” with “sexually transmitted disease and sexually transmitted infection” and adding the term “sexually transmitted infection” to each phrase where “STD” is used alone.

**29. The Subcommittee recommends the General Assembly consider removing the requirement that prisoners “suffering with a sexually transmitted disease at the time of expiration of their terms of imprisonment must be isolated and treated at public expense as provided in SC Code §44-29-90 until, in the judgment of the local health officer, the prisoner may be medically discharged,” and adding the term “sexually transmitted infection” where “sexually transmitted disease” appears alone.** SC Code §44-29-100

addresses the examination, treatment, and isolation of prisoners for sexually transmitted diseases.

Recommendation 29 proposes removing the requirement that prisoners remain in prison after their terms expire for treatment. This is not the current practice. Also, the recommendations proposes adding the term “sexually transmitted infection” to each phrase where “sexually transmitted disease” is used alone.

**30. The Subcommittee recommends the General Assembly consider adding the term “sexually transmitted infection” where “sexually transmitted disease” appears alone in SC Code §4-29-136.** SC Code §44-29-136 addresses court orders for disclosure of records for law enforcement purposes.

Recommendation 30 proposes adding the term “sexually transmitted infection” to each phrase where “sexually transmitted disease” is used alone. This is consistent with current nomenclature.

**31. The Subcommittee recommends the General Assembly consider amending SC Code §44-29-140 to replace “venereal disease” with “sexually transmitted disease and sexually transmitted infection.”** SC Code §44-29-140 addresses penalties related to venereal disease.

Recommendation 31 proposes replacing the term “venereal disease” with “sexually transmitted disease and sexually transmitted infection.”

**32. The Subcommittee recommends the General Assembly consider removing the requirement that DHEC notify certain schools when a student has Acquired Immune Deficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV), by repealing SC Code §44-29-135(f).** SC Code §44-29-135(f) requires DHEC to notify public schools when a student in kindergarten through fifth grade has Acquired Immune Deficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV).

Recommendation 32 proposes repeal of the section. According to DHEC staff, “medical literature today indicates that there is no risk of spreading HIV between children through casual, social contact and federal law prohibits children with HIV from being discriminated against.”<sup>114</sup>

#### *Emergency Health Powers Act*

**33. The Subcommittee recommends the General Assembly consider expanding the definition of “qualifying health condition” to include the following:**

- (a) a nuclear attack or accident;**
- (b) a chemical attack or release;**
- (c) a man-made disaster widely affecting public health or the environment; and**
- (d) an act of terrorism or bioterrorism affecting public health or the environment.**

SC Code §44-4-130(R) provides a definition of “qualifying health condition,” which supports the definition of a “public health emergency” in §44-4-130(P). The Governor’s authority to declare a “public health emergency” pursuant to SC Code §1-3-430 is based on these definitions.

Recommendation 33 proposes to expand the definition of a “qualifying health condition” to include “a nuclear attack or accident,” “a chemical attack or release,” “a man-made disaster widely affecting public health or the environment,” and “an act of terrorism or bioterrorism affecting public health or the environment.”

### *Tuberculosis*

**34. The Subcommittee recommends the General Assembly consider deleting any reference to tuberculosis camps is SC Code §44-7-610 through 780.** SC Code §44-7-610 through 780 relate to county, township or municipal hospitals or tuberculosis camps. These sections allow for the citizens of a county to petition for a public hospital or tuberculosis camp, as well as provide the manner in which such a facility must be administered.

Recommendation 34 proposes deleting any reference to tuberculosis camps in these sections as the department no longer treats or controls tuberculosis disease through the use of tuberculosis camps.

**35. The Subcommittee recommends the General Assembly consider amending SC Code §44-31-10 to reflect current tuberculosis medical recommendations and reporting practices.** SC Code §44-31-10, which requires certain medical providers and entities to report cases of tuberculosis to DHEC, has not been updated since 1970.

Recommendation 35 proposes to update the language to reflect current medical recommendations and reporting practices for notification to DHEC of tuberculosis cases.

**36. The Subcommittee recommends the General Assembly consider clarifying that a petition must be filed in the probate court in the county in which the person is being detained under SC Code §44-31-105, in the event that the individual has not requested a hearing and the thirty day detainment is nearing an end.** SC Code §44-31-105 provides DHEC the authority to issue and enforce emergency orders for the control and treatment of tuberculosis.

Recommendation 36 proposes clarifying that a petition be filed in the probate court in the county in which the person is being detained in the event that the individual has not requested a hearing and the 30-day detainment is nearing an end. Currently, the statute requires that the probate court enforce all provisions of the emergency order, but it only provides a venue when an individual has requested a hearing.

### *Community Oral Health Coordinator*

**37. The Subcommittee recommends the General Assembly consider allowing for provision of services to persons of any age in underserved and vulnerable populations in the designated counties, by amending SC Code §44-8-10 through 60.** SC Code §44-8-10 through 60 provide for the creation and implementation of a targeted community program for dental health education, screening, and treatment referral. In three to five counties state-wide, targeted by need, the department is required to implement a community dental health program for public school students at specified grade-levels, or upon a child's transfer into the South Carolina public school system, regardless of grade-level.

Recommendation 37 proposes expanding the provision of services facilitated by the community oral health coordinator to persons of any age in underserved and vulnerable populations in the designated counties. According to DHEC staff, this proposed expansion aligns with those of the Dental Practice Act (SC Code §40-15-110), as well as provides centralized oversight of the community oral health coordinator activities by DHEC.

### *Dental Practices Act of 2003*



**38. The Subcommittee recommends the General Assembly consider moving SC Code §40-15-110 (E) to Title 44.** SC Code §40-15-110 (E) requires DHEC to target dental services in a public health setting to under-served populations.

Recommendation 38 proposes moving §40-15-110 (E) to Title 44 (Health) where the majority of DHEC's health-related responsibilities are located. To ensure that these services are being properly implemented, this recommendation also proposes adding to Title 44 a requirement that any dental provider operating in a public health setting must submit specific data to DHEC and use agency surveillance tools for the implementation of public health core functions. This affords DHEC broader oversight of providers and may help ensure that the needs of under-served populations are being met.

#### *Care of the Newly Born*

**39. The Subcommittee recommends the General Assembly consider removing the requirement for indefinite retention of blood samples collected to detect metabolic errors and hemoglobinopathies in newborns, by amending SC Code §44-37-30 .** SC Code §44-37-30 addresses neonatal testing of children for metabolic errors and hemoglobinopathies. This section requires samples be stored unless the parent or child, after he reaches the age of 18, directs DHEC to do something different. According to agency staff, there is no clinical or scientific reason for DHEC to maintain long-term possession of these blood samples, nor does the department have the ability or capacity to store them in freezers indefinitely.

The 2017-2018 General Appropriations Act includes proviso 34.37 allowing DHEC to suspend activity related to the storage requirement when funding is not available. Recommendation 39 proposes codifying the proviso by removing the requirement for indefinite storage of the sample.

#### *Health Care Professional Compliance Act*

**40. The Subcommittee recommends the General Assembly consider redefining "CDC Recommendation" to include current Centers for Disease Control (CDC) or equivalent guidelines, making the requirement that DHEC appoint or approve an existing expert review panel optional, and adding an enforcement mechanism targeted to educational institutions that provide training in preparation for licensure but that do not provide annual certification to DHEC.** SC Code §44-30-10 through 90 provide for the creation of expert review panels to determine if health care worker who is either HIV or HBV (hep-b) positive can receive recommendations for participating in certain invasive procedures in the health care setting.

Recommendation 40 proposes including current CDC or equivalent guidelines, allowing DHEC to appoint at least one or approve an existing expert review panel if needed, and providing an enforcement mechanism for the requirement that educational institutions provide current training in infection control practices for health care professionals participating in the institutions' education programs.

#### *Infants and Toddlers with Disabilities Act*

**41. The Subcommittee recommends the General Assembly consider moving SC Code sections related to the implementation of the Infants and Toddlers with Disabilities Act (BabyNet) to the South Carolina Children's Code (Title 63).** SC Code §44-7-2510 through 2610 provide the Governor with discretion to

designate the lead agency for the implementation of the Infants and Toddlers with Disabilities Act. This is commonly known as BabyNet, and the lead agency is subject to change (e.g., DHEC, First Steps to School Readiness, and the Department of Health and Human Services all have been lead agency). In order to reflect that the lead agency could be in any subject area but that this section will always apply to services for children, recommendation 41 proposes to move this section out of Title 44 (Health) to Title 63, the South Carolina Children's Code.

## *Eliminate*

The **Subcommittee recommends eliminating six programs**. The laws, and any specific revisions recommended, along with the basis for the recommendation, are listed below.

**42. The Subcommittee recommends the General Assembly consider removing the requirement that DHEC make available lice treatment products to certain families, by repealing SC Code §44-29-195 (B).** SC Code 44-29-195 relates to head lice, school children, and vouchers for treatment products. This section requires that DHEC make available to families with children in public school, who receive Medicaid or free/reduced lunch, products or vouchers for products for the treatment of pediculosis. Recommendation 42 proposes removing the requirement that DHEC make products available for treatment of pediculosis (i.e., head lice infestation). According to agency staff, this is not currently funded and the agency has not received any requests for this service.<sup>115</sup>

**43. The Subcommittee recommends the General Assembly consider eliminating reference to "District Advisory Boards of Health," and change all mention of "Districts" to "Regions."** SC Code §44-1-130 establishes Health Districts and District Advisory Boards. This statute is not consistent with current agency practice. The District Advisory Boards of Health no longer exist, and the agency's geographical subdivisions are now referred to as regions.

**44. The Subcommittee recommends that the General Assembly consider eliminating the Catawba Health District.** SC Code §44-3-110 through 140 establish and organize the Catawba Health District, serving Chester, Lancaster, and York Counties. This statute is not consistent with current agency practice as the Catawba Health District no longer exists. The counties within the former Catawba Health District are now served by the Midlands Regional Office for Public Health.

**45. The Subcommittee recommends that the General Assembly consider eliminating the Hazardous Waste Management Research Fund.** SC Code §44-56-810 through 840 creates the Hazardous Waste Management Research Fund, funded by Pinewood Site fees. Recommendation 45 proposes deleting this section as Pinewood Site in Sumter County no longer collects fees since its closure in 2000.

**46. The Subcommittee recommends that the General Assembly consider eliminating the Coastal Zone Management Appellate Panel.** SC Code §48-39-40 creates the Coastal Zone Management Appellate Panel, including terms and membership, which acts as an advisory council to DHEC to hear appeals of staff decisions on Coastal Division permits. To improve efficiency and be consistent with current law and practice, recommendation 46 proposes deleting this section. It conflicts with SC Code §44-1-60, which creates a "uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling." Notably, there has been an annual proviso to suspend this panel.

**47. The Subcommittee recommends that the General Assembly consider discontinuing the Osteoporosis Education Fund and the Osteoporosis Prevention and Treatment Education Program.** SC Code §44-125-10 through 40 establishes an Osteoporosis Education Fund and an Osteoporosis Prevention and Treatment Education Program to promote public awareness, prevention, and treatment of osteoporosis. This recommendation proposes repeal of these sections as the fund has not been established and funds have not been allocated to carry out the stated purpose.

## INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study of DHEC the agency implements several improvements directly related to its participation in the study process. Those improvements are listed below.

- While prior to the Healthcare and Regulatory Subcommittee’s study DHEC staff begin evaluating agency programs and legal mandates to determine if there are gaps, the study helps expedite and prioritize the review.

The program evaluation report template allows DHEC staff to assess programs using the same metrics, which provides for greater consistency across the agency.<sup>116</sup>

## ADDITIONAL INFORMATION

The Department of Health and Environmental Control makes 11 recommendations that the Subcommittee receives and provides here for information purposes only.

*Table 18. Agency recommendations received for information purposes only.*<sup>117</sup>

Agency Recommendation Number	Impacted SC Code Sections	Summary
1.1	47-5-10 through 47-5-210	<b>Rabies Control Act</b> The agency recommends updating statutes to be consistent with national veterinary practice and to clarify definitions and roles of implementing entities.
2.4	44-96-170	<b>Solid Waste Policy and Management Act</b> The agency recommends changes to address the distribution of the waste tire fee, methods for encouraging a more robust waste tire recycling industry, and language to aid in the ceasing, prevention, or diminishment of illegal dumping and accumulation of waste tires.
2.2	49-11-110 et seq.	<b>Dam and Reservoir Safety Act</b> While this recommendation is part of the agency’s Program Evaluation Report, these provisions are also in H.3218, which passed the House of Representatives and is pending in the Senate Agriculture and Natural Resources Committee.

2.7	44-56-160, 163, 164, 165, 170, 175, 180, 190, 510	<b>Hazardous Waste Management Act</b> The agency recommends addressing provisions related to the assessment and use of fees generated by the disposal of hazardous waste at the former Pinewood Site, which has not accepted hazardous waste for disposal since closing in 2000. Funds created to receive the monies generated by the Pinewood fees are inactive. Other fees (unrelated to Pinewood) that are still assessed are the storage fee in Section 44-56-170(D), the incinerator fee in Section 44-56-170(F)(1), and the annual generator fee in Section 44-56-215); the agency recommends that these fees be kept.
2.8	48-20-10 et seq.	<b>SC Mining Act</b> The agency recommends updating the SC Mining Act, last revised two decades ago, to keep pace with industry standards, practices, and developments. Within the next three years, DHEC intends to begin the stakeholder process to update these provisions that impact several state and federal agencies.
2.10	46-45-80	<b>Agricultural Facility Setback Requirements</b> The agency proposes a bright-line setback and that such a setback be established at a sufficient distance to protect of public health. While this recommendation is made in the PER, it is considered in the development of H.3929 (2017-2018) which passes the House and is referred to the Senate Agriculture and Natural Resources Committee.
2.24	44-53-110 et seq.	<b>Narcotics and Controlled Substances Act</b> The agency proposes improving drug inspections and creating efficiencies in the scheduling of controlled substances.
2.25	44-53-1610 et seq.	<b>SC Prescription Monitoring Act</b> The “South Carolina Prescription Monitoring Act” sets forth requirements of a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by applicable licensed professionals. Notably, a portion of the initial recommendation is included in the prescription monitoring program legislation enacted by the General Assembly in May 2017.
1.22	44-89-60 et seq.	<b>Midwives</b> The agency proposes consideration of whether DHEC is the appropriate agency to license lay midwives. Additionally, the agency recommends clarifying the requirements for licensing lay-midwives.
2.18	13-7-10 et seq.	<b>Atomic Energy and Radiation Control Act</b> The agency requests authorization to retain additional funds collected through annual registration fees to help fund the staff who perform the inspections and other associated duties related to tanning equipment. Further, the agency requests the authority to conduct routine inspections to help ensure public safety.

5.1	44-7-80 et seq.	<b>Medicaid Nursing Home Permits Act</b> The agency proposes to eliminate the directive to allocate Medicaid nursing home permit days, act on applications and issue permits for Medicaid nursing home patient days, and enforce penalties for noncompliance. The agency's rationale is this directive impedes the purpose of the Certificate of Need (CON) Program, which administers both the CON portions of the State Certification of Need and Health Facility Licensure Act (CON Act), SC Code Sections 44-7-110, et seq., and the Medicaid Nursing Home Permits Act.
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Notably, the Subcommittee rejects the agency's recommendation for the General Assembly to repeal statutes relating to (SC Code §59-111-150 through 580) the South Carolina Medical and Dental Loan Fund, which assists loan recipients with the costs of medical and dental education in return for commitments to practice in underserved areas. In making this recommendation, agency representatives note the South Carolina Medical and Dental Loan Fund has not received funding for many years.<sup>118</sup>

## SELECTED AGENCY INFORMATION

### Department of Health and Environmental Control. "Program Evaluation Report, 2016."

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DHEC/Program%20Evaluation%20Report%208\\_24\\_16.PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DHEC/Program%20Evaluation%20Report%208_24_16.PDF) (accessed May 30, 2017).

### Department of Health and Environmental Control. "Restructuring and Seven-Year Plan Report, 2015."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Health%20and%20Environmental%20Control.pdf> (accessed May 30, 2017).

### Department of Health and Environmental Control. "Agency Accountability Report, 2015-16."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DHEC/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 30, 2017).

### Department of Health and Environmental Control. "Annual Request for Information, 2017."

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DHEC/Response%20to%20RFI%20\(PDF\)%2012.1.16.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DHEC/Response%20to%20RFI%20(PDF)%2012.1.16.pdf) (accessed May 30, 2017).

### SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 30, 2017).

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**Committees:**

Labor, Commerce and Industry  
Legislative Oversight  
Joint Legislative Committee to  
Screen Candidates for College and  
University Boards of Trustees

## House of Representatives

State of South Carolina

**Majority Whip**

### Statement of Representative Phyllis Henderson for the Subcommittee Study of the Department of Health and Environmental Control

RE: Healthcare and Regulatory Subcommittee Study of the Department of Health and Environmental Control

Recommendations with respect to the Narcotics and Controlled Substances Act and the South Carolina Prescription Monitoring Act

While I supported the subcommittee recommendation to accept for information only the agency's recommendations with respect to changes in the Narcotics and Controlled Substances Act, I agree that many changes need to be made and that those changes need additional study. I will be meeting with DHEC staff over the next few months to go over their recommendations in greater detail and work on a bill for prefilings in December.

Likewise, the agency recommended amending the South Carolina Prescription Monitoring Act by adding Schedule V controlled substances. While I am very supportive of efforts to control the abuse of prescription drugs in South Carolina, I believe this addition requires further study before any changes are recommended by this subcommittee.

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The Honorable Phyllis J. Henderson  
Subcommittee Chair

## *Appendix O. Recommendation 4. Model Feed Law - Revisions to SC Code of Laws 36-25-210 and 40-7-1*

### Appendix Includes:

- Recommendation 4. Model Feed Law - Agency proposed revisions to SC Code of Laws 36-25-210 and 40-7-1



## Chapter Four

### Model Bill and Regulations

Editor—Doug Lueders, MN

#### Model Bill and Regulations

Section Editor—Doug Lueders, MN

**Officially Adopted by Association of American Feed Control  
Officials and Endorsed by American Feed Industry Association,  
National Grain and Feed Association, and Pet Food Institute**

Although this Bill and the Regulations have not been passed into law in all the states, the subject matter covered herein does represent the official policy of this Association.

#### AN ACT

To regulate the manufacture and distribution of commercial feeds in the State of \_\_\_\_\_, BE IT ENACTED by the Legislature of the State of \_\_\_\_\_.

##### Section 1. Title

This Act shall be known as the “\_\_\_\_\_ Commercial Feed Law of 20\_\_\_\_\_.”

##### Section 2. Enforcing Official

This Act shall be administered by the \_\_\_\_\_ of the State of \_\_\_\_\_, hereinafter referred to as the “\_\_\_\_\_.”

##### Section 3. Definitions of Words and Terms

When used in this Act:

- (a) The term “brand name” means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant/licensee and distinguishing it from that of others.
- (b) The term “commercial feed” means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 7(a) of this Act, are exempt. The \_\_\_\_\_ by rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 7(a) of this Act.
- (c) The term “contract feeder” means a person who is an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person’s remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.
- (d) The term “customer-formula feed” means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.
- (e) The term “distribute” means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

- (f) The term “distributor” means any person who distributes.
- (g) The term “drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than commercial feed intended to affect the structure or any function of the animal body.
- (h) The term “feed ingredient” means each of the constituent materials making up a commercial feed.
- (i) The term “label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (j) The term “labeling” means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed.
- (k) The term “manufacture” means to grind, mix or blend, or further process a commercial feed for distribution.
- (l) The term “mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (m) The term “official sample” means a sample of commercial feed taken by the \_\_\_\_\_ or their agent in accordance with the provisions of Section 11(c), (e), or (f) of this Act.
- (n) The term “percent” or “percentages” means percentages by weights.
- (o) The term “person” includes individual, partnership, corporation, and association.
- (p) The term “pet food” means any commercial feed prepared and distributed for consumption by dogs or cats.
- (q) The term “pet” means dog or cat.
- (r) The term “product name” means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.
- (s) The term “quantity statement” means the net weight (mass), liquid measure or count.
- (t) The term, “raw milk” means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US Food and Drug Administration.
- (u) The term “specialty pet” means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.
- (v) The term “specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.
- (w) The term “ton” means a net weight of two thousand pounds avoirdupois.

#### **Section 4. Registration and Licensing**

##### *Option A. Registration*

- (a) No person shall manufacture a commercial feed in this State, unless they have filed with the \_\_\_\_\_ on forms provided by the \_\_\_\_\_, their name, place of business and location of each manufacturing facility in this State.
- (b) No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the \_\_\_\_\_. Upon approval by the \_\_\_\_\_ the registration shall be

issued to the applicant. All registrations expire on the 31st day of December of each year. (Option: A registration shall continue in effect unless it is cancelled by the registrant or unless it is cancelled by the \_ pursuant to Subsection (c) of this section.

- (c) The \_ is empowered to refuse registration of any commercial feed not in compliance with the provisions of this Act and to cancel any registration subsequently found not to be in compliance with any provision of this Act: Provided, That no registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the \_ and to amend their application in order to comply with the requirements of this Act.

*Option B. Licensing*

- (a) Any person:
- (1) Who manufactures a commercial feed within the state; or
  - (2) Who distributes a commercial feed in or into the state; or
  - (3) Whose name appears on the label of a commercial feed as guarantor, shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this Act is not required to obtain a license.
- (b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the \_ accompanied by a license fee of \_ paid to the \_ for each facility. The license year shall be . Each license shall expire on \_ (day) \_ (month) of the year for which it is issued; provided that any license shall be valid through \_ of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the \_ on or before \_ of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a \_ dollar late fee in addition to the license fee.
- (c) The form and content of the commercial feed license application shall be established by rules adopted by the \_.
- (d) The \_ may request from, at any time, a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act.
- (e) The \_ is empowered to refuse to issue a license to any person not in compliance with the provisions of this Act. The \_ may suspend or revoke

any license issued to any person found not in compliance with any provision of this Act. The \_ may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the \_ in order to comply with the requirements of this Act.

*Option C. Registration and Licensing*

(a) Any person:

- (1) Who manufactures a commercial feed within the state; or

- (2) Who distributes a commercial feed in or into the state; or
  - (3) Whose name appears on the label of a commercial feed as guarantor, shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this Act is not required to obtain a license.
- (b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the \_\_\_\_\_ accompanied by a license fee of \_\_\_\_\_ paid to the \_\_\_\_\_ for each facility. The license year shall be \_\_\_\_\_.
- Each license shall expire on \_\_\_\_\_ (day) \_\_\_\_\_ (month) of the year for which it is issued; provided that any license shall be valid through \_\_\_\_\_ of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the \_\_\_\_\_ on or before \_\_\_\_\_ of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a \_\_\_\_\_ dollar late fee in addition to the license fee.
- (c) The form and content of the commercial feed license application shall be established by rules adopted by the \_\_\_\_\_.
  - (d) The \_\_\_\_\_ may request from, at any time, a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act.
  - (e) No person shall distribute in this state commercial feed, such as but not limited to; canned animal food, pet food, specialty pet food, supplements or medicated feed, until it is registered with the \_\_\_\_\_ by the licensee whose name appears on the label. An application for each brand and/or product name shall be made on a form furnished by the \_\_\_\_\_ and shall be accompanied by a fee of \$ \_\_\_\_\_ per product. Upon the approval of an application by the \_\_\_\_\_, a copy of the registration shall be furnished to the applicant. All registrations expire on the \_\_\_\_\_ day of \_\_\_\_\_ (month) each year. (Option: A registration shall continue in effect unless it is canceled by the registrant or unless it is canceled by the \_\_\_\_\_ pursuant to subsection (f) of this section.)
  - (f) The \_\_\_\_\_ is empowered to refuse to issue a license or registration to any manufacturer or distributor not in compliance with the provisions of this Act. The \_\_\_\_\_ may suspend or revoke any license or cancel any registration issued to any person found not to be in compliance with any provision of this

Act. The \_ may place conditions that limit production or distribution

of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked and no registration shall be refused or canceled unless the licensee shall first be given an opportunity to be heard before the in order to comply with the requirements of this Act.

**Section 5. Labeling**

A commercial feed shall be labeled as follows:

- (a) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information.

- (1) The quantity statement.
  - (2) The product name and the brand name, if any, under which the commercial feed is distributed.
  - (3) The guaranteed analysis, expressed on an “as-is” basis, stated in such terms as the \_ by regulation determines is required to advise the user of the composition of the commercial feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International.
  - (4) The common or usual name of each ingredient used in the manufacture of the commercial feed: Provided, that the \_ by regulation may permit the use of a collective term for a group of ingredients which perform a similar function, or the \_ may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the \_ finds that such statement is not required in the interest of consumers.
  - (5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.
  - (6) Adequate directions for use for all commercial feeds containing drugs and for such other commercial feeds as the \_ may require by regulation as necessary for their safe and effective use.
  - (7) Such precautionary statements as the \_ by regulation determines are necessary for the safe and effective use of the commercial feed.
- (b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:
- (1) Name and address of the manufacturer.
  - (2) Name and address of the purchaser.
  - (3) Date of delivery.
  - (4) The product name and quantity statement of each commercial feed and each other ingredient used in the mixture.
  - (5) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the \_ may require by regulation as necessary for their safe and effective use.
  - (6) The directions for use and precautionary statements as required by Regulation 7 and 8.
  - (7) If a drug containing product is used:
    - I. The purpose of the medication (claim statement)
    - II. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Regulation 4 (d).

### Section 6. Misbranding

A commercial feed shall be deemed to be misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is distributed under the name of another commercial feed.
- (c) If it is not labeled as required in Section 5 of this Act.
- (d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless

such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the .





- (e) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

### **Section 7. Adulteration**

A commercial feed shall be deemed to be adulterated:

- (a)
  - (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or
  - (2) If it bears or contains any added poisonous, added deleterious, or added non-nutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
  - (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or
  - (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or
  - (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or
  - (6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or
  - (7) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or
  - (8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or
  - (9) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or
  - (10) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

- (11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.
- (b) If any valuable constituent has been in whole or in part omitted or abstracted there from or any less valuable substance substituted therefor.
- (c) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.
- (d) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the \_ to assure that

the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the \_ shall adopt

the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the \_ determines that

they are not appropriate to the conditions which exist in this State.

- (e) If it contains viable weed seeds in amounts exceeding the limits which the \_ shall establish by rule or regulation.

### Section 8. Prohibited Acts

The following acts and the causing thereof within the State of \_ are hereby prohibited.

- (a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
- (b) The adulteration or misbranding of any commercial feed.
- (c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of Section 7(a), of this Act.
- (d) The removal or disposal of a commercial feed in violation of an order under Section 13 of this Act.
- (e) The failure or refusal to register and/or obtain a license in accordance with Section 4 of this Act.
- (f) The violation of Section 14(f) of this Act.
- (g) The failure to pay inspection fees or file reports as required by Sections 9 and 12 of this Act.
- (h) Bags or totes used for commercial feeds (including customer-formula feed) shall not be re-used unless appropriately cleaned. A firm that intends to re-use bags or totes must document its cleanout procedures.
- (i) The distribution of raw milk for use as commercial feed for any species:
  - (1) If it has not been decharacterized using a sufficient quantity of food coloring as designated by \_ (director, commissioner, etc.);
  - (2) If it has been decharacterized using food coloring unless the food coloring has been approved by the US Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;
  - (3) If it has been decharacterized and the nutritive value of the milk has been adversely affected by the decharacterization;
  - (4) That is packaged in containers that are or resemble those used for the

packaging of milk for human consumption;

- (5) That is stored at retail with, or in the vicinity of, milk or milk products intended for human consumption;
- (6) If it does not comply with Section 8 (a) through (h) of this Act.

**Section 9. Inspection Fees and Reports**

- (a) An inspection fee at the rate of \_ cents per ton shall be paid on commercial

feeds distributed in this State by the person whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the inspection fee, subject to the following:

- (1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
  - (2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
  - (3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.
  - (4) In the case of a commercial feed which is distributed in the State only in packages of ten pounds or less, an annual fee of \_ shall be paid in lieu of the inspection fee specified above.
  - (5) The minimum inspection fee shall be \_ per \_ (reporting period).
  - (6) In the case of specialty pet food which is distributed in the state only in packages of one pound or less, an annual fee of \_ per product shall be paid up to a maximum annual fee of \_ per manufacturer in lieu of an inspection fee.
- (b) Each person who is liable for the payment of such fee shall:
- (1) File, on or before the last day of the month following the inspection fee reporting period, setting forth the number of net tons of commercial feeds distributed in this State during the preceding reporting period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section. Inspection fees which are due and owing and have not been remitted to the \_ within 15 days following the date due shall have a penalty fee of \_ per cent (minimum \_ ) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the \_ from taking other actions as provided in this chapter.
  - (2) Keep such records as may be necessary or required by the \_ to indicate accurately the tonnage of commercial feed distributed in this State, and the \_ shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.
- (c) Fees collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this Act.
- (d) Records or reports maintained or filed under Section 9, Inspection Fees and Reports, are confidential and not subject to disclosure under applicable public records acts.

**Section 10. Rules and Regulations**

(a) The \_ is authorized to promulgate such rules and regulations for

commercial feeds (which includes pet and specialty pet foods) as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this Act. In the interest of uniformity the \_ shall by regulation adopt, unless the \_

determines that they are inconsistent with the provisions of this Act or are not appropriate to conditions which exist in this state, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
  - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act: Provided, that the \_ would have the authority under this Act to promulgate such regulations.
- (b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the \_ shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the \_ shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the \_ pursuant to the authority of this Act, adopts the Official Definitions of Feed Ingredients and Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the US Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the \_ by order specifically determines that said amendment of modification shall not be adopted.
- (c) **Food and Drug Rules.** Federal regulations contained in Title 21, Code of Federal Regulations, part 507, not otherwise adopted herein, also are adopted as feed rules of this state.

### Section 11. Inspection, Sampling, and Analysis

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the \_ , upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (2) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of records, and production and control procedures related to the manufacture, distribution, storage, handling, use or disposal of commercial feed as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable

promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.



- (c) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the inspector/sampler shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (d) If the owner of any factory, warehouse, or establishment described in paragraph (a), or their agent, refuses to admit the \_ or their agent to inspect in accordance with paragraphs (a) and (b), the \_ is authorized to obtain

from any State Court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.

- (e) For the enforcement of this Act, the \_ or their duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.
- (f) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (g) The results of all analyses of official samples shall be forwarded by the \_ to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within 30 days following the receipt of the analysis the \_ shall furnish to the registrant a portion of the sample concerned.
- (h) The \_, in determining for administrative purposes whether a commercial

feed is deficient in any component, shall be guided by the official sample as defined in paragraph (n) of Section 3 and obtained and analyzed as provided for in paragraphs (c), (e), and (f) of Section 11 of this Act.

### Section 12. Certificates

To facilitate continued access to markets for commercial feed and feed ingredients, the \_ may:

- (a) Inspect, audit or certify commercial feed manufacturer or distributor facilities at the request of the manufacturer or distributor to the extent authorized by this Act, or on the basis of other records voluntarily supplied by the manufacturer or distributor;
- (b) Issue certificates pursuant to subsection (a), such as, but not limited to, certificates of export from the state;
- (c) Promulgate, amend or adopt rules to inspect, audit or certify and issue certificates pursuant to this Section; and
- (d) Include a schedule of fees that addresses all activities required under this section. Such fees shall not duplicate those set forth in other sections of this Act.

### Section 13. Detained Commercial Feeds

- (a) "Withdrawal from distribution" orders: When the \_ or their authorized agent

has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Act or any of the prescribed regulations under This Act, the \_ may issue and enforce a written or printed "withdrawal

from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the \_ or

the Court. The \_ shall release the lot of commercial feed so withdrawn when

said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the \_ may begin, or upon request of the distributor

or registrant shall begin, proceedings for condemnation.

- (b) “Condemnation and Confiscation”: Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of \_ to a court of competent jurisdiction in the area in

which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this Act and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State: provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with this Act.

#### Section 14. Penalties

- (a) Any person convicted of violating any of the provisions of this Act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said or their duly authorized agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than \_ or more than \_ for the first violation, and not less than or more than \_ for a subsequent violation.
- (b) Nothing in this Act shall be construed as requiring the \_ or their representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the Act, or when the \_ believes the public interest will best be served by suitable notice of warning in writing.
- (c) It shall be the duty of each \_ attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the \_ reports a violation for such prosecution, an opportunity shall be given the distributor to present their view to the .
- (d) The \_ is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.
- (e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the (here name the particular Court in the county where the enforcement official has his office) for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.
- (f) Any person who uses to their own advantage, or reveals to other than the \_ , or officers of the \_ (appropriate departments of this State),

or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction thereof be fined not less than \$ \_\_\_\_\_ or imprisoned for not less than \_\_\_\_\_ year(s) or both: Provided, That

this prohibition shall not be deemed as prohibiting the \_\_\_\_\_, or their duly authorized agent, from exchanging information of a regulatory nature with duly

appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

- (g) Any person who violates any of the provisions of this Act or an order, standard, stipulation, agreement, citation, or schedule of compliance of the \_\_\_\_\_ or impedes, hinders, or otherwise prevents or attempts to prevent performance of a duty by the \_\_\_\_\_ in connection with this Act may be subject to a civil penalty of up to \$\_\_\_\_\_ per violation, per day as determined by the \_\_\_\_\_.
- (h) In any action to compel performance of an order of the \_\_\_\_\_ to enforce this Act, the court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.
- (i) The civil penalties and payments provided for in this section may be recovered by a civil action brought by the \_\_\_\_\_ in the name of the state.

**Section 15. Cooperation with Other Entities**

The \_\_\_\_\_ may cooperate with and enter into agreements with governmental agencies of this State, other States, agencies of the Federal Government, and private associations in order to carry out the purpose and provisions of this Act.

**Section 16. Publication**

The \_\_\_\_\_ shall publish at least annually, in such forms as the \_\_\_\_\_ may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the \_\_\_\_\_ may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the State as compared with the analyses guaranteed in the registration and on the label; Provided, That the information concerning production and use of commercial feed shall not disclose the operations of any person.

**Section 17. Constitutionality**

If any clause, sentence, paragraph, or part of this Act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 18. Repeal**

All laws and parts of laws in conflict with or inconsistent with the provisions of this Act are hereby repealed. (The specific statute and specific code sections to be repealed may have to be stated.)

**Section 19. Effective Date**

This Act shall take effect and be in force from and after the first day of \_\_\_\_\_.



## Model Regulations Under the Model Bill

Editor—Doug Lueders, MN

Pursuant to due publication and public hearing required by the provisions of Chapter \_ of the Laws of this State, the \_ has adopted the following Rules and Regulations.

### Regulation 1. Definition and Terms

- (a) The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), except as the \_ designates otherwise in specific cases.
- (b) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by AAFCO, except as the \_ designates otherwise in specific cases.
- (c) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 3(b) of the Act: Raw meat, hay, loose salt, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials: Provided that these commodities are not adulterated within the meaning of Section 7(a), of the Act.
- (d) Principal Display Panel means the out-facing side of the feed tag, or if no tag, the part of the label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

### Regulation 2. Label Format

- (a) Commercial feed, other than custom formula feed, shall bear the information prescribed in this regulation on the label of the product and in the following format.
  - (1) Product name and brand name, if any, as stipulated in Regulation 3(a)(1).
  - (2) If a drug is used, label as stipulated in Regulation 3(a)(2).
  - (3) Purpose statement as stipulated in Regulation 3(a)(3).
  - (4) Guaranteed analysis as stipulated in Regulation 3(a)(4).
  - (5) Feed ingredients as stipulated in Regulation 3(a)(5).
  - (6) Directions for use and precautionary statements as stipulated in Regulation 3(a)(6).
  - (7) Name and principal mailing address of manufacturer or persons responsible for distributing the feed as stipulated in Regulation 3(a)(7).
  - (8) Quantity statement.
- (b)
  - (1) The information as required in Regulation 2(a)(1), (2), (3) and (8) must appear in its entirety on the principal display panel.
  - (2) The information as required in Regulation 2(a)(4), (5), (6) and (7) shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Regulation 2(a)(6) does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as “See back of label for precautions.”
- (c) None of the information required by Regulation 2 shall be subordinated or obscured by other statements or designs.

- (d) Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information.
- (1) The name and address of the manufacturer.
  - (2) The name and address of the purchaser.
  - (3) The date of sale or delivery.
  - (4) The customer-formula feed name and brand name if any.
  - (5) The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture.
  - (6) The direction for use and precautionary statements as required by Regulations 7 and 8.
  - (7) If a drug containing product is used:
    - I. The purpose of the medication (claim statement)
    - II. The established name of each active drug ingredient and the level of each drug used in the mixture expressed in accordance with Regulation 4 (d).

### **Regulation 3. Label Information**

- (a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.
- (1) Product name and brand name if any.
    - I. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class, must be suitable for that purpose.
    - II. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.
    - III. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.
    - IV. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
    - V. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": Provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.
    - VI. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the \_ designates otherwise.



- VII. The word “vitamin,” or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Regulation 4(c).
- VIII. The term “mineralized” shall not be used in the name of a feed except for “TRACE MINERALIZED SALT.” When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
- IX. The term “meat” and “meat by-products” shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.
- X. If the commercial feed consists of raw milk, the words, “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)
- (2) If a drug is used:
- I. The word “medicated” shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.
  - II. Purpose statement as required in Regulation 3(a)(3).
  - III. The purpose of medication (claim statement).
  - IV. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Regulation 4 (d).
- (3) Purpose Statement
- I. The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Regulation 3(a)(4).
  - II. The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species and purpose while being consistent with the category of animal class defined in Regulation 3(a)(4) which may include, but is not limited to weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.
  - III. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.
  - IV. The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state “For Further Manufacture of Feed” if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. [This section applicable to commercial feeds regulated under Regulation 3(a)(4)(XI)(b)(10).]
  - V. The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species and state “For Further Manufacture of Feed” if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. [This section applicable to commercial feeds regulated under Regulation 3(a)(4)(XI)(b)(10).]
  - VI. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

VII. The statement of purpose for single ingredient feeds shall be stated as “Single Ingredient Feed” or “Feed Ingredient.” The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

- (4) Guarantees—Crude Protein, Equivalent Crude Protein from Non Protein Nitrogen, Amino Acids, Crude Fat, Crude Fiber, Acid Detergent Fiber, Neutral Detergent Fiber, Calcium, Phosphorus, Salt and Sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, International Units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure. Individual nutrient guarantees are not required if listed as exempt in section XII.

I. Required guarantees for swine formula feeds

- a. Animal classes
  - (1) Prestarter—2 to 11 pounds
  - (2) Starter—11 to 44 pounds
  - (3) Grower—44 to 110 pounds
  - (4) Finisher—110 pounds to market weight
  - (5) Gilts, sows, and adult boars
  - (6) Lactating gilts and sows
- b. Guaranteed analysis for swine complete feeds and supplements (all animal classes)
  - (1) Minimum percentage of crude protein
  - (2) Minimum percentage of lysine
  - (3) Minimum percentage of crude fat
  - (4) Maximum percentage of crude fiber
  - (5) Minimum and maximum percentage of calcium
  - (6) Minimum percentage of phosphorus
  - (7) Minimum and maximum percentage of salt (if added)
  - (8) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee
  - (9) Minimum selenium in parts per million (ppm)

II. Required guarantees for Formula Poultry Feeds (Broilers, Layers and Turkeys)

- a. Animal Classes
  - (1) Layer - Chickens that are grown to Produce eggs for food, e.g., table eggs
    - (a) Starting/Growing - From day of hatch to approximately 10 weeks of age.
    - (b) Finisher - From approximately 10 weeks of age to time fi egg is produced. (Approximately 20 weeks of age).
    - (c) Laying - From time first egg is laid throughout the time of egg production.
    - (d) Breeders - Chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle.
  - (2) Broilers - Chickens that are grown for human food.

- (a) Starting/growing - From day of hatch to approximately 5 weeks of age.
  - (b) Finisher - From approximately 5 weeks of age to market, (42 to 52 days).
  - (c) Breeders - Hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex.
  - (3) Broilers, Breeders - Chickens whose offspring are grown for human food (broilers).
    - (a) Starting/Growing - From day of hatch until approximately 10 weeks of age.
    - (b) Finishing - From approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age.
    - (c) Laying - Fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.
  - (4) Turkeys
    - (a) Starting/Growing - Turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).
    - (b) Finisher - Turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age, (or desired market weight).
    - (c) Laying - Female turkeys that are producing eggs; from time first egg is produced, throughout the time they are producing eggs.
    - (d) Breeder - Turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.
  - b. Guaranteed Analysis for Poultry Complete feeds and Supplements (all animal classes)
    - (1) Minimum percentage of Crude Protein
    - (2) Minimum percentage of Lysine
    - (3) Minimum percentage of Methionine
    - (4) Minimum percentage of Crude Fat
    - (5) Maximum percentage of Crude Fiber
    - (6) Minimum and maximum percentage of Calcium
    - (7) Minimum percentage of Phosphorus
    - (8) Minimum and maximum percentage of Salt (if added)
    - (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- III. Required Guarantees for Beef Cattle Formula Feeds.
- a. Animal Classes
    - (1) Calves (birth to weaning)
    - (2) Cattle on Pasture (may be specified as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.)
    - (3) Feedlot Cattle
  - b. Guaranteed analysis for Beef Complete Feeds and Supplements (all animal classes)
    - (1) Minimum percentage of Crude Protein

- (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minimum and maximum percentage of Calcium
  - (6) Minimum percentage of Phosphorus
  - (7) Minimum and maximum percentage of Salt (if added)
  - (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
  - (9) Minimum percentage of Potassium
  - (10) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
  - c. Guaranteed analysis for Beef Mineral Feeds (if added)
    - (1) Minimum and maximum percentage Calcium
    - (2) Minimum percentage of Phosphorus
    - (3) Minimum and maximum percentage of Salt
    - (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
    - (5) Minimum percentage of Magnesium
    - (6) Minimum percentage of Potassium
    - (7) Minimum Copper in parts per million (ppm)
    - (8) Minimum Selenium in parts per million (ppm)
    - (9) Minimum Zinc in parts per million (ppm)
    - (10) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound
- IV. Required Guarantees for Dairy Formula Feeds
- a. Animal Classes
    - (1) Veal Milk Replacer
    - (2) Herd Milk Replacer
    - (3) Starter
    - (4) Non-Lactating Dairy Cattle: Replacement Dairy Heifers, Dairy Bulls and Dairy Calves
    - (5) Lactating Dairy Cows
    - (6) Dry Dairy Cows
  - b. Guaranteed Analysis for Veal and Herd Replacement Milk Replacer
    - (1) Minimum percentage Crude Protein
    - (2) Minimum percentage Crude Fat
    - (3) Maximum percentage of Crude Fiber
    - (4) Minimum and maximum percentage Calcium
    - (5) Minimum percentage of Phosphorus
    - (6) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
  - c. Guaranteed Analysis for Dairy Cattle Complete Feeds and Supplements
    - (1) Minimum percentage of Crude Protein
    - (2) Maximum percentage of Equivalent Crude Protein from Non-Protein Nitrogen (NPN) when added
    - (3) Minimum percentage of Crude Fat
    - (4) Maximum percentage of Crude Fiber
    - (5) Maximum percentage of Acid Detergent Fiber (ADF)

- (6) Minimum and maximum percentage of Calcium
- (7) Minimum percentage of Phosphorus
- (8) Minimum Selenium in parts per million (ppm)
- (9) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- d. Required Guaranteed Analysis for Dairy Mixing and Pasture Mineral (if added)
  - (1) Minimum and maximum percentage of Calcium
  - (2) Minimum percentage of Phosphorus
  - (3) Minimum and maximum percentage of Salt
  - (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
  - (5) Minimum percentage of Magnesium
  - (6) Minimum percentage of Potassium
  - (7) Minimum Selenium in parts per million (ppm)
  - (8) Minimum Vitamin A, other than the precursors of Vitamin A, in international Units per pound
- V. Required Guarantees for Equine Formula Feeds
  - a. Animal Classes
    - (1) Growing
    - (2) Broodmare
    - (3) Maintenance
    - (4) Performance (Including Stallions)
  - b. Guaranteed Analysis for Equine Complete Feeds and Supplements (all animal classes)
    - (1) Minimum percentage of Crude Protein
    - (2) Minimum percentage of Crude Fat
    - (3) Maximum percentage of Crude Fiber
    - (4) Maximum percentage of Acid Detergent Fiber (ADF)
    - (5) Maximum percentage of Neutral Detergent Fiber (NDF)
    - (6) Minimum and maximum percentage of Calcium
    - (7) Minimum percentage of Phosphorus
    - (8) Minimum Copper in parts per million (ppm) (if added)
    - (9) Minimum Selenium in parts per million (ppm)
    - (10) Minimum Zinc in parts per million (ppm)
    - (11) Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound (if added)
  - c. Guaranteed Analysis for Equine Mineral Feeds (all animal classes)
    - (1) Minimum and maximum percentage of Calcium
    - (2) Minimum percentage of Phosphorus
    - (3) Minimum and maximum percentage of Salt (if added)
    - (4) Minimum and maximum percentage of Sodium
    - (5) Minimum Copper in parts per million (ppm) (if added)
    - (6) Minimum Selenium in parts per million (ppm)
    - (7) Minimum Zinc in parts per million (ppm)
    - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- VI. Required Guarantees for Goat Formula Feeds
  - a. Animal Classes
    - (1) Starter
    - (2) Grower

- (3) Finisher
- (4) Breeder
- (5) Lactating
- b. Guaranteed Analysis For Goat Complete Feeds And Supplements (all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Maximum percentage of Acid Detergent Fiber
  - (6) Minimum and maximum percentage of Calcium
  - (7) Minimum percentage of Phosphorus
  - (8) Minimum and maximum percentage of Salt (if added)
  - (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
  - (10) Minimum and maximum Copper in parts per million (ppm) (if added).
  - (11) Minimum Selenium in parts per million (ppm).
  - (12) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

VII. Required Guarantees for Sheep Formula Feeds

- a. Animal Classes
  - (1) Starter
  - (2) Grower
  - (3) Finisher
  - (4) Breeder
  - (5) Lactating
- b. Guaranteed Analysis for Sheep Complete Feeds and Supplements (all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minimum and maximum percentage of Calcium
  - (6) Minimum percentage of Phosphorus
  - (7) Minimum and maximum percentage of Salt (if added)
  - (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
  - (9) Minimum and maximum Copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm)
  - (10) Minimum Selenium in parts per million (ppm)
  - (11) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

VIII. Required Guarantees for Duck and Geese Formula Feeds.

- a. Animal Classes
  - (1) Ducks
    - (a) Starter - 0 to 3 weeks of age
    - (b) Grower - 3 to 6 weeks of age

- (c) Finisher - 6 weeks to market
- (d) Breeder Developer - 8 to 19 weeks of age
- (e) Breeder - 22 weeks to end of lay
- (2) Geese
  - (a) Starter - 0 to 4 weeks of age
  - (b) Grower - 4 to 8 weeks of age
  - (c) Finisher - 8 weeks to market
  - (d) Breeder Developer - 10 to 22 weeks of age
  - (e) Breeder - 22 weeks to end of lay
- b. Guaranteed Analysis for Duck and Geese Complete Feeds and Supplements (for all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Crude Fat
  - (3) Maximum percentage of Crude Fiber
  - (4) Minimum and maximum percentage of Calcium
  - (5) Minimum percentage of Phosphorus
  - (6) Minimum and maximum percentage of Salt (if added)
  - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- IX. Required Guarantees for Fish Complete Feeds and Supplements
  - a. Animal Species shall be declared in lieu of animal class
    - (1) Trout
    - (2) Catfish
    - (3) Species other than trout or catfish
      - (1) Minimum percentage of Crude Protein
      - (2) Minimum percentage of Crude Fat
      - (3) Maximum percentage of Crude Fiber
      - (4) Minimum percentage of Phosphorus
- X. Required Guarantees for Rabbit Complete Feeds and Supplements
  - a. Animal Classes
    - (1) Grower - 4 to 12 weeks of age
    - (2) Breeder - 12 weeks of age and over
  - b. Guaranteed analysis for Rabbit Complete Feeds and Supplements (all animal classes)
    - (1) Minimum percentage of Crude Protein
    - (2) Minimum percentage of Crude Fat
    - (3) Minimum and maximum percentage of Crude Fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units)
    - (4) Minimum and maximum percentage of Calcium
    - (5) Minimum percentage of Phosphorus
    - (6) Minimum and maximum percentage of Salt (if added)
    - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
    - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- XI. The required guarantees of grain mixtures with or without molasses and feeds other than those described in regulation 3(a)(4) (I thru X) shall include the following items, unless exempted in section XII, in the order listed:

- a. Animal class(es) and species for which the product is intended.
- b. Guaranteed analysis
  - (1) Minimum percentage Crude Protein
  - (2) Maximum or minimum percentage of equivalent Crude Protein from Non-Protein Nitrogen as required in Regulation 4(e)
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minerals in formula feeds, to include in the following order:
    - (a) Minimum and maximum percentages of Calcium
    - (b) Minimum percentage of Phosphorus
    - (c) Minimum and maximum percentage of Salt (if added)
    - (d) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
    - (e) Other Minerals
  - (6) Minerals in feed ingredients - as specified by the official definitions of the Association of American Feed Control Officials
  - (7) Vitamins in such terms as specified in Regulation 4(c)
  - (8) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content
  - (9) Viable lactic acid producing microorganisms for use in silages in terms specified in Regulation 4(g)
  - (10) A commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source  
for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose. Article II of AAFCO's "Criteria for Labeling Nutritional Indicators" is not applicable to the label guarantees for these specialized commercial feeds

## XII. Exemptions.

- a. A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:
  - (1) The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
  - (2) The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral.
- b. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.
- c. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.
- d. Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the



- primary purpose of the product, and no specific label claims are made.
- e. The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.
- (5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 5(a)(4) of the Act.
- I. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the
  - II. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; Provide that:
    - a. When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.
    - b. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.
  - III. The registrant may affix the statement, “Ingredients as registered with the State” in lieu of ingredient list on the label. The list of ingredients must be on file with the \_\_\_\_\_. This list shall be made available to the feed purchaser upon request.
- (6) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Regulations 7 and 8 appear elsewhere on the label.
- (7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, zip code; However, the street address may be omitted if it is shown in the current city directory or telephone directory.
- (8) Quantity Statement
- I. Net quantity shall be declared in terms of weight, liquid measure or count, based on applicable requirements under Section 4 of the Fair Packaging and Labeling Act.
  - II. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart and in appropriate Si metric system units.
  - III. When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

**Regulation 4. Expression of Guarantees**

- (a) The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and acid detergent fiber shall be in terms of percentage.
- (b) Mineral Guarantees
  - (1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis such shall be stated and conform to the following:
    - I. When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.
    - II. When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.
    - III. When the minimum is above 5.0% or greater the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.
  - (2) When stated, guarantees for minimum and maximum total sodium, and salt; minimum potassium, magnesium, sulfur, phosphorus and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.
  - (3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.
- (c) Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb. or in units consistent with those employed for the quantity statement unless otherwise specified:
  - (1) Vitamin A, other than precursors of vitamin A, in International Units per pound.
  - (2) Vitamin D-3 in products offered for poultry feeding, in International Chick Units per pound.
  - (3) Vitamin D for other uses, International Units per pound.
  - (4) Vitamin E, in International Units per pound.
  - (5) Concentrated oils and feed additive premixes containing vitamins A, D and/or E may, at the option of the distributor be stated in units per gram instead of units per pound.
  - (6) Vitamin B-12, in milligrams or micrograms per pound.
  - (7) All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.
- (d) Guarantees for drugs shall be stated in terms of percent by weight, except:
  - (1) Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed.
  - (2) Antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed.
  - (3) Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain

antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

- (4) The term “milligrams per pound” may be used for drugs or antibiotics in those cases where a dosage is given in “milligrams” in the feeding directions.
- (e) Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:
- (1) For ruminants
    - a. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows:  
Crude Protein, minimum, \_ %  
(This includes not more than \_ % equivalent crude protein from non-protein nitrogen).
    - b. Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows:  
Equivalent Crude Protein from Non-Protein Nitrogen,  
minimum, %
    - c. Ingredient sources of non-protein nitrogen such as Urea, Diammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:  
Nitrogen, minimum, %  
Equivalent Crude Protein from Non-Protein Nitrogen,  
minimum, %
  - (2) For non-ruminants
    - a. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:  
Crude protein, minimum \_ %  
(This includes not more than \_ % equivalent crude protein  
  
which is not nutritionally available to (species of animal for which feed is intended).
    - b. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement:  
**WARNING: This feed must be used only in accordance with directions furnished on the label.**
- (f) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.
- (g) Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb.) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.
- (h) Guarantees for enzymes shall be stated in units of enzymatic activity per unit

weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: Protease (*Bacillus*

*subtilis*) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

- (i) Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:
  - (1) A commercial feed which bears on its labeling a claim in any manner for levels of “dietary starch,” “sugars,” “fructans,” or words of similar designation, shall include on the label:
    - (a) Guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee.
    - (b) A maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.
  - (2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

#### **Regulation 5. Substantiation of Nutritional Suitability**

- (a) A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.
- (b) If the \_\_\_\_\_ has reasonable cause to believe a commercial feed is not nutritionally suitable, the \_\_\_\_\_ may request the feed manufacturer to either submit an “Affidavit of Suitability” or an alternative procedure acceptable to the \_\_\_\_\_, certifying the nutritional adequacy of the feed. The Affidavit of Suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.
- (c) If an Affidavit of Suitability, or alternative procedure acceptable to the \_\_\_\_\_ is not submitted by the feed manufacturer within 30 days of written notification the \_\_\_\_\_ may deem the feed adulterated under section 7(c) of this Act and order the feed removed from the marketplace.
- (d) The Affidavit of Suitability shall contain the following information:
  - (1) The feed company’s name;
  - (2) The feed’s product name;
  - (3) The name and title of the affiant submitting the document;
  - (4) A statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;
  - (5) The date of submission; and
  - (6) The signature of the affiant notarized by a certified Notary Public.

#### **Regulation 6. Ingredients**

- (a) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the \_\_\_\_\_.
- (b) The name of each ingredient must be shown in letters or type of the same size.
- (c) No reference to quality or grade of an ingredient shall appear in the ingredient

statement of a feed.

- (d) The term “dehydrated” may precede the name of any product that has been artificially dried.
- (e) A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.
- (f) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar).
- (g) When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

#### Regulation 7. Directions for Use and Precautionary Statements

- (a) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:
  - (1) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and,
  - (2) Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug, and Cosmetic Act.
- (b) Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in Regulation 8.
- (c) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.
- (d) Raw milk distributed as commercial feed shall bear the following statement: **“WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in. <sup>2</sup>	1/16 in.
>5–≤25 in. <sup>2</sup>	1/8 in.
>25–≤100 in. <sup>2</sup>	3/16 in.
>100–≤400 in. <sup>2</sup>	1/4 in.
>400 in. <sup>2</sup>	1/2 in.

#### Regulation 8. Non-Protein Nitrogen

- (a) Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate

directions for the safe use of feeds and a precautionary statement: **“CAUTION: USE AS DIRECTED.”** The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

- (b) Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- (c) On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

#### **Regulation 9. Drug and Feed Additives**

- (a) Prior to approval of a registration application and/or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.
- (b) Satisfactory evidence of safety and efficacy of a commercial feed may be:
  - (1) When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in Title 21, Code of Federal Regulations, or which are “prior sanctioned” or “informal review sanctioned” or “generally recognized as safe” for such use, or
  - (2) When the commercial feed is itself a drug as defined in Section 3(g) of the Act and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Section 512 of the Federal Food, Drug, and Cosmetic Act, or
  - (3) When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or
  - (4) When the commercial feed is a direct fed microbial product and:
    - I. The product meets the particular fermentation product definition; and
    - II. The microbial content statement, as expressed in the labeling, is limited to the following: “Contains a source of live (viable) naturally occurring microorganisms.” This statement shall appear on the label; and
    - III. The source is stated with a corresponding guarantee expressed in accordance with Regulation 4.(g).
  - (5) When the commercial feed is an enzyme product and:
    - I. The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and
    - II. The enzyme is stated with a corresponding guarantee expressed in accordance with Regulation 4.(h).



**Regulation 10. Adulterants**

- (a) For the purpose of Section 7(a)(1) of the Act, the terms “poisonous or deleterious substances” include but are not limited to the following:
- (1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.
  - (2) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry.
  - (3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of Fluorine per 100 pounds of body weight.
  - (4) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
  - (5) Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).
- (b) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than \_ viable prohibited weed seeds per pound and not more than \_ viable restricted weed seeds per pound.

**Regulation 11. Current Good Manufacturing Practices and Hazard Analysis and Risk-Based Preventive Controls**

- (a) For the purposes of enforcement of Section 7(d) of the Act the \_ adopts the following as current good manufacturing practices:
- (1) The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in Title 21, Code of Federal Regulations, 225.1–225.202.
  - (2) The regulations prescribing good manufacturing practices for Type A Medicated Articles as published in the Title 21, Code of Federal Regulations, 226.1–226.115.
- (b) Pursuant to Section 10 of the Act, the \_ adopts the requirements of Title 21, Code of Federal Regulations, part 507.

**Regulation 12. Certain Mammalian Proteins Prohibited in Ruminant Feed**

- (a) Pursuant to Section 7(a)(1) or 7(a)(3) of the Act, the \_ adopts the requirements of Title 21, Code of Federal Regulations, 589.2000.
- (b) Pursuant to Section 7(a)(1) or 7(a)(3) of the Act, the \_ adopts the requirements of Title 21, Code of Federal Regulations, 589.2001.



## Criteria for Labeling Nutritional Indicators

Section Editor—Chair, Feed Labeling Committee

### I. Nutritional Considerations

- (a) Nutritional indicators identified as important by 50% of a panel of 10 recognized experts chosen by the joint AAFCO/Industry Label Task Force will be required as a guarantee provided that the other requirements of these criteria are met. **Five of the experts shall be from Land Grant Universities and 5 from the regulated industry.**
- (b) The nutritional indicator must be compatible with the feed product's intended purpose to be permitted as a guarantee.
- (c) There must be a general recognition and understanding of the nutritional indicator by the feeder, to be permitted as a guarantee.
- (d) If feeding safety or efficacy is dependent upon the knowledge of presence and level of a nutritional indicator, it may be required as a guarantee even though it was not identified in I (a) above.

### II. Enforceability

To be permitted as a guarantee, a nutrient indicator must be: verifiable by an established AOAC method; or other recognized method.

### III. Economics

- (a) It will be assumed that there will be a commensurate benefit to the feeder from the guarantee of the nutrient, unless evidence is provided to show that the cost of the state monitoring and/or industry implementation of the guarantee would not provide commensurate value to the feeder.

### IV. Historically Required

If the nutritional indicator has a historical significance and is required by current state law and/or regulation, then only this criterion applies and the nutritional indicator should be guaranteed.

#### *Exception*

A nutritional indicator may be removed if agreed upon by two-thirds of the members of the expert panel established in I(a).

### V. Voluntary Guarantees

- (a) May be included on a feed label provided that criteria established by II and III above are met.

## **Model Regulations for Pet Food and Specialty Pet Food Under the Model Bill**

Section Editor—Stan Cook, MO

These Model Regulations are approved by the Association of American Feed Control Officials (AAFCO) under the Model Bill and in conjunction with the Model Regulations. States proposing to adopt these Model Regulations for Pet Food and Specialty Pet Food under their own state feed law are encouraged to adopt AAFCO's Model Regulations for feed, which also apply to pet food and specialty pet food, unless otherwise noted within these regulations.

Pursuant to due publication and public hearing required by the provisions of Chapter \_\_\_\_\_ of the Laws of this State, the \_\_\_\_\_ has adopted the following Rules and Regulations.

### **Regulation PF1. Definitions and Terms**

The definitions in the Model Bill and Model Regulations shall apply in addition to the following:

- (a) "All Life Stages" means gestation/lactation, growth, and adult maintenance life stages.
- (b) "Family" means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s).
- (c) "Immediate Container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
- (d) "Ingredient Statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
- (e) "Principal Display Panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

### **Regulation PF2. Label Format and Labeling**

- (a) Pet food and specialty pet food shall be labeled with the following information prescribed in this Regulation:
  - (1) Product name and brand name, if any, on the principal display panel as stipulated in Regulation PF3;
  - (2) A Statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel;
  - (3) Quantity statement, as defined in Section 3(s) of this Act and Regulation 3(a)(8) of the Model Regulations, by weight (pounds and ounces, and metric), liquid measure (quarts, pints and fluid ounces, and metric) or by count, on the principal display panel;
  - (4) Guaranteed analysis as stipulated in Regulation PF4;
  - (5) Ingredient statement as stipulated in Regulation PF5(a);
  - (6) A statement of nutritional adequacy or purpose if required under Regulation PF7;
  - (7) Feeding directions if required under Regulation PF8; and
  - (8) Name and address of the manufacturer or distributor as stipulated in Regulation PF11.
- (b) When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

- (c) A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
- (d) The use of the word “proven” in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
- (e) No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
- (f) A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
- (g) A statement on a pet food or specialty pet food label stating “Improved,” “New,” or similar designation shall be substantiated and limited to six (6) months production.
- (h) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.
- (i) Raw milk distributed as pet food or specialty pet food shall bear the following statement **“WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in. <sup>2</sup>	1/16 in.
>5–≤25 in. <sup>2</sup>	1/8 in.
>25–≤100 in. <sup>2</sup>	3/16 in.
>100–≤400 in. <sup>2</sup>	1/4 in.
>400 in. <sup>2</sup>	1/2 in.

### Regulation PF3. Brand and Product Names

- (a) The words “100%,” or “All,” or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.
- (b) An ingredient or combination of ingredients may form part of a product name of a pet food or specialty pet food:
  - (1) When the ingredient(s) constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredients shall constitute at least 70% of the total product weight.
  - (2) When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:
    - A. Water sufficient for processing may be excluded when calculating the percentage, however, the ingredient(s) shall constitute at least 10% of the total product weight; and
    - B. A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula.

Examples of descriptors include “dinner,” “platter,” “entree,” “formula,” and “recipe”; and

- C. The descriptor shall be in the same size, style, and color print as the ingredient name(s).
- (3) When a combination of ingredients which are included in the product name in accordance with Regulation PF3(b) meets all of the following:
- A. Each ingredient constitutes at least 3% of the product weight, excluding water sufficient for processing; and
  - B. The names of the ingredients appear in the order of their respective predominance by weight in the product; and
  - C. All such ingredient names appear on the label in the same size, style, and color print.
- (c) When the name of any ingredient appears in the product name of a pet food specialty pet food or elsewhere on the product label and includes a descriptor such as “with” or similar designation, the named ingredient(s) must each constitute at least 3% of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The 3% minimum level shall not apply to claims for nutrients, such as, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word “with,” or similar designation, and named ingredients shall be in the same size, style, color and case print and be of no greater size than:

Panel Size	Max “With Claim” Type Size
≤5 in. <sup>2</sup>	1/8 in.
>5–≤25 in. <sup>2</sup>	1/4 in.
>25–≤100 in. <sup>2</sup>	3/8 in.
>100–≤400 in. <sup>2</sup>	1/2 in.
>400 in. <sup>2</sup>	1 in.

- (d) A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:
- (1) The flavor designation:
    - A. Conforms to the name of the ingredient as listed in the ingredient statement; or
    - B. Is identified by the source of the flavor in the ingredient statement; and
  - (2) The word “flavor” is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and
  - (3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.
- (e) The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by Regulation PF3 (b) or (c); provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:
- (1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present

- in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or
- (2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
- (f) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Regulation PF3 (b), (c), or (d).
  - (g) When pet food or specialty pet food consists of raw milk, the words, “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

**Regulation PF4. Expression of Guarantees**

- (a) The “Guaranteed Analysis” shall be listed in the following order and format unless otherwise specified in these Regulations:
  - (1) A pet food or specialty pet food label shall list the following required guarantees;
    - A. Minimum percentage of crude protein;
    - B. Minimum percentage of crude fat;
    - C. Maximum percentage of crude fat, if required by Regulation PF10;
    - D. Maximum percentage of crude fiber;
    - E. Maximum percentage of moisture; and
    - F. Additional guarantees shall follow moisture.
  - (2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
  - (3) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer “not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles.” The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.
  - (4) A specialty pet food label shall list other required or voluntary guarantees in the same order and units of the nutrients in an AAFCO-recognized nutrient profile for the specific species; however, if no species-specific AAFCO-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile. Guarantees for substances not listed in an AAFCO recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer “not recognized as an essential nutrient by the \_\_\_\_\_.” (Blank is to be completed by listing the specific AAFCO recognized nutrient profile.) This disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. No such disclaimer shall be required unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.
- (b) The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, “Minimum crude protein 15–18%”) is prohibited.

- (c) The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:
  - (1) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or
  - (2) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in the AAFCO Cat Food Nutrient Profiles when no species-specific nutrient profile has been recognized by AAFCO; and provided that
  - (3) Mineral guarantees required by Regulation PF4 (c)(1) and (2) may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
  - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- (d) The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
  - (1) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or
  - (2) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the AAFCO Cat Food Nutrient Profiles when no species-specific nutrient profile has been recognized by AAFCO; and provided that
  - (3) Vitamin guarantees required by Regulation PF4(d)(1) and (2), may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
  - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- (e) When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply:
  - (1) The product shall meet the AAFCO-recognized nutrient profile; and
  - (2) The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile: however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per Regulation PF7(a)(1) or PF7(b)(2)(A) appears elsewhere on the product label; and
  - (3) The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
  - (4) The statement of comparison may appear on the label separate and apart from the guaranteed analysis.
- (f) The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.
- (g) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.



- (h) Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in Model Regulations 4(g) and (h).

**Regulation PF5. Ingredients**

- (a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
  - (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style and color;
  - (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
  - (3) Ingredients shall be listed and identified by the name and definition established by AAFCO; and
  - (4) Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.
- (b) The ingredients “meat” or “meat by-products” shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as “horsemeat” or “horsemeat by-products.”
- (c) Brand or trade names shall not be used in the ingredient statement.
- (d) A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
  - (1) The designation is not false or misleading;
  - (2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
  - (3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

**Regulation PF6. Drugs and Pet Food Additives**

- (a) An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.
- (b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
  - (1) When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “Generally Recognized as Safe” for such use; or
  - (2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 3 (g) of this Act and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).
- (c) When a drug is included in a pet food or specialty pet food, the format required by Model Regulation 3(a)(2) for labeling medicated feeds shall be used.

**Regulation PF7. Nutritional Adequacy**

- (a) The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” if at least one of the following apply:
- (1) The product meets the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile; or
  - (2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or
  - (3) The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that:
    - A. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
    - B. The family product meets the criteria for all life stages; and
    - C. Under circumstances of reasonable doubt, the (State Control Official) may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.
- (b) The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may include a qualified claim such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” when the product and claim meet all of the following:
- (1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens).” The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and
  - (2) The product meets at least one of the following:
    - A. The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or
    - B. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or
    - C. The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:
      - i. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
      - ii. The family product meets the criteria for such limited purpose; and
      - iii. Under circumstances of reasonable doubt, the (State Control Official) may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.
- (c) Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and

conspicuously identified on the principal display panel as a “snack,” “treat,” or “supplement.” The statement shall consist of one of the following:

- (1) A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:
  - A. “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for \_ \_ \_ .” (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation/lactation, growth, maintenance or the words “All Life Stages”). For a dog food, when the blank includes the words “Growth” or “All Life Stages,” one of the following phrases must also be added verbatim to the end of the claim:
    - i. “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.
    - ii. “except for growth of large size dogs (70 lb. or more as an adult)” if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or
  - B. “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for \_ \_ \_ .” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”); or
  - C. “(Name of Product) provides complete and balanced nutrition for \_ \_ \_ . (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation, lactation, growth, maintenance or the words “All Life Stages”) and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests.”
- (2) A nutritional or dietary claim for purposes other than those listed in Regulation PF7(a) or (b) if the claim is scientifically substantiated; or
- (3) The statement: “This product is intended for intermittent or supplemental feeding only,” if a product does not meet the requirements of Regulation PF7(a) or (b) or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
- (d) A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Regulation PF7(c)(1) or (3).
- (e) A signed affidavit attesting that the product meets the requirements of Regulation PF7(a) or PF7(b)(2) shall be submitted to the \_ \_ \_ upon request.
- (f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.
- (g) The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:
  - (1) As an AAFCO-recognized nutrient profile or nutritional authority:
    - A. For dogs, the AAFCO Dog Food Nutrient Profiles;
    - B. For cats, the AAFCO Cat Food Nutrient Profiles;

- C. For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.
- (2) As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols.

#### **Regulation PF8. Feeding Directions**

- (a) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Regulation PF7(c)(1), except those pet foods labeled in accordance with Regulation PF7(d), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., “adult formula”). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state, “Feed (weight/unit of product) per (weight only) of dog (or cat).” The frequency of feeding shall also be specified.
- (b) When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: “Use only as directed by your veterinarian” may be used in lieu of feeding directions.
- (c) Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Regulation PF7(a), shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

#### **Regulation PF9. Statements of Calorie Content**

- (a) The label of a dog or cat food, including snacks, treats, and supplements, shall bear a statement of calorie content and meet all of the following:
  - (1) The statement shall be separate and distinct from the “Guaranteed Analysis” and appear under the heading “Calorie Content”;
  - (2) The statement shall be measured in terms of metabolizable energy (ME) on an “as fed” basis and must be expressed both as “kilocalories per kilogram” (“kcal/kg”) of product, and as kilocalories per familiar household measure (e.g., cans or cups) or unit of product (e.g., treats or pieces); and
  - (3) The calorie content is determined by one of the following methods:
    - A. By calculation using the following “Modified Atwater” formula:
 
$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})],$$
 where ME = metabolizable energy,  
 CP = % crude protein “as fed,”  
 CF = % crude fat “as fed,”  
 NFE = % nitrogen-free extract (carbohydrate) “as fed,”  
 and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference

- between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or
- B. In accordance with a testing procedure established by AAFCO.
- (4) An affidavit shall be provided upon the request of \_\_\_\_\_, substantiating that the calorie content was determined by:
- A. Regulation PF9(a)(3)A in which case the summary data used in the calculation shall be included in the affidavit; or
- B. Regulation PF9(a)(3)B in which case the summary data used in the determination of calorie content shall accompany the affidavit.
- (5) The calorie content statement shall appear as one of the following:
- A. The heading “Calorie Content” on the label or other labeling shall be followed parenthetically by the word “calculated” when the calorie content is determined in accordance with Regulation PF9(a)(3)A; or
- B. The heading “Calorie Content” on the label or other labeling shall be followed parenthetically by the word “fed” when the calorie content is determined in accordance with Regulation PF9(a)(3)B.
- (b) Comparative claims shall not be false, misleading, or give undue emphasis and shall be based on the same methodology for the products compared.

#### **Regulation PF10. Descriptive Terms**

- (a) Calorie Terms
- (1) “Light”
- A. A dog food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall:
- i. Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
- ii. Include on the label a calorie content statement:
- aa. In accordance with the format provided in Regulation PF9; and
- bb. Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
- iii. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
- B. A cat food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall:
- i. Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
- ii. Include on the label a calorie content statement:
- aa. In accordance with the format provided in Regulation PF9; and
- bb. Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less

- than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
- iii. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
- (2) “Less” or “Reduced Calories”
- A. A dog or cat food product which bears on its label a claim of “less calories,” “reduced calories,” or words of similar designation, shall include on the label:
    - i. The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
    - ii. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
    - iii. A calorie content statement in accordance with the format provided in Regulation PF9; and
    - iv. Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.
  - B. A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.
- (b) Fat Terms
- (1) “Lean”
- A. A dog food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall:
    - i. Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;
    - ii. Include on the product label in the Guaranteed Analysis:
      - aa. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and
      - bb. A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.
  - B. A cat food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall:
    - i. Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and
    - ii. Include on the product label in the Guaranteed Analysis:
      - aa. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and

- bb. A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.
- (2) “Less” or “Reduced Fat”
- A. A dog or cat food product which bears on its label a claim of “less fat,” “reduced fat,” or words of similar designation, shall include on the label:
    - i. The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
    - ii. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
    - iii. A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1).
  - B. A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

#### **Regulation PF11. Manufacturer or Distributor; Name and Address**

- (a) The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label.
- (b) When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

#### **Guidelines for Tartar Control Claims**

The AAFCO Pet Food Committee supports and recommends the following guidelines as developed by the Center for Veterinary Medicine of the US Food and Drug Administration for dental health claims with respect to rawhides, biscuits, and other pet food products:

- (1) Foods bearing claims to cleanse, freshen, or whiten teeth by virtue of their abrasive or mechanical action are not objectionable.
- (2) Foods bearing claims for plaque or tartar reduction or prevention, or control of breath odor may be misbranded. However, if these claims are made only with respect to the products’ abrasive action, enforcement would be a low priority. Thus, CVM is exercising discretion by not objecting to these types of claims at this time.
- (3) Foods bearing expressed or implied drug claims to prevent or treat dental diseases (e.g., gingivitis, gum problems, tooth loss) are not permissible unless they are the subject of approved New Animal Drug Applications.
- (4) Food ingredients that are not GRAS (generally recognized as safe) for the intended purpose of affecting the teeth or gums may be unapproved food additives or unapproved drugs, depending on the nature of the claim.

- (5) Foods bearing claims for plaque or tartar reduction, prevention, or control of breath odor that achieve their effect, in part or in total, by means other than mechanical action must have an approved New Animal Drug Application or a letter of no objection from the FDA prior to being marketed.

### **Guidelines for “Natural” Claims**

AAFCO recommends and supports the following guidelines for use of the term “natural” in the labeling of commercial feeds, pet foods, and specialty pet foods.

- (1) In the AAFCO-defined feed term “natural,” the use of the term “natural” is only acceptable in reference to the product as a whole when all of the ingredients and components of ingredients meet the definition.
- (2) In the definition, the use of the term “natural” is false and misleading if any chemically synthesized ingredients are present in the product; however, AAFCO recommends that exceptions be made in the cases when chemically synthesized vitamins, minerals, or other trace nutrients are present as ingredients in the product, provided that the product is not a dietary supplement and that a disclaimer is used to inform the consumer that the vitamins, minerals or other trace nutrients are not natural.

AAFCO recommends that an acceptable use of the disclaimer would be stated as follows on the product labeling:

- A. The disclaimer, such as “Natural with added vitamins, minerals, and other trace nutrients [include the items as appropriate to match the chemically synthesized ingredient(s)],” is juxtaposed with the term “natural”; and
  - B. The disclaimer appears with the largest or most prominent use of the term “natural” on each panel of the label on which the term appears, in the same style and color print and at least one-half the size of the term “natural”; and
  - C. All other ingredients and components of ingredients in the product meet the definition of the AAFCO-approved feed term “natural.”
- (3) If the disclaimer that is juxtaposed with the term “natural” is used only to identify in generic terms those vitamins, minerals and other trace nutrients which are not natural, AAFCO recommends that the disclaimer should not be construed as a nutrient claim which would warrant vitamin and mineral guarantees. However, if the disclaimer makes reference to a specific nutrient (e.g., “with added calcium”), a guarantee would be warranted.
  - (4) AAFCO also recommends that exceptions be made when the term “natural” is used only in reference to a specific ingredient (e.g., “natural cheese flavor”), even though the product as a whole may not meet the definition of the AAFCO-defined feed term “natural,” and that the reference does not imply that the product as a whole is “natural.”

### **Guidelines for “Human Grade” Claims**

AAFCO recommends and supports the following guidelines for the use of the term “human grade” in the labeling of pet foods and specialty pet foods.

- (1) In the AAFCO-defined feed term “human grade,” the use of the term “human grade” is only acceptable in reference to the product as a whole. The feed term specifies that every ingredient and the resulting product must be stored, handled, processed, and transported in a manner that is consistent and compliant with regulations for current good manufacturing practices (cGMPs) for human edible foods as specified in 21 CFR part 117.
- (2) In the definition, the term “human grade” is false and misleading if the product



- as a whole is not human edible. “Human grade” claims may not be made for individual ingredients in a finished product that does not fully adhere to the manufacturing and ingredient specifications identified above.
- (3) In order to substantiate that a “human grade” claim is truthful and not misleading, a manufacturer making one or more “human grade” claims must have documentation that:
    - A. Each of the individual ingredient suppliers has verified that the individual ingredients supplied to the manufacturer are fit for human consumption.
    - B. Every ingredient and the resulting product are stored, handled, processed, and transported in a manner that is consistent and compliant with regulations for cGMPs for human edible foods as specified in 21 CFR part 117.
    - C. The manufacturing facility is licensed to produce human food by the appropriate authority (which varies by jurisdiction). Such evidence may include, but is not limited to, facility licenses or permits for operation of edible food manufacturing facilities or results of most recent inspections issued by local, county, or state public health authorities.
  - (4) A pet food or specialty pet food product with “human grade” claims must be clearly labeled for its intended use as animal food, such as “dog food” or “cat treats,” and follow all other pet food or specialty pet food labeling requirements. The following also applies to labeling:
    - A. Statements of quality or grade may not appear in the ingredient statement [PF5(d)(3)].
    - B. All uses of the words “human grade” on the label can be no larger than the statement of intended use required by PF2(a)(2).
    - C. A claim of “human grade ingredients” is only acceptable if the product complies with all parts of this guideline.
    - D. In order to use the term “human grade” on labeling (brochures, point of sale materials, websites, etc.), the statement of intended use must also be included. All uses of the words “human grade” on labeling can be no larger than the statement of intended use.

### **AAFCO Methods for Substantiating Nutritional Adequacy of Dog and Cat Foods**

**This section contains the minimum testing methods for the substantiation of nutritional adequacy claims, calorie content claims, and procedures for establishing pet food product families referenced in AAFCO Model Pet Food and Specialty Pet Food Regulations PF2, 4, 7, 8, 9 and/or 10. These methods represent minimum requirements. Companies may choose, or may need, to perform additional testing to substantiate their claims.**

#### **AAFCO Dog and Cat Food Nutrient Profiles—Introduction**

The Pet Food committee recommends that the revisions to the AAFCO Dog and Cat Food Nutrient Profiles not be enforced until 12 months (1/1/2017) for new products in development and 24 months (1/1/2018) for existing products after publication of the revised AAFCO Dog and Cat Food Nutrient Profiles in the print version of the AAFCO OP.

The Pet Food committee also recommends that the revisions to PF7 of the Pet Food Model Regulations for Pet and Specialty Pet Food Under the Model Bill not be enforced

until enforcement commences for the revised AAFCO Dog and Cat Food Nutrient Profiles.

Delayed enforcement and implementation of the revised PF7 language for nutritional adequacy statements would allow nutritional adequacy statements on products in the market place to be either: verbatim as shown in 2014 OP hard copy, or verbatim as shown in the OP hard copy containing the revised nutrient profiles, until 24 months after publication of the revised nutrient profiles at which time the statement must be as verbatim in the revised PF7.

The original Canine and Feline Nutrition Expert Subcommittees convened in 1990 were charged by the chair of the AAFCO Pet Food Committee to establish practical nutrient profiles for both dog and cat foods based on commonly used ingredients. These subcommittees established the “AAFCO Dog Food Nutrient Profiles” and the “AAFCO Cat Food Nutrient Profiles” that appeared in the Official Publication of the AAFCO in 1992 and 1993, respectively. The profiles were reviewed in 1994/95 and updates to the maximum concentrations for vitamin A in dog foods were implemented in 1996.

The National Research Council (NRC) in 2006 updated its published *Nutrient Requirements of Dogs* and *Nutrient Requirements of Cats* in a single publication that combined recommendations for both species.<sup>1</sup> In 2007 the AAFCO Pet Food Committee again formed Canine and Feline Nutrition Expert Subcommittees and charged these subcommittees with the task of revising the AAFCO Nutrient Profiles in consideration of the information in the 2006 NRC *Nutrient Requirements of Dogs and Cats* (2006 NRC). In addition, the subcommittees considered information in the NRC *Mineral Tolerance of Animals Second Revised Edition, 2005* (2005 *Mineral Tolerance of Animals*).<sup>2</sup> Finally, the subcommittees also reviewed and considered the recommended nutrient concentrations for dog and cat food products as published in February 2008 by the European Pet Food Industry Federation (Federation Europeenne de l'Industrie des Aliments pour Animaux Familiers (FEDIAF)), titled *F.E.D.I.A.F. Nutritional Guidelines for Complete and Complementary Pet Food for Cats and Dogs*, (FEDIAF Guidelines) that are roughly the European equivalent to the AAFCO Dog and Cat Food Nutrient Profiles.<sup>3</sup>

The AAFCO Dog and Cat Food Nutrient Profiles were designed to establish practical minimum and some maximum nutrient concentrations for dog and cat foods, formulated from commonly used, non-purified, complex ingredients. The concentrations differ from minimum nutrient requirements traditionally developed by the NRC Committee on Animal Nutrition. Many of the NRC minimum nutrient requirements are based on research with purified diets and/or highly bioavailable nutrient sources that are not practical to use in commercial dog and cat foods. Therefore, unlike the previous NRC publications *Nutrient Requirements of Dogs* in 1985<sup>4</sup> and *Nutrient Requirements of Cats* in 1986,<sup>5</sup> the *Nutrient Requirements of Dogs and Cats* in 2006 contained two additional listings of nutrient concentrations for adequate intake and recommended allowance (RA) in addition to minimum requirements. The concentrations for RA's of nutrients in the 2006 NRC are at least equal to, or greater than, concentrations for adequate intakes and minimum requirements, respectively, and are defined as “the concentration or amount of a nutrient in a diet formulated to support a given physiological state.” When appropriate, the RA takes into consideration the bioavailability of the nutrient. Thus, the Canine and Feline Nutrition Expert Subcommittees of 2007 primarily used the RA in the 2006 *Nutrient Requirements of Dogs and Cats* in evaluating whether revision was needed to one or more of the minimum recommended concentrations in the profiles. Values for specific nutrient concentrations were added or modified where indicated and supported by recent scientific publications, practical experience, or unpublished data.

The AAFCO Dog and Cat Food Nutrient Profiles have been criticized and faulted for not explicitly indicating the apparent nutrient digestibility, sometimes called nutrient

availability or bioavailability, required to make the listed concentrations adequate for meeting the animal's daily requirements. When a minimum requirement has been established for a particular nutrient, the expected apparent digestibility to meet the minimum requirement for that nutrient at the recommended concentration listed in an AAFCO Nutrient Profile can be calculated using the formula:

$$\frac{[(\text{minimum requirement}) \times (\text{its apparent digestibility in the diet(s) used to establish the minimum requirement}) / (\text{recommended concentration in the AAFCO Profile})] \times 100.}$$

In the above formula, the minimum requirement is expressed in the same units as in the AAFCO Nutrient Profile and digestibility is expressed in decimal equivalents. As an example, the NRC lists the minimum crude protein requirement for puppies to be met by formulas containing 18% crude protein on a dry matter basis with the digestibility of the protein sources estimated to be near 100%. The 2016 AAFCO Dog Food Nutrient Profile for Growth and Reproduction recommends the minimum crude protein concentration of dry matter to be 22.5%. Therefore, the expected apparent digestibility for crude protein in a diet formulated to meet the AAFCO Dog Food Nutrient Profile for Growth and Reproduction is at least 80%  $[(18 \times (1.00)/22.5) \times 100]$ .

For nutrients known to be essential, but that lack sufficient data to establish a minimum requirement, the typical digestibility for the nutrient in ingredients and food matrices similar to those used to establish the apparent amount to fulfill the animal's need for the nutrient should be ensured. The 2006 *Nutrient Requirements of Dogs and Cats* discusses average or typical apparent digestibility for such nutrients when explaining how a RA was set. As an example, for adult dogs there is no established minimum requirement for iron, although iron is considered essential for adult dogs. In setting the RA of 30 mg/kg in dietary dry matter for adult maintenance, the NRC subcommittee considered the apparent digestibility of iron to be 20%. However, the explanatory text in the publication notes that measured apparent digestibility of iron in the scientific literature has ranged from close to 100% to less than 10%, and is affected by numerous factors such as the specific source of iron, the concentration of other specific minerals or other ingredients in the diet, as well as the iron status of the animal.

The specific example for iron can be generalized to most essential minerals, and demonstrates the impossibility that any list of concentrations can invariably ensure that all nutrient requirements are fulfilled in all diet formulas without additional considerations. As stated for the previous editions of the AAFCO Dog and Cat Food Nutrient Profiles, formulating a product according to the Profiles is only one part of a nutritionally sound, scientific development that must consider all other aspects of the product. The fact that a dog or cat food is formulated to meet a specific AAFCO Profile should not deter or discourage the manufacturer from conducting appropriate feeding trials to further confirm and ensure the diet is nutritionally adequate for its intended use.

Indications regarding expected nutrient availability from some ingredient sources are given in footnotes. It is important to read the footnotes to the tables as they contain information critical to many of the recommended concentrations. Additionally, manufacturers must make allowances to nutrient concentrations prior to processing to account for losses during processing and subsequent storage. The recommended concentrations in the Profiles are those expected to be present at the time the formula is consumed by the animal.

The established profiles are the "AAFCO Dog Food Nutrient Profiles" and "AAFCO Cat Food Nutrient Profiles" as the terms are applied in AAFCO model pet food regulations referring to nutritional adequacy. Under these model regulations, dog and cat foods substantiated for nutritional adequacy by reference to the AAFCO Dog and Cat Food Nutrient Profiles for a designated life stage(s) must be formulated to contain

at least the minimum concentrations of nutrients specified in the Profiles, and, for some nutrients, not more than any maximum concentration listed for that specific nutrient in the Profiles as shown in this section. Products with their nutritional adequacy substantiated by AAFCO Feeding Protocols are not mandated to meet the minimum or maximum concentrations listed in the Profiles. Additionally, snacks, treats or products intended for intermittent or supplemental feeding only are not mandated to meet the concentrations in the Profiles unless their labeling references the Profiles.

The AAFCO Dog and Cat Food Nutrient Profiles and the AAFCO Feeding Protocols are the only methods recognized by AAFCO for substantiating the nutritional adequacy of “complete and balanced” dog or cat foods. If a product is substantiated by a feeding trial and does not meet the AAFCO Dog or Cat Food Nutrient Profiles, the label cannot reference the Profiles. An unqualified reference to an AAFCO Dog or Cat Food Nutrient Profile is an implied guarantee that the product contains the minimum concentrations for all nutrients in the profile and no more than any maximum concentration listed for a specific nutrient in the profile.

Minimum and some maximum nutrient concentrations were established in the Profiles for two categories; growth and reproduction (gestation/lactation), and adult maintenance. Maximum nutrient concentrations were established for nutrients where the potential for overuse or toxicity is of concern and likely to occur if attention is not paid to the concentrations of those nutrients. The absence of a maximum concentration should not be interpreted to mean that nutrients without a specific maximum content are safe at any concentration. Rather, it reflects the lack of information in dogs and cats on toxic concentrations of that nutrient. Establishing a maximum concentration implies safety below that concentration for long term consumption and to set a maximum arbitrarily might prove worse than no maximum at all.

The nutrient concentrations are expressed on a dry matter (DM) basis and at a specified caloric density. Diets should be corrected for caloric density as indicated below. Reference to the concentrations of nutrients on a product label in the guaranteed analysis must be expressed in the same units and order as given in the AAFCO Dog or Cat Food Nutrient Profiles. For the purposes of determining metabolizable energy (ME), use the methods specified in Model Regulation PF9.

#### AAFCO Dog Food Nutrient Profiles Based on Dry Matter<sup>a</sup>

Nutrient	Units DM Basis	Growth and	Adult	Maximum
		Reproduction Minimum	Maintenance Minimum <sup>b</sup>	
Crude protein	%	22.5	18.0	
Arginine	%	1.0	0.51	
Histidine	%	0.44	0.19	
Isoleucine	%	0.71	0.38	
Leucine	%	1.29	0.68	
Lysine	%	0.90	0.63	
Methionine	%	0.35	0.33	
Methionine-cystine	%	0.70	0.65	
Phenylalanine	%	0.83	0.45	
Phenylalanine-tyrosine	%	1.30	0.74	

(continued)

<b>Nutrient</b>	<b>Units DM Basis</b>	<b>Growth and Reproduction Minimum</b>	<b>Adult Maintenance Minimum<sup>b</sup></b>	<b>Maximum</b>
Threonine	%	1.04	0.48	
Tryptophan	%	0.20	0.16	
Valine	%	0.68	0.49	
Crude fat <sup>c</sup>	%	8.5	5.5	
Linoleic acid	%	1.3	1.1	
alpha-Linolenic acid	%	0.08	ND <sup>d</sup>	
Eicosapentaenoic + Docosahexaenoic acid	%	0.05	ND <sup>d</sup>	
(Linoleic + Arachidonic):(alpha- Linolenic + Eicosapentaenoic + Docosahexaenoic) acid ratio				30:1
<b>Minerals</b>				
Calcium	%	1.2	0.5	2.5 (1.8) <sup>e</sup>
Phosphorus	%	1.0	0.4	1.6
Ca:P ratio		1:1	1:1	2:1
Potassium	%	0.6	0.6	
Sodium	%	0.3	0.08	
Chloride	%	0.45	0.12	
Magnesium	%	0.06	0.06	
Iron <sup>f</sup>	mg/kg	88	40	
Copper <sup>g</sup>	mg/kg	12.4	7.3	
Manganese	mg/kg	7.2	5.0	
Zinc	mg/kg	100	80	
Iodine	mg/kg	1.0	1.0	11
Selenium	mg/kg	0.35	0.35	2
<b>Vitamins and others</b>				
Vitamin A	IU/kg	5000	5000	250,000
Vitamin D	IU/kg	500	500	3000
Vitamin E <sup>h</sup>	IU/kg	50	50	
Thiamine <sup>i</sup>	mg/kg	2.25	2.25	
Riboflavin	mg/kg	5.2	5.2	
Pantothenic acid	mg/kg	12	12	
Niacin	mg/kg	13.6	13.6	
Pyridoxine	mg/kg	1.5	1.5	

(continued)

<b>Nutrient</b>	<b>Units DM Basis</b>	<b>Growth and Reproduction Minimum</b>	<b>Adult Maintenance Minimum<sup>b</sup></b>	<b>Maximum</b>
Folic acid	mg/kg	0.216	0.216	
Vitamin B <sub>12</sub>	mg/kg	0.028	0.028	
Choline	mg/kg	1360	1360	

<sup>a</sup>Presumes a caloric density of 4000 kcal ME/kg, as determined in accordance with Regulation PF9. Formulations greater than 4000 kcal ME/kg should be corrected for energy density; formulations less than 4000 kcal ME/kg should not be corrected for energy. Formulations of low-energy density should not be considered adequate for reproductive needs based on comparison to the Profiles alone.

<sup>b</sup>Recommended concentrations for maintenance of body weight at an average caloric intake for dogs of a given optimum weight.

<sup>c</sup>Although a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

<sup>d</sup>ND = not determined. Although a minimum requirement has not been determined, sufficient amounts of omega-3 fatty acids are necessary to meet the maximum omega-6:omega-3 fatty acid ratio.

<sup>e</sup>The maximum of 1.8% is applicable to formulas that may be fed to large size puppies (those weighing 70 lb. or greater as mature lean adults). For other life stages, including non-large-size growth formulas, the maximum calcium is 2.5% DM.

<sup>f</sup>Average apparent digestibility for iron associated with recommended minimums is 20% of that consumed. Because of very poor apparent digestibility, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for iron.

<sup>g</sup>Because of very poor apparent digestibility, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for copper.

<sup>h</sup>It is recommended that the ratio of IU of vitamin E to grams of polyunsaturated fatty acids (PUFA) be  $\geq 0.6:1$ . A diet containing 50 IU of vitamin E will have a ratio  $\geq 0.6:1$  when the PUFA content is 83 grams or less. Diets containing more than 83 grams of PUFA should contain an additional 0.6 IU of vitamin E for every gram of PUFA.

<sup>i</sup>Because processing may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration for thiamine is met after processing.

#### AAFCO Dog Food Nutrient Profiles Based on Calorie Content

<b>Nutrient</b>	<b>Units per 1000 kcal ME</b>	<b>Growth and Reproduction Minimum</b>	<b>Adult Maintenance Minimum<sup>a</sup></b>	<b>Maximum</b>
Crude protein	g	56.3	45.0	
Arginine	g	2.50	1.28	
Histidine	g	1.10	0.48	
Isoleucine	g	1.78	0.95	
Leucine	g	3.23	1.70	

(continued)

Nutrient	Units per 1000 kcal ME	Growth and	Adult	Maximum
		Reproduction Minimum	Maintenance Minimum <sup>a</sup>	
Lysine	g	2.25	1.58	
Methionine	g	0.88	0.83	
Methionine-cystine	g	1.75	1.63	
Phenylalanine	g	2.08	1.13	
Phenylalanine-tyrosine	g	3.25	1.85	
Threonine	g	2.60	1.20	
Tryptophan	g	0.50	0.40	
Valine	g	1.70	1.23	
Crude fat <sup>b</sup>	g	21.3	13.8	
Linoleic acid	g	3.3	2.8	
alpha-Linolenic acid	g	0.2	ND <sup>c</sup>	
Eicosapentaenoic + Docosahexaenoic acid	g	0.1	ND <sup>c</sup>	
(Linoleic + Arachidonic):(alpha- Linolenic + Eicosapentaenoic + Docosahexaenoic) acid ratio				30:1
Minerals				
Calcium	g	3.0	1.25	6.25 (4.5) <sup>d</sup>
Phosphorus	g	2.5	1.00	4.0
Ca:P ratio		1:1	1:1	2:1
Potassium	g	1.5	1.5	
Sodium	g	0.80	0.20	
Chloride	g	1.10	0.30	
Magnesium	g	0.15	0.15	
Iron <sup>e</sup>	mg	22	10	
Copper <sup>f</sup>	mg	3.1	1.83	
Manganese	mg	1.8	1.25	
Zinc	mg	25	20	
Iodine	mg	0.25	0.25	2.75
Selenium	mg	0.09	0.08	0.5
Vitamins and others				
Vitamin A	IU	1250	1250	62,500
Vitamin D	IU	125	125	750
Vitamin E <sup>g</sup>	IU	12.5	12.5	

(continued)

Nutrient	Units	Growth and	Adult	Maximum
	per 1000 kcal ME	Reproduction Minimum	Maintenance Minimum <sup>a</sup>	
Thiamine <sup>h</sup>	mg	0.56	0.56	
Riboflavin	mg	1.3	1.3	
Pantothenic acid	mg	3.0	3.0	
Niacin	mg	3.4	3.4	
Pyridoxine	mg	0.38	0.38	
Folic acid	mg	0.054	0.054	
Vitamin B <sub>12</sub>	mg	0.007	0.007	
Choline	mg	340	340	

<sup>a</sup>Recommended concentrations for maintenance of body weight at an average caloric intake for dogs of a given optimum weight.

<sup>b</sup>Although a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

<sup>c</sup>ND = not determined. Although a minimum requirement has not been determined, sufficient amounts of omega-3 fatty acids are necessary to meet the maximum omega-6:omega-3 fatty acid ratio.

<sup>d</sup>Maximum of 4.5 g Ca/1000 kcal ME is applicable to formulas; that may be fed to large size puppies (those weighing 70 lb. or greater as mature lean adults). For other life stages, including non-large-breed growth formulas, the maximum calcium is 6.25 g Ca/1000 kcal ME.

<sup>e</sup>Average apparent digestibility for iron associated with recommended minimums is 20% of that consumed. Because of very poor apparent digestibility, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for iron.

<sup>f</sup>Because of very poor apparent digestibility, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for copper.

<sup>g</sup>It is recommended that the ratio of IU of vitamin E to grams of polyunsaturated fatty acids (PUFA) be  $\geq 0.6:1$ . A diet containing 50 IU of vitamin E will have a ratio  $\geq 0.6:1$  when the PUFA content is 83 grams or less. Diets containing more than 83 grams of PUFA should contain an additional 0.6 IU of vitamin E for every gram of PUFA.

<sup>h</sup>Because processing may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration for thiamine is met after processing.

## Changes to and Rationale for Nutrient Concentrations—Dog Foods

### Caloric Density

The 2007 AAFCO Canine Nutrition Expert Subcommittee (CNES) chose to set the presumed caloric density for dog food products at 4000 kcal metabolizable energy (ME) per kilogram (kg) dry matter (DM) for both the nutrient concentrations per kg DM and the nutrient amounts per 1000 kcal ME in order to be consistent with the presumed caloric density used in the 2006 *Nutrient Requirements of Dogs and Cats*<sup>1</sup> and in the current AAFCO Cat Food Nutrient Profiles. Prior to the 2016 revisions to the Profiles,



the presumed caloric density for dog foods was set at 3500 kcal ME/kg DM for nutrient concentrations per kg DM and at 4500 kcal ME/kg DM for nutrient amounts per 1000 kcal ME, although mathematical conversion between the two tables was accomplished using 3500 kcal/kg DM as the caloric density. The presumed caloric density is not a minimum or a maximum content that a product must meet to reference the profile, but it does dictate the factor used to convert between expressions of nutrient content per kg DM versus per 1000 kcal ME and the minimum concentrations of required nutrients in complete and balanced products. Because the denominator for converting from concentrations per kg DM to amounts per 1000 kcal ME has increased from 3.5 to 4.0, values in the per 1000 kcal ME table in some instances may appear less than corresponding values listed prior to 2016 even though DM concentrations may not have changed or even increased slightly. Corrections to amounts of nutrients in formulations differing in caloric density from the presumed value of 4000 kcal ME/kg DM are discussed below.

## Protein

The minimum concentration of protein for growth and reproduction was increased slightly from 22% to 22.5% DM consistent with the RA for growth established by the 2006 NRC.<sup>1</sup> The minimum concentration in the AAFCO Dog Food Nutrient Profile for Adult Maintenance was not changed from the previous value of 18%.

The CNES established minimum recommended amounts for the essential amino acids methionine and phenylalanine consistent with the RA proposed by the NRC in addition to the previous minimum recommended amounts of methionine plus cystine and phenylalanine plus tyrosine. The CNES felt it prudent to include specific minimums for methionine and phenylalanine because although some, or all, of the requirement for cystine and tyrosine can be met from excess methionine and phenylalanine, respectively, the reverse is not true. Some of the previous recommendations for dietary concentrations of essential amino acids in the Dog Food Nutrient Profile for Adult Maintenance (i.e., histidine, lysine, threonine and tryptophan) were greater than the corresponding RA in the 2006 NRC and the CNES elected to retain the previously recommended amounts for these amino acids in the current Dog Food Nutrient Profile for Adult Maintenance.

Minimum concentrations of some essential amino acids in the Dog Food Nutrient Profile for Growth and Reproduction were increased, usually to match the NRC RA for growth (i.e., arginine, leucine, methionine, methionine-cystine, phenylalanine-tyrosine and valine). Although the NRC RA for total crude protein during lactation is essentially identical to the RA for growth (22.0% versus 22.5%), several of the RA for essential amino acids during lactation are greater than the RA for growth. In some cases (i.e., histidine, isoleucine, lysine, phenylalanine, and threonine) the difference was small and the CNES elected to set the recommended amount in the Growth and Reproduction Profile at the larger NRC RA for lactation. For other essential amino acids (i.e., leucine and valine) the RA proposed by the NRC for lactation is substantially more than the RA for growth, and in the case of leucine and valine the concentrations are equal to, or greater than, the corresponding RA for the cat during lactation, an obligate carnivore with protein requirements generally greater than those for the dog. The NRC ad hoc committee indicated that it set the RA based on, “lowest concentrations of each of the essential amino acids from digestible protein in commercial dry expanded diets that have been shown to sustain normal gestation and lactation for bitches.”<sup>1</sup> The CNES chose not to increase the recommended concentrations for leucine and valine to those of the NRC RA for lactation based on lack of documented problems with the previous concentrations in the AAFCO Dog Food Nutrient Profile for Growth and Reproduction and the relative disparity in the RA between canine versus feline protein requirements. The CNES did

not elect to change the tryptophan concentration in the Dog Food Nutrient Profile for Growth and Reproduction for two reasons. The CNES had access to feeding studies and a publication showing that the minimum requirement for tryptophan in Labrador retriever puppies was less than the current concentration in AAFCO Dog Food Nutrient Profile for Growth and Reproduction and that the tryptophan concentration of 0.2% DM already provided approximately a 25% safety margin.<sup>6</sup> The CNES was also aware that it was nearly impossible to formulate a product at the minimum protein concentration to contain more than 0.2% tryptophan on a DM basis from typical ingredients without including crystalline tryptophan in the formula.

Insufficient data were available to demonstrate detrimental effects of high protein intake in the normal dog to allow for any definitive maximum concentrations for protein or amino acids to be established. The CNES is aware of the findings regarding excess lysine at some concentration between 2.0% and 4.0% lysine/kg DM to produce depression in growth of puppies and clinical signs associated with arginine deficiency when arginine is present at 0.4% DM, and that FEDIAF has established a concentration of 2.8% lysine in DM as a maximum.<sup>3,7</sup> However, this information was available prior to the establishment of the original AAFCO Nutrient Profiles and did not result in a maximum lysine content being established by the 1990 Expert Subcommittee. Furthermore, the 2007 CNES notes that the minimum recommended arginine content for growth and reproduction is 2.5 times the concentration of 0.4% arginine/kg DM required to produce the noted adverse effects in combination with lysine at more than 2.0%/kg DM.

### **Fat/Fatty Acids**

The CNES increased the minimum recommended amount for total fat in the AAFCO Dog Food Nutrient Profiles by 0.5% to 8.5% for Growth and Reproduction and 5.5% for Adult Maintenance. These concentrations are consistent with the RA for total fat in the 2006 NRC and the FEDIAF Guidelines. The CNES also increased the minimum recommended linoleic acid concentration in the Growth and Reproduction Profile from 1.0% to 1.3% and in the Adult Maintenance Profile from 1.0% to 1.1%, again consistent with the RA in the 2006 NRC. The CNES did not set a minimum recommended concentration for arachidonic acid in either profile, but did establish minimum recommended concentrations for some fatty acids in the n-3 (omega-3) series in the Growth and Reproduction Profile, specifically, alpha-linolenic acid at 0.08%, and the combination of eicosapentaenoic plus docosahexaenoic acids at 0.05%, of DM. Because the scientific evidence to date indicates that these n-3 fatty acids are needed for the development of the nervous and visual systems during fetal and neonatal life stages, the CNES did not feel there was scientific justification for setting minimum recommended concentrations for n-3 fatty acids for adult maintenance. A recommendation in a comment to list quantities of alpha-linolenic acid and eicosapentaenoic plus docosahexaenoic acids for adult maintenance as being not determined (ND) was accepted by the AAFCO Pet Food Committee.

The CNES did not establish maximum concentrations for fat or fatty acids despite the NRC listing a safe upper limit (SUL) for total crude fat, linoleic acid, and the combination of eicosapentaenoic plus docosahexaenoic acids. The CNES felt it likely that insufficiencies in other nutrients will occur in a conventional formula before an inclusion of 33% crude fat in DM is reached. Also, although some differences in delayed hypersensitivity reactions were noted in studies cited by the NRC as the basis for setting the SUL for eicosapentaenoic plus docosahexaenoic acids, the 2007 CNES noted that those differences are not unequivocally undesirable or detrimental.<sup>8,9</sup> The CNES did elect to set a maximum for the ratio of the sum of linoleic plus arachidonic acids to the

sum of alpha-linolenic, eicosapentaenoic, and docosahexaenoic acids at 30:1 given the modulating effects of n-3 fatty acids on n-6 metabolism and the predominant contribution of these fatty acids to the n-6 and n-3 fatty acid contents, respectively, in conventional dog food formulas.

## Calcium and Phosphorus

The CNES decreased the recommended minimum concentration of calcium and phosphorus in the Adult Maintenance Profile by 0.1% to 0.5% and 0.4%, respectively. The current recommended minimum concentrations are 0.1% more than the RA for calcium and phosphorus on a DM basis for adult maintenance in the 2006 NRC but consistent with the concentrations in the FEDIAF Guidelines. The CNES recommended that the calcium and phosphorus in growth formulas for the large breed or large size dogs (those breeds typically attaining lean adult body weights of 70 pounds or more) be allowed to decrease to 0.9% and 0.75%, respectively, while still being judged to meet the Growth and Reproduction Nutrient Profile. However, based on comments and a publication<sup>10</sup> demonstrating that some diets containing 0.88% to 1.04% Ca on a DM basis (2.2 to 2.6 g Ca/1000 kcal ME) when fed to medium or large breed puppies produced inhibited growth in 10-week growth studies compared to diets containing between 1.3 to 1.8% Ca, the AAFCO Pet Food Committee elected to keep the minimum recommended calcium and phosphorus concentrations in the Growth and Reproduction Nutrient Profile at 1.2% and 1.0%, respectively, for all dog food products that substantiate nutritional adequacy based on being formulated to meet the nutrient content of the Dog Food Nutrient Profile for Growth and Reproduction.

Because of concerns for excess calcium to produce detrimental effects in growing dogs of large and giant breeds,<sup>11–13</sup> the 2007 CNES deemed that additional restriction to the maximum limit for calcium was warranted for large size growth formulations and lowered the maximum calcium concentration to 1.8% DM for these products. The CNES did not believe it necessary to decrease the previous maximum calcium concentration of 2.5% for adult dogs or growing dogs of small or moderate size breeds, and retained the maximum of 2.5% for the adult maintenance products as well as gestation/lactation products and growth products for small and moderate size breeds of dogs. The AAFCO Pet Food Committee discussed and considered the proposal at length for having two maximum calcium concentrations applicable to different products. The Pet Food Committee notes that unless a product's labeling restricts the product to specific breeds, products bearing an All Life Stages claim based on the product being formulated to meet the AAFCO Dog Food Nutrient Profile for Growth and Reproduction should not contain more than 1.8% calcium on a DM basis. The CNES retained the maximum phosphorus concentration of 1.6% DM for both profiles, as well as the minimum and maximum values of 1:1 and 2:1, respectively, for the calcium to phosphorus ratio.

## Other Macrominerals

### Potassium

The 2007 CNES elected to retain the recommended minimum potassium concentration at 0.6% DM for both Profiles. Although the RA in the 2006 NRC and some concentrations in the FEDIAF Guidelines are less than 0.6% DM for potassium, the CNES felt that the potassium concentration did not warrant changing especially given that potential toxicosis of potassium was not a practical concern. Thus, a maximum concentration for potassium was not established.

### Sodium and Chloride

The 2007 CNES did not change the minimum recommendation for sodium or chloride in the Growth and Reproduction Nutrient Profile as the values are slightly above

the 2006 NRC RA. The 2007 CNES made an editorial increase in the recommended minimum concentrations for sodium and chloride in the Adult Maintenance Nutrient Profile to match the 2006 NRC RA. For sodium the increase was from 0.06% to 0.08% DM and for chloride from 0.09 to 0.12% DM. The recommended minimum concentrations for sodium and chloride in both dog food nutrient profiles continue to reflect the 1:1.5 sodium to chloride ratio of salt previously used by the 1990 CNES to justify recommended chloride concentrations. As noted by the 1990 CNES, because palatability and food consumption would decline due to excess sodium before adverse health effects were observed, setting a maximum concentration for sodium was not of practical concern.

### **Magnesium**

The 2007 CNES increased the minimum recommended concentration for magnesium from 0.04 to 0.06% in Adult Maintenance and Growth and Reproduction Nutrient Profiles to match the 2006 NRC RA for adult maintenance and peak lactation, respectively. The 2007 CNES deleted the maximum recommended concentration for magnesium due to lack of data specific to dogs in both the 2006 NRC and the 2005 *Mineral Tolerances of Animals*. The only comment regarding maximum magnesium content in the 2006 NRC was that a SUL for magnesium in the diets of dogs was greater than 1.7% DM.

## **Microminerals**

### **Iron**

The 2007 CNES made an editorial change to the minimum concentration for iron in the Growth and Reproduction Nutrient Profile to make the concentration consistent with a presumed caloric density of 4000 kcal ME/kg DM which makes the recommended concentration consistent with the RA from the 2006 NRC and the FEDIAF Guidelines for same life stages. The 2007 CNES decreased the recommendation for adult maintenance from 80 to 40 mg/kg DM based on considerations that the RA of the 2006 NRC was 30 mg/kg DM and the FEDIAF Guidelines concentration was 36 mg/kg DM. The 2007 CNES deleted the maximum concentration for iron based on one scientific and one practical regulatory consideration. First, the 2006 NRC indicated that appropriate data for setting a SUL for iron in dog foods are not available. The previous maximum concentration was stated to be based on tolerance data in swine. The 2005 *Mineral Tolerance of Animals* indicated that the listed tolerance of 3000 mg/kg DM for swine needed to be confirmed by long-term studies and all other tolerances for iron listed in that publication are 6 times less than 3000 mg/kg DM. Second, the implied safety of a maximum concentration presumes some amount of apparent digestibility and, as noted above, the apparent digestibility of iron in any given diet or combination of ingredients can vary from less than 10% to near 100%. Some sources of iron are considered unavailable and used for their technical effects (i.e., color) on the product and not for their nutrient contribution of iron to the animal. Such unavailable sources will still contribute iron to an analytical result for determining product content, and thus a maximum concentration set for available sources of iron might prohibit use of unavailable sources for coloring, whereas a maximum concentration set for unavailable colorants might permit use of unsafe amounts of available sources on the basis of analytical content. Thus, the 2007 CNES elected to delete the previous maximum of 3000 mg/kg DM and not list any other value as a maximum for iron. Manufacturers should note that iron is toxic at some amount greater than the recommended quantities, but the exact amount is unknown for dogs.

### **Copper**

The minimum concentration for copper in the Adult Maintenance Nutrient Profile was not changed from the previous amount of 7.3 mg/kg DM, the concentration being

consistent with that of the FEDIAF Guidelines and slightly more than the 2006 NRC RA of 6.0 mg/kg. The 2007 CNES increased the minimum recommended concentration in the Growth and Reproduction Nutrient Profile to 12.4 mg/kg DM, consistent with the 2006 NRC RA for peak lactation and slightly more than FEDIAF Guidelines and the NRC RA for growth. Because of poor bioavailability, the use of copper oxide as a nutritional source is excluded.<sup>14</sup> The 2007 CNES deleted the copper maximum concentration for many of the same science-based reasons cited above for deleting the maximum for iron content.

### **Manganese**

The minimum concentration for manganese in the Adult Maintenance Nutrient Profile was not changed from the previous amount of 5.0 mg/kg DM, the amount being slightly more than the 2006 NRC RA of 4.8 and slightly less than the FEDIAF Guidelines of 5.6 mg/kg DM. The 2007 CNES increased the minimum recommended concentration in the Growth and Reproduction Nutrient Profile to 7.2 mg/kg DM, consistent with the 2006 NRC RA for peak lactation and slightly more than FEDIAF Guidelines concentrations and NRC RA for growth.

### **Zinc**

The 2006 NRC RA for zinc in growth, reproduction, and adult maintenance formulations was less than the previous concentration in the Dog Food Nutrient Profiles of 120 mg/kg DM and the 2007 CNES decreased the recommended minimum concentration to 100 mg/kg DM in the Growth and Reproduction Nutrient Profile and to 80 mg/kg DM in the Adult Maintenance Nutrient Profile consistent with the 2006 NRC RA and FEDIAF Guidelines concentrations. Both the 2005 *Mineral Tolerance of Animals* and the 2006 *Nutrient Requirements of Dogs and Cats* state there is not enough data available to set a tolerance or SUL for zinc in dog foods. The 2007 CNES elected to delete the previous maximum concentration of 1000 mg/kg DM that was based on the maximum tolerance concentration recommended for swine rations. The CNES noted that the swine tolerance of 1000 mg/kg DM was the greatest concentration for any tolerance for zinc listed in the 2005 *Mineral Tolerance of Animals*.

### **Iodine**

The 2006 NRC RA for iodine in dog foods is 0.88 mg/kg DM. The FEDIAF Guideline concentrations range from 0.9 to 1.5 mg/kg DM. In considering the basis for these various recommended concentrations the 2007 CNES felt a recommended minimum concentration of 1.0 mg/kg to be prudent and adequate to support adult maintenance as well as growth and reproduction.

The 2007 CNES revised the maximum concentration for iodine based on the following considerations. Although neither the 2005 *Mineral Tolerances for Animals* nor the 2006 *Nutrient Requirements of Dogs and Cats* established a tolerance or SUL for iodine in diets for dogs, both publications cite data that indicate a commercial formulation containing 5.6 mg iodine/kg diet had adverse effects on thyroid function.<sup>15,16</sup> FEDIAF also notes these studies, but faulted the studies for using a diet deficient in calcium, phosphorus and potassium, and fed in excessive quantities. The 2008 FEDIAF Guidelines indicate a maximum concentration for iodine of 11 mg/kg DM when other minerals are within acceptable concentrations and the products are fed in appropriate quantities. The tolerances for iodine in the 2005 *Mineral Tolerances of Animals* that have been established for various species range from 5 mg/kg DM in diets for horses to 400 mg/kg DM in diets for swine. Given that the NRC tolerance for horses is 10 times less than the general maximum concentration of 50 mg iodine/kg DM recommended by AAFCO, the 2007 CNES felt the value of 50 mg/kg DM to no longer be appropriate for setting a maximum concentration for iodine in dog foods. The 2007 CNES acknowledges that additional studies may allow further refinement of a maximum amount of iodine in

foods for dogs, but until such data are available the CNES felt it prudent to adopt the FEDIAF position and set 11 mg iodine per kg DM as the maximum concentration of iodine in dog foods.

### **Selenium**

The recommended minimum concentration of selenium was increased to 0.35 mg/kg DM in Adult Maintenance and Growth and Reproduction Nutrient Profiles consistent with the 2006 NRC RA for selenium. The 2007 CNES notes there is a difference between added selenium and total selenium content. The approval of food additives for addition of selenium to animal feeds limits the total amount of selenium that may be added to feed to 0.3 mg/kg from all approved sources on an as-fed basis (90% DM feeds), roughly equivalent to 0.333 mg/kg on a DM basis. The recommended minimum concentration of 0.35 mg selenium/kg DM in dog foods is the sum of selenium from all ingredients in the product, both approved food additives used specifically to add selenium to the product, as well as selenium contained as a constituent of other ingredients. As there is generally more than 0.05 mg selenium/kg DM in ingredients used to supply protein and fat to typical pet food formulations, the 2007 CNES believes the limitation of 0.3 mg selenium/kg DM from approved selenium additives will not hinder a manufacturer's ability to meet the minimum recommended concentration of 0.35 mg selenium/kg DM.

Both the 2006 NRC and the 2005 *Mineral Tolerance of Animals* state no data are available upon which to establish a SUL or tolerance for selenium in diets for dogs. Both NRC publications cite the fifth edition of *Trace Elements in Human and Animal Nutrition* published in 1986 for information indicating a dietary concentration of 5 mg/kg DM resulted in toxicity in dogs.<sup>17</sup> The 2007 CNES acknowledges the NRC has indicated in the years since the publication of the first edition of *Mineral Tolerance of Domestic Animals* set a tolerance of 2.0 mg of selenium per kg DM for all species in 1980 that the value has been challenged as an underestimate of the true tolerance for several species, and that during 1980 to 2005 greater tolerances for selenium have been established for some species. Although the true tolerance for dogs may be greater than 2, but less than 5, mg selenium/kg DM, the 2007 CNES believes it to be prudent to retain the maximum concentration for selenium at 2.0 mg/kg DM until such time as empirical data permit a greater and more definitive maximum to be established.

### **Vitamins**

The 2007 CNES did not believe there were data sufficient to change any of the recommended minimum concentrations for the fat soluble vitamins or the maximum concentration for vitamin A. The 2007 CNES decreased the maximum vitamin D concentration in consideration of the SUL and maximums set by the 2006 NRC and FEDIAF Guidelines based on the studies conducted by Tryfondidou et al.<sup>18,19</sup> The maximum vitamin D concentration was reduced to 3000 IU/kg DM (750 IU/1000 kcal ME) which is 6 times the recommended minimum concentration and 1000 IU/kg less than the amount shown to produce disruption of endochondrial ossification in growing Great Dane puppies. The 2007 CNES noted that the 2006 *Nutrient Requirements of Dogs and Cats* had not established a SUL for vitamin E based on there being no information on vitamin E toxicity in dogs, and so deleted the maximum concentration for vitamin E in the Dog Food Nutrient Profiles. The 2007 CNES increased the minimum concentrations of thiamine, riboflavin and pyridoxine consistent with the RA of the 2006 NRC. For pantothenic acid, niacin, folic acid, vitamin B<sub>12</sub> and choline, the 2007 CNES elected to set the recommended concentrations in the AAFCO Dog Food Nutrient Profiles equal to the 2006 NRC adequate intake (AI) recommendation based on indications that the AI already provided a margin of safety above the minimum requirements for these compounds.

AAFCO Cat Food Nutrient Profiles Based on Dry Matter<sup>a</sup>

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum <sup>b</sup>	Maximum
Crude protein	%	30.0	26.0	
Arginine	%	1.24	1.04	
Histidine	%	0.33	0.31	
Isoleucine	%	0.56	0.52	
Leucine	%	1.28	1.24	
Lysine	%	1.20	0.83	
Methionine	%	0.62	0.20	1.5
Methionine-cystine	%	1.10	0.40	
Phenylalanine	%	0.52	0.42	
Phenylalanine-tyrosine	%	1.92	1.53	
Threonine	%	0.73	0.73	
Tryptophan	%	0.25	0.16	1.7
Valine	%	0.64	0.62	
Crude fat <sup>c</sup>	%	9.0	9.0	
Linoleic acid	%	0.6	0.6	
alpha-Linolenic acid	%	0.02	ND <sup>d</sup>	
Arachidonic acid	%	0.02	0.02	
Eicosapentaenoic + Docosahexaenoic acid	%	0.012	ND	
Minerals				
Calcium	%	1.0	0.6	
Phosphorus	%	0.8	0.5	
Potassium	%	0.6	0.6	
Sodium	%	0.2	0.2	
Chloride	%	0.3	0.3	
Magnesium <sup>e</sup>	%	0.08	0.04	
Iron <sup>f</sup>	mg/kg	80	80	
Copper (extruded) <sup>g</sup>	mg/kg	15	5	
Copper (canned) <sup>g</sup>	mg/kg	8.4	5	
Manganese	mg/kg	7.6	7.6	
Zinc	mg/kg	75	75	
Iodine	mg/kg	1.8	0.6	9.0
Selenium	mg/kg	0.3	0.3	
Vitamins and others				
Vitamin A	IU/kg	6668	3332	333,300 (continued)

<b>Nutrient</b>	<b>Units DM Basis</b>	<b>Growth and Reproduction Minimum</b>	<b>Adult Maintenance Minimum<sup>b</sup></b>	<b>Maximum</b>
Vitamin D	IU/kg	280	280	30,080
Vitamin E <sup>h</sup>	IU/kg	40	40	
Vitamin K <sup>i</sup>	mg/kg	0.1	0.1	
Thiamine <sup>j</sup>	mg/kg	5.6	5.6	
Riboflavin	mg/kg	4.0	4.0	
Pantothenic acid	mg/kg	5.75	5.75	
Niacin	mg/kg	60	60	
Pyridoxine	mg/kg	4.0	4.0	
Folic acid	mg/kg	0.8	0.8	
Biotin <sup>k</sup>	mg/kg	0.07	0.07	
Vitamin B <sub>12</sub>	mg/kg	0.020	0.020	
Choline	mg/kg	2400	2400	
Taurine (extruded)	%	0.10	0.10	
Taurine (canned)	%	0.20	0.20	

<sup>a</sup>Presumes an energy density of 4000 kcal ME/kg as determined in accordance with Regulation PF9. Formulations greater than 4000 kcal ME/kg should be corrected for energy density; formulations less than 4000 kcal ME/kg should not be corrected for energy. Formulations of low-energy density should not be considered adequate for growth or reproductive needs based on comparison to the Profiles alone.

<sup>b</sup>Recommended concentrations for maintenance of body weight at an average caloric intake for cats of a given optimal weight.

<sup>c</sup>Although a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

<sup>d</sup>ND = not determined.

<sup>e</sup>If the mean urine pH of cats fed *ad libitum* is not below 6.4, the risk of struvite urolithiasis increases as the magnesium content of the diet increases.

<sup>f</sup>Because of very poor bioavailability, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

<sup>g</sup>Because of very poor bioavailability, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

<sup>h</sup>Add 10 IU vitamin E above the minimum concentration for each gram of fish oil per kilogram of diet.

<sup>i</sup>Vitamin K does not need to be added unless the diet contains more than 25% fish on a dry matter basis.

<sup>j</sup>Because processing and specific ingredients may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration is met after processing.

<sup>k</sup>Biotin does not need to be added unless the diet contains antimicrobial or antivitamin compounds.



## AAFCO Cat Food Nutrient Profiles Based on Calorie Content

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum <sup>a</sup>	Maximum
Crude protein	g	75	65	
Arginine	g	3.10	2.60	
Histidine	g	0.83	0.78	
Isoleucine	g	1.40	1.30	
Leucine	g	3.20	3.10	
Lysine	g	3.00	2.08	
Methionine	g	1.55	0.5	3.75
Methionine-cystine	g	2.75	1.00	
Phenylalanine	g	1.30	1.05	
Phenylalanine-tyrosine	g	4.80	3.83	
Threonine	g	1.83	1.83	
Tryptophan	g	0.63	0.40	4.25
Valine	g	1.55	1.55	
Crude fat <sup>b</sup>	g	22.5	22.5	
Linoleic acid	g	1.40	1.40	
alpha-Linolenic acid	g	0.05	ND <sup>c</sup>	
Arachidonic acid	g	0.05	0.05	
Eicosapentaenoic + Docosahexaenoic acid	g	0.03	ND	
Minerals				
Calcium	g	2.5	1.5	
Phosphorus	g	2.0	1.25	
Potassium	g	1.5	1.5	
Sodium	g	0.5	0.5	
Chloride	g	0.75	0.75	
Magnesium <sup>d</sup>	g	0.20	0.10	
Iron <sup>e</sup>	mg	20.0	20.0	
Copper (extruded) <sup>f</sup>	mg	3.75	1.25	
Copper (canned) <sup>f</sup>	mg	2.10	1.25	
Manganese	mg	1.90	1.90	
Zinc	mg	18.8	18.8	
Iodine	mg	0.45	0.15	2.25
Selenium	mg	0.075	0.075	
Vitamins and others				
Vitamin A	IU	1667	833	83,325

(continued)

<b>Nutrient</b>	<b>Units per 1000 kcal ME</b>	<b>Growth and Reproduction Minimum</b>	<b>Adult Maintenance Minimum<sup>a</sup></b>	<b>Maximum</b>
Vitamin D	IU	70	70	7520
Vitamin E <sup>g</sup>	IU	10	10	
Vitamin K <sup>h</sup>	mg	0.025	0.025	
Thiamine <sup>i</sup>	mg	1.40	1.40	
Riboflavin	mg	1.00	1.00	
Pantothenic acid	mg	1.44	1.44	
Niacin	mg	15	15	
Pyridoxine	mg	1.0	1.0	
Folic acid	mg	0.20	0.20	
Biotin <sup>j</sup>	mg	0.018	0.018	
Vitamin B <sub>12</sub>	mg	0.005	0.005	
Choline	mg	600	600	
Taurine (extruded)	g	0.25	0.25	
Taurine (canned)	g	0.50	0.50	

<sup>a</sup>Recommended concentrations for maintenance of body weight at an average caloric intake for cats of a given optimal weight.

<sup>b</sup>Although a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

<sup>c</sup>ND = not determined.

<sup>d</sup>If the mean urine pH of cats fed *ad libitum* is not below 6.4, the risk of struvite urolithiasis increases as the magnesium content of the diet increases.

<sup>e</sup>Because of very poor bioavailability, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

<sup>f</sup>Because of very poor bioavailability, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

<sup>g</sup>Add 10 IU vitamin E above the minimum concentration for each gram of fish oil per kilogram of diet.

<sup>h</sup>Vitamin K does not need to be added unless the diet contains more than 25% fish on a dry matter basis.

<sup>i</sup>Because processing and specific ingredients may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration is met after processing.

<sup>j</sup>Biotin does not need to be added unless the diet contains antimicrobial or antivitamin compounds.

## Changes to and Rationale for Nutrient Concentrations—Cat Foods

### Caloric Density

The 2007 AAFCO Feline Nutrition Expert Subcommittee (FNES) retained the presumed caloric density for cat food products at 4000 kcal ME/kg DM for both the nutrient concentrations per kg DM and the nutrient amounts per 1000 kcal ME. As discussed below and in the footnotes to the Tables of the AAFCO Cat Food Nutrient Profiles, products with a caloric density greater than 4000 kcal ME/kg should have nutrient concentrations corrected for energy density. Nutrient concentrations in products with energy densities less than 4000 kcal ME/kg should not be corrected.

### Protein

The 2007 FNES did not change the minimum concentrations of crude protein in the Cat Food Nutrient Profiles, the current values being equal to or greater than the corresponding 2006 NRC RA and FEDIAF Guidelines.<sup>1,3</sup> The FNES made modifications to concentrations for some essential amino acids to bring the recommended concentrations in line with the RA in the 2006 NRC and the FEDIAF Guidelines. Minor increases between 0.02 to 0.04% in amounts of histidine, isoleucine and leucine were made in the Growth and Reproduction Profile. The amount for methionine and methionine plus cystine was decreased for adult maintenance. Significant increases were made to the recommended phenylalanine and phenylalanine plus tyrosine concentrations to bring the recommendations in line with the RA in the 2006 NRC which are based on studies establishing the requirements for maximum nitrogen retention and black hair color.<sup>20,21</sup>

Because of work showing an adverse effect of high concentrations of methionine, the maximum concentration of 1.5% was retained.<sup>22</sup> The FNES also set a maximum of 1.7% for tryptophan based on the work of Herwill and the recommendations in the 2006 NRC and FEDIAF Guidelines.<sup>1,3,23</sup>

### Fat/Fatty Acids

The 2007 FNES retained the minimum recommended concentrations of crude fat at 9% DM and at 0.02% for arachidonic acid. The minimum concentration for linoleic acid was increased to 0.6% in both Cat Food Nutrient Profiles consistent with the corresponding 2006 NRC RA and FEDIAF Guidelines. Similar to the CNES, the FNES established minimum recommended concentrations for some fatty acids in the n-3 (omega-3) series in the Growth and Reproduction Profile, specifically, alpha-linolenic acid at 0.02%, and the combination of eicosapentaenoic plus docosahexaenoic acids at 0.012%, of DM. The FNES notes that the NRC<sup>1</sup> stated no requirement for alpha-linolenic acid in adult cats had been demonstrated and that although a theoretical argument could be made for the adult cat to require eicosapentaenoic plus docosahexaenoic acids on a similar order of magnitude as arachidonic acid given the low delta-6 desaturase activity in the species, no objective data were available to support the establishment of any required concentrations. Although the FNES did not feel there was scientific justification for setting minimum recommended concentrations for n-3 fatty acids for adult cats, a recommendation in a comment to list quantities of alpha-linolenic acid and eicosapentaenoic plus docosahexaenoic acids for adult maintenance as being not determined (ND) was accepted by the AAFCO Pet Food Committee.

### Minerals

The 2007 FNES increased the recommended concentrations for copper in canned formulas in the Growth and Reproduction Nutrient Profile and for iodine and selenium

in both Cat Food Nutrient Profiles. The recommended copper concentration in canned products for growth and reproduction was increased from 5.0 to 8.4 mg/kg DM to match the 2006 NRC RA for gestation and lactation.

For iodine the 2007 FNES increased the recommended concentration in the Growth and Reproduction Nutrient Profile to match the 2006 NRC RA and the FEDIAF Guidelines. The recommended concentration of iodine for adult maintenance was increased to match the amount recommended in the FDIAG Guidelines rather than the 2006 NRC RA in consideration of the findings of Wedekind *et al.*<sup>24</sup> The 2007 FNES also set a maximum for iodine content in cat foods based on the findings of Wedekind *et al.*<sup>24</sup>

The 2007 FNES increased the recommended concentrations for selenium in the Cat Food Nutrient Profiles from 0.1 to 0.3 mg/kg to match the recommendations of the 2006 NRC RA and the FEDIAF Guidelines. The 2007 FNES elected to delete the maximum recommended amount of zinc from the Cat Food Nutrient Profiles noting that the 2006 NRC indicated the safe upper limit of zinc for cats was > 600 mg/kg DM for at least short periods of time and that the swine tolerance of 1000 mg/kg DM was the greatest concentration for any tolerance for zinc listed in the 2005 *Mineral Tolerance of Animals*. The FNES retained the recommended concentrations set by the 1990 FNES for all other minerals in the Cat Food Nutrient Profiles.

### Vitamins and Others

The 2007 FNES decreased the recommended minimum concentrations for vitamins A and D in the Cat Food Nutrient Profiles based on the 2006 NRC RA. The 2007 FNES increased the maximum concentration for vitamin D in the Cat Food Nutrient Profiles based on the work of Sih *et al.* and the SUL in the 2006 NRC.<sup>25</sup>

The 2007 FNES increased the recommended concentration of vitamin E to more closely coincide with the recommendations of the 2006 NRC and the FEDIAF Guidelines. The recommended concentration of vitamin K in diets containing 25% or more DM derived from fish was unchanged from previous values consistent with the FEDIAF Guidelines.

Recommended concentrations of thiamine and pantothenic acid in the Cat Food Nutrient Profiles were increased to match the 2006 NRC RA. The recommended concentrations of the remaining water soluble vitamins and for taurine were unchanged from the previous values, several being equal or greater than the 2006 NRC RA (riboflavin, niacin, pyridoxine, folic acid and taurine) with previous recommended concentrations for biotin, vitamin B<sub>12</sub> and choline being between the 2006 NRC AI and RA.

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## Correcting for Moisture Content

The values given in the Profiles are listed in terms of dry matter (DM). However, the values listed in the guaranteed analysis on dog and cat food labels are given on an “as is” or “as fed” (AF) basis, and values reported from laboratories may be given on either an AF or DM basis. The difference between a value reported on a DM basis versus an AF basis is proportional to the moisture (water) content of the food. The greater the moisture content of a food, the greater the food’s DM values for nutrients would be compared to the corresponding AF values. This discrepancy makes direct comparison between the guaranteed analysis values on a food label and the Profile table values impossible without first correcting one or the other set of values so that both are on an equal-moisture basis.

One method of correcting for moisture is the adjustment of the values listed in the guaranteed analysis or reported from a laboratory on an AF basis to a DM basis before comparing with the Profile values. This is done by dividing each AF value by the proportion of DM in the food  $[(100 - \% \text{ moisture})/100]$ . The examples shown below use the guaranteed analysis values, but these adjustments are equally valid for actual laboratory results reported on an AF basis.

### Example A1: A Dry Dog Food Making a Growth Claim: Moisture-Adjusted Guaranteed Analysis Values

Nutrient	Guaranteed Analysis Values	Dog Food Nutrient Profile Minimum Values for Growth	Moisture-Adjusted Guaranteed Analysis Values	Moisture-Adjusted Guaranteed Analysis vs. Profile Values
Crude protein	min. 21%	22.5%	23.3%	OK
Crude fat	min. 8%	8.5%	8.9%	OK
Crude fiber	max. 4%		4.4%	
Moisture	max. 10%	0%	0%	
Calcium	min. 1.1%	1.2%	1.2%	OK
Phosphorus	min. 0.9%	1.0%	1.0%	OK

Directly comparing the guaranteed values in Example A1 for crude protein, crude fat, calcium, and phosphorus to the minimum values for growth given in the Dog Food Nutrient Profile indicates this food would appear to be deficient. However, this comparison is not valid, because the values for the food are listed on a 10% moisture (90% DM) basis, but the Profile values are given on a 0% moisture (100% DM) basis. To put both sets of values on an equal-moisture basis, the guaranteed values were adjusted to 100% DM by dividing each value by the proportion of DM in the food (0.90). With this correction, it becomes apparent that the moisture-adjusted guaranteed analysis values of the reported nutrients do, in fact, meet the minimum recommended concentrations of the Dog Food Nutrient Profile for Growth and Reproduction.

As an alternative method to converting the guaranteed values to a DM basis, the Profile values can be adjusted to match the moisture content of the food. This can be achieved by simply multiplying each Profile value by the proportion of DM in the food (0.9 in example A1). Such calculations yield the following:

**Example A2: A Dry Dog Food Making a Growth Claim:  
Moisture-Adjusted Guaranteed Analysis Values**

<b>Nutrient</b>	<b>Guaranteed Analysis Values</b>	<b>Dog Food Nutrient Profile Minimum Values for Growth</b>	<b>Moisture-Adjusted Profile Values for Growth</b>	<b>Guaranteed Analysis vs. Moisture-Adjusted Profile Values</b>
Crude protein	min. 21%	22.5%	20.25%	OK
Crude fat	min. 8%	8.5%	7.65%	OK
Crude fiber	max. 4%			
Moisture	max. 10%	0%	10%	
Calcium	min. 1.1%	1.2%	1.08%	OK
Phosphorus	min. 0.9%	1.0%	0.9%	OK

### Correcting for Energy Density

The values given in the Profiles presume an energy density of 4000 kcal ME/kg DM. Some dog and cat foods will have energy densities close to this amount. However, many products may have DM energy densities considerably greater than the presumed values. When these more energy-dense products are fed, the dog or cat will require less of the food to meet its caloric requirements. Under these circumstances, the concentrations of the other nutrients in the food should be increased proportionately, so that the dog or cat will receive the needed amount of each nutrient in the smaller amount of food. Therefore, when the energy density of the dog or cat food exceeds 4000 kcal ME/kg DM the nutrient concentrations should be corrected for caloric content before valid comparisons to the appropriate AAFCO Nutrient Profile are made.

Conversely, products could be much lower in energy density than 4000 kcal ME/kg DM. Theoretically, a lower concentration of the other nutrients should be required, assuming that the dog or cat is allowed, and able, to consume enough of the product to meet its caloric needs and that those caloric needs are typical for the average dog or cat of the specific life stage. Because this assumption does not always hold true, the nutrient content should not be decreased in less energy-dense products, that is, the nutrient concentrations in such products should not be corrected for energy density. In fact, if the food is intended to supply significantly fewer calories in somewhat smaller amounts of food than typically consumed by the average weight and specific life stage of the animal, the concentrations of some nutrients per 1000 kcal ME may need to be increased compared to amounts listed in the tables to ensure the animal is provided adequate amounts of those essential nutrients in the quantity of food containing the targeted consumption of daily calories. Furthermore, unless a product meeting the definition for a “lite” or “low calorie” product as specified in Model Regulation PF10 has successfully passed the appropriate AAFCO Feeding Protocols, the product should not be considered adequate for growth or reproduction, regardless of the concentrations of the other nutrients.

The first step in correcting for energy density is to determine the actual energy density of the food. The determination should be done in accordance with Model Regulation PF9. After determining the energy density of the food, the nutrient values can be converted to a per 4000 kcal ME/kg DM or a per 1000 kcal ME basis and compared to the values in the appropriate AAFCO Nutrient Profile.

**Example B1: A Canned Cat Food Making a Growth Claim:  
Moisture- and Energy-Adjusted Guaranteed Analysis Values**

<b>Nutrient</b>	<b>Guaranteed Analysis Values</b>	<b>Moisture-Adjusted Guaranteed Analysis Values</b>	<b>Moisture- and Energy-Adjusted Guaranteed Analysis Values</b>	<b>Growth and Reproduction Cat Food Profi Values per kg DM</b>	<b>Status of Energy-Adjusted Guaranteed Analysis vs. Profi Values</b>
Crude protein	min. 9%	36%	32.1%	30.0	OK
Crude fat	min. 7%	28%	25%	9.0	OK
Crude fiber	max. 1%				
Moisture	max. 75%	0%	0%		
Ash	max. 2%				
Calcium	min. 0.25%	1.0%	0.89%	1.0	Low
Phosphorus	min. 0.2%	0.8%	0.71%	0.8	Low
Energy <sup>a</sup>	1120 kcal ME/kg AF	4480 kcal ME/kg DM	4000 kcal ME/kg DM	4000 kcal ME/kg DM	

<sup>a</sup>Energy = (3.5 × g crude protein) + (8.5 × g crude fat) + [3.5 × g nitrogen-free extract (CHO)] = (3.5 × 90) + (8.5 × 70) + (3.5 × 60) = 1120; % nitrogen-free extract = 100 - (% crude protein + % crude fat + % crude fiber + % moisture + % ash)

A cursory examination of the values listed in the guaranteed analysis compared to the minimum values given in the Cat Food Nutrient Profiles expressed as per kg DM containing 4000 kcal ME revealed that a direct comparison would not be valid. Because the food in Example B1 was 75% moisture (25% DM), the major reason for the discrepancy was likely due to water content. By first dividing the guaranteed values by the proportion of DM (0.25), the moisture-adjusted guaranteed values were derived. Comparing these corrected values with the Profile values, this food appeared to meet the minimums for a growth claim.

However, in this example, direct comparison of the moisture-adjusted guaranteed values with the Profile values was premature. The high DM crude fat content of the food compared to the Profile value (25% vs. 9.0%) was an indication that the food was probably more energy-dense than the Profile value of 4000 kcal ME/kg DM. When calculated, in fact, it was found to be 4480 kcal ME/kg DM (1120 kcal ME/kg AF). Therefore a second adjustment to account for the differences in energy density was warranted. This was achieved by dividing each moisture-adjusted guaranteed value by 4480 (the DM energy density of the food) and then multiplying the result by 4000 (the standard energy density). This second manipulation revealed that the energy-adjusted guaranteed analysis values for the calcium and phosphorus were, in fact, below minimum concentrations for growth.

As demonstrated with the moisture correction methods above, an alternative to correcting the values of the food to meet the Profile energy density is correcting the Profile values to meet the food's energy density. Below, each Profile value was divided by 4000, and the result was multiplied by the appropriate value for energy density (1120 in this example).



**Example B2: A Canned Cat Food Making a Growth Claim:  
Energy-Adjusted Profile DM Values**

Nutrient	Guaranteed Analysis Values	Cat Food		Energy-Adjusted Profile Values	Guaranteed vs. Energy-Adjusted Profile Values (Column 2 vs. 4)
		Nutrient Profile Minimum Values for Growth			
Crude protein	min. 9%	30.0%		8.4%	OK
Crude fat	min. 7%	9.0%		2.5%	OK
Crude fiber	max. 1%				
Moisture	max. 75%				
Ash	max. 2%				
Calcium	min. 0.25%	1.0%		0.28%	Low
Phosphorus	min. 0.2%	0.8%		0.22%	Low
Energy	1120 kcal ME/kg AF	4000 kcal ME/kg DM		1120 kcal ME/kg AF	

Note that although the energy-adjusted minimum for crude fat calculated out to be 2.5%, a much higher concentration of crude fat (in this case 7%) predefined the higher energy density and dictated the need for energy adjustment in the first place. Because for the most part a higher concentration of crude fat predetermines what the higher energy density will be, the energy-adjusted Profile minimum value for crude fat should always be met and will often be grossly exceeded.

The last method for correcting for energy density is to convert the guaranteed values for the food to a per 1000 kcal basis, and to compare these values with those listed in the appropriate Profile based on Calorie Content. This is accomplished by dividing the AF values in the guaranteed analysis by the AF energy density (1120 kcal ME/kg in this example) and then multiplying the result by 1000 kcal ME/kg. The result is the values appearing in the fourth column of Example B3 below with the conclusion being identical to that reached in Examples B1 and B2 above.

**Example B3: A Canned Cat Food Making a Growth Claim:  
Energy-Adjusted Guaranteed Analysis Values**

Nutrient	Guaranteed Analysis Values	Amount per kg (1000 g) As Fed	Product Amount per 1000 kcal ME	Profile Amount per 1000 kcal ME	Status
Crude fat	7%	70 g	62.5 g	22.5	OK
Crude fiber	1%	10 g			
Moisture	75%	750 g			
Ash	2%	20 g			
Calcium	0.25%	2.5 g	2.2 g	2.5	Low

*(continued)*

<b>Nutrient</b>	<b>Guaranteed Analysis Values</b>	<b>Amount per kg (1000 g) As Fed</b>	<b>Product Amount per 1000 kcal ME</b>	<b>Profile Amount per 1000 kcal ME</b>	<b>Status</b>
Phosphorus	0.20%	2.0 g	1.9 g	2.0	Low
Nitrogen-free extract (CHO) <sup>a</sup>	(8%)	60 g			
Energy <sup>b</sup>		1120 kcal			

<sup>a</sup>% nitrogen-free extract = 100 – (% crude protein + % crude fat + % crude fiber + % moisture + % ash)

<sup>b</sup>Energy = (3.5 × 90) + (8.5 × 70) + (3.5 × 60) = 1120

### **AAFCO Dog and Cat Food Feeding Protocols**

A successfully completed, feeding protocol validates the nutritional adequacy of the product's ingredient formula and resulting nutrient profile for the species and life stage(s) to which the product was fed. For the nutritional adequacy claim to be valid, it is expected that the nutrient delivery of the product will not be significantly degraded over the shelf life of the product.

#### **Minimum Feeding Protocol for Proving an Unqualified Representation of Nutritional Adequacy for a Dog or Cat Food**

The minimum testing necessary to prove an unqualified claim for nutritional adequacy may be obtained by using the gestation/lactation and the growth protocols. These protocols must be used sequentially. Thus, a manufacturer desiring to prove an unqualified claim for nutritional adequacy must use the litters obtained from performing the gestation/lactation protocol for the growth period. Test puppies or kittens shall receive the test diet as their sole source of nourishment, other than dam's or queen's milk, during lactation, weaning, and growth.

Selection of puppies or kittens shall be on a statistically sound basis from each of the litters qualifying for the gestation/lactation protocol with equal sex distribution preferred.

#### **Minimum Feeding Protocol for Proving an Adult Maintenance Claim for a Dog Food**

##### **Dogs**

A minimum of eight healthy adult dogs at least one year of age and of optimal body weight shall be required to start the test. Bitches in gestation or lactation shall be excluded. All animals starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 dogs shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual dogs. A minimum of eight dogs shall be required for the concurrent control group. Breed distribution shall be similar in all groups.

##### **Diet**

The same formulation shall be fed throughout the test although different production

batches may be used. Diets fed to a concurrent control group or to dogs in the

determination of historical colony averages must have successfully passed the minimum feeding protocol for an adult maintenance claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

### Duration of Test

The test shall run for a minimum of 26 weeks and shall begin when dogs are placed on the test diet.

### Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Dogs shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

### Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, serum alkaline phosphatase and serum albumin shall be measured and recorded at the end of the test.
- (4) All dogs shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each dog shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of dogs, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Dogs may be removed for poor food intake only during the first two weeks of the test. Data already collected from dogs removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any dog which dies during the test and the findings recorded.

### Interpretation

- A. The diet shall fail if any dog shows clinical or pathological signs of nutritional deficiency or excess.
- B. All dogs not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. No individual dog shall lose more than 15% of its initial body weight. The average percent body weight change (final compared to initial) shall not be less than either:
  1. -10%; or
  2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group).
- D. The average final hemoglobin, packed cell volume and serum albumin values shall not be less than either:
  1. a. Hemoglobin - 14.0 g/dL (no individual <12.0 g/dL),
  - b. PCV - 42% (no individual <36%),
  - c. Albumin - 2.8 g/dL (no individual <2.4 g/dL); or

2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.01$ , if  $n = 8$  per group).
- E. The average feline serum alkaline phosphatase value shall not be greater than either:
1. 150 IU/L (no individual  $>300$  IU/L); or
  2. The historical colony average plus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, plus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.01$ , if  $n = 8$  per group).

### ***Optional Procedures***

The testing requirements for a maintenance dog food may be met by successfully performing either the growth or gestation/lactation protocols in lieu of performing the maintenance protocol.

## **Minimum Feeding Protocol for Proving an Adult Maintenance Claim for a Cat Food**

### **Cats**

A minimum of eight healthy adult cats at least one year of age and of optimal body weight shall be required to start the test. Queens in gestation or lactation shall be excluded. All animals starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 cats shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual cats. A minimum of eight cats shall be required for the concurrent control group.

### **Diet**

The same formulation shall be fed throughout the test although different production batches may be used. Diets fed to a concurrent control group or to cats in the determination of historical colony averages must have successfully passed a minimum feeding protocol for an adult maintenance claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

### **Duration of Test**

The test shall run for a minimum of 26 weeks and shall begin when cats are placed on the test diet.

## Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Cats shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

## Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, serum alkaline phosphatase, serum albumin and whole blood taurine shall be measured and recorded at the end of the test.
- (4) All cats shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each cat shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of cats, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Cats may be removed for poor food intake only during the first two weeks of the test. Data already collected from cats removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any cat which dies during the test and the findings recorded.

## Interpretation

- A. The diet shall fail if any cat shows clinical or pathological signs of nutritional deficiency or excess.
- B. All cats not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. No individual cat shall lose more than 15% of its initial body weight. The average percent body weight change (final compared to initial) shall not be less than either:
  1. -10%; or
  2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group).
- D. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
  1.
    - a. Hemoglobin - 10.0 g/dL (no individual <8.0 g/dL)
    - b. PCV - 30% (no individual <24%)
    - c. Taurine - 300 nmole/mL (no individual <200 nmole/mL)
    - d. Albumin - 2.8 g/dL (no individual <2.4 g/dL); or
  2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the

two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.01$ , if  $n = 8$  per group).

- E. The average final serum alkaline phosphatase value shall not be greater than:
1. 100 IU/L (no individual  $>200$  IU/L); or
  2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.01$ , if  $n = 8$  per group).

### ***Optional Procedures***

The testing requirements for a maintenance cat food may be met by successfully performing either the growth or gestation/lactation protocols in lieu of performing the maintenance protocol.

## **Minimum Feeding Protocol for Proving a Growth Claim for a Dog Food**

### **Puppies**

A minimum of eight puppies from three different bitches shall be required to start the test. The puppies shall be no older than eight weeks of age and weaned. All puppies starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. Historical colony averages for weight gain of puppies must be developed for each sex. Colony statistics shall be calculated with at least 30 males to determine the colony male average weight gain ( $\mu_{\text{MaleColony}}$ )  $\pm$  standard deviation ( $\sigma_{\text{MaleColony}}$ ). In addition, at least 30 females shall be used to determine the colony female average weight gain ( $\mu_{\text{FemaleColony}}$ )  $\pm$  standard deviation ( $\sigma_{\text{FemaleColony}}$ ). A minimum of 30 puppies shall be required for developing the historical colony averages for parameters other than weight gain with all data coming from the same individual puppies. When using a concurrent control group, a minimum of eight puppies for the control group and eight puppies for the test group derived from at least three different bitches shall be required to form the test and concurrent control groups. The test group shall have the same gender distribution as the concurrent control group.

### **Diet**

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to puppies in the determination of historical colony averages must have successfully passed a minimum feeding protocol for a growth claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

### **Duration of Test**

The test shall run for a minimum of 10 weeks.

### **Feeding Parameters**

The test diet shall be the sole source of nutrients except for water. Puppies shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*.

Puppies may be fed individually or in groups. The historical or concurrent control groups shall be fed in a manner similar to that of the treatment group. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

### Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, and serum albumin shall be measured and recorded at the end of the test.
- (4) All puppies shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each puppy shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of puppies, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Puppies may be removed for poor food intake only during the first two weeks of the test. Data already collected from puppies removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any puppy which dies during the test and the findings recorded.

### Interpretation

- A. The diet shall fail if any puppy shows clinical or pathological signs of nutritional deficiency or excess.
- B. All puppies not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. The average body weight gain shall not be less than either:
  1. 80% of the historical colony average, with averages for males and females determined separately for both the test and colony groups; or
  2. The average body weight gain for  $n$  puppies ( $n \geq 8$ ) shall not be less than either the adjusted historical colony average minus 1.64 times the standard error. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
  3. The average body weight gain shall not be less than the average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.05$ , if  $n = 8$  per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- D. The average final hemoglobin, packed cell volume and serum albumin values shall not be less than either:
  1. Hemoglobin - 11.0 g/dL (no individual  $< 9.0$  g/dL)  
PCV - 33% (no individual  $< 27\%$ )  
Albumin - 2.6 g/dL (no individual  $< 2.2$  g/dL); or
  2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or



3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.01$ , if  $n = 8$  per group).

## Minimum Feeding Protocols for Proving a Growth Claim for a Cat Food

### Kittens

A minimum of eight kittens from three different queens shall be required to start the test. The kittens shall be no older than nine weeks of age and weaned. All kittens starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. Historical colony averages for weight gain of kittens must be developed for each sex. Colony statistics shall be calculated with at least 30 males to determine the colony male average weight gain ( $\mu_{\text{MaleColony}} \pm \text{standard deviation } (\sigma_{\text{MaleColony}})$ ). In addition, at least 30 females shall be used to determine the colony female average weight gain ( $\mu_{\text{FemaleColony}} \pm \text{standard deviation } (\sigma_{\text{FemaleColony}})$ ).

A minimum of 30 kittens shall be required for developing the historical colony averages for parameters other than weight gain with all data coming from the same individual kittens. When using a concurrent control group, a minimum of eight kittens for the control group and eight kittens for the test group derived from at least three different queens shall be required to form the test and concurrent control groups. The test group shall have the same gender distribution as the concurrent control group.

### Diet

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to kittens in the determination of historical colony averages must have successfully passed a minimum feeding protocol for a growth claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

### Duration of Test

The test shall run for a minimum of 10 weeks.

### Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Kittens shall be fed *ad libitum* or according to energy needs. Fresh water shall be provided *ad libitum*. Kittens may be fed individually or in groups. The historical or concurrent control groups shall be fed in a manner similar to that of the treatment group. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

### Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, whole blood taurine, and serum albumin shall be measured and recorded at the end of the test.

- (4) All kittens shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each kitten shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of kittens, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Kittens may be removed for poor food intake only during the first two weeks of the test. Data already collected from kittens removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any kitten which dies during the test and the findings recorded.

### Interpretation

- A. The diet shall fail if any kitten shows clinical or pathological signs of nutritional deficiency or excess.
- B. All kittens not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. The average body weight gain shall not be less than either:
  1. 80% of the historical colony average, with averages for males and females determined separately for both the test and colony groups; or
  2. The average body weight gain for  $n$  kittens ( $n \geq 8$ ) shall not be less than either the adjusted historical colony average minus 1.64 times the standard error. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
  3. The average body weight gain shall not be less than the average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.05$ , if  $n = 8$  per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- D. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
  1.
    - a. Hemoglobin - 10.0 g/dL (no individual <8.0 g/dL)
    - b. PCV - 29% (no individual <26%)
    - c. Taurine - 300 nmole/mL (no individual <200 nmole/mL)
    - d. Albumin - 2.7 g/dL (no individual <2.4 g/dL); or
  2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.01$ , if  $n = 8$  per group).

## **Minimum Feeding Protocol for Proving a Gestation/ Lactation Claim for a Dog Food**

### **Dogs**

Enough bitches shall be used to ensure that a minimum of eight pregnant bitches start the test. The bitches must be in at least their second heat period and at least one year of age. All bitches starting the test must pass an initial physical examination by a veterinarian. There is no specific size or breed requirement, but the bitches and studs must be of the same breed. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 bitches shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual bitches. A minimum of eight bitches shall be required for the concurrent control group. Breed distribution must be similar in all groups.

### **Diet**

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to bitches in the determination of historical colony averages must have successfully passed the minimum feeding protocol for a gestation/lactation claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

### **Duration of Test**

The test shall begin at or before estrus, and shall end when the puppies are 4 weeks of age, independent of age at weaning.

### **Feeding Parameters**

The test diet shall be the sole source of nutrients except for water. Animals shall be fed *ad libitum* or based on energy needs which are affected by the size of litter being nursed. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed, and may invalidate the test.

### **Clinical Observations and Measurements**

- (1) Individual daily food consumption for the bitch during gestation and for the bitch and her puppies during lactation shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) For each bitch, body weights shall be measured and recorded at breeding, weekly during gestation, within 24 hours after whelping, weekly during lactation, and at the end of the test. For the puppies, body weights shall be measured and recorded within 24 hours after birth, weekly, and at the end of the test.
- (3) The litter size at birth, at one day of age, and at the end of the test shall be recorded. Stillbirths and congenital abnormalities shall be recorded.
- (4) Hemoglobin, packed cell volume, and serum albumin shall be measured and recorded for the bitch at the end of the test.
- (5) All bitches shall be given a complete physical examination by a veterinarian at the beginning of the test, and at the end of the test. Each bitch shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded. All puppies shall be given a complete physical examination by a veterinarian within 72 hours after birth, and at the end of the test. Each puppy shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.

- (6) Any medication and the reason for its use must be recorded.

- (7) A number of bitches, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Bitches may be removed for poor food intake only during the first two weeks of the test. Data already collected from bitches or puppies removed from the test shall be retained although it does not have to be included in the final results.
- (8) A necropsy shall be conducted on any bitch or puppy which dies during the test and the findings recorded.

### Interpretation

- A. The diet shall fail if any bitch or puppy shows clinical or pathological signs of nutritional deficiency or excess.
- B. All bitches not removed for non-nutritional reasons or poor food intake must successfully finish the test. Eighty percent of all one-day-old puppies must survive and successfully finish the test.
- C. The pregnant bitches on the test shall show weight gain during gestation. The average percent body weight change (breeding through the end of the test) of the bitches shall not be less than either:
  1. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group).
- D. The average weight of the puppies at the end of the test shall not be less than either:
  1. 80% of the historical colony average; or
  2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- E. At the end of the test, the average litter size of the bitches completing the test shall not be less than either:
  1. 80% of the historical colony average; or
  2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group).
- F. The average final hemoglobin, packed cell volume, and serum albumin values shall not be less than either:
  1. a. Hemoglobin - 10.0 g/dL (no individual  $< 8.0$  g/dL),
    - b. PCV - 30% (no individual  $< 24\%$ ),
    - c. Albumin - 2.4 g/dL (no individual  $< 2.2$  g/dL); or

2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.01$ , if  $n = 8$  per group).

### **Minimum Feeding Protocol For Proving a Gestation/ Lactation Claim for a Cat Food**

#### **Cats**

Enough queens shall be used to ensure that a minimum of eight pregnant queens start the test. The queens must be in at least their second heat period and at least one year of age. All queens starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 queens shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual queens. A minimum of eight queens shall be required for the concurrent control group.

#### **Diet**

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to queens in the determination of historical colony averages must have successfully passed the minimum feeding protocol for a gestation/lactation claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

#### **Duration of Test**

The test shall begin at or before estrus, and shall end when the kittens are 6 weeks of age, independent of age at weaning.

#### **Feeding Parameters**

The test diet shall be the sole source of nutrients except for water. Animals shall be fed *ad libitum* or based on energy needs which are affected by the size of litter being nursed. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed, and may invalidate the test.

#### **Clinical Observations and Measurements**

- (1) Individual daily food consumption for the queen during gestation and for the queen and her kittens during lactation shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) For each queen, body weights shall be measured and recorded at breeding, weekly during gestation, within 24 hours after queening, weekly during lactation, and at the end of the test. For the kittens, body weights shall be measured and recorded within 24 hours after birth, weekly, and at the end of the test.

- (3) The litter size at birth, at one day of age, and at the end of the test shall be recorded. Stillbirths and congenital abnormalities shall be recorded.
- (4) Hemoglobin, packed cell volume, whole blood taurine, and serum albumin shall be measured for the queen at the end of the test.
- (5) All queens shall be given a complete physical examination by a veterinarian at the beginning of the test and at the end of the test. Each queen shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded. All kittens shall be given a complete physical examination by a veterinarian within 72 hours after birth, and at the end of the test. Each kitten shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (6) Any medication and the reason for its use must be recorded.
- (7) A number of queens, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Queens may be removed for poor food intake only during the first two weeks of the test. Data already collected from queens or kittens removed from the test shall be retained although it does not have to be included in the final results.
- (8) A necropsy shall be conducted on any queen or kitten which dies during the test and findings recorded.

### Interpretation

- A. The diet shall fail if any queen or kitten shows clinical or pathological signs of nutritional deficiency or excess.
- B. All queens not removed for non-nutritional reasons or poor food intake must successfully finish the test. Eighty percent of all one-day-old kittens must survive and successfully finish the test.
- C. The pregnant queens on the test shall show weight gain during gestation. The average percent body weight change (breeding through the end of the test) of the queens shall not be less than either:
  1.  $-10\%$  (no individual  $< -15\%$ ); or
  2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.05$ , if  $n = 8$  per group).
- D. The average weight of the kittens at the end of the test shall not be less than either:
  1. 80% of the historical colony average; or
  2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root number of test animals. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
  3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample  $t$ -test at  $p \leq 0.05$ , if  $n = 8$  per group). (See Appendix 2 for mathematical formulas required to calculate

- the standard error of the difference of the two group averages for weight gain).
- E. At the end of the test, the average litter size of the queens completing the test shall not be less than either:
    1. 80% of the historical colony average; or
    2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root number of test animals; or
    3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.05$ , if  $n = 8$  per group).
  - F. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
    1.
      - a. Hemoglobin - 9.5 g/dL (no individual <8.0 g/dL)
      - b. PCV - 29% (no individual <26%)
      - c. Taurine - 300 nmole/mL (no individual <200 nmole/mL)
      - d. Albumin - 2.7 g/dL (no individual <2.4 g/dL); or
    2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
    3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at  $p \leq 0.01$ , if  $n = 8$  per group).

### **Criteria for Substantiation of Continued Validity of Nutritional Adequacy Based on Feeding Protocol Results**

#### **Definition**

A protocol substantiated formula is a dog or cat food, whether marketed or not, that has passed one or more AAFCO dog or cat food feeding protocols for substantiation of nutritional adequacy of one or more life stages. These are products that comply with Model Regulation (MR) PF7(a)(2) or PF7(b)(2)(B). A protocol substantiated formula may be a Product Family lead product. A protocol substantiated formula may carry a claim of nutritional adequacy substantiated via animal feeding protocol in compliance with PF7(c)(1)(B). A Product Family Member can be established according to the Procedures For Establishing Product Families. These Product Family Members may also carry a claim of nutritional adequacy substantiated via animal feeding protocol in compliance with PF7(c)(1)(B), provided they have been tested in a feeding protocol for determining metabolizable energy.

#### **Formula Changes**

Substitution of one or more different ingredients for ingredients used in a protocol substantiated formula necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B), unless the manufacturer has data on file that are sufficient to establish that the protocol substantiated formula is the lead member of a Pet Food Product Family and the new formula meets the criteria for being a member of the product family for bearing the claim specified in MR PF7(c)(1)(B). Substitution of one or more different ingredients for ingredients used in a



Product Family Member formula necessitates re-establishing that the new formula meets the criteria for being a member of the product family.

A change in ingredient proportions in a protocol substantiated formula that mandates a reordering of the listed ingredients according to their predominance of weight necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B), unless the manufacturer has data on file that are sufficient to establish that the protocol substantiated formula is the lead member of a Pet Food Product Family and the new formula meets the criteria for being a member of the product family.

### Marketed Formulas

Every 5 years a manufacturer shall demonstrate continued validity of its marketed protocol substantiated formula products that bear a nutritional adequacy statement permitted in MR PF7(c)(1)(B) by producing data sufficient to show that the mean of six analyses from six independent, randomly selected batches of the currently marketed formula contains at least 95% of each of the key nutrients (dog and cat foods: crude protein, calcium, phosphorus, zinc, lysine, thiamine; plus for cat foods: potassium and taurine) used for establishment of a family member product using data from analyses of the original formula used in the feeding protocol(s) as the original nutrient values. The absence of data necessary to establish the original protocol substantiated formula as a lead product in a Pet Food Product Family for formulas marketed for 5 or more years necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B),

Every 5 years, a manufacturer shall demonstrate continued validity of its Product Family Members that bear a nutritional adequacy statement permitted in MR PF7(c)(1)(B) by producing data sufficient to show that the currently marketed formula meets the criteria for being a member of a Pet Food Product Family using data from the original feeding protocol(s) as the lead product criteria for establishment of a Pet Food Product Family.

### Appendix 1: Calculation Formulas for Adjusted Colony Average and Standard Error for Weight Gain of Puppies or Kittens.

These mathematical formulas are to be used when evaluating weight gain produced by a test diet against the historical colony average.

$$\text{Adjusted Colony Average} = \frac{(\text{No. of TestMales} \times \mu_{\text{MaleColony}}) + (\text{No. of TestFemales} \times \mu_{\text{FemaleColony}})}{N}$$

The Colony standard error is defined as:

$$SE = \frac{\sigma^2_{\text{MaleColony}} + \sigma^2_{\text{FemaleColony}}}{2 \times N}$$

### Appendix 2: Calculation Formulas for Standard Error of the Difference Between Test and Concurrent Control Group for Weight Gain of Puppies or Kittens

These mathematical formulas are to be used when evaluating weight gain produced by a test diet against weight gain produced by a concurrent control group fed a diet having successfully passed the same feeding protocol.

Calculate the following test statistics:

Puppies or Kittens	Standard Deviation	<i>n</i>
Male Test (MT)	$SD_{MT}$	$n_{MT}$
Female Test (FT)	$SD_{FT}$	$n_{FT}$
Male Control (MC)	$SD_{MC}$	$n_{MC}$
Female Control (FC)	$SD_{FC}$	$n_{FC}$

$$SE_{diff} = \sqrt{\frac{(n_{MT}-1)SD_{MT}^2 + (n_{MC}-1)SD_{MC}^2 + (n_{FT}-1)SD_{FT}^2 + (n_{FC}-1)SD_{FC}^2}{n_{MT} + n_{MC} + n_{FT} + n_{FC} - 4}} \times \frac{1}{N}$$

Note: The test and control groups of  $N$  each ( $N \geq 8$ ) must contain at least 2 male pairs or at least 2 female pairs.

If the test (T) and control (C) are composed of all male or all female offspring then the standard error of the difference of the two group averages simplifies to:

$$SE_{diff} = \sqrt{\frac{SD_T^2 + SD_C^2}{N}}$$

## Procedures For Establishing Pet Food Product Families

When pet food manufacturers substantiate nutritional adequacy by animal feeding tests performed in accordance with the AAFCO feeding protocols for dog and cat foods, and wish to establish product families, the following procedures shall be followed:

- A. *Each company may establish families of products which are nutritionally similar to a lead product produced by that company which has been successfully test-fed by the appropriate AAFCO feeding protocol(s). The other products within the established family must meet the following criteria:*
  1. All products within a family must be of the same processing type;
  2. All products within a family must also be in the same moisture content category (less than 20%, 20% or more but less than 65%, 65% or more) as determined by the same analytical method; and
  3. The label for the family members must bear a statement of nutritional adequacy for the same or less demanding life stage for which the lead product was successfully tested. Life stages in descending order are “all life stages,” gestation/lactation or growth, and maintenance; and
  4. The dry matter metabolizable energy (ME) content of the product family member (same Method for both lead and family member) must be within  $\pm 7.5\%$  of the lead product’s dry matter ME content as determined by either an animal feeding study using the AAFCO “Minimum Protocol for Use in the Determination of Metabolizable Energy of Dog and Cat Foods” which has been corrected for moisture content, or the “Modified Atwater” formula as found in AAFCO Official Pet Food Regulation PF9(a)(3)(A) which has been corrected for moisture content; and
  5. The product family member must:
    - a. Meet, as determined by laboratory analysis, the dry matter nutrient levels and ratios of the lead family product for crude protein, calcium, phosphorus, zinc, lysine, thiamine, and additionally potassium and taurine for cat foods; and
    - b. All other nutrients in the AAFCO Nutrient Profile shall be formulated to meet or exceed the nutrient levels and ratios of the lead family product or the AAFCO Nutrient Profiles, whichever is lower and shall not exceed the maximums established by the AAFCO Nutrient Profiles; and
  6. Nutritional adequacy statement:
    - a. The lead product, whose nutritional adequacy is substantiated by an AAFCO Animal Feeding Protocol shall bear a label statement consistent with AAFCO Official Pet Food Regulation PF7(c)(1)B. Family members whose ME is substantiated by an ME feeding study shall bear the same label statement.
    - b. Family members whose ME is substantiated by using the “Modified Atwater” formula shall bear a label statement consistent with the AAFCO Official Pet Food Regulation PF7(c)(1)C.
- B. *When formula changes are made to family members, life stage feeding tests need not be conducted unless the product does not meet the requirements established for the family.*
- C. *Affidavits shall be made available upon request to the state control official for the lead product and for each product within the established family.*

# AAFCO Dog and Cat Food Metabolizable Energy Protocols

## Method 1: Quantitative Collection

### I. Animals

A minimum of six (6) fully grown animals at least one (1) year of age shall complete the test. The animals shall be in good health and of known weight. Animals shall be individually housed in metabolism cages. If urine is not collected and metabolizable energy is calculated based on correction factors for urine energy loss as specified in the protocol, protected covered runs may be used in lieu of metabolism cages.

### II. Feeding Procedures

Feeding procedures shall be standardized. The feeding shall consist of two phases. The first phase shall be the pre-collection period of at least five (5) days with the objective of acclimating the test animals to the diet and adjusting food intake, as necessary, to maintain body weight. The second phase shall be the total collection period of at least five (5) days (120 hours). The amount of food offered during the second phase shall remain constant. Food intake shall be recorded throughout both phases.

### III. Food

Food type, flavor, and production codes representing the composite feed shall be recorded. The food source shall remain constant throughout the test period.

### IV. Food Allowances

The amount of food presented to each animal may be based upon existing data on the quantity of food required to maintain body weight, or the estimated daily energy needs required for maintenance of various weights of dogs (Table 5, 1985 Nutrient Requirements of Dogs, NRC, or 132 kcal ME times body weight in kilograms to the 0.75 power) or cats (Table 4, 1986 Nutrient Requirements of Cats, NRC, or 70 kcal ME per kilogram body weight). *Ad libitum* feeding also may be used.

### V. Times of Feeding

Animals shall be fed at least once daily and at the same time each day. Water shall be available at all times. Food shall be fed as is, or per normal feeding instructions for the product. The excess food shall be weighed back after the feeding.

### VI. Pre-Trial Termination

If, during the pre-collection phase, the food is continually rejected or results in minimal consumption by a majority of the animals, the trial shall not proceed into the collection phase.

### VII. Feces Collection

It is imperative that all collection containers be clearly marked using double labels. The labels shall include the animal number, diet number, and dates of collection. Feces shall be collected daily over 120 hours. Every effort should be made to collect all of the feces and avoid collecting hair. The methodology is as follows:

1. Weigh collection container and record weight.
2. Place feces in the respective animal's container for that day of collection. Collect feces as quantitatively as possible.
3. Place collections in freezer for storage.

4. Feces may be dried each day.
  - a. Weigh and record the weight of the feces and container each day, and determine net weight of feces. If the volume of feces is large, an aliquot may be retained for drying.
  - b. Dry daily feces collection (or aliquot). Feces should be thin enough to dry quickly. Otherwise, nitrogen and carbon losses may occur due to fermentation products.
  - c. Composite the entire 120-hour collection or proportional aliquots.

### VIII. Sample Preparation

#### A. Food

The food shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

#### B. Feces

Feces shall be analyzed using composite samples. The samples shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

#### C. Urine

If urine collections are made, they shall be for the same period as the feces collections. Urine shall be collected, with a minimum of contamination, in a urine receptacle containing sulfuric acid to stabilize the urine and prevent nitrogen loss. After the total urine volume is determined, aliquot samples shall be freeze-dried in an appropriate container.

### IX. Analytical Determinations

Prepared samples shall be used for analysis. AOAC International approved analytical methodology shall be used when available. Food, feces, and urine (if collected) shall be assayed for gross energy (bomb calorimetry). If urine is not collected, food and feces also shall be assayed for crude protein.

### X. Calculation of Metabolizable Energy

The determination is based on assays of the gross energy consumed, minus the energy in the feces and correction for energy lost in the urine (or energy lost in urine as determined by calorimetry).

#### A. Without urine collection

Data may be entered into the supporting data worksheet entitled Quantitative Collection Method Without Urine Collection which follows the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an “as fed” (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However, all data for feces must be recorded on the same basis.

$$ME = \{ \text{gross energy of food consumed} - \text{gross energy of feces collected} - [(\text{grams protein consumed} - \text{grams protein in feces}) \times \text{correction factor for energy lost in urine}] \} / \text{amount of food consumed}$$

Correction factor for energy lost in urine = 1.25 kcal/g for dogs, 0.86 kcal/g for cats.

**Example:**

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - (b \times e / 100) - (d \times f / 100) \times g}{b} \times 1000$$

*a* = gross energy of food = 4.35 kcal/g  
*b* = amount of food consumed = 1250 g  
*c* = gross energy of feces = 1.65 kcal/g  
*d* = amount of feces collected = 600 g  
*e* = protein in food = 24%  
*f* = protein in feces = 9%  
*g* = correction factor (dog) = 1.25 kcal/g

$a \times b = 4.35 \times 1250 = 5437.5$  kcal gross energy of food consumed  
 $c \times d = 1.65 \times 600 = 990$  kcal gross energy of feces collected  
 $b \times e / 100 = 1250 \times 24 / 100 = 300$  g protein of food consumed  
 $d \times f / 100 = 600 \times 9 / 100 = 54$  g protein in feces  
 $(300 - 54) \times 1.25 = 307.5$  kcal energy lost in urine

$$\text{ME} = \frac{(5437.5 - 990 - 307.5)}{1250} \times 1000$$

$$= 3310 \text{ kcal ME/kg food}$$

**B. With urine collection**

Data may be entered into the supporting data worksheet entitled Quantitative Collection Method with Urine Collection which follows the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an "as fed" (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However, all data for feces must be recorded on the same basis.

ME = (gross energy of food consumed – gross energy of feces collected – gross energy of urine collected)/amount of food consumed

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - (e \times f)}{b} \times 1000$$

**Example:**

*a* = gross energy of food = 4.35 kcal/g  
*b* = amount of food consumed = 1250 g  
*c* = gross energy of feces = 1.65 kcal/g  
*d* = amount of feces collected = 600 g  
*e* = gross energy of urine = 0.25 kcal/mL  
*f* = volume of urine = 1230 mL

$a \times b = 4.35 \times 1250 = 5437.5$  kcal gross energy of food consumed  
 $c \times d = 1.65 \times 600 = 990$  kcal gross energy of feces collected  
 $e \times f = 307.5$  kcal gross energy of urine collected

$$\text{ME} = \frac{(5437.5 - 990 - 307.5)}{1250}$$

$$\begin{aligned} & \times 1000 \\ & = 3310 \text{ kcal ME/kg food} \end{aligned}$$

## Method 2: Indicator Method

### I. Animals

A minimum of six (6) fully grown animals at least one (1) year of age shall complete the test. The animals shall be in good health and of known weight. Animals shall be individually housed.

### II. Feeding Procedures

Feeding procedures shall be standardized. The feeding shall consist of two phases. The first phase shall be the pre-collection period of at least five (5) days with the objective of acclimating the test animals to the diet and adjusting food intake, as necessary, to maintain body weight. The second phase shall be the collection period, during which aliquots of feces shall be collected from at least three separate days.

### III. Food

Food type, flavor, and production codes representing the composite feed shall be recorded. The food source shall remain constant throughout the test period.

Approximately 0.25% chromic oxide shall be uniformly mixed in a quantity of food sufficient to feed all animals for the duration of the pre-collection and collection periods. The chromic oxide should be of high quality and free of soluble chromium. Fisher Certified powder or equivalent is suitable.

For dry diets, the chromic oxide powder should be premixed with a feed ingredient before incorporation into the diet. Although it possibly could be sprayed onto an extruded product, the uniformity of dispersion is questionable.

For canned diets, the chromic oxide powder should be added as an aqueous slurry. To aid in dispersion, a small amount of liquid detergent should be added to the slurry. This should help overcome the hydrophobic nature of chromic oxide and its tendency to form balls in solution.

### IV. Food Allowances

The amount of food presented to each animal may be based upon existing data on the quantity of food required to maintain body weight, or the estimated daily energy needs required for maintenance of various weights of dogs (Table 5, 1985 Nutrient Requirements of Dogs, NRC, or 132 kcal ME times body weight in kilograms to the 0.75 power) or cats (Table 4, 1986 Nutrient Requirements of Cats, NRC, or 70 kcal ME per kilogram body weight). *Ad libitum* feeding also may be used.

### V. Times of Feeding

Animals shall be fed at least once daily and at the same time each day. Water should be available at all times. Food shall be fed as is, or per normal feeding instructions for the product. The excess food shall be weighed back after the feeding.

### VI. Pre-Trial Termination

If, during the pre-collection phase, the food is continually rejected or results in minimal consumption by a majority of the animals, the trial shall not proceed into the collection phase.

### VII. Feces Collection

It is imperative that all collection containers be clearly marked using double labels. The labels shall include the animal number, diet number, and dates of collection.



Aliquots of feces from three separate days shall be collected. Every effort should be made to avoid collecting hair. The aliquots shall be dried and composited.

### VIII. Sample Preparation

#### A. Food

The food shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

#### B. Feces

The feces shall be analyzed using composite samples. The samples shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

### IX. Analytical Determinations

Prepared samples shall be used for analysis. AOAC International approved analytical methodology shall be used when available. Food and feces shall be assayed for gross energy (bomb calorimetry), crude protein, and chromium.

Food and feces should be analyzed for chromium by the same method. The preferred method of analysis is atomic absorption spectrophotometry.<sup>1</sup> Controlled sample digestion and oxidation of the chromic oxide to chromates is critical for reproducible results. Colorimetric analysis of chromium is less reproducible than atomic absorption spectrophotometry.

### X. Calculation of Metabolizable Energy

The determination is based on assays of the gross energy consumed, minus the energy in the feces and correction for energy lost in the urine. Data may be entered into the supporting data worksheet entitled Indicator Method which follow the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an "as fed" (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However all data for feces must be recorded on the same basis.

ME = digestible energy – (digestible protein × correction factor for energy lost in urine)  
Correction factor = 1.25 kcal/g for dogs, 0.86 kcal/g for cats

$$DE = 1 - \frac{\text{gross energy of feces} \times \% \text{ Cr}_2\text{O}_3 \text{ in food}}{\text{energy of food} \times \% \text{ Cr}_2\text{O}_3 \text{ in feces}} \times \text{gross energy of food}^{\text{gross}}$$

$$DP = 1 - \frac{\% \text{ protein in feces} \times \% \text{ Cr}_2\text{O}_3 \text{ in food}}{\% \text{ protein in food} \times \% \text{ Cr}_2\text{O}_3 \text{ in feces}} \times \% \text{ protein in food}$$

$$DE \text{ (kcal/g food)} = \{1 - [(b \times c)/(a \times d)]\} \times a$$

$$DP \text{ (g digestible protein/g food)} = \frac{\{1 - [(f \times c)/(e \times d)]\}}{100} \times e$$

$$ME \text{ (kcal/kg food)} = [DE - (DP \times g)] \times 1000$$

**Example:**

$a$  = gross energy of food = 4.35 kcal/g

$b$  = gross energy of feces = 1.65 kcal/g

$c$  = percent chromic oxide in food = 0.25%

$d$  = percent chromic oxide in feces = 0.52%

$e$  = protein in food = 24%

$f$  = protein in feces = 9%

$g$  = correction factor (dog) = 1.25 kcal/g protein digested

$$\begin{aligned} \text{DE} &= \{1 - [(1.65 \times 0.25)/(4.35 \times 0.52)]\} \times 4.35 \\ &= 3.56 \text{ kcal/g food} \end{aligned}$$

$$\begin{aligned} \text{DP} &= \frac{\{1 - [(9 \times 0.25)/(24 \times 0.52)]\} \times 24}{100} \\ &= 0.197 \text{ g digestible protein/g food} \end{aligned}$$

$$\begin{aligned} \text{ME} &= 3.56 - (0.197 \times 1.25) \times 1000 \\ &= 3310 \text{ kcal ME/kg food} \end{aligned}$$

**XI. Reference**

<sup>1</sup> Arthur D. The determination of chromium in animal feed and excreta by atomic absorption spectrophotometry. Can Spect 1970; 15:134.





\*\*Data and calculation of ME results shall be furnished upon request.

**(b) Affidavit of Pet Food Nutritional Similarity**

**[For pet food product family members labeled with the nutritional adequacy claim referenced in PF7(c)B and C]**

- Affidavit \_  
(Company Name)

for \_  
(Product Name)

for Product Comparison to Animal Testing Affidavit \_

for \_  
(Lead Product Name)

1. Affiant is the \_ of \_  
(Title) (Company Name)

and is duly authorized to make and execute this Affidavit for and on behalf of said company.

2. Affiant is familiar with the requirements of the (AAFCO) Official Pet Food Regulations PF7(a), (b), (c), and (d) that pertain to the label representation of nutritional adequacy of dog and cat food products.

3. The product to which this Affidavit pertains (listed above and on the product label that is attached) meets the criteria to be considered a member of a family of products whose lead product (listed above and a copy of the label and Affidavit attached) has been substantiated by adequate testing that was performed in accordance with the requirements established by AAFCO for such testing. The information and date verifying such criteria are attached.

4. The nutritional representations made in this Affidavit are based upon scientifically accurate calculations made from the formula for this product and upon a chemical laboratory analysis of the product which are recorded and such results are on file at - , and will be furnished to the state feed control official upon request.  
(Location of Records)

Name: \_

Title: \_

Signature: \_

Company Name: \_

Address: \_

Subscribed and sworn before me this

\_ Day of , 20 .

\_\_\_\_\_  
(Notary Signature)

**(c) Affidavit of Pet Food Formulation – AAFCO Nutrient Profile(s)**

**[For products labeled with the nutritional adequacy claim  
referenced in PF7(c)(1)(A)]**

\_\_\_\_ Affidavit \_\_\_\_\_ for \_\_\_\_\_  
(Company Name) (Product Name)

1. Affiant is the \_\_\_\_\_ of \_\_\_\_\_ and is duly  
(Title) (Company Name)

authorized to make and execute this Affidavit for and on behalf of said company.

2. Affiant is familiar with the requirements of the Association of American Feed Control Officials (AAFCO) Official Pet Food Regulations 7(a), (b), (c), and (d) that pertain to the label representation of nutritional adequacy of dog and cat food products.

3. The product to which this Affidavit pertains (listed above and on the product label that is attached) contains ingredients in quantities to meet the nutrient levels for \_\_\_\_\_ of the \_\_\_\_\_  
(Life Stage(s)) (Dog or Cat)

This product meets the nutrient levels established in the AAFCO \_\_\_\_\_  
Food Nutrient Profiles for \_\_\_\_\_ (Dog or Cat)

(Growth/Reproduction, Maintenance or All Life Stages)

4. The nutritional representations made in this Affidavit are based upon \_\_\_\_\_ (scientifically accurate calculations made from the formula for this product) or (upon a chemical laboratory analysis of the product) which are recorded and such results are on file at \_\_\_\_\_ and will be furnished to the State Feed \_\_\_\_\_ (Location of Records) Official upon request.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Subscribed and sworn before me this

\_\_\_\_ Day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(Notary Signature)





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(Notary Signature)

Batch No.	CP Crude Protein AF <sup>a</sup> (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF (%)	ME (kcal/kg)
1							
2							
3							
4							
Average							

<sup>a</sup>AF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

**Quantitative Collection Method Without Urine Collection**

<b>Dog ID No.</b>	<b><i>a</i> Gross Energy of Food AF<sup>a</sup> (kcal/g)</b>	<b><i>b</i> Food Consumed AF (g)</b>	<b><i>c</i> Gross Energy Feces AF (g)</b>	<b><i>d</i> Feces Collected DM<sup>b</sup> (g)</b>	<b><i>e</i> Protein Food AF (%)</b>	<b><i>f</i> Protein Feces DM (%)</b>	<b><i>g</i> Correction Factor (kcal/g)</b>	<b>ME (kcal/g)</b>
1								
2								
3								
4								
5								
6								
Average ME								

<sup>a</sup>AF = as fed.

<sup>b</sup>DM = dry matter.

$$ME \text{ (kcal/kg)} = \frac{(a \times b) - (c \times d) - \left[ (b \times e / 100) - (d \times f / 100) \right] \times g}{b} \times 1000$$

Correction factor = 1.25 kcal/g for dogs, 0.86 kcal/g for cats



<b>Batch No.</b>	<b>CP Crude Protein AF<sup>a</sup> (%)</b>	<b>CF Crude Fat AF (%)</b>	<b>CFb Crude Fiber AF (%)</b>	<b>Mo Moisture AF (%)</b>	<b>Ash Ash AF (%)</b>	<b>NFE AF(%)</b>	<b>ME (kcal/g)</b>
1							
2							
3							
4							
5							
6							

<sup>a</sup>AF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

**Quantitative Collection Method with Urine Collection**

<b>Dog ID No.</b>	<b><i>a</i> Gross Energy of Food AF<sup>a</sup> (kcal/g)</b>	<b><i>b</i> Food Consumed AF (g)</b>	<b><i>c</i> Gross Energy Feces AF (g)</b>	<b><i>d</i> Feces Collected DM<sup>b</sup> (g)</b>	<b><i>e</i> Gross Energy Urine (kcal/mL)</b>	<b><i>f</i> Urine Collected (mL)</b>	<b>ME (kcal/g)</b>
1							
2							
3							
4							
5							
6							
Average ME							

<sup>a</sup>AF = as fed.

<sup>b</sup>DM = dry matter.

$$\frac{(a \times b) - (c \times d) - (e \times f)}{b}$$

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - (e \times f)}{b} \times 1000$$

<b>Batch No.</b>	<b>CP Crude Protein AF<sup>a</sup> (%)</b>	<b>CF Crude Fat AF (%)</b>	<b>CFb Crude Fiber AF (%)</b>	<b>Mo Moisture AF (%)</b>	<b>Ash Ash AF (%)</b>	<b>NFE AF (%)</b>	<b>ME (kcal/kg)</b>
1							
2							
3							
4							
Average							

<sup>a</sup>AF = as fed.

$$\text{NFE (\%)} = (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

## Indicator Method

Dog ID No.	<i>a</i> Gross Energy of Food AF <sup>a</sup> (kcal/g)	<i>b</i> Gross Energy Feces DM <sup>b</sup> (kcal/g)	<i>c</i> C <sub>1203</sub> in Food AF (%)	<i>d</i> C <sub>1203</sub> in Feces DM (%)	<i>e</i> Protein Food AF (%)	<i>f</i> Protein Feces DM (%)	<i>g</i> Correction Factor (kcal/g)	ME (kcal/g)
1								
2								
3								
4								
5								
6								
Average ME								

<sup>a</sup>AF = as fed.<sup>b</sup>DM = dry matter.

$$DE \text{ (kcal/g food)} = \{1 - [(b \times c)/(a \times d)]\} \times a$$

$$DP \text{ (g digestible protein/g food)} = [1 - (f \times c)/(e \times d)] \times e$$

$$ME \text{ (kcal/g food)} = [DE - (DP \times g)] \times 1000$$

$$\text{Correction factor} = 1.25 \text{ kcal/g for dogs, } 0.86 \text{ kcal/g for cats}$$

Batch No.	CP Crude Protein AF <sup>a</sup> (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF (%)	ME (kcal/g)
1							
2							
3							
4							
Average							

<sup>a</sup>AF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$



## AAFCO Pet Food Regulations Label Review Checklist

Company Name: \_

Product Name: \_

Reviewer: \_

This Label Review Checklist is intended as a guide in determining whether this pet food or specialty pet food label is in compliance with the AAFCO Model Regulations for Pet Food and Specialty Pet Food.

\*Note: There are also federal regulations that apply to the labeling and manufacture of animal food. It is recommended that pet food manufacturers and distributors check with FDA for additional information on federal labeling requirements. The AAFCO Business of Pet Food Website has a page with links to additional information on federal labeling requirements as well. The website address is <http://petfood.aaftco.org>

A “Yes” response to the questions below indicates compliance for that item.

A “No” response indicates a violation of the regulation mentioned.

### I. Animal Species – Model Pet Food Regulation PF2(a)(2)

- (1) Do the words “Dog Food,” “Cat Food,” “Canine Formula,” “Feline Diet,” “Hamster Food” or similar designation appear conspicuously on the principal display panel? Yes \_ No \_

### II. Quantity Statement – Model Pet Food Regulation PF2(a)(3)

- (1) Is there a quantity statement on the principal display panel in either net weight or net volume (avoirdupois and metric) or by count?  
Yes No \_
- (2) If volume is listed on a liquid vitamin or mineral supplement, is there a weight equivalent listed elsewhere on label? PF4(c)(4) and PF4(d)(4)  
Yes No \_

### III. Location of Required Label Information – Model Pet Food Regulation PF2(b)

- (1) Does all required label information appear on the outer container or wrapper?  
Yes No \_

### IV. Product Claims – Model Pet Food Regulation PF2(c)(d)(e)(f)(g)

If product claims and/or graphic representations are made:

- (1) Does adequate substantiation exist for each claim? Yes \_ No \_
- (2) Are the claims truthful and not misleading? Yes \_ No \_
- (3) If a claim of “new” or “improved” is made, is it limited to six (6) months of production? Yes \_ No \_

**V. Product Comparison Claims – Model Pet Food Regulation PF2(h)**

- (1) If the label includes any claims of comparison to another product, is the name of the product of comparison included on the label?

Yes      No \_

- (a) If “yes,” is documentation, data, etc., available to support the claim?  
Yes      No \_
- (b) Is the claim limited to one (1) year production? Yes \_      No \_

### **VI. Product Name – Model Pet Food Regulation PF3**

The following AAFCO Official Pet Food or Specialty Pet Food Regulations refer to ingredient(s) that form part of the product name:

- (1) If the pet food or specialty pet food claims “100%” or “All” within the product name (PF3(a)):
- (a) Does the pet food or specialty pet food contain only one ingredient other than water for processing, decharacterizing agents, or trace amounts of preservatives and condiments? Yes \_      No \_
- (2) If the product name is formed by using an ingredient or combination of ingredients without further qualification (“95% Rule”- PF3(b)(1) Example: My Favorite Beef Dog Food):
- (a) Is the formulation comprised of at least 95% of the named ingredient(s), exclusive of water sufficient for processing, [but not less than 70% of the total product weight] in the formulation?  
Yes      No \_
- (b) Is the named ingredient listed in the ingredient statement?  
Yes      No \_
- (c) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of formula? Yes \_      No \_
- (d) Are all ingredients that are included in the product name printed in the same size, style and color print? Yes \_      No \_
- (3) If a product name is formed using an ingredient or a combination of ingredients and is listed with a primary descriptor term such as “dinner,” “entrée,” “formula,” etc. (“25% Rule”- PF3(b)(2), Example: My Favorite Salmon Entrée Cat Food):
- (a) Is the formulation comprised of at least 25% of the named ingredient(s), exclusive of water sufficient for processing, [but not less than 10% of the total product weight] in the formulation? Yes \_      No \_
- (b) Is the named ingredient listed in the ingredient statement?  
Yes      No \_
- (c) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of the formula? (Example: My Favorite Beef, Chicken and Lamb Dinner Dog Food)? Yes \_      No \_
- (d) Are all ingredients and primary descriptor that are included in the product name printed in same size, style and color print? Yes \_      No \_
- (4) If there is an ingredient name in the product name or elsewhere on the label that

includes a descriptor term such as “with” (“With Rule”- PF3(c)Example: My Favorite Dog Food With Beef):

- (a) Does each ingredient named constitute at least 3% of the formulation, exclusive of water sufficient for processing (except for nutrients or condiments)? Yes  No
  
- (b) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of formula? Yes  No

- (c) Is the word “with” in the same size, style, color and case print as the ingredients that are included in the product name? Yes \_ No \_
- (d) Does the product name meet the print size specifications listed in the following table? Yes \_ No \_

Panel Size	Maximum “With Claim” Type Size
≤5 in. <sup>2</sup>	1/8 in.
>5–≤25 in. <sup>2</sup>	1/4 in.
>25–≤100 in. <sup>2</sup>	3/8 in.
>100–≤400 in. <sup>2</sup>	1/2 in.
>400 in. <sup>2</sup>	1 in.

- (5) If a flavor designation is used in the product name or elsewhere on the label:
- (a) Does the name correspond to the source of the flavor in the ingredient statement or has it been identified by a source of flavor in the ingredient statement; and is substantiation available to validate the flavor designation? Yes \_ No \_
- (b) If a flavor designation is made, is the word “flavor” printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation? Yes \_ No \_

**Table Summarizing Product Name Requirements**

Claim Rule	Product Name Example With Ingredient	Percentage of Ingredient to Make Claim	Minimum Percent of Ingredient in Formula Weight <sup>a</sup>
“100%”; “All”	“100% Beef”; “All Sweet Potato”	100% <sup>b</sup>	
95%	“Cherry”; “Trout”	95% <sup>c</sup>	70%
25% Descriptor	“Chicken Platter”; “Turkey Recipe”	25% <sup>c</sup>	10%
“with”	“with blueberries, carrots, and cranberries”	3% each <sup>c</sup>	N/A
“Flavor”	Peanut Butter Flavor	Sufficient to impart flavor	N/A

<sup>a</sup>Minimum percentage of ingredient allowed in total product weight, regardless of water content.

<sup>b</sup>not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments

<sup>c</sup>not including water sufficient for processing

**VII. Expression of Guarantees – Model Pet Food Regulation PF4**

(1) Are all required nutrients guaranteed? PF4(a)(1); PF4(g) Yes \_ No \_

- (a) Are mandatory guarantees in the proper order as found in PF4(a)(1)?  
Yes      No \_
- (b) If label claims have been made that indicate that the product is a source of specific nutrients, are those nutrients guaranteed? Model Bill Section 5(a)  
(3) Yes      No \_
- (2) Do the guarantees follow the applicable AAFCO nutrient profile order? PF(4)  
(a)(3) Yes \_      No \_
- (a) For Specialty Pets without an AAFCO-recognized nutrient profile, do the guarantees follow the order of the AAFCO Cat Food Nutrient Profile?  
PF(4)(a)(4) Yes \_      No \_
- (3) If a guarantee is made for a nutrient not listed as essential by the AAFCO Dog or Cat Food Nutrient Profiles (or in the case of a specialty pet food, the cited AAFCO-recognized nutritional authority for the intended species), is it asterisked to the disclaimer statement? PF4(a)(3) or PF4(a)(4)  
Yes      No \_
- (4) Are the correct units used? Units must follow those used in AAFCO Dog or Cat Food Nutrient Profiles (or in the case of specialty pet food, in the cited AAFCO-recognized nutrient profile\*). PF4(a)(3) or PF4(a)(4)  
Yes      No \_
- \*Note: If no AAFCO-recognized nutrient profile exists for the species, units should follow the AAFCO Cat Food Nutrient Profile for specialty pet food labels.*
- (5) Has it been verified that the label does not have sliding scale guarantees? (e.g. Minimum Crude Protein is 15-18%) PF4(b) Yes \_      No \_
- (6) If formulated or represented as a mineral supplement, are guarantees listed as required by PF4(c) (1)-(4)? Yes \_      No \_
- (7) If formulated or represented as a vitamin supplement, are guarantees listed as required by PF4(d)(1)-(4)? Yes \_      No \_
- (8) If the label of the pet food or specialty pet food bears a statement of comparison of the nutrient content of food with levels established in the the AAFCO-recognized nutrient profile, do the following apply? PF4(e)
- (a) Does the product meet the nutrient requirements of the AAFCO-recognized nutrient profile? Yes \_      No \_
- (b) Is there a statement that the product meets the AAFCO-recognized nutrient profile, unless the nutritional adequacy statement required by PF7(a)(1) or PF7(b)(2)(A) appears elsewhere on the label? Yes \_      No \_
- (c) Does the comparison comply with the additional requirements in PF4(e) (3)-(4)? Yes \_      No \_
- (9) Has it been verified that the moisture content of the pet food or specialty pet food does not exceed 78% or the natural moisture content of the ingredients, unless the product is consisted of and labeled as: “stew,” “gravy,” “sauce,”

“broth,” “aspic,” “juice,” or a “milk replacer”? PF4(f) Yes \_ No \_

**VIII. Ingredient Statement – Model Pet Food Regulation PF5**

- (1) Are all ingredients listed in the same size, style, and color and in a single, uninterrupted ingredient statement? Yes \_ No \_
  
- (2) Are ingredients listed in order of descending predominance by weight? PF5(a)  
(2) Yes \_ No \_
  
- (3) Are defined ingredients listed by their AAFCO defined names? PF5(a)(3)  
Yes No \_
  
- (4) If an ingredient has no established AAFCO name or definition, is a common or usual name used? Yes \_ No \_



- (5) Collective terms, brand or trade names have not been used in the ingredient statement? PF5(c) Yes \_ No \_
- (6) There are no references to ingredient quality or grade in the ingredient statement? PF5(d)(3) Yes \_ No \_

#### **IX. Drugs and Pet Food Additives – Model Pet Food Regulation PF6**

- (1) If an artificial color is used, has sufficient documentation been collected to demonstrate that it has been shown to be harmless to pets or specialty pets based on the intended use of the feed? PF6(a) Yes \_ No \_
- (2) If an additive or drug is being used, can safety and efficacy be established through satisfactory evidence (i.e. does it conform to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or is it prior-sanctioned, informal-review sanctioned or GRAS for such use) when the product is fed according to the label directions? PF6(b) Yes \_ No \_
- (3) If a drug is used: PF6(b)(2) and MR3(a)(2)
- (a) Does the word “Medicated” appear directly following and below the product name in font that is no less than one half (1/2) the type size of the product name? MR3(a)(2)I Yes \_ No \_
- (b) Does the label bear a purpose statement that clearly indicates the purpose, class of animal, and species? MR3(a)(2)II Yes \_ No \_
- (c) Does the label have a claim statement (purpose of the medication)? MR3(a)(2) Yes \_ No \_
- (d) Does the label have an active ingredient statement which lists the active drug ingredient by the established name and the amount present? MR3(a)(2)IV Yes \_ No \_

#### **X. Nutritional Adequacy – Model Pet Food Regulation PF7**

##### **Dog and Cat and Specialty Pets**

- (1) If there is an unqualified nutritional adequacy claim of “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” on the label of the pet food or specialty pet food, is the product complete and balanced for all life stages of the intended species by meeting one of the 3 criteria in PF7(a)?  
Yes \_ No \_
- (2) If there is a qualified nutritional adequacy claim for only a limited purpose or specific life stage on the label of the pet food or specialty pet food, is the claim and required qualification on same panel in the same size, style and color print? PF7(b)(1) Yes \_ No \_
- (3) If there is a qualified nutritional adequacy claim for only a limited purpose or specific life stage on the label of the pet food or specialty pet food, is the product “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” for the specific life stage of the intended species by meeting one of the 3 criteria in PF7(b)(2)? Yes \_ No \_

- (4) If the pet food or specialty pet food product is labeled for “use by or under the supervision or direction of a veterinarian,” (PF7(d)) does it also contain a nutritional adequacy statement in accordance with PF7(c)(1) or PF7(c)(3)?  
PF7(d)? Yes \_ No \_
- (5) Are signed affidavits available to support that the pet food or specialty pet food product meets the requirements of PF7(a) or PF7(b)(2)? PF7(e)  
Yes No \_

## Pet (Dog and Cat) Only:

- (6) If the dog or cat food product is a “snack,” “treat,” or “supplement,” do the words “snack” or “treat” or “supplement” appear clearly and conspicuously on the principal display panel? PF7(c) Yes \_ No \_
- (7) If the dog or cat food product is not labeled as a “snack” or “treat” or “supplement”:
- (a) Does the label contain the proper (as appropriate to the intended use and substantiation method) nutritional adequacy statement and in the exact wording shown? PF7(c)(1) Yes \_ No \_
- (b) And, if the product does not meet the requirements of Regulation PF7(a) or (b)(2) or any other special nutritional or dietary need, so is suitable only for limited or supplemental feeding, does the statement “This product is intended for intermittent or supplemental feeding only” appear on the label? PF7(c)(3) Yes\_ No\_

**XI. Feeding Directions – Model Pet Food Regulation PF8**

## Pet (Dog or Cat) Food Directions:

- (1) If dog or cat food (including “treats” or “snacks”)\* is labeled as complete and balanced for any or all life stages, does the label have feeding directions? PF8(a) Yes\_ No\_

*\*If a dog or cat product is labeled as a snack or treat, and is not represented as “complete and balanced,” feeding directions are voluntary unless considered necessary for “safe and effective use.”*

- (2) Are the feeding directions consistent with all of the intended uses of the product? PF8(a) Yes\_ No\_
- (3) Do the feeding directions state, at minimum, a weight or unit of product per weight of dog or cat and frequency of feeding stated? PF8(a) Yes\_ No\_
- (4) If the dog or cat food product is labeled for “use by or under the supervision or direction of a veterinarian,” does it also carry the statement “Use only as directed by your veterinarian.”? PF8(b) Yes\_ No\_

## Specialty Pet Food Directions:

- (5) Are the feeding directions adequate to meet the nutritional requirements of the intended species as recommended by the AAFCO-recognized nutritional authority? PF8(c) Yes\_ No\_
- (6) Do the feeding directions for specialty pet foods and treats labeled as complete and balanced for any or all life stages meet all three of the following three criteria? PF(8)(c):
- (a) List feeding directions that are adequate to provide the nutrient requirements as determined by an AAFCO-recognized nutritional authority of the intended species? Yes\_ No\_
- (b) Use common terms and appear predominantly on the label?

Yes            No\_

(c) Specify the frequency of feeding? Yes\_            No\_

Nutritional Supplement Feed:

(7) If a pet food or specialty pet food is labeled as a nutritional supplement, are adequate directions for use provided? MR 7(c) Yes\_            No\_

**XII. Calorie Content – Model Pet Food Regulation PF9 – Applies Only to Pet Food (Dog or Cat)**

(1) Does the label bear a calorie content statement? PF9(a) Yes\_            No\_

- (2) Is it separate and distinct from the guaranteed analysis? PF9(a)(1)  
Yes      No \_
- (3) Does it appear under the heading “Calorie Content”? PF9(a)(1)  
Yes      No \_
- (4) Is it stated in terms of metabolizable energy (ME)? PF9(a)(2)  
Yes      No \_
- (5) Is it expressed both in terms of kcal/kg and kcal per familiar household measure or unit of product (cups, cans, treats, pieces)? PF9(a)(2)  
Yes      No \_
- (6) Has it been determined by calculation or animal testing procedure following methods in PF9(a)(3)? Yes \_      No \_
- (a) If calculated, does the word “calculated” appear in parentheses immediately after “Calorie Content”? PF9(a)(5)A. Yes \_      No \_
- (b) If determined by animal testing procedures, does the word “fed” appear in parentheses immediately after “Calorie Content”? PF9(a)(5)B.  
Yes      No \_
- (7) Is an affidavit available to support the calorie content statement? PF9(a)(4)  
Yes      No \_

### **XIII. Descriptive Terms – Model Pet Food Regulation PF10 – Applies Only to Pet Food (Dog or Cat)**

- (1) Calorie Terms- Light-If the product label bears a “light,” “lite” or “low calorie” claim:
- (a) Does it meet the following requirements? Yes \_      No \_
- |                                     |                        |
|-------------------------------------|------------------------|
| <u>Light—PF10(a)(1)(A)—Dog Food</u> |                        |
| ≤3100 kcal/kg                       | <20% moisture          |
| ≤2500 kcal/kg                       | <65% and ≥20% moisture |
| ≤900 kcal/kg                        | ≥65% moisture          |
- 
- |                                     |                        |
|-------------------------------------|------------------------|
| <u>Light—PF10(a)(1)(B)—Cat Food</u> |                        |
| ≤3250 kcal/kg                       | <20% moisture          |
| ≤2650 kcal/kg                       | <65% and ≥20% moisture |
| ≤950 kcal/kg                        | ≥65% moisture          |
- (b) Does the label contain a calorie content statement? PF10(a)(1)(A)(ii) or PF10(a)(1)(B)(ii) Yes \_      No \_
- (c) Is the claim based on an “as fed” basis? Yes \_      No \_
- (d) Does the calorie content statement follow the format specified in PF9? PF10(a)(1)(A)(ii)(aa) or PF10(a)(1)(B)(ii)(aa) Yes \_      No \_
- (e) Are feeding directions consistent with reduced calorie intake? PF10(a)(1)(A)(iii) or PF10(a)(1)(B)(iii). Yes \_      No \_

- (2) Less or Reduced Calories - Regulation PF10(a)(2) --If the label makes a less or reduced calorie claim:
- (a) Is there a product of comparison named? PF10(a)(2)(A)(i)  
Yes      No \_
  
  - (b) Is there a percentage of calorie reduction stated on the label? PF10(a)(2)(A)(i) Yes \_      No \_
  
  - (c) Is it expressed on an equal weight basis (i.e., kcal/kg on an as fed basis)? PF10(a)(2)(A)(i) Yes \_      No \_
  
  - (d) Is percent calorie reduction and name of the product of comparison juxtaposed with the most prominent use of this claim on each panel? PF10(a)(2)(A)(i) Yes \_      No \_

- (e) Is print of comparative statement in same color and style and at least 1/2 the type size of the claim? PF10(a)(2)(A)(ii) Yes  No
- (f) Is there a calorie content statement on the label? PF10(a)(2)(A)(iii)  
Yes  No
- (g) Do feeding directions reflect a reduction in calories? PF10(a)(2)(A)(iv)  
Yes  No
- (h) Are compared products in the same moisture category (e.g., both products must be less than 20% moisture)? PF10(a)(2)(B)  
Yes  No
- (3) Fat Terms - Lean - Regulation PF10(b)(1)--If there is a lean or low-fat claim on label:
- (a) Does it meet the following requirements? Yes  No
- Lean—PF10(b)(1)(A)—Dog Food
- |                |                                   |
|----------------|-----------------------------------|
| $\leq 9\%$ fat | $< 20\%$ moisture                 |
| $\leq 7\%$ fat | $< 65\%$ and $\geq 20\%$ moisture |
| $\leq 4\%$ fat | $\geq 65\%$ moisture              |
- Lean—PF10(b)(1)(B)—Cat Food
- |                 |                                   |
|-----------------|-----------------------------------|
| $\leq 10\%$ fat | $< 20\%$ moisture                 |
| $\leq 8\%$ fat  | $< 65\%$ and $\geq 20\%$ moisture |
| $\leq 5\%$ fat  | $\geq 65\%$ moisture              |
- (b) Are there minimum and maximum percent crude fat guarantees? PF10(b)(1)(A)(ii)(aa) or PF10(b)(1)(B)(ii)(aa) Yes  No
- (4) Less or Reduced Fat - PF10(b)(2)(A)--If there is a reduced fat, less fat or similar claim on label:
- (a) Is a product of comparison stated? PF10(b)(2)(A)(i) Yes  No
- (b) Is there a percentage of reduction based on an equal weight basis (as fed and not dry matter basis) stated? PF10(b)(2)(A)(i) Yes  No
- (c) Can the stated (claimed) percentage of reduction be determined using the method in the following example: Yes  No

**“Less or Reduced Fat” Example [PF10(b)(2)]:**

Assume the following three products

Guarantee	Brand A	Brand B	Brand C
% Fat (min.)	10	5	5
% Fat (max.)	Not declared	9	7

**Claims**

Calculation used when there is no maximum fat listed for product to which claim is compared	“Brand B has 10% less fat than Brand A.”	Brand B (max.) – Brand A (min.)/Brand A (min.) = $(9 - 10)/10 = -1/10 = -10\%$
Calculation used when both products have maximum fat guaranteed	“Brand C has 22% less fat than Brand B.”	Brand C (max.) – Brand B (max.)/Brand B (max.) = $(7 - 9)/9 = -2/9 = -22\%$



- (d) Is percent fat reduction and name of the product of comparison juxtaposed with the most prominent use of the claim on each panel? PF10(b)(2)(A)(i)  
Yes      No \_
- (e) Is the statement in the same style, color and at least 1/2 size type as the claim? PF10(b)(2)(A)(ii) Yes \_      No \_
- (f) Is there a minimum and maximum percent crude fat guarantee? PF10(b)(2)(A)(iii) Yes \_      No \_
- (g) Are compared products in same moisture categories (e.g., both products must be less than 20% moisture)? PF10(b)(2)(B) Yes \_      No \_

**XIV. Manufacturer or Distributor – Model Pet Food Regulation PF11**

- (1) Is there a name and address, including zip code, of the manufacturer or distributor on label? PF11(a) Yes \_      No \_

**XV. Attachments**

- (1) If brochures, pamphlets, website, advertisements, promotional material, etc., are produced for this product, does all of the information comply with the AAFCO Pet Food Model Regulations? Yes \_      No \_

**XVI. Raw Milk Distributed as Pet or Specialty Pet Food- Model Bill 3(t); Model Bill 8(i)((1)-(6); Model Pet Food Regulations PF2(i); PF(3)(g)**

- (1) Does the product fit the definition of “Raw Milk”? Model Bill (Section 3)(t)  
Yes      No \_
- (2) Is the raw milk appropriately “decharacterized” using a sufficient quantity of animal feed appropriate food coloring; or is it certified and labeled as Organic in compliance with the USDA National Organic Program requirements? Model Bill (Section 8)(i)(1-3) Yes \_      No \_
- (3) Is the raw milk appropriately packaged in a packaging that does not resemble packaging used for milk consumed by Humans? Model Bill (Section 8)(i)(4)  
Yes      No \_
- (4) Is the raw milk offered for sale sufficiently separate from of the vicinity of milk or milk products for human consumption? Model Bill (Section 8)(i)(5)  
Yes      No \_
- (5) Have no other “Prohibited Acts” found in Model Bill Section 8 “Prohibited Acts” been violated?  
Yes      No \_
- (6) If this product is raw milk distributed as pet food or specialty pet food, is the statement: **“WARNING: NOT FOR HUMAN CONSUMPTION-THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** conspicuously placed on the principal display panel and in font size not smaller than required by the following table?

<b>Panel Size</b>	<b>Minimum Warning Statement Type Size</b>
<5 in. <sup>2</sup>	1/16 in.
≥5—<25 in. <sup>2</sup>	1/8 in.
≥25—<100 in. <sup>2</sup>	3/16 in.
≥100—<400 in. <sup>2</sup>	1/4 in.
≥400 in. <sup>2</sup>	1/2 in.

Yes \_\_\_\_\_ No

- (7) If the pet food or specialty pet food consists of raw milk, do the words “Raw (Blank) Milk” appear conspicuously on the display panel? \*Blank to be completed using the species of animal from which the milk is collected (e.g. “Raw Goat Milk,” “Raw Sheep Milk”) Yes \_ No \_

## **XVII. Direct Fed Microbials and Enzyme labeling (Pet Food and Specialty Pet Food)**

### **Direct Fed Microbials - Model Regulation 9(b)(4)**

If the product claims to be a source of, or guarantees, probiotics or direct-fed microbials:

- (1) Does the label bear the statement “Contains a source of live (viable) naturally occurring microorganisms”? MR 9(b)(4)(II) Yes \_ No \_
- (2) Is there a guarantee for total microbes with a parenthetical species list or for individual species listed in descending order of predominance by microbial number? MR 4(g) Yes \_ No \_
- (3) Does the guarantee include only organisms from ingredient definition 36.14 or 96.2 or 96.8 (if yeast)? Yes \_ No \_
- (4) Is the guarantee stated in colony forming units per unit fed, based on the feeding directions (either CFU/g or CFU/lb)? MR 4(g) Yes \_ No \_
- (5) On pet food labels (dog and cat): Is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles”? Yes \_ No \_
- (6) On specialty pet food labels: If an AAFCO-recognized profile exists, is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as an essential nutrient by the \_ ”? PF4(a)(4)  
Yes \_ No \_
- (7) Does the product include an ingredient from ingredient definition 36.11 or 36.12 or 96.2 or 96.8 (if yeast)? Yes \_ No \_
  - (a) If the direct fed microbial is a source of bacteria, is the ingredient listed in the ingredient statement using the appropriate fermentation product definition, with the organism name input into the blank? (Example: Dried Lactobacillus acidophilus fermentation product; Liquid *Bifidobacterium bifidum* fermentation product) Yes \_ No \_
  - (b) If the direct fed microbial is a source of yeast, is the ingredient listed as “active dry yeast” or “yeast culture” in the ingredient statement?  
Yes \_ No \_

*Note: Direct fed microbial ingredients that are a source of bacteria are listed in the ingredient statement using two definitions: The Genus species as listed in 36.14 and the type of fermentation product (Dried Genus species fermentation product or Liquid Genus species fermentation product). They are never listed as just “Genus species” in the ingredient statement. Direct fed microbials that are a source of yeast are listed in the ingredient statement using one of two definitions: Active dry yeast or Yeast*

*culture.*

**Enzymes-- Model Regulation 9(b)(5)**

If the product claims to be a source of- or guarantees- enzyme activity:

- (1) Is there a guarantee for enzyme(s)? MR 9(b)(5)(II) Yes  No 
  - (a) Is the source of enzyme activity shown in the guarantee (e.g. Protease (Aspergillus niger))? MR 4(h) Yes  No
  - (b) Is the guarantee listed in the units of enzymatic activity per amount of product fed, consistent with label directions (e.g. mg amino acids liberated/min/g)? MR 4(h) Yes  No

- (2) If multiple sources of enzyme activity are guaranteed, are the sources identified in the guarantee in descending order of predominance of enzyme activity? MR 4(h) Yes  No
- (3) On pet food labels (Dog and Cat): is there an asterisk with the guarantee referring to the disclaimer statement “Not recognized as essential by the AAFCO Dog (or Cat) Food Nutrient Profile”? Yes  No
- (4) On specialty pet food labels: If an AAFCO-recognized profile exists, is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as essential by the  ”? Yes  No
- (5) If the enzyme is derived from a microbial source, does the product include an ingredient from ingredient definition 36.6, 36.7, 36.11, or 36.12?  
Yes  No
- (a) Is the source shown in ingredient definition 30.1? PF(5)(a)(3)  
Yes  No
- (b) Is the source associated with the guaranteed enzyme?  
Yes  No

*Note: For example if the label bears a guarantee for lipase, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried Aspergillus niger fermentation extract.*

- (6) If the enzyme is derived from a plant or animal product, does the product contain an ingredient providing enzyme activity corresponding to the enzyme in ingredient definition 30.1? Yes  No
- (a) Is the source shown in ingredient definition 30.1? PF(5)(a)(3)  
Yes  No
- (b) Is the source associated with the guaranteed enzyme?  
Yes  No

*Note: Example (1) If the label bears a guarantee for lipase, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried lamb pancreas; Example (2) If the label bears a guarantee for bromelain, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried pineapple.*



## **Model Regulations for Processed Animal Waste Products as Animal Feed Ingredients**

Section Editor—Doug Lueders

The following Model Regulations have been developed by the Animal Waste Task Force after consideration of a number of state regulations on the same topic and after careful consideration of a number of regulatory options which might be open to a state control official. It represents the best judgment of the Task Force and is recommended, should any member state choose to adopt it for its use.

Any State Control Official proposing to adopt the following Model Regulations, or regulate Processed Animal Waste Products and Animal Feed Ingredients under his own state feed law and regulations, should read carefully all of the Federal Register notice published by FDA on Recycled Animal Wastes (F.R. 45, No. 251, 86272-86276, Dec. 30, 1980), and the 1981 Recycled Animal Waste Committee Report.

### **Regulation 1. Legal Authority**

Legal Authority (designated specifically by each state to meet legal requirements: Section 10, Model Bill).

### **Regulation 2. Definitions**

Definitions (in addition to those listed in the current issue of the Official Publication of AAFCO).

### **Regulation 3. Registration**

Registration Required (Section 4, Model Bill).

- (A) No person shall sell, offer or expose for sale, or distribute in this state, any processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed as defined in Section II prior to registering same with \_\_\_\_\_, as specified in Section 4 Model Bill.
  
- (B) Application for registration shall be made to the \_\_\_\_\_ on forms provided by the \_\_\_\_\_ and shall be accompanied by payment of the statutory registration fee as set forth in \_\_\_\_\_.
  
- (C) Applications for registration shall be accompanied by the following:
  - (1) A copy of the label or tag which the applicant proposes to use for the processed animal waste product.
  - (2) A detailed description of the facilities, equipment and method of manufacture to be used in processing, manufacturing and testing of the processed animal waste product.
  - (3) A sampling schedule, a full description of all tests made, and the results, thereby purporting to show the processed animal waste product meets the standards of \_\_\_\_\_ and these rules and regulations for registration.

### **Regulation 4. Registration Refused or Cancelled**

(Section 4, Model Bill)

- (A) General--Registration of a processed animal waste product shall be refused if:
  - (1) Applicant or the processed animal waste product is determined to be in violation of any state or federal statute or state agency rule or regulation

affecting or relating to the sale of commercial feeds.

- (2) The processed animal waste product contains any pathogenic organisms, drug residues, pesticide residues, harmful parasites, or other toxic or



deleterious substances above levels permitted by (State regulations), Federal Food, Drug, and Cosmetic Act, Sections 406, 408, 409 and 706, or which could be harmful to animals, or which could result in residue in the tissue or by-products of animals above levels determined and promulgated in regulations by the \_ to be harmful.

- (3) The processed animal waste product does not meet the Quality Standards set forth in \_ Definitions, of this regulation.
  - (4) The processed waste product is not labeled in compliance with law and agency rules and regulations, including Regulation 5 of these rules.
  - (5) Applicant or registrant fails to perform the testing as specified in Regulation 6 of these rules, or to accurately maintain and display to the \_ or his designee, upon demand, the records required.
- (B) Registration may be refused pursuant to and in compliance with any statutory provisions authorizing the \_ to refuse registration.
- (C) Registration may be cancelled by the \_ if the product or registrant is found to be in violation of any provision of these regulations.

#### **Regulation 5. Labeling Requirements.**

- (A) The label, tag, or label invoice accompanying shipments of animal waste products shall contain all information as required by Regulation 2, Model Bill and Regulations.
- (B) In addition, it shall include the following information, in the list of guarantees, in following order, in percentages:
  - (1) maximum moisture, following fiber guarantee.
  - (2) maximum ash, following moisture guarantee.
- (C) Special labeling or warnings required, as appropriate:
  - (1) If the product contains drug residues, then the label shall contain the following statement in boldface type:  
**“WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 15 DAYS OF SLAUGHTER AND DO NOT USE 15 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS.”**
  - (2) If the product contains high levels (25 ppm or greater) of copper, a maximum guarantee of copper and the following statement is required:  
**“WARNING: CONTAINS HIGH LEVELS OF COPPER: DO NOT FEED TO SHEEP.”**
  - (3) If the product derives one-third (1/3) or more of the guaranteed total crude protein from non-protein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:  
**“CAUTION: USE ONLY AS DIRECTED.”**

#### **Regulation 6. Testing Required**

- (A) The purpose of the sampling and testing requirements of this section shall be to determine the presence of harmful materials or biological contaminants specified in (State regulation) and to assure compliance with the quality standards in \_ of these regulations.
- (B) Any person seeking or receiving registration of any processed animal waste

product shall test, by representative sampling and assaying of such samples, and keep accurate records thereof, the processed animal waste product for which the registration is sought or received. The sample shall be of sufficient size so as to provide meaningful data, statistically reliable in carrying out the

purpose of such sampling and analysis. For example, 10 one-pound samples taken randomly from one day's production run or other identifiable lot, should be packaged in sealed airtight bags for prompt shipment to the analytical laboratory.

- (C) The registrant, manufacturer, or producer of any such processed animal waste product ingredient shall conform to the following sample and analyses requirements:
- (1) Analyses specified by the \_\_\_\_\_ to meet the requirements of the quality standards of \_\_\_\_\_ of these regulations shall be conducted on three sequential production runs to establish that the feed ingredient is consistently within the limitations specified prior to registration and/or sale of the processed animal waste product.

### ***Optional***

In addition to quality standards, testing on the same production runs or lots should include potential hazardous substances such as the following:

- (a) Drugs suspected or known to be used in the feed or as a therapeutic treatment of the animals.
  - (b) Pesticides used on the animal, facilities, and wastes for pest control.
  - (c) Pathogenic organisms, at least to include Salmonella and E. coli.
  - (d) Heavy metals: arsenic, cadmium, copper, lead, mercury and selenium, at least.
  - (e) Parasitic larva or ova.
  - (f) Mycotoxins, such as aflatoxins.
- (2) Following the initial sequential testing, periodic analyses shall be conducted on production runs no less than one (1) each calendar quarter. Less frequent testing may be allowed where the analytical results show continued uniformity and a consistent margin of compliance. More frequent tests shall be required where the analytical results show a wide range, or show levels close to the established quality standards. Any processed animal waste product that does not meet the quality standards for the product shall be further processed until standards are met, shall be diverted to non-feed uses, or destroyed.
  - (3) Sequential testing shall again be required when the periodic analyses required by paragraph (C)(2) of this section or other information available to the manufacturer of the ingredient indicates that:
    - (a) The ingredients are not within the limitations established in these regulations.
    - (b) Changes are made in the manufacturing process.
    - (c) New or expanded sources of the raw ingredients are used.
    - (d) Changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

### **Regulation 7. Records Required**

Any person seeking or receiving registration of any processed animal waste product shall keep for a period of two (2) years, accurate records of:

- (A) All sources of raw materials and date acquired, including information on drugs and pesticide usage.
- (B) All production output, including a code or other method to identify the date of production.
- (C) All sales and distribution, including the name and address of the purchaser or to whom distributed, date, quantity and production code.
- (D) Sampling and assay records of the testing required by Regulation 6 of this

regulation.

# AAFCO Non-Commercial Feed Model Bill

Section Editor—Doug Lueders

## Preamble

A bill to provide authority to the \_ to regulate the manufacture of non-commercial feed, allow for inspection, sampling and testing of non-commercial feed, and authorize the \_ to take enforcement action pursuant to adulterated non-commercial feed to protect the health and safety of animals and food from animals.

## Extra Bill Explanation

This Non-Commercial Feed Model Bill was developed to provide express authority for States to regulate the manufacture of feed not in commerce or not intended for distribution into commerce. Its intent is to provide States that adopt it legislatively with the authority to regulate the manufacture of such feed that could present a danger to human or animal health. It does not provide authority to regulate the feeding of animals. Although this Bill has not been passed into law in all the States, the subject matter covered herein represents the official position of this Association.

## AN ACT

To regulate non-commercial feed in the State of \_\_\_\_\_ BE IT ENACTED by the Legislature of the State of \_\_\_\_\_.

### Section 1. Title

This Act shall be known as the “\_\_\_\_\_ Non-Commercial Feed Law of 20\_\_\_\_.”

### Section 2. Enforcing Official

This Act shall be administered by the \_\_\_\_\_ of the State of \_\_\_\_\_, hereinafter referred to as the “\_\_\_\_\_.”

### Section 3. Definitions of Words and Terms

When used in this Act:

- (a) The term “commercial feed” means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 7(a) of the Model Bill, are exempt. The \_\_\_\_\_ by rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 7(a) of the Model Bill.
- (b) The term “distribute” means to offer for sale, sell, exchange, or barter

commercial feed; or to supply, furnish or otherwise provide commercial feed to a contract feeder.

- (c) The term “drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and

articles other than feed intended to affect the structure or any function of the animal body.

- (d) The term “establishment” includes any of the following, but is not limited to, facilities, equipment and conveyances used for, or in connection with, the receiving, processing, manufacturing, storing, packaging, transportation or use of feed.
- (e) The term “feed” means edible material(s) which are consumed by animals and contribute energy and/or nutrients to the animal’s diet.
- (f) The term “feed ingredient” means a component, part or constituent of any combination or mixture making up a non-commercial feed.
- (g) The term “manufacture” means to grind, mix, blend, package, store, transport or further process a non-commercial feed.
- (h) The term “non-commercial feed” means all materials or combination of materials, not distributed or intended for distribution, that are for manufacturing and use as feed, or for mixing in feed. A person manufacturing non-commercial feed shall not be subject to licensing, product registration or tonnage fees imposed by the State of .
- (i) The term “official sample” means a sample of non-commercial feed taken by the or their agent in accordance with the provisions of Section 7(c), (e), or (f) of this Act.
- (j) The term “person” includes individual, partnership, corporation, and association.

#### Section 4. Adulteration

A non-commercial feed shall be deemed to be adulterated:

- (a)
  - (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such non-commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such non-commercial feed does not ordinarily render it injurious to health; or
  - (2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
  - (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or
  - (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed non-commercial feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed non-commercial feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed non-commercial feed will result or is likely to result in a pesticide residue in the edible product of

- the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or
- (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or
  - (6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or
  - (7) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for non-commercial feed; or
  - (8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or
  - (9) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or
  - (10) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
  - (11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.
- (b) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the \_ to assure that

the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the \_ shall adopt

the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the \_ determines that

they are not appropriate to the conditions which exist in this State.

- (c) If it is manufactured, processed, packaged, stored, transported or used in a manner that does not conform to the feed safety regulations promulgated by the \_.
- (d) If it contains viable weed seeds in amounts exceeding the limits which the \_ shall establish by rule or regulation.

## Section 5. Prohibited Acts

The following acts and the causing thereof within the State of \_ are hereby prohibited.

- (a) The manufacture of any non-commercial feed that is adulterated.
- (b) The adulteration of any feed.
- (c) The disposal or use of a non-commercial feed in violation of an order under Section 8 of this Act.
- (d) The violation of Section 9(f) of this Act.

## Section 6. Rules and Regulations

- (a) The \_ is authorized to promulgate such rules and regulations for non-commercial feed as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient



enforcement of this Act. In the interest of uniformity the \_ shall by  
regulation adopt, unless the \_ determines that they are inconsistent with  
the provisions of this Act or are not appropriate to conditions which exist in this  
state, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
  - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (U.S.C. Sec. 301, et seq.): Provided, that the \_ would have the authority under this Act to promulgate such regulations.
- (b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the \_ shall publish the proposed regulation, amendment, or

notice to repeal an existing regulation in a manner reasonably calculated to give interested persons adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the \_ shall take appropriate action to issue the proposed rule or

regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the \_ pursuant to the authority of this

Act, adopts the Official Definitions of Feed Ingredients or Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the US Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the \_ by order specifically determines

that said amendment of modification shall not be adopted.

## Section 7. Inspection, Sampling, and Analysis

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to the provisions, agents of the \_ , upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge of the non-commercial feed establishment, are authorized (1) to enter, during normal business hours, any public or private premises, including any establishment within the State in which feed ingredients or non-commercial feeds are stored, manufactured, processed, packed or used, or to enter any vehicle being used to transport or hold such feed ingredients or non-commercial feeds; and (2) to inspect at reasonable times, within reasonable limits and in a reasonable manner, any establishment, vehicle, pertinent equipment, finished and unfinished non-commercial feed or feed ingredients, containers, and labeling therein. The inspection may include: sampling of feed ingredients and mixed feed; verification of storage, production, handling and use control procedures; and verification of records as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the owner, operator or agent in charge of the facility or vehicle shall be so notified.
- (c) If the \_ or their agent making such inspection has obtained an official

sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises a receipt describing the official samples obtained shall be given to the owner, operator, or agent in charge.

- (d) If the owner, operator or agent in charge of any non-commercial feed establishment described in paragraph (a), refuses to admit the \_ or their agent to inspect in accordance with paragraphs (a) and (b), the \_ is authorized to obtain from any State Court a warrant directing such owner, operator or agent in charge to submit the premises described in such warrant to inspection.
- (e) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (f) The results of all analyses of official samples shall be forwarded by the \_ to the non-commercial feed manufacturer. When the inspection and analysis of an official sample indicates a non-commercial feed has been adulterated, and upon request within 30 days following the receipt of the analysis, the \_ shall furnish to the non-commercial feed manufacturer a portion of the official sample concerned.
- (g) The \_ , in determining for administrative purposes whether a non-commercial feed is adulterated, shall be guided by the official sample as defined in paragraph (g) of Section 3 and obtained and analyzed as provided for in paragraphs (c) and (e) of Section 7 of this Act.

**Section 8. Detained Non-Commercial Feed**

- (a) “Stop-Use” orders: When the \_ or their agent has reasonable cause to believe any non-commercial feed is in violation of any of the provisions of this Act or any of the prescribed regulations under this Act, the \_ may issue and enforce a written or printed “stop-use” order, warning the owner not to dispose of or use the lot of non-commercial feed in any manner until written permission is given by the \_ or the Court. The \_ shall release the lot of non-commercial feed upon which such stop-use orders are issued when said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the \_ may begin, or upon request of the non-commercial feed manufacturer shall begin, proceedings for condemnation.
- (b) “Condemnation and Confiscation”: Any non-commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of \_ to a court of competent jurisdiction in the area in which said non-commercial feed is located. In the event the court finds the said non-commercial feed to be in violation of this Act and orders the condemnation of said non-commercial feed, it shall be disposed of in any manner consistent with the quality of the non-commercial feed and the laws of the State; provided, that in no instance shall the disposition of said non-commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said non-commercial feed or for permission to process said non-commercial feed to bring it into compliance with this Act.

**Section 9. Penalties**

- (a) Any person convicted of violating any of the provisions of this Act or who shall

impede, hinder, or otherwise prevent, or attempt to prevent, said \_ or their

agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than \_ or more than \_ for the first violation, and not less than or

more than \_ for a subsequent violation.

- (b) Nothing in this Act shall be construed as requiring the \_ or their agent to:
- (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal order, as a result of minor violations of the Act, or when the \_ believes the public interest will best be served by suitable notice of warning in writing.
- (c) It shall be the duty of each \_ attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the \_ reports a violation for such prosecution, an opportunity shall be given the non-commercial feed manufacturer to present their views to the \_.
- (d) The \_ is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.
- (e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the (here name the particular Court in the county where the enforcement official has their office) for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.
- (f) Any person who uses to his own advantage, or reveals to other than the \_ , or officers of the \_ (appropriate departments of this State), or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall upon conviction thereof be fined not less than \$ \_ or imprisoned for not less than \_ year(s) or both: Provided, That this prohibition shall not be deemed as prohibiting the \_ , or their agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

### **Section 10. Cooperation with other entities**

The \_ may cooperate with and enter into agreements with governmental agencies of this State, other States, agencies of the Federal Government, and private associations in order to carry out the purpose and provisions of this Act.

### **Section 11. Constitutionality**

If any clause, sentence, paragraph, or part of this Act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 12. Effective Date**

This Act shall take effect and be in force from and after the first day of .

## AAFCO Model Good Manufacturing Practice Regulations for Feed and Feed Ingredients

Section Editor—Doug Lueders

Please see the Current Good Manufacturing Practice regulations, Title 21, CFR parts 507.14–507.28 and the associated checklist, available online at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=507>.



*2017 AAFCO Board of Directors. Bottom row: Kristen Green, Jr. Director; Dan Danielson, President-Elect; Ken Bowers, President; Mark LeBlanc, Immediate Past-President; Erin Bubb, Jr. Director. Back row: Stan Cook, Sr. Director; Bob Church, Jr. Director; Bob Geiger, Sr. Director; Ali Kashani, Secretary-Treasurer.*



## CONTACT INFORMATION

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## ENDNOTES

<sup>1</sup> Visual Summary Figure 1 is compiled from information in the Department of Agriculture study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Agriculture"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017).

<sup>2</sup> *SC Code of Laws*, § 2-2-20(C).

<sup>3</sup> The Subcommittee's name during the 121<sup>st</sup> General Assembly is the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. When the Committee reorganizes for the 122<sup>nd</sup> General Assembly, the Subcommittee is renamed the Economic Development, Transportation, and Natural Resources Subcommittee.

<sup>4</sup> SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Public Survey & Public Input via LOC webpage,"  
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20R SIC.PDF> (accessed July 26, 2017). Hereinafter, "May 2016 Public Survey Results." See Comment #18 received on May 14, 2016, 6:03 p.m. on page 8. SC House of Representatives, House Legislative Oversight Committee, "History, Mission, Vision, and Key Partners presentation provided by the Department of Agriculture (July 6, 2016)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "History Presentation - July 6, 2016".

<sup>5</sup> SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Attorney General Opinion," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," and under "Other Materials,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “April 28, 2016 Attorney General Opinion.”

SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture's Proposed Revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics)” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture's Proposed Revisions to Regulation 5-360.” SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture’s Proposed Revisions to Title 39, Chapter 39 (Provision for the Labeling and Marketing of Eggs, )” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Agriculture's%20Proposed%20Revisions%20to%20Title%2039,%20Chapter%2039%20\(Provisions%20fo%20the%20Labeling%20and%20Marketing%20of%20Eggs\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Agriculture's%20Proposed%20Revisions%20to%20Title%2039,%20Chapter%2039%20(Provisions%20fo%20the%20Labeling%20and%20Marketing%20of%20Eggs).pdf) (accessed October 27, 2017). Hereinafter, “Proposed Revisions relating to Labeling and Marketing of Eggs.” SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture's Recommended Statutory Changes (June 15, 2017)” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Agriculture's%20Recommended%20Statutory%20Changes%20\(June%202015,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Agriculture's%20Recommended%20Statutory%20Changes%20(June%202015,%202017).pdf) (accessed July 26, 2017). Hereinafter, “Department of Agriculture’s Recommended Statutory Changes.”

<sup>6</sup> Act 104 of 1879.

<sup>7</sup> *Ibid.* at section 22. The one-time appropriation figure was adjusted for inflation from the nominal figure of \$5,000 using the Consumer Price Index (Urban).

<sup>8</sup> South Carolina, Department of Agriculture, *First Annual Report of the Commissioner of Agriculture of the State of South Carolina* (Charleston, SC: Walker, Evans & Cogswell, 1880), 64. The carried forward balance was calculated by adding the balance of the one-time appropriation to the Department of Agriculture in 1879, and the amounts received by the agency from taxes collected on commercial fertilizers and fees received from land registrations, and then adjusting the resulting nominal sum of \$17,435.20 for inflation using the Consumer Price Index (Urban).

<sup>9</sup> *Ibid.* at pages 3-4. Though the names are similar, Commissioner Butler was not Andrew Pickens Butler, the South Carolina native who served as a member of the United States House of Representatives and as a state judge.

<sup>10</sup> Act 185 of 1981. On July 6, 2016, the Commissioner of Agriculture testifies “twelve other states have an elected Commissioner.”

<sup>11</sup> History Presentation – July 6, 2016 at slide 4.

<sup>12</sup> *Ibid.* at slide 9. Agencies with responsibilities originally housed at the agency include: Clemson Regulatory Services; State Veterinarian’s Office; Department of Labor, Licensing and Regulation; Department of Health and Environmental Control; Forestry Commission; Department of Revenue; State Law Enforcement Division; and Department of Natural Resources (Land Resources, Geological Survey, Wildlife and Marine Resources).

<sup>13</sup> *Ibid.* The current name was established in 1941.

<sup>14</sup> Act 259 of 1904.

<sup>15</sup> *Ibid.* at section 2.

<sup>16</sup> Act 4 of 1909. Act 124 of 1909.

<sup>17</sup> Act 871 of 1936.

<sup>18</sup> *Ibid.*

<sup>19</sup> Act 93 of 1941.

<sup>20</sup> Act 758 of 1960.

<sup>21</sup> History Presentation - July 6, 2016 at slide 10.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.* at slide 11.

<sup>24</sup> *Ibid.* at slide 12.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> Department of Agriculture, "Introduction to the Agency PowerPoint provided by the Department of Agriculture during the agency's entry meeting with the Subcommittee (April 28, 2016)," under "Citizen's Interest," under "House Legislative Oversight Committee's Posting and Reports," under "Department of Agriculture" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/April%2028,%202016%20-%20Department%20of%20Agriculture%20Presentation%20to%20Subcommittee.pdf> (accessed October 24, 2016). Commissioner Hugh E. Weathers noted in his presentation to the Subcommittee that the agribusiness total includes forestry, and some federal agencies do not recognize forestry as an agriculture. Commissioner Weather's comments on this issue begin at 24:36 in the archived video of the subcommittee's April 28, 2016, meeting available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>29</sup> Department of Agriculture, "About" <https://agriculture.sc.gov/about/> (accessed July 27, 2017). On April 28, 2016, in response to a question as to what are the state's top crops, the Commissioner of Agriculture testifies "Some federal agencies do not count timber as a crop, and I do. When I sell timber, get a check, and it clears the bank, I have sold a crop. Timber is one of our larger numbers around 800 million dollars. Our largest has become poultry. We no longer include tobacco. Peaches barely make the top 10. Anderson County is the largest beef producing county. Horticulture crops were second as of 2008 and 2009, but with the recession that field died." See 24:37 archived video of the April 28, 2017 Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee meeting.

<sup>30</sup> SC House of Representatives, House Legislative Oversight Committee, "Updated Agency PER (December 30, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/SCDA%20PER%2012.30.16.pdf> (accessed July 24, 2017). See Daily Operations Programs Chart at page 4 under "Updated Agency PER." Hereinafter, "Updated Agency PER (December 30, 2016)".

<sup>31</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report Guidelines," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20\(June%202020,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20(June%202020,%202016).pdf) (accessed July 26, 2017).

<sup>32</sup> SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed July 24, 2017), See Customer Template.

<sup>33</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 29.

<sup>34</sup> Ibid.

<sup>35</sup> Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (accessed July 21, 2017).

Updated Agency PER (December 30, 2016). See Strategic Spending 2015-16 Chart, Employee Allocation by Objective 2016-17 Chart, and Strategic Budgeting 2016-17 Chart.

<sup>36</sup> The methodology the agency utilizes includes operational and employee costs related to each objective. The expenditures (less employee costs) of each division are analyzed to determine if any cost is associated completely with one objective. If so, that cost is charged entirely to that objective. The remaining costs for the division are multiplied by a percentage based on the objectives related to that division. Likewise, employee cost and fringes are analyzed to ascertain if any one employee or group of employees are associated with a single objective and if so, their salary and fringes are charged to that objective. For example, the agency's investigator spends his entire time working toward Objective 3.2.2 (audit field records to ensure matched with Certification records) even though his position is associated with the Director's office. The remaining employees' salaries and fringes are then charged percentage-wise to the appropriate objectives. The operational costs and employee and fringe costs are added together to determine the total amount spent on each objective.

<sup>37</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>38</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>39</sup> Ibid. See page 3, response to question 11.

<sup>40</sup> Ibid. See page 3, response to question 10. Agency's carryforward amounts include: 2011-12: \$1,757,450; 2012-13: \$2,472,562; 2013-14: \$4,712,809; 2014-15: \$5,426,456; 2015-16: \$5,382,093.

<sup>41</sup> Ibid. See Employee Allocation by Objective 2016-17 Chart.

<sup>42</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>43</sup> 2015-16 Accountability Report. See Performance Measurement Template.

<sup>44</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>45</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>46</sup> 2015-16 Accountability Report. See Performance Measurement Template.

<sup>47</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>48</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>49</sup> 2015-16 Accountability Report. See Performance Measurement Template.

<sup>50</sup> Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

<sup>51</sup> Ibid. See Strategic Budgeting 2016-17 Chart.

<sup>52</sup> 2015-16 Accountability Report, See Performance Measurement Template.

<sup>53</sup> Updated Agency PER (December 30, 2016). See page 6, response to question 28.

<sup>54</sup> *SC Code of Laws* § 2-2-10(1).

<sup>55</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed July 26, 2017).

<sup>56</sup> SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016- Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf> (accessed July 26, 2017). Hereinafter, "January 28, 2016 - Meeting Minutes".

<sup>57</sup> SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignment%20-%202017.pdf> (accessed July 26, 2017). Hereinafter, "Subcommittees - 2017".

<sup>58</sup> SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Dept. of Agriculture (February 4, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Agriculture, Department of" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20\(February%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20(February%204,%202016).pdf) (accessed May 24, 2017).

<sup>59</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - 2017 Summary - House Legislative Oversight Committee" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Committee Information," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20\(Updated%20July%2013,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20(Updated%20July%2013,%202017).pdf) (accessed July 27, 2017). Hereinafter, "Committee Timeline."

<sup>60</sup> Subcommittees -2017.

<sup>61</sup> SC House of Representatives, "Tuesday, February 21, 2017, House Journal," [http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result\\_pos=10&keyval=H12220170221&numrows=10#OCC1](http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result_pos=10&keyval=H12220170221&numrows=10#OCC1) (accessed July 26, 2017).

<sup>62</sup> *S.C. Code of Laws* § 1-30-10.

<sup>63</sup> SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 11, 2015)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed July 26, 2017). Hereinafter, "2015 - Agency ARR Seven-Year Plan".

<sup>64</sup> *SC Code of Laws*, § 1-30-10.

<sup>65</sup> 2015 - Agency ARR and Seven-Year Plan.

SC House of Representatives, House Legislative Oversight Committee, “2016 - Agency ARR (January 12, 2016),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed July 26, 2017). 2015-16 Accountability Report.

<sup>66</sup> 2015-16 Accountability Report.

<sup>67</sup> *SC Code of Laws*, § 2-2-50.

<sup>68</sup> SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report Guidelines (May 16, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%2016,%202016\)%20-%20Dept%20of%20Agriculture.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%2016,%202016)%20-%20Dept%20of%20Agriculture.pdf) (accessed May 24, 2017).

<sup>69</sup> SC House of Representatives, House Legislative Oversight Committee, “Agency PER (August 24, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies” Hereinafter, “Agency PER (August 24, 2016)”.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 24, 2017). Updated Agency PER (December 30, 2016).

<sup>70</sup> A brochure about the House Legislative Oversight’s Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

<sup>71</sup> SC House of Representatives, House Legislative Oversight Committee

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 19, 2017).

<sup>72</sup> May 2016 Public Survey Results.

<sup>73</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Survey (April 29, 2016),” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Law Enforcement Training Council and Criminal Justice Academy,” under “Public Survey & Public Input via LOC webpage,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (accessed June 2, 2017).

<sup>74</sup> Committee Timeline (April 11, 2016).

<sup>75</sup> May 2016 Public Survey Results.

<sup>76</sup> SC House of Representatives, House Legislative Oversight Committee, under “Committee Information,” under “Standard Practices,” Standard Practice 10.4

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (accessed July 19, 2017). Hereinafter, “Standard Practice.”

<sup>77</sup> May 2016 Public Survey Results.

<sup>78</sup> SC House of Representatives, House Legislative Oversight Committee, “Submit Public Input,” under “House Legislative Oversight Committee,”

<https://www.research.net/r/ProvideInputtotheSCHouseLegislativeOversightCommittee?sm=AkgKjSIhdd%2fDwFDaMT4NxAhh50lf%2fLkg2JrDglf%2fB%2f8%3d> (accessed July 26, 2017).

<sup>79</sup> May 2016 Public Survey Results at page 2.

<sup>80</sup> May 2016 Public Survey Results at page 3.

<sup>81</sup> May 2016 Public Survey Results at page 5.

<sup>82</sup> SC House of Representatives, House Legislative Oversight Committee, “July 6, 2016 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/July062016Minutes.pdf> (accessed May 24, 2017). Hereinafter, “July 6, 2016 - Meeting Minutes.”

<sup>83</sup> SC House of Representatives, House Legislative Oversight Committee, “Press Release announcing Public Input Meeting (June 28, 2016)” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Public Survey & Public Input via LOC webpage,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20\(June%2028,%202016\)%20\(2\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20(June%2028,%202016)%20(2).pdf) (accessed May 24, 2017).

<sup>84</sup> SC House of Representatives, House Legislative Oversight Committee, “Economic Development, Transportation, and Natural Resources Subcommittee Minutes,” under “House Legislative Oversight Committee,” under “Committee Information,” under “Meeting Minutes and Handouts,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>85</sup> January 28, 2016 - Meeting Minutes. The agency replaces the Department of Employment of Workforce as the next agency to study.

<sup>86</sup> SC House of Representatives, House Legislative Oversight Committee, “April 28, 2016 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/April282016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>87</sup> July 6, 2016 - Meeting Minutes.

<sup>88</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to Department of Agriculture (August 9, 2016),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20\(August%2009,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20(August%2009,%202016).PDF) (accessed July 27, 2017).

<sup>89</sup> Department of Agriculture, “Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(September%202,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(September%202,%202016).pdf) (accessed July 27, 2017).

<sup>90</sup> SC House of Representatives, House Legislative Oversight Committee, “October 31, 2016 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/October312016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “October 31, 2016 - Meeting Minutes.”

<sup>91</sup> Ibid.

<sup>92</sup> SC House of Representatives, House Legislative Oversight Committee, “January 26, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/January262017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>93</sup> SC House of Representatives, House Legislative Oversight Committee, “February 16, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/February162017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>94</sup> SC House of Representatives, House Legislative Oversight Committee, “May 2, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/05.2.2017%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>95</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/5.3.17%20-%20Follow%20up%20letter%20to%20Department%20of%20Agriculture.pdf> (accessed July 27, 2017).

<sup>96</sup> Department of Agriculture, “Letter from Department of Agriculture to Legislative Oversight Committee (June 6, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(June%206,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(June%206,%202017).pdf) (accessed July 27, 2017).

<sup>97</sup> SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture’s Recommended Statutory Changes” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture’s Recommended Statutory Changes Presentation (June 15, 2017).”

<sup>98</sup> SC House of Representatives, House Legislative Oversight Committee, “June 15, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/06.15.17%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “June 15, 2017 - Meeting Minutes.”

<sup>99</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee Letter to Department of Agriculture (June 16, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20\(June%2016,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20(June%2016,%202017).pdf) (accessed July 28, 2017).

<sup>100</sup> SC House of Representatives, House Legislative Oversight Committee, “June 22, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of” and under “Meetings”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/June%2022,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>101</sup> SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to the Department of Agriculture (June 27, 2017)” under “House Legislative Oversight Committee,” under “Agriculture, Department of”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(June%2027,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(June%2027,%202017).pdf) (accessed July 27, 2017).

<sup>102</sup> SC House of Representatives, House Legislative Oversight Committee, “July 10, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings”

[Minutes are posted after approval at the next meeting]. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “July 10, 2017 - Meeting Minutes”.

<sup>103</sup> SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee letter to Department of Agriculture (July 12, 2017),” under “House Legislative Oversight Committee,” under “Agriculture,

Department of,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(July%2012,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(July%2012,%202017).pdf) (accessed July 27, 2017).

<sup>104</sup> SC House of Representatives, House Legislative Oversight Committee, “Subcommittee Study (August 4, 2017),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Oversight Reports and Studies,”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Subcommittee%20Study%20of%20the%20Department%20of%20Agriculture%20with%20appendices%20-%20Final%20\(August%204,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Subcommittee%20Study%20of%20the%20Department%20of%20Agriculture%20with%20appendices%20-%20Final%20(August%204,%202017).pdf) (accessed October 28, 2017).

<sup>105</sup> SC House of Representatives, House Legislative Oversight Committee, “October 16, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” (Will be posted online after the Minutes are approved). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Representative Funderburk moved, pursuant to Committee Standard Practice 13.2.3, that the Committee further evaluate the Subcommittee’s recommendations 5, 6, 7 and 11, which were proposed by the agency and include provisions relating to fees. She further moved that the full committee study reflect the portions of those recommendations relating to fees be received for information purposes only as these recommendations may be explored in the budget process.

<sup>106</sup> Agency PER (August 24, 2016) at page 2. SC Const. Art. VI, §7.

<sup>107</sup> *SC Code of Laws* §46-3-40.

<sup>108</sup> *SC Code of Laws* §46-3-30.

<sup>109</sup> Other duties referenced in statute include: sale of marl or ground limestone (*SC Code of Laws* §46-3-90); arrangements for inoculating material and disposition of moneys derived from the sale of inoculating material (*SC Code of Laws* §46-3-100 and 110); provide an annual report of the agency’s work to the Governor and General Assembly *SC Code of Laws* (§46-3-140); enter into agreements with the United States government for conduct of aquatic plan control projects *SC Code of Laws* (§46-3-160); revocation of registrations or licenses issued; release of certain items from restraining orders *SC Code of Laws* §46-3-180 - 220); enforcement of regulations relating to food and drugs (*SC Code of Laws* §46-3-240); ability to sue and be sued *SC Code of Laws* (§46-3-170).

<sup>110</sup> Act 644 of 1954. This legislation actually reduced the bond of the Commissioner of Agriculture and limited his liability to not include losses incurred in bonded warehouses, except in the case of tort or neglect of duty on his part.

<sup>111</sup> Department of Agriculture’s Recommended Statutory Changes Presentation (June 15, 2017).

<sup>112</sup> *SC Code of Laws* §46-5-10.

<sup>113</sup> SC Secretary of State, “Agriculture Commission” [http://search.scsos.com/boards\\_commissions/default.aspx](http://search.scsos.com/boards_commissions/default.aspx) (accessed October 11, 2016). The Secretary of State’s role with regards to boards and commissions is explained on its website. “Pursuant to S.C. Code of Laws §1-5-40, the Secretary of State’s Office has a duty to monitor positions on state boards and commissions. The Secretary of State’s Office must keep membership information for state boards and commissions as a public record available for inspection by the members of the General Assembly and members of the public. This information must include the term length, expiration date of the term, appointing authority, and any required qualifications for membership.” (accessed July 25, 2017).

<sup>114</sup> This testimony is in response to a question from Representative Eddie Tallon. See archived video at 2:20:45.

<sup>115</sup> 1999 WL 387055, at \*5 (S.C.A.G. May 3, 1999). Relevant excerpt: “The people have elected the Commissioner with the expectation that he, and he alone, will run the Department. The essential function of the Commissioner has always been to serve as the head of the Department of Agriculture which executes the laws and policies relating to agriculture in this State. Any interference by the Commission (or by the Legislature) in carrying out or diminishing the Commissioner’s duties could now be deemed to contravene the Constitution in the same way that the Constitution was violated in the cases referenced above. Thus, the Commissioner’s authority, pursuant to the South Carolina Constitution, must be deemed paramount to and controlling over any authority previously bestowed upon the Commission by statutes enacted prior to the constitutional amendment relating to the Commissioner of Agriculture.”

<sup>116</sup> October 31, 2016 - Meeting Minutes. See 00:11:55: in the archived video.

<sup>117</sup> Department of Agriculture’s Recommended Statutory Changes Presentation.



<sup>118</sup> June 15, 2017 - Meeting Minutes. Department of Agriculture's Recommended Statutory Changes Presentation. Agency PER (August 24, 2016).

<sup>119</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>120</sup> July 10, 2017 - Meeting Minutes. See 1:08:09 in the archived video.

<sup>121</sup> June 15, 2017 - Meeting Minutes. See 29:14 in the archived video.

<sup>122</sup> Clemson University Cooperative Extension, "South Carolina's Cottage Food Bill," <http://www.clemson.edu/extension/food/canning/canning-tips/18sc-cottage-food-bill.html> (accessed October 10, 2016).

<sup>123</sup> Updated Agency PER (December 30, 2016).

<sup>124</sup> Department of Health and Environmental Control, under "House Legislative Oversight Committee," under "Agriculture, Department of," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Health%20and%20Environmental%20Control%20Correspondence%20with%20Oversight%20Subcommittee%20on%20Cottage%20Law%20Recommendation.PDF> (accessed July 28, 2017).

<sup>125</sup> June 15, 2017 - Meeting Minutes. See 46:45 in the archived video.

<sup>126</sup> *Ibid.* at 51:12 in the archived video.

<sup>127</sup> *Ibid.* at 52:55 in the archived video. *SC Code of Laws* § 39-39-120.

<sup>128</sup> June 15, 2017 - Meeting Minutes. See 54:23 in the archived video.

<sup>129</sup> Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

<sup>130</sup> May 2016 - Public Survey Results. History Presentation - July 6, 2016.

<sup>131</sup> April 28, 2016 Attorney General Opinion. Department of Agriculture's Proposed Revisions to Regulation 5-360. Proposed Revisions relating to Labeling and Marketing of Eggs. Department of Agriculture's Recommended Statutory Changes.