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*First Vice-Chair:  
Laurie Slade Funderburk*

## **Legislative Oversight Committee**

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**South Carolina House of Representatives**

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January 15, 2020

Secretary Robert M. Hitt, III  
South Carolina Department of Commerce  
1201 Main St., Suite 1600  
Columbia, South Carolina 29201-3200

RE: Legislative Oversight Study of the Department of Commerce

Dear Secretary Hitt:

On December 9, 2019, the House Legislative Oversight Committee approved the Department of Commerce for study. In conducting studies, it is the 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.

Enclosed are copies of the Committee's Rules and Standard Practices, which may be modified during the legislative oversight process. Notably, the Standard Practices include a flow chart with an overview of the process the Committee intends to follow and a diagram indicating how public input is received and disseminated. In the near future, if they have not already done so, the Committee staff will schedule a meeting with you to discuss preliminary matters relating to the study process. Please do not hesitate to contact Committee staff at any time with questions. Also, below is a brief summary of the Committee's expectations.

The Committee expects the following of each agency under study:

- Inform its staff that the agency is undergoing the legislative oversight study process as well as the purpose of the study;

Secretary Hitt  
Page Two

- Appoint a liaison to assist the Committee with all activities;
- Respond to Committee requests in a concise, complete and timely manner;
- Be candid with the Committee;
- Promptly discuss with the Committee any concerns or questions the agency may have related to the legislative oversight study process, including any concerns the agency may have that (a) the Committee has drawn an incorrect conclusion; or (b) time or resources required to respond to a Committee request are excessive;
- Realize written information provided to the Committee is considered sworn testimony pursuant to S.C. Code Ann. §2-2-70; and
- Inform the Committee if any information requested by the Committee cannot be published online due to provisions in contract or law and refrain from providing such information to the Committee.

Enclosed please find information to share with agency employees.

I hope the information above and enclosed is helpful to you and your agency in understanding the process the Committee intends to follow in conducting its study and investigation process.

Sincerely,

A handwritten signature in black ink, reading "Wm. Weston J. Newton". The signature is written in a cursive, flowing style.

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

Enclosures

cc: Subcommittee Chair

Both the House of Representatives and the Senate are charged by Act 121 of 2014 with conducting legislative oversight studies and investigations of state agencies at least once every seven years.

The Department of Commerce is in this round of agency reviews for the House of Representatives' Legislative Oversight Committee. The study's purpose is to determine if agency laws and programs are being implemented and carried out with the intent of the General Assembly and whether or not they should be continued, curtailed, or even eliminated. Information about the study process is accessible on the General Assembly's website, [www.scstatehouse.gov](http://www.scstatehouse.gov), under "Citizens' Interest," and under "Agency Oversight by the House Legislative Oversight Committee."

Public input is a cornerstone of the Committee's process. Constituents, including employees and other stakeholders (e.g., partners, customers, vendors, etc.) may share comments and concerns with the Committee about state agencies. Information about opportunities to participate in the Committee's process is regularly posted on the Committee's webpage. Also, an ongoing opportunity to provide anonymous input to the Committee is available on the Committee's webpage.

See below for a few things the Committee advises to expect and not to expect with this study.

**What to Expect:**

- Oversight study by your elected representatives
- Ability for the public to be involved in the process
- Identification of areas for improvement and recommendations for agencies under study

**What Not to Expect:**

- Finding every issue or potential area of improvement at agencies
- Solving every issue at agencies
- Recommendations that satisfy everyone

### Agencies Scheduled for Study:

- Department of Corrections
- Department of Mental Health
- Housing Finance and Development Auth.
- Department of Education
- Secretary of State's Office
- Department of Alcohol and Other Drug Abuse Services
- Department of Probation, Parole, and Pardon Services
- Department of Commerce
- Jobs-Economic Development Authority
- Arts Commission
- State Ethics Commission
- Department on Aging
- Department of Health and Human Services
- State Accident Fund
- Attorney General's Office
- State Library

*The 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 General Assembly and whether or not they should be continued, curtailed or even eliminated. Any House Member may file legislation to implement the Legislative Oversight Committee's recommendations.*

### Constituents May:

- Share comments and concerns with the Legislative Oversight Committee about State agencies.
- Request notification when the Committee schedules an agency for study and investigation.
- Participate in public hearings.

*While all testimony before the Committee must be under oath, the Committee solicits written comments from constituents that are not considered testimony. These comments may direct the Committee to areas of improvement for the state agency.*

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For more information about the

Committee visit

[www.scstatehouse.gov](http://www.scstatehouse.gov)



# LEGISLATIVE OVERSIGHT COMMITTEE

*The specific task of this Committee is to conduct legislative oversight studies and investigations of state agencies at least once every seven years.*

*These studies will be published online.  
([www.scstatehouse.gov](http://www.scstatehouse.gov))*

# House Legislative Oversight Committee's Study and Investigative Process

House Legislative Oversight Committee

- Determines priority of an agency study and investigation
  - Provides written notification to agency
- Subcommittee or Ad Hoc Committee assigned to study and investigate an agency may schedule a meeting with the agency to discuss preliminary matters



Uniform Start for All Legislative Oversight Investigation and Reviews

- Staff reviews and summarizes submissions
- House Legislative Oversight Committee holds public input hearings

Submissions reviewed by House Legislative Oversight Committee

Agency submits:

- 1) Restructuring Reports
- 2) Seven-Year Plan for Cost Savings and Increased Efficiencies
- 3) Any other required submissions to a legislative entity
- 4) Program Evaluation Report and responses to Requests for Information

Public may submit written comments concerning the agency

House Legislative Standing Committees and individual House Members may submit potential issues with an agency



House Legislative Oversight Subcommittee or Ad Hoc Committee

- Reviews submissions
- Determines what additional resources of legislative oversight should be utilized, which include:
  - Requesting legislative audit council involvement (study of Program Evaluation Report or perform its own audit)
    - Deposing witnesses
  - Issuing subpoenas and subpoenas duces tecum (pursuant to Title 2, Chapter 69)
- Approves a study for consideration by the full House legislative oversight committee

House Legislative Oversight Committee

- Refers Legislative Oversight study and investigation back to Subcommittee or Ad Hoc Committee



House Legislative Oversight Committee

- Receives Subcommittee or Ad Hoc Committee Study

Option 1

Option 2

Option 3

House Legislative Oversight Committee

- Approves the Subcommittee or Ad Hoc Committee Study

House Legislative Oversight Committee

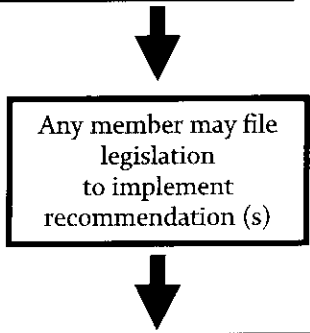
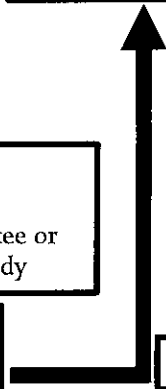
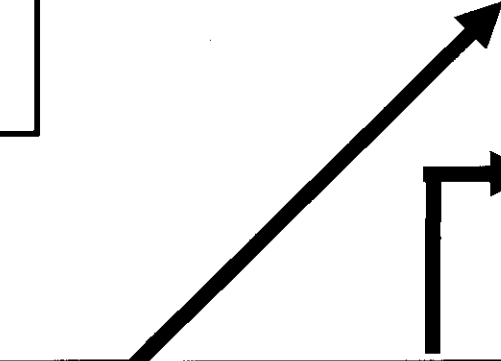
- Further evaluates the agency

House Legislative Oversight Committee

- Approves and publishes a Final Study online
- May offer a briefing

Any member may file legislation to implement recommendation (s)

Post Review Assessments



# LEGISLATIVE OVERSIGHT COMMITTEE

# Standard Practices



Approved Pursuant to Legislative Oversight Committee Rule 7.1  
September 2019

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## **PART I - GENERAL PRACTICES**

### ***1. AUTHORITY, MODIFICATION AND GENERAL INFORMATION RELATING TO STANDARD PRACTICES***

- 1.1 Legislative Oversight Committee (Committee) Rule 7.1 authorizes the committee to develop and adhere to standard practices.
- 1.2 Committee standard practices may be modified pursuant to Committee Rule 7.1.
- 1.3 Whenever the pronoun 'he' appears in any standard practice, it shall be deemed to designate either the masculine or feminine.

### ***2. COMMITTEE STAFF***

- 2.1 Committee staff work for the South Carolina House of Representatives (House).
- 2.2 Committee staff shall assist any Member of the House with matters relating to legislative oversight, and any Member of the House may request that Committee staff hold these matters in confidence.
- 2.3 Committee staff are prohibited from providing legal advice to any constituents.

### ***3. CONSTITUENTS***

#### ***Constituents***

- 3.1 Constituents may request to be notified as to when a particular agency is scheduled for legislative oversight study and investigation by the Committee.
- 3.2 Constituents may contact the Committee about matters relating to legislative oversight, and Members of the House may forward constituent matters relating to legislative oversight to the Committee.
- 3.3 Committee staff shall make reasonable efforts, as determined by the Committee Chairman, to contact any constituent requesting notification as to when a particular agency is scheduled for legislative oversight study and investigation.
- 3.4 If a constituent, including, but not limited to, members of the press and agency staff, has concerns about an agency, the constituent may be informed about
  - 3.4.1 the process, including the Committee's prohibition on intervening in any constituent's ongoing matter with an agency,
  - 3.4.2 any opportunities to participate in the process,
  - 3.4.3 all testimony provided to the committee must be under oath pursuant to Section 2-2-70, and anyone knowingly furnishing false information will be subject to the penalties provided by law, and



3.4.4 appropriate resources, if available, that may be able to address the constituent's concerns about an agency.

***Chairman and Committee***

3.5 Committee staff shall inform the Committee Chairman, on a schedule as determined by the Chairman, about the concerns received from constituents, House Members and other state entities, which relate to agencies. Dissemination and publication of these concerns is governed by Standard Practice 10.4.

***Interaction between Committee Staff and the Press***

3.6 Committee staff shall direct questions from the press to the Committee Chairman. The Committee Chairman, at his discretion, may authorize Committee staff to answer specific questions from the press.

3.7 If the Committee Chairman is unavailable to answer questions from the press and has not authorized Committee staff to respond to the specific questions, Committee staff shall direct the questions from the press to the First Vice-Chairman or to the appropriate subcommittee or ad hoc committee chairman.

# House Legislative Oversight Committee's Study and Investigative Process

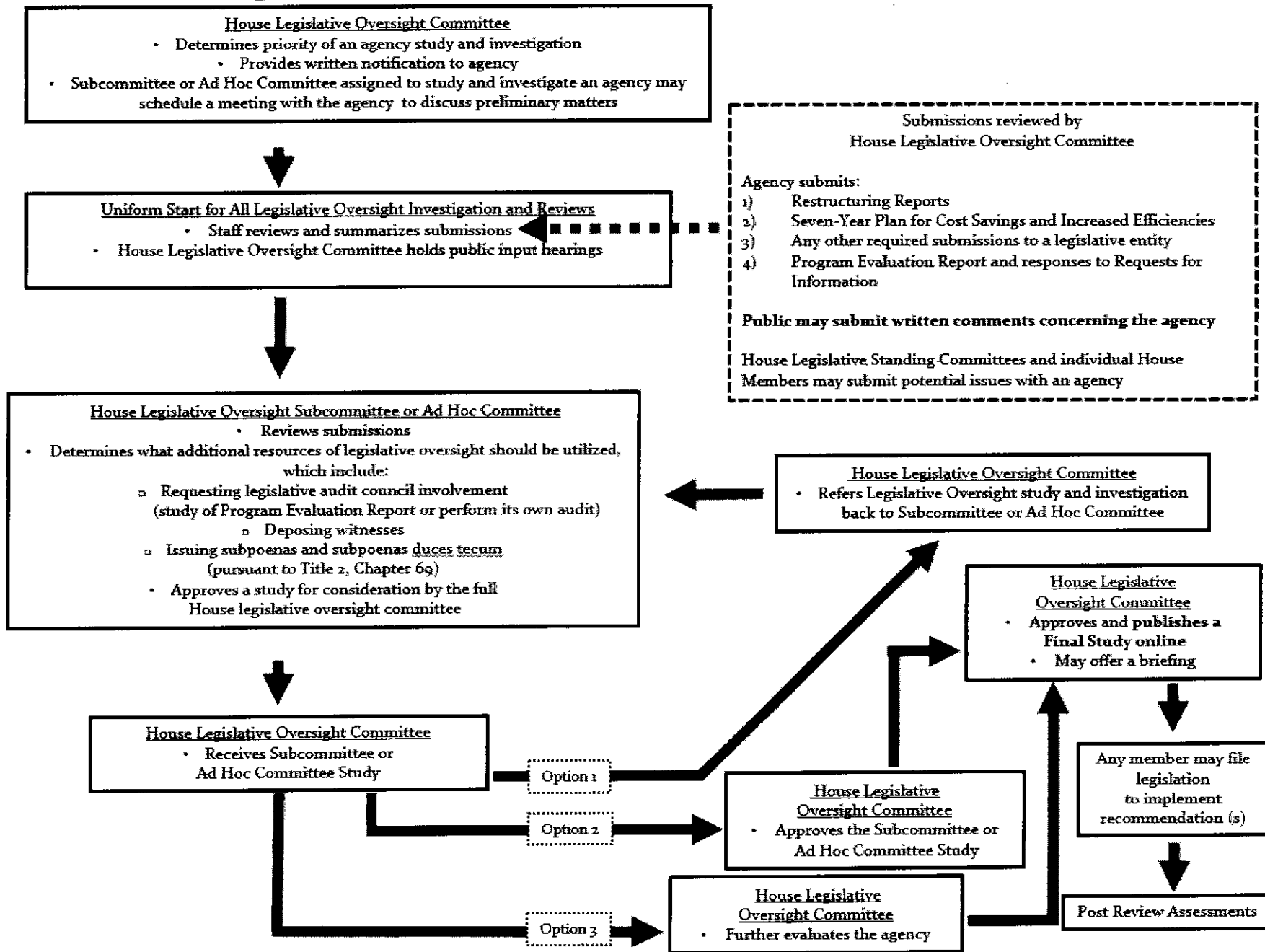


Figure 1. Committee investigation process.

## **PART II - PRACTICES RELATING TO REPORTS RECEIVED BY THE LEGISLATIVE OVERSIGHT COMMITTEE**

### ***4. AGENCY ANNUAL RESTRUCTURING REPORT***

Section 1-30-10(G)(1) requires agencies to submit annual reports to the General Assembly giving detailed or comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs or personnel within each department for a more efficient administration of government services ("Annual Restructuring Report" or "ARR"). If an agency has no restructuring recommendation, the statute requires the report to contain a statement to that effect.

#### ***Posting Online and Restructuring Recommendations***

The standard practices below apply if the Annual Accountability Report serves as the ARR, or if there is an ARR separate from the Annual Accountability Report.

4.1 The documents serving as the ARR include a section which allows an agency to indicate it has no restructuring recommendations.

4.2 The Committee shall indicate online, via a list or other means, the agencies that did and did not provide a restructuring recommendation.

4.3 The Committee shall post the documents serving as the ARR online.

4.4 Committee staff shall provide notification, in a manner determined by the Committee Chairman, to all Members of the House about the publication of this information online. *wording*

#### ***Annual Accountability Report Serves as ARR***

4.5 The Committee shall continue efforts to integrate and combine aspects of the ARR into the Annual Accountability Report submitted pursuant to S.C. Code Section 1-1-810, so that completion of the annual Accountability Report by the stated deadline in the report fulfills the requirements to complete an ARR.

4.5.1 The Committee recognizes that not every agency the Committee has identified it will study files an Annual Accountability Report. For these agencies the Committee shall provide the guidelines for the Accountability Report, which includes the deadline for submission.

#### ***ARR Separate from the Annual Accountability Report***

4.6 The Committee shall provide agencies with a uniform format, as approved by the Committee Chairman, for submitting their Annual Restructuring Reports to the Committee.

4.7 The Committee shall provide agencies with the Restructuring Report Guidelines by November thirtieth of each year. Agencies must submit the Annual Restructuring Report by the first day of session each year (“Deadline”).

#### **Failure to Provide Responses to All Questions in ARR**

4.7.1 The Chairman may require any agency that has submitted its Annual Restructuring Report which does not include responses to all questions to amend its submission so as to provide responses to all questions. The Chairman may provide the agency with a list of questions that do not have responses. The agency will determine the response it would like to make, but the agency will need to provide some type of response to all questions.

#### **Extensions for ARR**

4.7.2 The Chairman may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit its Annual Restructuring Report (“New Deadline”).

4.7.3 Before the Chairman will consider a request from an agency for an extension, the agency must fully complete a Committee Extension Request form, as approved by the Committee Chairman, and provide it to the Chairman for consideration.

4.7.4 Until the agency receives a response, it should continue to complete the report to the best of its ability as if it is due on the original deadline.

#### **Amended ARR Submitted Prior to Online Publication**

4.7.5 The Chairman may, for reasons he determines as good cause, allow an agency to provide an amended version of its Annual Restructuring Report (“Amended Report”) prior to online publication.

4.7.6 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

4.7.7 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Annual Restructuring Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency’s Annual Restructuring Report. The Committee will only discard an old Annual Restructuring Report, if a complete Amended Report is provided.

#### **Failure to Submit ARR or Respond to All Questions**

4.7.8 If an agency fails to submit responses to all questions in its Annual Restructuring Report by the Deadline, or New Deadline applicable to the agency, the Committee may request the Executive Director of the agency and, if applicable Board/Commission Chair, appear at a full committee meeting to explain, under oath, why the agency has failed to provide the information requested and when it will be provided.

### **Online Publication of ARR**

4.7.9 The Committee will post in a central location online, access to the Extension Request Forms and Letters requesting submission of an Amended Report.

### **Amended ARR Submitted After Initial Online Publication**

4.7.10 The Chairman may, for reasons he determines as good cause, allow an agency to provide an Amended Report after initial online publication.

4.7.11 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

4.7.12 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Annual Restructuring Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency's Annual Restructuring Report. The Committee will only discard an old Annual Restructuring Report, if a complete Amended Report is provided.

## ***5. GOVERNOR'S RESTRUCTURING REPORT***

Section 1-30-10(G)(1) provides that the Governor periodically must consult with the governing authorities of the various departments and upon such consultation, the Governor must submit a report of any restructuring recommendations to the General Assembly for its review and consideration ("Governor Restructuring Report").

5.1 The Committee will post in a central location online, access to Governor Restructuring Reports received from the Governor pursuant to Section 1-30-10(G)(1).

## ***6. AGENCY SEVEN-YEAR PLAN FOR COST SAVINGS & EFFICIENCIES***

Section 1-30-10(G)(2) requires agencies to submit a seven-year plan that provides initiatives or planned actions that implement cost saving and increases efficiencies within the projected seven-year period to the General Assembly ("Seven-Year Plans").

6.1 The Committee shall provide agencies with a uniform format, as approved by the Committee Chairman, for submitting their Seven-Year Plans to the House.

6.1.1 The following subparts of Section 4 of the Standard Practices shall apply to Agency Seven-Year Plans in the same manner they apply to Annual Restructuring Reports: Failure to Provide Responses to All Questions; Extensions; Amended Reports Submitted Prior to Online Publication; Failure to Submit Report or Respond to All Questions; Online Publication; and Amended Reports Submitted After Initial Online Publication.

6.2 The Committee will post in a central location online, access to all Seven-Year Plans.

## PART III - PRACTICES RELATING TO THE COMMITTEE'S STUDY AND INVESTIGATION PROCESS

### 7. *AGENCY INVESTIGATION SCHEDULE & TIME FOR COMPLETION*

Section 2-2-30(C) requires a seven-year review schedule to be published in the House Journal the first day of session each year. Further, this statute provides that the Speaker of the House, upon consulting with the chairmen of standing committees in the House and the Clerk of the House, determines the agencies for each standing committee to conduct oversight studies and investigations. The Committee recognizes there is no requirement in the statute that an agency oversight study and investigation be completed within a certain timeframe, except the overall seven year cycle.

#### *Recommendations as to the Seven-Year Investigation Schedule*

7.1 The Committee may adopt recommendations for the Speaker of the House relating to the publication of the seven-year review schedule in the House Journal the first day of session each year.

#### *Priority/Order of Agencies Scheduled for Investigation during a Given Year*

7.2 The Committee **may establish** the priority or order of current agencies scheduled for a legislative oversight study and investigation during a given year.

7.2.1 In establishing a priority or order of current agencies scheduled for legislative oversight study and investigation during a given year, the Committee may consider the length of time the agency director has been in office.

7.3 The Committee may, for reasons it determines as good cause, **change the priority** or order of agencies scheduled for a legislative oversight study and investigation during a given year, including placing a current study on hold and moving forward with the study of another agency.

#### *Investigations Outside Schedule*

7.4 In addition to the seven-year oversight studies and investigations,

7.4.1 a standing committee of the House may initiate an oversight study and investigation of an agency within its subject matter jurisdiction pursuant to Section 2-2-40(A)<sup>1</sup>; and

7.4.2 the Speaker of the House or chairmen of standing committees may authorize and conduct legislative investigations into agencies functions, duties and activities pursuant to Section 2-2-40(B)<sup>2</sup>.

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<sup>1</sup> "...The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation."

<sup>2</sup> "Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies' functions, duties, and activities."

### ***Time Frame for Completion of Agency Investigations***

7.5 The Committee may establish a time frame for the legislative oversight study and investigation of an agency.

7.6 The Committee may, for reasons it determines as good cause, change the time frame for a legislative oversight study and investigation of an agency.

## **8. *ADVANCED NOTIFICATION PROVIDED TO AGENCIES***

Section 2-2-30(C) requires a seven-year review schedule to be published in the House Journal the first day of session each year. In addition to this notice available to agencies, the Committee will also follow the notice procedures below.

### ***Required Written Notification***

8.1 The Committee shall provide written notification to an agency that it is scheduled for legislative oversight study and investigation prior to the start of the investigation.

8.2 The written notification to the agency shall include the following:

- 8.2.1 purpose of the investigation, as outlined in Section 2-2-20(B)<sup>3</sup>,
- 8.2.2 what must be considered in the investigation, as outlined in Section 2-2-20(C)<sup>4</sup>,
- 8.2.3 information about the Committee's expectations of the agency during the investigation, as outlined under Standard Practice 9,
- 8.2.4 instructions to encourage employees and other stakeholders (e.g., partners, customers, and vendors) to provide testimony and respond to the public survey, and
- 8.2.5 methods by which employees and other stakeholders (e.g., partners, customers, and vendors) may communicate, including the option to communicate anonymously, with the Committee.

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<sup>3</sup> "The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee: (1) are being implemented and carried out in accordance with the intent of the General Assembly; and (2) should be continued, curtailed, or eliminated."

<sup>4</sup> "The oversight studies and investigations must consider: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee's subject matter jurisdiction."

### ***Introduction of Agency and Public Input Meeting***

8.3 The Full Committee may schedule an Introduction of Agency and Public Input meeting with the agenc(ies) scheduled for study. This meeting may include (1) obtaining a brief (2-3 minutes) explanation of what each agency does; and/or (2) receiving public input about each agency.

### **9. EXPECTATIONS DURING INVESTIGATION**

Section 2-2-20(B) states the purpose of the 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 should they be continued, curtailed, or eliminated. Further, the Committee recognizes that a legislative oversight study and investigation of agency serves the purpose of informing the public about the agency.

#### **9.1 The Committee expects an agency to:**

9.1.1 Forward agency staff the written notification that the agency is scheduled for legislative oversight study from the Committee. This is to inform its staff that the agency is undergoing a legislative oversight study and investigation as well as the purpose of the investigation and how to access the Committee's website for information about the study and investigation.

9.1.2 Appoint a liaison to assist the Committee with all activities, including but not limited to, sharing Committee correspondence with agency staff.

9.1.3 Respond to its requests in a concise, complete, and timely manner.

9.1.4 Be candid with the Committee and to promptly discuss with the Committee any concerns or questions the agency may have related to the legislative oversight study and investigation process, including, but not limited to, any concerns the agency may have that (a) the Committee has drawn an incorrect conclusion; or (b) time or resources required to respond to a Committee request.

9.1.5 Realize formal written responses provided to the Committee is considered sworn testimony

9.1.6 Inform the Committee, prior to responding, of any information requested by the Committee that cannot be published online due to provisions in contract or law.

#### **9.2 The Agency may expect the Committee to:**

9.2.1 Post on the Committee's webpage: (1) letters between the Committee and Agency sent via U.S. Mail or as attachments to an email; (2) documents received from the agency in person, via U.S. Mail, or as attachments to an email; (3) compilations of information; and (4) any other materials pursuant to Committee Rule 8.1.

9.2.2 Return or delete documents to the agency which the agency has indicated, due to confidentiality provisions in contract or law, may not be posted online.

9.2.3 Instruct Committee staff to interact with agency staff for the purposes of discussing procedural matters, including review of draft submissions of Accountability Reports,



Program Evaluation Reports or Requests for Information, and/or answering agency staff questions at any time.

9.2.4 Instruct Committee staff to meet with agency staff for the purposes of asking substantive questions and/or reviewing agency files on behalf of the Committee, upon approval by the Committee Chairman or applicable Subcommittee or Ad hoc Committee Chairman.

9.2.4.1 If such action is taken by Committee staff, the information obtained during the meeting between committee staff and agency staff may be memorialized in a letter from committee staff to agency staff, which may be incorporated into the meeting minutes of the next meeting.

## ***10. COLLECTION OF INFORMATION***

In recognizing the importance of fairness in the legislative oversight process, the Committee strives for every legislative oversight study and investigation to begin the same way. The initial step involves Committee staff obtaining and reviewing information.

### ***Information from Agencies - Program Evaluation Report***

10.1 Committee may request the agency complete a Program Evaluation Report ("PER") pursuant to Sections 2-2-50(D) and 2-2-60, within 45 calendar days of receiving the guidelines for the PER; and

10.1.1 A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report pursuant to Section 2-2-60(E).

### **Failure to Provide Responses to All Questions in PER**

10.1.2 The Chairman may require any agency that has submitted a Program Evaluation Report which does not include responses to all questions to amend its submission so as to provide responses to all questions. The Chairman may provide the agency with a list of questions that do not have responses. The agency will determine the response it would like to make, but the agency will need to provide some type of response to all questions.

### **Extensions for PER**

10.1.3 The Chairman may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit its Program Evaluation Report ("New Deadline").

10.1.4. Before the Chairman will consider granting an extension, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency is requesting the extension and the number of days it is requesting, not to exceed thirty.

10.1.5 Until the agency receives a response, it should continue to complete the report to the best of its ability as if it is due on the original deadline.

### **Amended PER Submitted Prior to Online Publication**

10.1.6 The Chairman may, for reasons he determines as good cause, allow an agency to provide an amended version of its Performance Evaluation Report ("Amended Report") prior to online publication.

10.1.7 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

10.1.8 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Program Evaluation Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any prior versions of an agency's Program Evaluation Report. The Committee will only discard an old Program Evaluation Report, if a complete Amended Report is provided.

### **Failure to Submit PER or Respond to All Questions**

10.1.9 If an agency fails to submit responses to all questions in its Program Evaluation Report by the Deadline, or New Deadline applicable to the agency, the Committee may request the Executive Director of the agency and, if applicable Board/Commission Chair, appear at a full committee meeting to explain, under oath, why the agency has failed to provide the information requested and when it will be provided.

### ***Online Publication of PER***

10.2 The Committee will post in a central location online, access to all of the following information: a) Program Evaluation Report; b) Correspondence related to a Request for Extension, if any is required; and c) Letters requesting submission of an Amended Report, if any is required. After posting online, the Committee will send an electronic copy of the PER to all House Members.

### **Amended PER Submitted After Initial Online Publication**

10.2.1 The Chairman may, for reasons he determines as good cause, allow an agency to provide an Amended Report after initial online publication.

10.2.2 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

10.2.3 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Program Evaluation Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency's Program Evaluation Report. The Committee will only discard an old Program Evaluation Report, if a complete Amended Report is provided.

10.3 The Committee may approve additional requests for information to be submitted to the agency pursuant to section 2-2-50(A).

***Information from the Public, House or other State Entities***

10.4 Committee members and Committee staff may also collect information from the public, House Members and staff or other state entities. Information from the “public” includes information from individuals, associations, groups, organizations, etc., who are not members of the House of Representatives or submitted on behalf of a state entity.

**Solicitation of Information**

10.4.1 Written comments and other information shall be solicited from the public, House Members and staff, or other state entities concerning the agency in a manner approved by the Chairman. The comments shall not be considered testimony and offered for the truth of the matter asserted but nevertheless may serve the purpose of directing the Committee to potential issues with an agency.

**Reports and Reviews obtained from other Legislative Entities (publication online)**

10.4.2. The Committee recognizes that under diverse existing laws agencies are required to submit reports to various legislative entities. The Committee shall use its best efforts to review these reports as part of its legislative oversight study and investigation of agencies.

10.4.3. The Committee recognizes that under diverse existing laws other legislative entities study and review some agencies, and the Committee may make efforts, at the discretion of the Chairman, to consult these legislative entities during the legislative oversight study and investigation process.

10.4.4. Information provided by other state entities may be **published** on the Committee’s website as an additional location for the Committee, House Members, and public to obtain the information.

**Comments submitted via the Committee website (publication online)**

10.4.5 Concerns and comments provided by the public, House Members and staff, or other state entities via **online surveys on the Committee website**, will be provided verbatim to the Committee Chair or Vice-Chair, who will identify any profanity and replace all letters, after the first letter, of the profane word with asterisks. Additionally, any known references to the names of minors or vulnerable adults will be redacted. Otherwise, no members of the Committee or Committee staff shall alter the comments prior to their publication on the Committee webpage.

10.4.6 When an agency is currently under study, concerns and comments constituents provide via online surveys on the Committee website, will be provided to all House Members and the public, via **publication** on the website, at the time the survey is over or once a month.

10.4.7 When an agency is not currently under study, concerns and comments constituents provide via online surveys on the Committee website, will not be provided to all House Members and the public until such time as the agency is under study. Once the agency is under study, the provisions of 10.4.3 shall apply.

**Comments submitted via email or other correspondence (provided to agency upon request)**

10.4.8 Concerns and comments may be provided by the public, House Members and staff, or other state entities via email, letter or other written form ("correspondence"). The Committee will make efforts to communicate to the remitter (1) the agency, about which the comments relate, may request copies of the correspondence; (2) the Committee cannot control how the agency utilizes the information; and (3) the remitter has the option to: submit revised correspondence or request to withdraw the correspondence. Unless specifically requested by the remitter, correspondence will be considered to come from an anonymous constituent. The Committee will consider any correspondence, for which it does not receive a reply from the remitter within ten business days, to be approved by the remitter for submission to the agency with the remitter's name and contact information redacted, should the agency request any correspondence the Committee has received relating to it.

10.4.9 The Committee Chairman, at his discretion, may determine the form in which the agency must submit the request for correspondence the Committee has received from the public, House Members and staff, or other state entities. The Committee Chairman, at his discretion, may also determine when and to whom at the agency the correspondence is published.

**Comments obtained in person or over the phone (provided to agency upon request)**

10.4.10 Committee staff may take notes for use in conducting a study of an agency. Prior to taking any notes that reflect the comments of an individual, staff will make efforts to inform that individual notes are being taken and of the individual's options relating to staff notes. An individual has the option to review staff notes from the individual's conversation with staff and after review: submit revisions to comments or request to withdraw comments. Unless specifically requested by the person providing the information, staff notes will be considered to come from an anonymous constituent.

10.4.11 The Committee Chairman, at his discretion, may determine when and to whom staff notes are disseminated or published.

***Investigative Resources and Partners***

10.5 The Committee recognizes that Section 2-2-50 allows evidence or information related to a study and investigation to be acquired by any lawful means. Further, the Committee recognizes that Section 2-2-70 requires all testimony given to the Committee to be under oath, and anyone knowingly furnishing false information will be subject to the penalties provided by law.

10.6 The subcommittee or ad hoc committee assigned to study and investigate an agency shall determine what other investigative resources or partners, if any, of legislative oversight should be utilized in studying and investigating the agency.

10.7 Other investigative resources or partners of legislative oversight include:

10.7.1 Requesting the Legislative Audit Council to study the agency's Program Evaluation Report, after obtaining prior approval from the Committee Chairman, pursuant to 2-2-60(D) and Committee Rule 7.6;

10.7.2 Requesting the Legislative Audit Council perform its own audit of the agency or program, after obtaining prior approval from the Committee Chairman, pursuant to 2-2-60(D) and Committee Rule 7.6;

10.7.3 Referring allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an executive branch agency to the State Inspector General and/or appropriate law enforcement agency(ies);

10.7.4 Deposing witnesses pursuant to Section 2-2-50(B) and Committee Rule 7.2;

10.7.5 Issuing subpoenas and subpoenas duces tecum (production of documents) pursuant to Section 2-2-50(C) and Committee Rule 7.2;

10.7.6 Having a public hearing pursuant to Committee Rule 7.3 and Committee Rule 7.5; and

10.7.7 Affirmatively approving recommendations that may have been made by the Members of the subcommittee or ad hoc committee in a prior General Assembly.

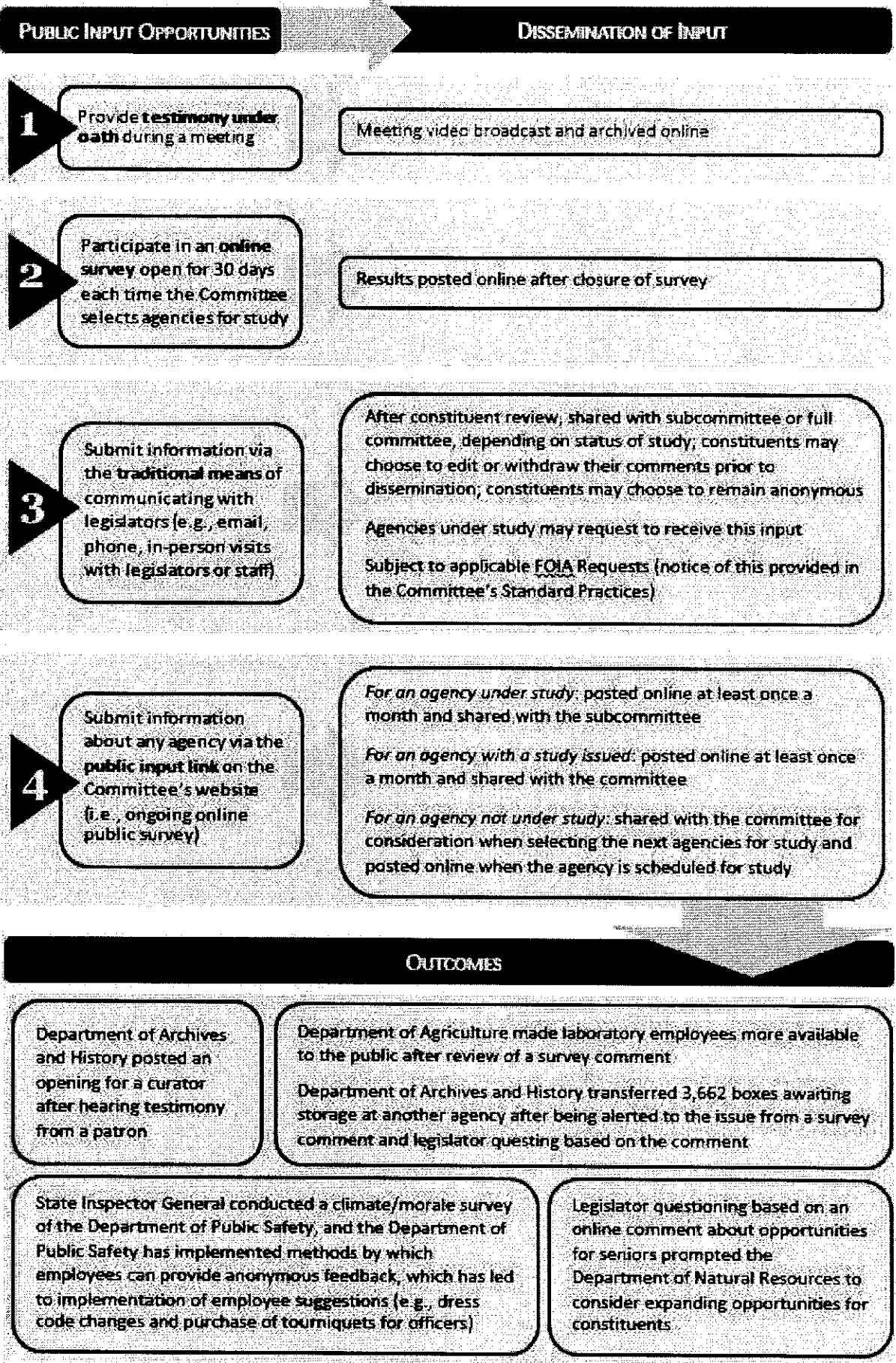


Figure 2. Public input opportunities and how input is disseminated.

**11. SUBCOMMITTEE AND AD HOC COMMITTEE REVIEW, ADDITIONAL INVESTIGATION, & APPROVAL**

***Address Any Allegations of Violations of Contempt of the General Assembly (S.C. Code of Laws §2-2-100)***

11.1 Any subcommittee or ad hoc committee member may make a motion alleging an individual may have violated S.C. Code of Laws §2-2-100 (contempt of the General Assembly) and requesting that the full Committee undertake an inquiry to determine whether to refer the matter to the Attorney General. The current text of this statute is provided below.

Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and wilfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of or pleads guilty to contempt of the General Assembly is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

11.2 If this motion passes, the subcommittee or ad hoc committee chair shall provide written notification of the request to the Chairman.

11.2.1 The study continues, unless the subcommittee or ad hoc committee approves a motion to the contrary.

11.3 If a motion fails, the study continues.

***Address Any Allegations of Violations of Criminal Contempt of the General Assembly (S.C. Code of Laws §2-2-120)***

11.4 Any subcommittee or ad hoc committee member may make a motion alleging an individual may have violated S.C. Code of Laws §2-2-120 (criminal contempt of the General Assembly) and requesting that the full Committee undertake an inquiry to determine whether to refer the matter to the Attorney General. The current text of this statute is provided below.

A person is guilty of criminal contempt when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he:

(1) fails or refuses to attend without lawful excuse; or

(2) refuses to be sworn; or

(3) refuses to answer any material and proper question; or

(4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence.

A person who is convicted of or pleads guilty to criminal contempt is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

11.5 If a motion passes, the Subcommittee ad hoc committee chair shall provide written notification to the Chairman of the request.

11.5.1 The study continues, unless the subcommittee or ad hoc committee approves a motion to the contrary.

11.6 If a motion fails, the study continues.

***Approve, Add Written Statements & Refer a Subcommittee or Ad Hoc Committee Oversight Study Report to Full Committee***

11.7 A subcommittee or ad hoc committee may approve an oversight study for the full Committee.

11.7.1 A copy of the subcommittee or ad hoc committee study may be provided to:

- (a) the appropriate subcommittee or ad hoc committee and
- (b) the Members of any legislative standing committees in the House that may share subject matter jurisdiction over the agency.

11.8 Any member of the subcommittee or ad hoc committee assigned to study and investigate the agency may provide a written statement for inclusion with the oversight study for the full committee.

11.9 The subcommittee or ad hoc committee chairman shall notify the Committee Chairman in writing that an oversight study is available for consideration by the full Committee.

11.9.1 The subcommittee or ad hoc committee study shall be published online.

***12. FULL COMMITTEE REVIEW & REFERRAL, APPROVAL OR FURTHER INVESTIGATION***

***Schedule a Full Committee Meeting***

12.1 The Committee Chairman shall schedule a full Committee meeting for the purpose of receiving an oversight study of an agency from a subcommittee or ad hoc committee or addressing any allegation(s) of violation(s) of contempt of the General Assembly (S.C. Code of Laws §2-2-100) or criminal contempt of the General Assembly (S.C. Code of Laws §2-2-120).

***Address Any Allegation(s) of Violation(s) of Contempt of the General Assembly (S.C. Code of Laws §2-2-100) or Criminal Contempt of the General Assembly (S.C. Code of Laws §2-2-120)***

12.2 Upon receipt of a motion that the full Committee undertake an inquiry as to whether to refer a matter to the Attorney General on the basis that a violation of contempt of the General Assembly (S.C. Code of Law §2-2-100) or criminal contempt of the General Assembly (S.C. Code of Law §2-2-120) may have occurred, the Committee Chairman shall bring the matter before the full Committee.

12.3 When the full Committee takes up the requested inquiry, it may decide whether or not it will refer the matter to the Attorney General to address in an appropriate manner as determined by the Attorney General.



### ***Options for Handling the Oversight Study***

12.4 The full Committee may:

12.4.1 Refer a legislative oversight study and investigation back to a subcommittee or an ad hoc committee for further evaluation;

12.4.2 Approve the subcommittee or ad hoc committee's report; or

12.4.3 As the full Committee, choose to further evaluate an agency (i.e., amend the report) utilizing any of the available tools of legislative oversight discussed in Standard Practice 12.2, Committee Rule 7.4, Committee Rule 7.5, and Committee Rule 7.6.

### ***Approve, Add Written Statements & Publish Full Committee Oversight Study***

12.5 The full Committee may approve a full committee study. If it is a study of an agency, this full Committee study does not conclude the study of the agency. The agency remains under study, should additional issues arise, until the end of the seven-year cycle.

12.6 Any member of the Committee may provide a written statement for inclusion with the full committee study.

12.7 The full Committee's oversight study shall be published online.

12.8 The agency will receive a copy of the full Committee's-oversight study.

### ***Address Any Allegation(s) of Violation(s) of Contempt of the General Assembly (S.C. Code of Laws §2-2-100) or Criminal Contempt of the General Assembly (S.C. Code of Laws §2-2-120)***

## **13. POST REPORT PROCESS**

### ***Legislation to Implement Recommendations***

13.1 The Committee recognizes that any Member of the House may file legislation to implement any recommendation.

### ***Post Review Assessments and Reports by Committee***

13.2 The Committee shall develop post review assessments in order to receive feedback from various participants on ways to improve the legislative oversight study and investigation process.

### ***If follow up with an Agency is requested after approval of a Full Committee Study***

13.3 After the approval of a full committee oversight study, a committee member may make a motion, during a full committee meeting, to request agency representatives attend a full or subcommittee meeting for the purpose of obtaining additional information about the operation of an agency and/or submitting supplemental recommendations.

# **LEGISLATIVE OVERSIGHT COMMITTEE RULES**

## **South Carolina House of Representatives 123<sup>rd</sup> General Assembly (2019-2020 Legislative Sessions)**

Adopted December 5, 2018

### **RULE 1**

#### **RULES OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES**

1.1 The Rules of the South Carolina House of Representatives (House) as they are now or as hereafter adopted shall be the rules of the House Legislative Oversight Committee (Committee) as determined to be appropriate by the Chairman of the Committee (Chairman) and except as otherwise provided below.

1.2 Where the rules of the Committee might be deemed in conflict with the Rules of the House as determined by the Chairman, the Rules of the House will prevail.

### **RULE 2**

#### **GENERAL RULES OF THE COMMITTEE**

2.1 The Committee recognizes itself as a standing committee of the House as enumerated in House Rule 4.2.

2.2 The adopted rules of the Committee must be taken as an expression of the normal operating procedure of the Committee, but the procedure, excluding voting requirements, may be departed from with the approval of two-thirds of the Committee members present.

2.3 Permanent changes to the rules require approval by two-thirds of the appointed membership. Any such changes must be conducted by a roll-call vote.

2.4 The rules of the Committee shall remain in effect beyond the two-year session to serve as the temporary rules until the subsequent Committee membership adopts rules.

### **RULE 3**

#### **COMMITTEE OFFICERS**

3.1 During its organizational meeting at the beginning of each two-year session (organizational meeting), the Committee's most senior member of the majority party, as determined by service in the General Assembly, shall preside as the temporary Chairman until a permanent Chairman is elected.

3.2 The Committee shall elect a Chairman at its organizational meeting.

3.3 The Committee shall elect a First Vice-Chairman at its organizational meeting.

3.4 The Committee may elect a Second Vice-Chairman.

### **RULE 4**

## **FULL COMMITTEE MEETINGS**

- 4.1 The First Vice-Chairman shall preside over full Committee meetings in the absence of the Chairman or at the pleasure of the Chairman. The Second Vice-Chairman, if one is elected, shall preside over the full Committee meetings in the absence of the Chairman and First Vice-Chairman or at the pleasure of the Chairman.
- 4.2 In the event of the absence of the Chairman and other Committee officers, the Chairman may appoint a Committee member to serve as temporary presiding officer.
- 4.3 A simple majority of the appointed membership constitutes a quorum of the full Committee.
- 4.4 A matter to be considered at a full Committee meeting shall be listed on the agenda.
- 4.5 Preparation of the agenda for a full Committee meeting and designation of the meeting time and location is the responsibility of the Chairman. As the Committee does not have designated meeting rooms, the location of its meetings will vary due to room availability in the Blatt Building.
- 4.6 An agenda for a full Committee meeting shall be distributed to the members of the Committee.
- 4.7 With unanimous consent of those members present and voting, a matter not listed on the agenda may be considered at the meeting for which the agenda is prepared.
- 4.8 To address the full Committee, a person must be: (1) scheduled on the agenda, (2) a constitutional officer of South Carolina, (3) member of the South Carolina General Assembly, or (4) granted permission during the meeting by the Chairman without objection of five or more members of the Committee. This provision does not apply to full Committee meetings scheduled to receive testimony from the public.
- 4.9 The Chairman, in order to ensure that all full committee meetings are available to the public, shall allow access to S.C. ETV for the availability of internet streaming whenever technologically feasible.

## **RULE 5 VOTING**

- 5.1 All votes taken on legislative oversight studies and investigations by the full Committee, any subcommittee or ad hoc committee shall be decided by a roll call vote, after which the names of committee members voting in the affirmative, voting in the negative, and not voting shall be recorded in the minutes. The Chairman, at his pleasure, may direct a roll call vote on any other matter. A subcommittee chair or ad hoc committee chair, at his pleasure, may direct a roll call vote on any other matter in such meetings.
- 5.2 The Chairman may vote, at his discretion, on any matter under consideration in full committee and in all subcommittees and ad hoc committees and may, at his discretion, be counted as a member of such committees to constitute a quorum. If a quorum is not present for a subcommittee or an ad hoc committee meeting, the First Vice-Chairman, at his discretion, may serve temporarily as a member of any such committee to achieve the number necessary to constitute a quorum.
- 5.3 Any member of the Committee may request a roll-call vote on any question pending consideration. The Chairman shall direct a roll-call vote to be taken if at least five Committee members second the requesting member's action.

## **RULE 6 SUBCOMMITTEES AND AD HOC COMMITTEES**

6.1 The Chairman shall determine the number and size of subcommittees; the Committee recognizes that S.C. Code of Laws Section 2-2-30 provides that a subcommittee conducting an oversight study and investigation of an agency must not consist of fewer than three members.

6.2 The Chairman shall appoint subcommittee chairmen and may appoint other subcommittee officers.

6.3 The Chairman may appoint ad hoc committees to study specific issues. The Chairman may appoint officers for any ad hoc committee. The Rules of the House as they are now or as hereafter adopted and the Rules of this Committee, as they may be applicable, shall be the rules of any such ad hoc committee. An ad hoc committee shall cease to exist upon completion of the assigned task(s).

6.4 Legislative oversight studies and investigations of agencies are assigned to a subcommittee or an ad hoc committee at the discretion of the Chairman; the Chairman may modify assignments and appointments as he deems appropriate.

6.5 A subcommittee chairman or an ad hoc committee chairman is responsible for scheduling meetings of such committees, upon approval by the Committee Chairman. As the Committee does not have designated meeting rooms, the location of its subcommittee and ad hoc committee meetings will vary due to room availability in the Blatt Building.

6.6 An agenda for a subcommittee or an ad hoc committee meeting shall be distributed to the members of such committees.

6.7 At least three of the membership of a subcommittee or a simple majority of an ad hoc committee constitutes a quorum.

6.8 To address a subcommittee or ad hoc committee, a person must be: (1) scheduled on the agenda, (2) a constitutional officer of South Carolina, (3) member of the South Carolina General Assembly, or (4) granted permission during the meeting by the subcommittee chairman or ad hoc committee chairman.

6.9 A subcommittee chairman or an ad hoc committee chairman shall allow access to S.C. ETV for the availability of internet streaming of such meetings whenever technologically feasible.

## **RULE 7**

### **LEGISLATIVE OVERSIGHT STUDIES AND INVESTIGATIONS OF AN AGENCY**

7.1 The Committee recognizes its duties, jurisdiction, and responsibilities as enumerated in House Rule 4.2, House Rule 4.3, and S.C. Code of Laws Section 2-2-5 et seq. In carrying out those duties and responsibilities, the Committee may develop and adhere to standard practices for the normal operating procedure, upon approval by the Chairman.

7.2 Pursuant to the provisions of S.C. Code Section 2-2-50 et seq., S.C. Code Section 2-69-30 and Article III, Section 12, of the South Carolina Constitution, the full Committee, a subcommittee or an ad hoc committee, in the discharge of its duties, may administer oaths and affirmations, take depositions, issue subpoenas and subpoenas duces tecum, and receive testimony and evidence as necessary in connection with its work, study, or investigation. Further, the full Committee, a subcommittee or ad hoc committee, in the discharge of its duties of providing legislative oversight, may determine what evidence or information to obtain from an agency.

7.3 A request for a subcommittee or an ad hoc committee meeting on any unassigned legislative oversight study or investigation not assigned must be submitted in writing to the Chairman by the chairman of a subcommittee or an ad hoc committee. The Chairman shall determine whether or not a meeting will be conducted. The subcommittee or ad hoc committee studying an agency shall conduct the meeting; the subcommittee chairman or ad hoc committee chairman shall designate the meeting time for the hearing, upon approval by the Chairman.

7.4 A Committee meeting shall be held on any legislative oversight study or investigation the Committee is considering if requested by two-thirds of the appointed members of the Committee. The Chairman shall designate the meeting time for the meeting.

7.5 With the exception of members of the South Carolina General Assembly, a person requesting to be heard at a full committee, subcommittee or ad hoc committee hearing must contact the Committee office by the deadline determined by the full Committee Chairman, a subcommittee chairman, or an ad hoc committee chairman. The person must submit a prepared statement at least twenty-four hours before the day and time of the hearing to Committee staff. An appropriate number of copies of the prepared statement, as determined by Committee staff, is the responsibility of the person requesting to be heard. However, the full Committee Chairman, a subcommittee chairman or an ad hoc chairman may waive the requirement for a prepared statement.

7.6 The Chairman, at his discretion, may request that the Legislative Audit Council perform an audit of an agency.

7.7 The Chairman, at his discretion, may agree to joint investigations with the Senate or other House standing committees.

## **RULE 8 MISCELLANEOUS MATTERS**

8.1 The Chairman, at his discretion, may approve publication of Committee information on the South Carolina General Assembly's website.

8.2 In recognizing the importance of fairness in the legislative oversight process, the Committee, subcommittees, and ad hoc committees shall decline any invitations for meals or other similar social events that may be issued to the Committee.

8.3 The Chairman, subcommittee chairmen, and ad hoc committee chairmen shall maintain order and decorum at all meetings in which they preside.

8.4 The Committee shall not intervene in any individual's ongoing matter with an agency.

8.5 Whenever the pronoun 'he' appears in any rule, it shall be deemed to designate either masculine or feminine.

### **Selected House Rules Relevant to Committee Procedure\***

The Chairman shall be elected by the respective committees during the organizational session. If any subsequent vacancy shall occur in a committee's chairmanship, the election of a new committee chairman shall take place at the time and date to be set by the presiding officer of the respective committee. The committees may at their discretion elect a Vice-Chairman and such other officers as they may choose. House Rule 1.9

Whenever feasible twenty-four hour advance notice shall be given for all committee meetings. Such notice shall be mailed to the members by the committee chairmen when the House is not in session. Notice of regular and special meetings shall also be given by the administrative assistants to each member of the committees and to the Sergeant at Arms in the manner the committee deems proper. Information as to subcommittee meetings shall be provided by the administrative assistants to the Sergeant at Arms and shall be available at the Sergeant at Arms' desk. Failure of notice of any meeting shall not invalidate committee action unless bad faith is shown. No committee shall meet while the House is in session without special leave by the Speaker. House Rule 4.4.

No committee shall sit unless a quorum be present . . . House Rule 4.4.

All meetings of all committees shall be open to the public at all times, subject always to the power and authority of the Chairman to maintain order and decorum with the right to go into Executive Session as provided for in the South Carolina Freedom of Information Act, Title 30, Chapter 4 of the 1976 Code of Laws of South Carolina, as amended. House Rule 4.5.

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\* The House Rules included in this documents are listed for informational purposes only and are not intended to be a part of the formal Legislative Oversight Committee Rules. Additionally, the House Rules listed are not exhaustive and may be updated as rule changes are adopted by the South Carolina House of Representatives.

No committee shall file a report unless the committee has met formally at an authorized time and place with a quorum present. House Rule 4.5.

All standing committees of the House shall prepare and make available for public inspection, in compliance with Section 30-4-90 of the 1976 Code of Laws of South Carolina, as amended, the minutes of full committee meetings. Such minutes need not be verbatim accounts of such meetings but shall include those matters required by the above mentioned Freedom of Information Act. House Rule 4.5

No member of a committee shall be allowed under any circumstances to vote by proxy. House Rule 4.14.