

ECONOMIC DEVELOPMENT, TRANSPORTATION, AND NATURAL RESOURCES SUBCOMMITTEE MEETING

Monday, September 10, 2018

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AGENDA

South Carolina House of Representatives



Legislative Oversight Committee

ECONOMIC DEVELOPMENT, TRANSPORTATION, AND NATURAL RESOURCES SUBCOMMITTEE

The Honorable Bruce W. Bannister, Chair

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Monday, September 10, 2018

10:00 a.m.

110 - 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**
- II. **Discussion of the study of the Department of Labor, Licensing, and Regulation**
- III. **Discussion of the study of the Department of Revenue**
- IV. **Visit to the South Carolina Fire Academy**
- V. **Adjournment**

MINUTES FROM PREVIOUS MEETING

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Katherine E. (Katie) Arrington
William K. (Bill) Bowers
Neal A. Collins
MaryGail K. Douglas
William M. (Bill) Hixon
Jeffrey E. (Jeff) Johnson
Robert L. Ridgeway, III
Bill Taylor
John Taliaferro (Jay) West, IV*



South Carolina House of Representatives

*Bruce W. Bannister
Gary E. Clary
Chandra E. Dillard
Phyllis J. Henderson
Joseph H. Jefferson, Jr.
Mandy Powers Norrell
Tommy M. Stringer
Edward R. Tallon, Sr.
Robert Q. Williams*

*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*

*Kendra H. Wilkerson
Fiscal/Research Analyst*

Economic Development, Transportation, and Natural Resources Subcommittee

Monday, August 13, 2018

10:00 a.m.

Blatt Room 110

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 Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chair Bruce W. Bannister on Monday, August 13, 2018, in Room 110 of the Blatt Building. The following other members of the Subcommittee were present for either all or a portion of the meeting: Representative Neal 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, but 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 makes a motion to approve the minutes from the July 10, 2018, meeting. A roll call vote is held, and the motion passes.

Rep. Collins' motion to approve the minutes from the July 10, 2018, meeting:	Yea	Nay	Not Voting
Rep. Collins	✓		
Rep. Norrell			✓ (absent)
Rep. Ridgeway	✓		
Rep. Bannister	✓		

Discussion of the Department of Revenue (DOR)

- I. Chair Bannister reminds DOR representatives that have been sworn in at previous oversight meetings that they remain under oath. He then administers the oath to the following DOR employees:
- a. Andy Smith, Deputy Director, Field Operations Division
 - b. Joe Dusenbury, Deputy Director, Policy, Privacy, and Procurement Division
- II. Director Powell provides opening comments.
- III. Director Powell and Ms. Sherrie McTeer, Deputy Director of the Taxpayer and Business Services Division, provide comments in response to public input. Members ask questions, which Director Powell, Ms. McTeer, and other agency representatives answer.
- IV. The following DOR deputy directors testify about the divisions they lead:
- a. Andy Smith, Field Operations
 - b. Laura Watts, Administrative Services
 - c. Joe Dusenbury, Policy, Privacy, and Procurement
 - d. Ashley Thomas, Communications and Strategic Initiatives
- Agency staff respond to questions from Subcommittee members during their testimony.
- V. Subcommittee members ask additional questions, which Director Powell and other agency representatives answer.

Discussion of the Department of Labor, Licensing and Regulation (LLR)

- I. After being sworn in by Chair Bannister, Mr. Ronald Steele addresses the Subcommittee. He states that he is a retired fire officer from Charleston. He testifies about his concerns related to the deaths of nine firefighters in Charleston in 2007. He states that he seeks legislation addressing the liability of public employees.

- II. After being reminded by Chair Bannister that she remains under oath, LLR Director Emily Farr provides an overview of the agency, including its mission, history, resources, major programs, successes, challenges, and emerging issues. Director Farr responds to questions from Subcommittee members during and after her testimony.
- III. There being no further business, the meeting is adjourned.

PART ONE: DEPARTMENT OF LABOR, LICENSING, AND REGULATION

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Study Timeline - Department of Labor, Licensing, and Regulation

- May 1, 2015 - Agency submits its **Annual Restructuring and Seven-Year Plan Report**, which is available online.
- February 12, 2016 - Agency submits its **2016 Annual Restructuring Report**, which is available online.
- December 19, 2017 - **Full committee votes to schedule the Department of Labor, Licensing, and Regulation (LLR) for study.** Video of the meeting is available online.
- January 23, 2018-March 1, 2018 - Committee solicits input from the public about the agency in the form of an **online public survey.** The results of the public survey are available online.
- March 1, 2018 - Committee holds **public input meeting** about LLR; Department of Parks, Recreation, and Tourism; and Department of Revenue. Video of the meeting is available online.
- April 20, 2018 - Agency submits its **Program Evaluation Report**, which is available online.
- August 13, 2018 - Subcommittee meets with the agency to discuss an **overview of its mission, history, resources, major programs, successes, challenges, and emerging issues.**
- Ongoing - Public may submit written comments on the Oversight Committee's webpage on the General Assembly's website (www.scstatehouse.gov).

LLR: OFFICES OF ELEVATORS AND AMUSEMENT RIDES AND IMMIGRATION COMPLIANCE

All of the information in this section was provided by the agency in its [Program Evaluation Report](#), submitted on April 20, 2018.

Division Purpose

The **Offices of Elevator and Amusement Rides and Immigration Compliance** oversee the application and enforcement of laws related to elevators/amusement rides and immigration compliance.

Division Employees

	2014-15	2015-16	2016-17
Turnover rate – all employees	13.33%	9.52%	0%
Turnover rate – FTEs only	0.00%	10.00%	0%

Is employee satisfaction evaluated?	No
Is anonymous employee feedback allowed?	No
Do any positions require a certification?	Yes
Did the agency pay for or provide classes/instruction needed to maintain required certifications?	All

Applicable Strategic Plan Segments

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget	
Goal 3 - Improve and protect the safety and health of South Carolina workers while ensuring employers' compliance with state law.								
<i>Strategy 3.5: Ensure South Carolina employers' lawful compliance with state immigration law.</i>	<i>Strategy Totals:</i>	2.52	\$286,219.07	1%	2.52	\$271,894.44	1%	
Objective 3.5.1 - Prohibit the knowing or intentional employment of unauthorized workers by conducting audits of South Carolina's private employers for compliance with the South Carolina Illegal Immigration Reform Act that requires new hires be verified through E-Verify.	To ensure employees hired by South Carolina employers are legally in the United States and authorized to work.	1.93	\$199,286.45	0.46%	1.93	\$197,096.01	0.47%	State Government

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment	
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget		
Objective 3.5.2 - Investigate complaints alleging non-compliance by employers with the South Carolina Illegal Immigration Reform Act, forwarding those complaints alleging violation of state or federal laws that fall within jurisdiction of an enforcing agency (for example, Federal Immigration and Customs Enforcement (ICE) or the South Carolina Department of Public Safety, Immigration Enforcement Unit).	To ensure employers verify the employment authorization of new hires through E-Verify and only employ workers authorized by E-Verify.	0.09	\$18,139.70	0.04%	0.09	\$13,976.97	0.03%	State Government, Federal Government	
Objective 3.5.3 - Register and inspect Immigration Assistance Service providers.	To ensure individuals providing immigration assistance services in South Carolina are licensed by LLR and comply with the state law's provisions.	0.1	\$18,139.70	0.04%	0.1	\$13,976.97	0.03%		
Objective 3.5.4 - Verify lawful presence in the United States of aliens applying for a professional or occupational license through the Systematic Alien Verification of Entitlement (SAVE) program operated by the U.S. Department of Homeland Security.	To ensure that aliens applying for the state benefit of professional and occupational licensure are legally in the United States and authorized to work.	0.4	\$50,653.22	0.12%	0.4	\$46,844.49	0.11%	State Government, Federal Government	
Goal 4 - Protect the riding public and industry personnel in the enjoyment and use of public amusement ride devices and elevators in South Carolina									
<i>Strategy 4.1: Provide oversight of the State's Elevator and Amusement Ride Safety programs.</i>		<i>Strategy Totals:</i>		8.72	\$753,706.88	2%	9.72	\$802,186.44	2%
Objective 4.1.1 - Register and issue permits and operating certificates to those elevators that qualify after demonstrating compliance with legal standards and requirements.	To ensure the safety of the public riding elevators in South Carolina.	1.93	\$174,432.18	0.40%	1.93	\$185,245.41	0.44%	Private Business, State Govt, Local Government, Individuals	
Objective 4.1.2 - Register and issue permits to authorize operation of amusement devices in South Carolina after ensuring proper initial inspection and operation.	To ensure the safety of the public riding amusement rides in South Carolina.	2.53	\$216,415.81	0.50%	3.53	\$231,149.01	0.55%	Private Business, Individuals	

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget	
Objective 4.1.3 - License, oversee, and audit Special Inspectors who conduct annual inspections of public elevators and amusement devices in the State.	To ensure the competency of Special Inspectors conducting elevator and amusement ride inspections.	1.18	\$111,456.72	0.26%	1.18	\$116,390.01	0.28%	Private Business, State Govt, Local Government, Individuals
Objective 4.1.4 - Conduct inspections of new installation or new alteration of public elevators and audit Special Inspectors' annual inspections.	To ensure the safety of the public riding elevators in South Carolina.	3.08	\$251,402.17	0.58%	3.08	\$269,402.01	0.64%	Private Business, State Govt, Local Government, Individuals

Division Deliverables

Deliverable	Required /allowed by law?	Does agency track...		Does agency know...			Agency allowed to charge a fee?	Greatest potential harm to the public if deliverable is not provided	Recommendations to the General Assembly to help avoid the greatest potential harm	Other agencies where the product/ service may fit
		Outcomes?	Customer satisfaction?	# of potential customers?	# of customers served?	Cost /unit?				
Agency Permits/Certificates (Elevator -new installation and alteration permits and certificates of operation and Amusement Device Permits)	Required	✓	X	✓	✓	X	✓	Risk of physical harm and loss of life.	Maintain statutory and regulatory authority.	DHEC
New Elevator Installation and Alterations Inspections	Required	X	X	✓	✓	X	✓	Risk of physical harm and loss of life.	Maintain statutory and regulatory authority.	DHEC
Elevator and Amusement Ride Audits	Not explicit	X	X	X	✓	X	X	Undetected non-compliance may result in risk of physical harm and loss of life.	Support Elevator and Amusement Ride Audits.	DHEC
License special inspectors for amusement ride and elevator inspections	Required	✓	X	✓	✓	X	✓	Unlicensed or unprofessional practice may expose the public to potential property damage and personal injury.	Maintain statutory and regulatory authority.	DHEC, DOR
E-Verification compliance audits	Not explicit	✓	X	✓	✓	X	✓	Non-compliance may destabilize the workforce, lead to undetected identity theft and less job security for families.	Maintain support of e-verification compliance audits.	DOR, DSS

Related Performance Measures

Performance Measure	Type	Required or Selected?	Time Period		Time Period 1	Time Period 2	Time Period 3	Time Period 4	Time Period 5 (last completed)	Time Period 6 (current)	Trend in Results (Pds 1-5)
Number of E-Verify audits conducted	Output	Agency selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	268	141	294	293	299	178	
Percentage of employers E-Verifying new hires	Outcome	Agency selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	90%	96%	85%	90%	87%	86%	
Small business E-Verify compliance rate	Output	Agency selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	88%	61%	83%	81%	79%	82%	
Number of Registered Immigration Assistance Providers	Output	Agency selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	24	24	24	24	25	25	
Number of aliens verified through SAVE	Output	Agency selected	January - Dec	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	DNE	DNE	1,094	1,428	1,677	421	
Number of elevators registered in the state	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	12,129	12,379	12,778	13,115	13,710	13,916	
Number of elevators inspected	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	9,269	8,812	10,324	10,473	10,332	8,300	
Number of elevators with outstanding abatements	Output	Agency selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	1,789	1,346	1,170	1,302	1,270	1,116	
Number of amusement rides inspected and permitted	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	715	700	494	501	716	315	
Number of permits issued for alteration/installation of elevators	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	344	256	714	423	728	513	

DNE = Does/did not exist

Related Agency Recommendations

Law Recommendation #46

Law number and title	S.C. Code Ann. § 41-18-40. Definitions.
Summary of current law	Provides definitions applicable to the South Carolina Amusement Rides Safety Code.
Recommendation and rationale	The statute does not define “open to the public.” The agency attempted to clarify the definition by regulation, but is still facing questions from the public and legislature regarding whether the code applies to church camps. Open to the public is a broad term, and the agency seeks clarification, but has no recommended language.
Wording of Regulation.	<u>(15)</u> “Open to the public” means a place or device that is accessible or available to members of a community or population, irrespective of whether a fee is charged and without regard to the number of days that the place or device is available for use. It does not include a private club, organization, or institution utilizing a selection and approval process for membership that operates the device exclusively for the use of its members on premises owned or controlled by it. It also does not include a private residence where the device is operated by family members and their guests for non-business purposes. A club, organization, or institution that offers memberships for less than thirty days is not private.
Other agencies that may be impacted	N/A

LLR: DIVISION OF OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

All of the information in this section was provided by the agency in its [Program Evaluation Report](#), submitted on April 20, 2018.

Division Purpose

The **Occupational Safety and Health Administration** organizational unit oversees the application and enforcement of state and federal laws related to occupational health and safety.

Division Employees

	2014-15	2015-16	2016-17
Turnover rate – all employees	10.62%	5.36%	13.91%
Turnover rate – FTEs only	10.62%	5.36%	12.28%

Is employee satisfaction evaluated?	No
Is anonymous employee feedback allowed?	No
Do any positions require a certification?	Yes
Did the agency pay for or provide classes/instruction needed to maintain required certifications?	All

Applicable Strategic Plan Segments

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget	
Goal 3 - Improve and protect the safety and health of South Carolina workers while ensuring employers' compliance with state law.								
<i>Strategy 3.1: Develop, implement, and facilitate programming that will aid in the improvement and protection of worker safety and health throughout the State.</i>		<i>Strategy Totals:</i>						
		9.05	\$581,444.49	1%	9.05	\$534,995.73	1%	
Objective 3.1.1 - Provide compliance assistance, technical support, in-house training and guidance, and community outreach.	Decrease workplace injury and illness.	4.01	\$283,974.79	0.65%	4.01	\$262,857.06	0.62%	Federal Government
Objective 3.1.2 - Provide training and development for new and current OSHA staff.		2.01	\$175,782.84	0.40%	2.01	\$161,426.88	0.38%	Federal Government

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment	
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget		
Objective 3.1.3 - Provide accurate statistical safety and health injury and illness data for all South Carolina industries.	Decrease workplace injury and illness.	3.03	\$121,686.86	0.28%	3.03	\$110,711.79	0.26%	Federal Government; Private Business	
<i>Strategy 3.2: Implement and enforce OSHA standards throughout the State to ensure that South Carolina workers are safe at work.</i>		<i>Strategy Totals:</i>	35.53	\$2,907,571.42	7%	37.53	\$2,715,744.60	6%	
Objective 3.2.1 - Conduct inspections to verify safety standard compliance of worksites throughout the State.	Decrease workplace injury and illness.	20.91	\$1,636,374.17	3.76%	22.91	\$1,530,734.31	3.62%	Federal Government; Private Business	
Objective 3.2.2 - Conduct investigations of reported injuries, fatalities, and alleged noncompliance with health and safety standards in the work place.		12.41	\$1,095,414.41	2.52%	12.41	\$1,023,583.41	2.42%	Federal Government; Private Business	
Objective 3.2.3 - Conduct focused inspections in industries with statistically higher numbers of fatalities in specific geographical areas.		2.21	\$175,782.84	0.40%	2.21	\$161,426.88	0.38%	Federal Government; Private Business	
<i>Strategy 3.3: Train and educate South Carolina workforce and employers with respect to OSHA health and safety guidelines and standards.</i>		<i>Strategy Totals:</i>	18.3	\$1,568,666.96	4%	18.3	\$1,457,148.96	3%	
Objective 3.3.1 - Conduct timely, relevant trainings to employers statewide.	Educated employers and workforce; decrease workplace injuries and illnesses.	4.41	\$283,974.79	0.65%	4.41	\$262,857.06	0.62%	Private Business	
Objective 3.3.2 - Provide consultation services to requesting employers.		9.76	\$824,934.54	1.89%	9.76	\$770,007.96	1.82%	Federal Government, Private Business	
Objective 3.3.3 - Provide outreach services to employers seeking entry into the VPP or Sharp Recognition programs.		2.82	\$283,974.79	0.65%	2.82	\$262,857.06	0.62%	Federal Government, Private Business	
Objective 3.3.4 - Provide Youth Safety Outreach Program throughout the State.		1.31	\$175,782.84	0.40%	1.31	\$161,426.88	0.38%	Local Govt, K-12 Ed Inst, Higher Ed Inst, Private Business; Individual	

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget	
<i>Strategy 3.4: Provide legal support and guidance to all labor programs within the agency to aid in the continued safety, health, and legal compliance of South Carolina worksites.</i>	<i>Strategy Totals:</i>	5.54	\$540,843.42	1%	5.54	\$493,562.25	1%	
Objective 3.4.1 - Provide legal representation, advice, and training to labor-related programs in the agency.	Efficient Inspections and investigations from trained inspectors and compliance officers.	1.21	\$229,878.81	0.53%	1.21	\$212,141.97	0.50%	Private Business, Individuals
Objective 3.4.2 - Conduct investigations of alleged retaliation against employees for health and/or safety complaints.	Decrease in workplace retaliation.	1.91	\$121,686.86	0.28%	1.91	\$110,711.79	0.26%	Private Business, Individuals
Objective 3.4.3 - Conduct informal conferences for employers seeking further understanding and resolution of a pending citation from SC OSHA.	Educated employers and workforce; decrease workplace injuries and illnesses.	0.96	\$121,686.86	0.28%	0.96	\$110,711.79	0.26%	Private Business, Individuals
Objective 3.4.4 - Objective: Provide responses to requests for information from employers and other members of the public related to SC OSHA.	Public perceives that agency is responsive and transparent.	1.46	\$67,590.89	0.16%	1.46	\$59,996.70	0.14%	Private Business, Individuals

Division Deliverables

Deliverable	Required/allowed by law?	Does agency track...		Does agency know...			Agency allowed to charge a fee?	Greatest potential harm to the public if deliverable is not provided	Recommendations to the General Assembly to help avoid the greatest potential harm	Other agencies where the product/ service may fit
		Outcomes?	Customer satisfaction?	# of potential customers?	# of customers served?	Cost /unit?				
Consultations (eliminate and prevent workplace injury)	Not explicit	✓	✓	✓	✓	✓	X	Employee illness, injury and/or death. The agency would also lose the 21d Federal Grant.	Continued support of OSHA mission.	Workers' Comp. Comm.
Trainings -Employers/Employees	Not explicit	X	X	✓	✓	✓	X	Employee illness, injury and/or death.	Continued support of OSHA mission.	DEW
Closing Conference, inspection/investigation citation	Required	X	X	X	X	✓	X	Employee illness, injury and/or death.	1. Maintain current statutory authority. 2. Continued support of OSHA mission.	Workers' Comp. Comm.
Reports (injury/illness)	Required	X	X	X	X	✓	X	Employee illness, injury and/or death. The agency would also lost the BLS Federal Grant.	Continued support of OSHA mission.	Workers' Comp. Comm.
Rulemaking/Public Hearing/Variance	Required	✓	✓	X	✓	✓	X	Employee illness, injury and/or death. The agency would lose the 23g Federal Grant, and the State of South Carolina would lose its State OSHA plan.	Continued support of OSHA mission.	Workers' Comp. Comm.
Youth Safety Program (OSHA 10 classes, Safety Awareness classes)	Not explicit	X	X	X	✓	✓	X	Employee illness, injury and/or death	Continued support of OSHA mission.	Dept of Education
Partnerships/Alliances	Not explicit	X	X	X	✓	✓	✓	Employee illness, injury and/or death.	Continued support of OSHA mission.	Dept of Commerce, DEW
FOIA responses (protection of confidential, sensitive and/or trade secret information)	Required	✓	✓	X	✓	✓	X	Protected information is released.	Maintain current statutory authority.	Dept of Archives and History
Customer service (telephone calls, correspondence, in-person contact)	Not explicit	✓	✓	X	✓	✓	X	Public including employers and employees would not feel valued and appreciated.	Continued support of OSHA mission.	Dept of Admin.
Compliance Assistance (interpretive letters, technical assistance, guidance documents, custom industry information)	Not explicit	X	X	X	✓	✓	X	Employee illness, injury and/or death.	Continued support of OSHA mission.	DEW, Workers' Comp. Comm.

Deliverable	Required/allowed by law?	Does agency track...		Does agency know...			Agency allowed to charge a fee?	Greatest potential harm to the public if deliverable is not provided	Recommendations to the General Assembly to help avoid the greatest potential harm	Other agencies where the product/ service may fit
		Outcomes?	Customer satisfaction?	# of potential customers?	# of customers served?	Cost /unit?				
Recognition Programs (VPP/Sharp/Safety Awards)	Not explicit	X	X	X	✓	✓	X	Employee illness, injury and/or death.	Continued support of OSHA mission.	DEW, Workers' Comp. Comm., Dept of Commerce
Inspection/Investigation (Eliminate and prevent 11c discrimination and workplace injury)	Required	X	X	X	✓	✓	X	Employee illness, injury and/or death. The agency would lose the 23g Federal Grant, and the State of South Carolina would lose its State OSHA plan.	Continued support of OSHA mission.	Workers' Comp. Comm., SCHAC
Informal Conference	Required							Employee illness, injury and/or death.	1. Maintain current statutory authority. 2. Continued support of OSHA mission.	Workers' Comp. Comm.

Related Performance Measures

Performance Measure	Type	Required or Selected?	Time Period		Time Period 1	Time Period 2	Time Period 3	Time Period 4	Time Period 5 (last completed)	Time Period 6 (current)	Trend in Results
Number of Employer/Employee Requests* <i>*Considering using in future</i>	Input/Activity	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	2,329	3,051	2,321	2,136	2,097	893	
Number of Public Hearings	Output	Required by Federal	October 1 - September 30	Target:	2	2	2	2	2	2	
				Actual:	2	2	2	2	2	0	
Number of Classes Conducted	Output	Agency Selected	October 1 - September 30	Target:	2	2	2	2	2	2	
				Actual:	2	2	2	2	2	1	
Number of Tweets	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	20	20	
				Actual:	DNE	DNE	DNE	DNE	20	21	
Number of eBlasts	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	12	12	
				Actual:	DNE	DNE	DNE	DNE	7	2	
Number of Outside Presentations/Meetings	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	3	3	
				Actual:	DNE	DNE	DNE	DNE	5	3	
Number of Website Updates (new information)	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	12	12	
				Actual:	DNE	DNE	DNE	DNE	20	4	
Decrease in Injury and Illness Rates	Outcome	Required by Federal	October 1 - September 30	Target:	2%	2%	2%	2%	1%	1%	
				Actual:	>2%	>2%	>2%	>2%	>1%	DNE	
Number of Employees Recruited* <i>*Considering using in future</i>	Input/Activity	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	DNE	DNE	DNE	DNE	9	10	
Number of Employees Retained (within 2 years)* <i>*Considering using in future</i>	Input/Activity	Required by Federal	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	DNE	DNE	DNE	DNE	DNE	DNE	
Percentage of Employees Receiving 40 or More Hours of Annual Training	Input/Activity	Required by Federal	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	100%	100%	
				Actual:	N/A	DNE	DNE	DNE	100%	DNE	
Percentage of Required Employers Contacted for Annual Survey/Audit	Output	Required by Federal	October 1 - September 30	Target:	85%	85%	85%	85%	85%	85%	
				Actual:	>85%	>85%	>85%	>85%	>85%	>85%	
Number of Programmed Inspections	Output	Required by Federal	Quarterly	Target:	45	45	45	45	37	37	
				Actual:	59	54	52	70	52	70	
Number of Affected Employees (programmed)	Outcome	Agency Selected	Quarterly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	557	938	532	899	655	948	
Number of Unprogrammed Investigations	Output	Required by Federal	Quarterly	Target:	25	25	25	25	20	20	
				Actual:	68	56	56	65	55	36	
Number of Affected Employees (unprogrammed)	Outcome	Agency Selected	Quarterly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	3977	3178	1576	4522	3902	5629	
Complaints; Response Time Within 7 Days	Efficiency	Required by Federal	Quarterly	Target:	100%	100%	100%	100%	100%	100%	
				Actual:	87.50%	100%	85.70%	88.90%	66.70%	100%	
Number of Focused Inspections	Output	Agency Selected	Quarterly	Target:	DNE	DNE	DNE	DNE	DNE	20	
				Actual:	0	0	16	22	0	25	
Number of Affected Employees (focus)	Outcome	Agency Selected	Quarterly	Target:	DNE	DNE	DNE	DNE	DNE	175	
				Actual:	0	0	141	108	0	185	
Number of Training Classes	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	461	400	436	322	268	178	

DNE = Does/did not exist

Performance Measure	Type	Required or Selected?	Time Period		Time Period 1	Time Period 2	Time Period 3	Time Period 4	Time Period 5 (last completed)	Time Period 6 (current)	Trend in Results
Number of Employers Trained	Outcome	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	3328	2737	2449	2325	1953	1009	
Number of Employees Trained	Outcome	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	12604	7905	8032	5702	2223	4769	
Number of Consultations	Output	Agency Selected	October 1 - September 30	Target:	788	755	755	755	800	688	
				Actual:	919	837	919	862	870	373	
Number of Affected Employees (consultations)	Outcome	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	820	1153	285	515	485	1179	
Number of Employers	Outcome	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	919	837	919	862	870	373	
Amount of Fines Saved	Efficiency	Agency Selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	\$1,537,438	\$1,635,366	\$1,852,570	\$1,721,075	\$1,420,226	\$1,429,870	
Lapse Time Between Request and Consultation* <i>*Considering using in future</i>	Efficiency	Agency Selected	Quarterly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	DNE	DNE	DNE	DNE	DNE	DNE	
Number of VPP Sites	Input/Activity	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	42	40	41	40	40	41	
Number of SHARP Sites (new)	Input/Activity	Agency Selected	October 1 - September 30	Target:	2	2	2	2	1	1	
				Actual:	2	2	1	1	0	0	
Number of Students Trained (Youth Safety Program)	Outcome	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	250	500	
				Actual:	DNE	DNE	DNE	DNE	370	850	
Number of Classes Conducted (Youth Safety Program)	Output	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	1	5	
				Actual:	DNE	DNE	DNE	DNE	1	3	
Number of Counties (Youth Safety Program)	Input/Activity	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	1	3	
				Actual:	DNE	DNE	DNE	DNE	1	1	
Number of Active VPP Sites (Youth Safety Program)	Input/Activity	Agency Selected	October 1 - September 30	Target:	DNE	DNE	DNE	DNE	5	20	
				Actual:	DNE	DNE	DNE	DNE	9	21	
Number of Contested Cases Filed	Input/Activity	Agency Selected	January - December	Target:	DNE	DNE	DNE	DNE	DNE	12	
				Actual:	12	18	20	23	14	2	
Number of Contested Cases Resolved	Output	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	1	1	
				Actual:	0	1	2	2	1	0	
Number of 11c Whistleblower Complaints Filed	Input/Activity	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	5	5	9	4	6	9	
Number of Whistleblower Complaints Resolved	Output	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	7	
				Actual:	11	4	2	20	4	8	
Number of Informal Conferences	Input/Activity	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	11	4	7	3	4	8	
Number of Contested Cases Filed After an Informal Conference	Input/Activity	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	11	10	13	17	9	0	
Number of Settlements* <i>*Considering using in future</i>	Output	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	DNE	DNE	DNE	DNE	DNE	DNE	
Number of OSHA FOIA Requests	Input/Activity	Agency Selected	Monthly	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	15	16	8	8	12	18	

DNE = Does/did not exist

Related Agency Recommendations

Law Recommendation #30

Law number and title	S.C. Code Ann. § 41-15-220 (SC OSHA). Notice and hearing; occupational safety and health standards not subject to Administrative Procedure Act; rebuttable presumptions created by publication of notice.
Summary of current law	Notice of hearing for SC OSHA standards
Recommendation and rationale	Amends the statute to allow for publication in newspapers with electronic circulation to enhance accessibility for the public and employers.
Wording of law	(A) Before the promulgation, modification, or revocation of a regulation issued pursuant to this article, the commissioner shall conduct a public hearing at which all interested persons, including employer and employee representatives, must be provided an opportunity to appear and present their comments orally or written, or both. Notice of the hearing must be published in the State Register and <u>may be published</u> in at least three newspapers, at least one of which has circulation in upper, lower, and middle South Carolina, <u>or through electronic means</u> , once a week for three weeks. The notice must contain the date, time, and place of the hearing and a brief description of the proposed regulation. <i>[remainder of statute unchanged]</i>
Other agencies that may be impacted	N/A

Law Recommendation #31

Law number and title	S.C. Code Ann. § 41-15-260. Interrogation; inspection; warrant for inspection; issuance; return; records of warrants issued.
Summary of current law	Interrogation; inspection; warrant for inspection; issuance; return; records of warrants issued.
Recommendation and rationale	Amends the statute to provide a compliance mechanism for warrant process and sanctions for non-compliance in order to address circumstances when an employer refuses to comply with a warrant .
Wording of law	(B)(3) A warrant issued pursuant to this section shall be served within ten days and returned within thirty days of its date of issue. <u>A person authorized by the Director of the Department of Labor, Licensing and Regulation or designee may seek contempt and/or sanctions, in the event of noncompliance with a warrant. Assistance may also be sought by law enforcement during the service of the warrant.</u> The circuit judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant. <i>[remainder of statute unchanged]</i>
Other agencies that may be impacted	Local law enforcement agencies and Circuit Court.

Law Recommendation #32

Law number and title	S.C. Code Ann. § 41-15-270. Subpoenas, taking of testimony and the like.
Summary of current law	Outlines the investigative process.
Recommendation and rationale	Amends the statute to provide a compliance mechanism for warrant process and sanctions for non-compliance in order to deter employers from ignoring subpoenas.
Wording of law	<p><u>(A) The Director of the Department of Labor, Licensing and Regulation or his designee may subpoena witnesses, documents, take and preserve testimony, examine witnesses, administer oaths and, upon proper presentation of credentials to the owner, manager or agent of the employer, enter any place, site or areas where employment comes under the jurisdiction of the Commissioner and interrogate any person employed therein or connected therewith or the proper officers of a corporation or employer, or he may file a written or printed list of interrogatories and require full and complete answers to them to be returned under oath within fifteen days of the receipt of such list. In the event of non-compliance, the Director or his designee may seek contempt and/or sanctions by the circuit judge having jurisdiction where the inspection and investigation is being conducted.</u></p> <p><u>(B) Upon proper presentation of credentials to the owner, manager or agent of the employer, the Director of the Department of Labor, Licensing and Regulation or his designee may enter any place, site or area where employment comes under the jurisdiction of the Director and interrogate any person employed therein or connected therewith or the proper officers of a corporation or employer. In the event of non-compliance, the Director of the Department of Labor, Licensing and Regulation or his designee may seek a warrant pursuant to the provisions in Section 41-15-260.</u></p>
Other agencies that may be impacted	Local law enforcement agencies and Circuit Court.

Law Recommendation #33

Law number and title	S.C. Code Ann. § 41-15-280. Citation for violation; notice in lieu of citation.
Summary of current law	Provides procedures for issuance of a citation for violations.
Recommendation and rationale	Amends the statute by including language that makes it clear that the citation will be issued with the penalty, and allows the agency discretion to stay the deadline under certain circumstances. This is done to ensure SC OSHA's ability to further its mission without constraints. This protects the public while providing due process to employers.
Wording of law	<p>Title: Citation <u>and notification of penalty</u> for violation; notice in lieu of citation. If, upon inspection or investigation, the <u>Director</u> or his authorized representative ascertains that an employer has violated a requirement of any rule or regulation promulgated pursuant to this article, he shall with reasonable promptness issue a citation <u>and notification of penalty</u> to the employer. Each citation <u>and notification of penalty</u> shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to any statute or rule or regulation alleged to have been violated. The citation <u>and notification of penalty</u> shall fix a reasonable time for the abatement of the violation. The <u>Director</u> may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health. Such notice shall have the effect of a recommendation to the employer; compliance will not be required.</p> <p>Each citation <u>and notification of penalty</u> issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the <u>Director</u>, at or near each place a violation referred to in the citation occurred.</p> <p>No citation may be issued under this section after the expiration of six months following the occurrence of any violation. <u>Where the actions or omissions of the employer or its designee conceal the existence of the violation or conditions leading to the violation, this limitation is tolled until such time as the agency learns or could have learned of the violation or conditions.</u></p>
Other agencies that may be impacted	N/A

Law Recommendation #34

Law number and title	S.C. Code Ann. § 41-15-300. Notice of penalties.
Summary of current law	Provides notice of penalties.
Recommendation and rationale	Repeals the statute in its entirety since penalties are not sent separately from citations. This will streamline statutory provisions and reduce redundancy.
Wording of law	If, after an inspection or investigation, the Commissioner issues a citation, he shall within a reasonable time after the termination of such inspection or investigation notify the employer by certified mail of the penalty, if any, assessed under Section 41-15-320.
Other agencies that may be impacted	N/A

Law Recommendation #35

Law number and title	S.C. Code Ann. § 41-15-520. Remedies of an employee charging discrimination.
Summary of current law	Provides remedies available to an employee charging discrimination.
Recommendation and rationale	Amends the statute to provide clarity regarding the actions taken upon receipt of complaint from a public employee.
Wording of law	<p><u>(A)</u> A private sector employee believing that he has been discharged or otherwise discriminated against by any person in violation of Section 41-15-510 may, within thirty days after the violation occurs, file a complaint with the Director of the Department of Labor, Licensing and Regulation alleging the discrimination. Upon receipt of the complaint, the director, <u>or designee</u>, shall within fifteen days forward the complaints that allege violations of Section 41-15-510 and violations of a federal statute other than 29 U.S.C.A. Section 660(c) to the United States Department of Labor Whistleblower Program. For other complaints, the director shall cause an investigation to be made as he deems appropriate. If upon such investigation the director determines the provisions of Section 41-15-510 have been violated, he shall institute an action in the appropriate court of common pleas against such person. In any such action the court of common pleas shall have jurisdiction for cause shown to restrain violations of Section 41-15-510 and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.</p> <p><u>(B)</u> Upon receipt of a complaint from a public sector employee, the agency will issue a <u>Notice of Right to Sue letter</u>. A public sector employee believing that he has been discharged or otherwise discriminated against by any person in violation of Section 41-15-510 may proceed with a civil action pursuant to the provisions contained in Chapter 27, Title 8.</p>
Other agencies that may be impacted	N/A


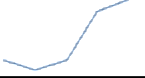
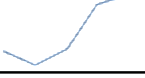
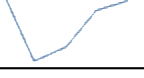
LLR: OFFICE OF WAGES AND CHILD LABOR

All of the information in this section was provided by the agency in its [Program Evaluation Report](#), submitted on April 20, 2018.

Applicable Strategic Plan Segments

2017-18 Comprehensive Strategic Plan Segments	Intended Public Benefit/Outcome	2016-17			2017-18			Partner(s), by segment	
		# of FTEs utilized	Amount Spent	% of Total Available to Spend	# of FTEs using	Amount budgeted	% of Total Budget		
Goal 3 - Improve and protect the safety and health of South Carolina workers while ensuring employers' compliance with state law.									
<i>Strategy 3.6 - Ensure lawful treatment of employees under state law by investigating complaints alleging violations of the Payment of Wages Act and Child Labor Laws.</i>		<i>Strategy Totals:</i>	6.67	\$612,169.44	1%	6.67	\$708,351.48	2%	
Objective 3.6.1- Review and process claims, insuring they meet jurisdictional requirements and sufficiency to initiate investigation of alleged violations.	Public has confidence that claims are sufficiently screened to determine whether further investigation is warranted.	1.07	\$204,056.48	0.47%	1.07	\$236,117.16	0.56%	State Government, Local Government	
Objective 3.6.2 -Investigate claims alleging Payment of Wages and Child Labor law violations, including conducting witness interviews and analyzing evidence.	Public can be confident that claims of alleged wage and labor law violations will be thoroughly and timely investigated.	4.13	\$204,056.48	0.47%	4.13	\$236,117.16	0.56%	State Government, Local Government	
Objective 3.6.3 - Enforce Payment of Wages Act and Child Labor Laws by holding informal conferences and issuing warnings and citations for confirmed violations.	Public can have confidence that Payment of Wages Act and Child Labor Laws are appropriately enforced.	1.47	\$204,056.48	0.47%	1.47	\$236,117.16	0.56%	State Government, Local Government	

Related Performance Measures

Performance Measure	Type	Required or Selected?	Time Period		Time Period 1	Time Period 2	Time Period 3	Time Period 4	Time Period 5 (last completed)	Time Period 6 (current)	Trend in Results (Pds 1-5)
Number of wage and labor claims received	Input/Activity	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	1160	1008	1125	1815	2023	1133	
Number of wage and labor investigations opened	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	1092	926	1091	1788	1982	1112	
Number of wage and labor citations issued	Outcome	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	424	338	437	712	781	439	
Amount of penalties assessed for wage violations	Output	Agency selected	July - June	Target:	DNE	DNE	DNE	DNE	DNE	DNE	
				Actual:	\$164,450	\$81,600	\$97,751	\$139,099	\$151,300	\$93,790	

DNE = Does/did not exist

Related Agency Recommendations

Law Recommendation #36

Law number and title	S.C. Code Ann. § 41-13-25. Penalties for violating child labor regulations
Summary of current law	Provides penalties for violating child labor laws.
Recommendation and rationale	Amends the statute to clarify penalty options for first offenders in order to provide better information to the public and assist those wishing to avoid such penalties.
Wording of law	(A) As determined by the Director of the Department of Labor, Licensing and Regulation or the director's designee, an employer who violates a child labor regulation promulgated pursuant to this chapter must be given a written warning of the violation for a first offense or may be fined not more than one thousand dollars. For second or subsequent offenses, an employer may be fined not more than five thousand dollars for each offense. The director shall determine the amount of the penalty pursuant to procedures promulgated by the department in regulation for assessing penalties under this chapter. These regulations shall include the method for determining penalties based on the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations of the employer. <i>[remainder of statute unchanged]</i>
Other agencies that may be impacted	N/A

Law Recommendation #37

Law number and title	S.C. Code Ann. § 41-10-30. Notification to employees of wages and hours agreed upon; recordkeeping requirements; requirement of itemized statement of gross pay and deductions for each pay period.
Summary of current law	Requires provision of itemized statements for each pay period.
Recommendation and rationale	Amends the statute to include alternative means of employees viewing statements in order to recognize and utilize current technology .
Wording of law	(C) Every employer shall provide each employee with <u>access to</u> an itemized statement showing his gross pay and the deductions made from his wages for each pay period. <i>[remainder of statute unchanged]</i>
Other agencies that may be impacted	N/A

Law Recommendation #38

Law number and title	S.C. Code Ann. § 41-10-40. Medium of payment; deposit of wages to employee’s credit; prohibition against deductions in absence of written notice; time and place of payment.
Summary of current law	Provides the medium of payment for employees.
Recommendation and rationale	Amend the statute to revise method of payment to allow inclusion of different forms of payment other than the standard check.
Wording of law	(A) Every employer in the State shall pay all wages due in lawful United States money or by negotiable warrant or check bearing even date with the payday <u>currency.</u> [remainder of statute unchanged]
Other agencies that may be impacted	N/A

Law Recommendation #39

Law number and title	S.C. Code Ann. § 41-10-80. Violations and penalties; civil actions by employees; administrative review of civil penalties.
Summary of current law	Defines violations and penalties.
Recommendation and rationale	Amends the statute by revising penalties in order to enhance compliance mechanisms for violations.
Wording of law	(A) Any employer who violates the provisions of Section 41-10-30 must be given a written warning by the Director of the Department of Labor, Licensing and Regulation or his designee for the first offense and must be assessed a civil penalty of not more than one <u>two hundred fifty</u> dollars for each subsequent offense. (B) Any employer who violates the provisions of Section 41-10-40 and Section 41-10-50 must be assessed a civil penalty of not more than one hundred <u>thousand</u> dollars for each violation. Each failure to pay constitutes a separate offense. . . . (D) The Director of the Department of Labor, Licensing and Regulation or his designee shall promulgate regulations to establish a procedure for <u>the assessment of penalties and the administrative review of any civil penalty as assessed</u> by the commissioner. [remainder of statute unchanged]
Other agencies that may be impacted	N/A

PART TWO:
DEPARTMENT OF REVENUE

Part Two Contents

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S.C. DEPARTMENT OF REVENUE STUDY TIMELINE

2017

December 19, 2017 **Full committee votes** to make SCDOR the next agency for the Economic Development, Natural Resources, and Transportation Subcommittee to study. [Video](#) and [minutes](#) of the meeting are available online.

2018

January 23 –
March 1, 2018 Committee solicits input from the public about the agency in the form of an **online public survey**. The [results of the public survey](#) are available online.

March 1, 2018 Committee holds **public input meeting (Meeting #1)** about this and other agencies.

May 31, 2018 SCDOR submits its Program Evaluation Report to the Committee.

June 18, 2018 Subcommittee meets with agency (**Meeting #2**) to discuss the agency's history; legal framework; mission; vision; organizational structure; deliverables and customers; resources; relationships with other agencies; and goals.

July 10, 2018 Subcommittee meets with agency (**Meeting #3**) to discuss the following agency divisions: Government Services; Taxpayer and Business Services; Security and Information Technology Services; and Litigation and Appeals.

August 13, 2018 Subcommittee meets with agency (**Meeting #4**) to discuss the following agency divisions: Policy, Privacy, & Procurement; Communications & Strategic Initiatives; Field Operations; and Administrative Services.

September 10, 2018 (TODAY) Subcommittee meets with agency (**Meeting #5**) to discuss Subcommittee recommendations.

Ongoing Public may submit written comments on the Oversight Committee's webpage, accessed from www.scstatehouse.gov.

SUBCOMMITTEE FOLLOW-UP LETTER TO DOR

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Katherine E. "Katie" Arrington
William K. "Bill" Bowers
Neal Collins
MaryGail K. Douglas
William M. "Bill" Hixon
Jeffrey E. "Jeff" Johnson
Robert L. Ridgeway, III
Edward R. Tallon Sr.
John T. "Jay" West, IV*



*Bruce W. Bannister
Gary E. Clary
Chandra E. Dillard
Phyllis J. Henderson
Joseph H. Jefferson Jr.
Mandy Powers Norrell
Tommy M. Stringer
Bill Taylor
Robert Q. Williams*

*Jennifer L. Dobson
Research Director*

*Cathy A. Greer
Administration Coordinator*

South Carolina House of Representatives

**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*

*Kendra H. Wilkerson
Fiscal/Research Analyst*

August 16, 2018

Via Email

W. Hartley Powell, Director
South Carolina Department of Revenue
300-A Outlet Pointe Boulevard
Columbia, South Carolina 29210

RE: Follow up from Subcommittee's August 13, 2018, meeting with the agency

Dear Director Powell:

The Economic Development, Transportation, and Natural Resources Subcommittee appreciates the agency's continued partnership in the oversight process. As follow-up from the meeting on August 13, 2018, please provide the Subcommittee with the following information by Friday, August 31, 2018:

1. A summary of the results of the agency's FY16 and FY17 employee surveys, omitting any confidential data or information that identifies individual respondents. Also, please describe briefly the survey method used (i.e., was input anonymous).
2. Estimates of the following information related to filing tax liens:
 - a) Number of tax liens filed in FY18, broken down by county if readily available;
 - b) Current annual agency cost of filing tax liens with counties, including recording fees and staff time;
 - c) The counties that would currently accept electronic recording through Simplifile or similar services;
 - d) Change in annual agency cost if electronic recording with Simplifile or a similar service is implemented for the counties referenced in part (c), including the cost of an annual contract and any anticipated savings in staff time and postage; and

- e) Change in annual agency cost if the agency is no longer required to file tax liens with counties, including the cost of implementing a statewide recording system and any anticipated savings in staff time and recording fees.

Thank you for your service to the citizens of South Carolina and for your continued cooperation with the legislative oversight process. We look forward to continuing our discussion of the Department of Revenue at the next Subcommittee meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Bannister". The signature is written in a cursive, somewhat stylized font.

Bruce W. Bannister
Subcommittee Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

DOR RESPONSE TO FOLLOW-UP LETTER

State of South Carolina Department of Revenue



HENRY D. MCMASTER
Governor

W. HARTLEY POWELL
Director

300A OUTLET POINTE BOULEVARD
POST OFFICE BOX 125
COLUMBIA, SOUTH CAROLINA 29214
Telephone: (803) 898-5040
Facsimile : (803) 896-0023
Director@dor.sc.gov

August 31, 2018

The Honorable Bruce W. Bannister
Subcommittee Chairman, House Legislative Oversight Committee
Post Office Box 11867
Columbia, SC 29211

Dear Chairman Bannister:

I received your letter of August 16, 2018 requesting a follow-up response to questions resulting from the Department of Revenue's hearing on August 13, 2018. The Department of Revenue is committed to the legislative oversight process, and please find below the requested information.

1. A summary of the results of the agency's FY16 and FY17 employee surveys, omitting any confidential data or information that identifies individual respondents. Also, please describe briefly the survey method used (i.e., was input anonymous).

Employee Survey Method

The Internal Audit (IA) Division conducted the Department's employee surveys. Human Resources provided the IA Director with the most current list of employees and their Divisions. The IA Director compiled and reviewed all responses which were anonymous. The IA Director presented to Senior Management the results from the employee surveys, which included an overall summary, a breakdown of the results, and action items to move forward.

FY16 Employee Survey

Results:

Response Rate: 48%

	Satisfied	Dissatisfied
Salary	45%	55%
Agency Spirit	79%	21%
Cross Divisional Communications	76%	22%
Ethics	88%	12%
Senior Management Contact	54%	46%

Themes from Written Employee Comments:

Salary Dissatisfaction
 Stronger Internal Communication with Senior Management
 Enhancements of Physical Security

Mitigation Strategies Implemented:

- Implemented a universal employee performance review (EPMS) review date
- Designed and implemented an employee pay for performance plan and bonus program
- Implemented an internal strategic communication campaign to better inform employees of the agency's mission, vision, and culture; customer satisfaction survey results; and strategic performance
- Established employee performance measures and culture classes with executive leadership participation
- Enhanced workplace security by placing protective service agents and metal detectors at all locations
- Included employee input, via survey responses, into strategic and annual business planning

FY17 Employee Survey Results

Results:

The FY17 employee survey was revised to measure a more comprehensive list of workplace topics.
 Response Rate: 47%

	Satisfied	Dissatisfied
Security	94%	6%
Salary	30%	70%
Attrition	53%	47%
Contact with Executive Leadership	61%	39%
Contact with Direct Supervisors	58%	42%
Team Spirit in Division	71%	29%
Team Spirit in Agency	57%	43%
Process Improvement Opportunities	71%	29%
Ethics	76%	24%
Internal Communication	62%	38%
Quality of External Customer Service	71%	29%
Management Competency	79%	21%
Non-management Competency	74%	26%
Sufficient Resources, Tools, & Time	79%	21%
Workspace	83%	17%
Work-life Balance	80%	20%

Themes from Written Employee Comments:

Salary Dissatisfaction
 Stronger Internal Communication
 Lack of Agency Team Spirit

Mitigation Strategies Implemented:

- Established a new intranet, The Huddle, to provide a platform for internal communications, collaboration and engagement of employees
- SCDOR's Communication Guide was revamped to be more user friendly for employees. It was easily accessible through the Department's new intranet, The Huddle
- Implemented a "Get Involved Program" via The Huddle, encouraging employees to volunteer on agency-wide initiatives such as wellness and outreach events and employee appreciation activities
- Implemented an ongoing strategic review process of workspace areas to address the business needs for workspace layout and designs
- Implemented a standard layout of the taxpayer assistance areas at all SCDOR locations

- Provided sit-to-stand desks for employees to promote a healthier workspace for employees
- Improved the quality of employee recognition items
- Implemented a formal presentation process for bonus awards based on employee feedback
- Committed annual allocations towards achievement award bonuses
- Held an agency-wide employee appreciation event with games and a catered lunch

2018 SCDOR Customer Service Survey:

Survey Method:

This survey was conducted by the University of South Carolina’s Institute for Public Service and Policy Research. The purpose of the survey is to assess the public’s perception regarding SCDOR’s service. There were 800 South Carolina citizens (age 18 or older) randomly selected to participate in the survey.

Results:

- Awareness: 83.6% of the responders have heard of SCDOR
- Impression: 88.5% - Positive Responses
- Contact: 61.1% of the state’s adult population contacted SCDOR in 2015
- Speed of Refund: 93.8% Satisfaction Rate
- Quality of Service: 74.5% satisfied with the overall quality of services received
- Courtesy of Service: 79% satisfied with the courtesy and attitude of staff
- Accuracy of Service: 85.5% satisfied with the accuracy of the information received
- Speed of Service: 81.6% satisfied with the speed of the service provided
- Overall Ease of Service: 77.8% satisfied with the overall ease of the process

2. Estimates of the following information related to filing tax liens:

a) Number of tax liens filed in FY18, broken down by county if readily available;

Approximately 56,213 tax liens were filed in FY18. Below is a breakdown of tax liens filed by county:

ABBEVILLE	171	DILLON	170	MARION	197
AIKEN	1,186	DORCHESTER	1,282	MARLBORO	231
ALLENDALE	88	EDGEFIELD	137	MCCORMICK	72
ANDERSON	1,216	FAIRFIELD	317	NEWBERRY	310
BAMBERG	115	FLORENCE	1,175	OCONEE	340
BARNWELL	205	GEORGETOWN	617	ORANGEBURG	1,026
BEAUFORT	1,682	GREENVILLE	4,895	PICKENS	567
BERKELEY	1,835	GREENWOOD	643	*RICHLAND	*15,718
CALHOUN	134	HAMPTON	197	SALUDA	151
CHARLESTON	4,696	HORRY	2,975	SPARTANBURG	2,775
CHEROKEE	491	JASPER	245	SUMTER	899
CHESTER	339	KERSHAW	597	UNION	271
CHESTERFIELD	327	LANCASTER	687	WILLIAMSBURG	346
CLARENDON	371	LAURENS	508	YORK	2,636
COLLETON	317	LEE	178		
DARLINGTON	534	LEXINGTON	2,344		

* All out-of-state liens are filed in Richland County.

b) Current annual agency cost of filing tax liens with counties, including recording fees and staff time;

SCDOR spent a total of \$606,805 to file, expunge and satisfy tax liens in FY18. This amount includes \$562,130 spent on recording fees to counties and \$44,675 in operational costs to include 91,828 expungements and satisfaction notices.

- c) The counties that would currently accept electronic recording through Simplifile or similar services;

Only 19 counties are currently able to accept electronic recording of liens through Simplifile: Aiken, Anderson, Beaufort, Berkeley, Chesterfield, Clarendon, Colleton, Dorchester, Greenville, Greenwood, Horry, Jasper, Lancaster, Laurens, Lexington, Richland, Spartanburg, Sumter and York.

- d) Change in annual agency cost if electronic recording with Simplifile or a similar service is implemented for the counties referenced in part (c), including the cost of an annual contract and any anticipated savings in staff time and postage and;

Estimated cost to modify SCDOR's tax processing system to interface with the counties currently e-recording would be \$800,000 plus an annual contract fee of \$50,000 to \$100,000. SCDOR would no longer incur the annual operational costs of \$44,675.

- e) Change in annual agency cost if the agency is no longer required to file tax liens with counties, including the cost of implementing a statewide recording system and any anticipated savings in staff time and recording fees.

If SCDOR becomes the central statewide recording system for tax liens there would be a total savings of over \$600,000 annually and the elimination of a one-time implementation cost to SCDOR's tax processing system of \$800,000.

If you have questions or need further information, please let me know.

Sincerely,



W. Hartley Powell
Director

DOR RECOMMENDED LAW CHANGES

1. Financial Institutions
2. Tax Liens
3. Alcohol Beverage Modernization – Festivals
4. Alcohol Beverage Modernization – Liability Coverage for Governmental Entities
5. Alcohol Beverage Modernization- Penalties
6. Credit for Energy Efficient Vehicles
7. Marketplace Facilitator

1. Financial Institutions

Summary of Current Law:

N/A

Recommendation:

SCDOR would like to participate in the Financial Institution Data Match (FIDM) program to share data files with financial institutions to identify financial assets of debtors with past due liabilities. This program will not provide new collection tools but provide a more streamline process to collect.

Other agencies that may be impacted:

Financial Institutions

Entities participating in the Debt Setoff or GEAR Program

Draft Language:

Chapter 54 of Title 12 is amended by adding the following section:

SECTION 1. Section 12-54-265. Notwithstanding any other provision of law, the department may submit to a financial institution, as defined in Section 63-17-2310(A)(2), information that identifies a debtor named on a warrant for distraint that has been issued and filed by the department or whose debt has been submitted to the department for collection under the provisions of Section 12-4-580. For purposes of debts named on warrants for distraint, the debt must be at least one hundred eighty days old from the date of assessment. The department may submit the information to the financial institution on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must conduct a data match. The financial institution must then provide to the department, in a manner and form prescribed by the department, information concerning the debtor for purposes of collecting outstanding debts. The information provided to the department must include, but is not limited to, the information required pursuant to Section 63-17-2320(A). The financial institution must be paid a reasonable fee out of the collected funds not to exceed actual cost.

SECTION 2. This Act takes effect upon the signature of the Governor.

2. Tax Liens

Summary of Current Law:

Currently, SCDOR files tax lien notices with each county in which a warrant for distraint applies.

Recommendation:

Amend current law to allow SCDOR to implement a centralized system of filing and indexing of tax liens that is accessible to the public through SCDOR's website. Instead of filing liens with each county interested parties will be able to search the entire state for tax liens through one centralized source.

Other agencies that may be impacted:

Local Jurisdictions

Draft Language:

Section 12-54-122(G) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

SECTION 1. Instead of filing a tax lien notice pursuant to item (1), the department may implement a system of filing and indexing liens which must be accessible to the public over the Internet or through other means as the department considers appropriate. A lien filed pursuant to this item is effective statewide from the date and time it is recorded and encumbers all the taxpayer's property and rights to property as provided in Section 12-54-120, regardless of the property's location. A lien filed pursuant to item (1) remains effective from the date and time it was recorded. Nothing in this item may be construed so as to extend the effectiveness of a lien beyond ten years from the date of filing, as provided in Section 12-54-120.

SECTION 2. This act takes effect July 1, 2019.

3. Alcohol Beverage Modernization- Festivals

Summary of Current Law:

The current law does not allow for SCDOR to issue permits and licenses for the sale of liquor by the drink at a festival, for multiple locations and multiple days, through one application.

Recommendation:

Add new language to streamline the process whereby festivals can serve alcohol.

Other agencies that may be impacted:

South Carolina Law Enforcement Division

Draft Language:

Chapter 6, Title 61 of the 1976 Code is amended by adding:

SECTION 1. Section 61-6-2017. (A) This section authorizes the department to issue a festival liquor by the drink license, not to exceed a period of five days that can be used on any day of the week subject to the requirements of Section 61-6-2010(C) and (D), to an applicant that meets the following requirements:

(1) the festival must have a total beneficial economic impact in an amount exceeding one million dollars to the immediate community in which the festival is held, which may be based on economic information from previous years;

(2) the festival, on a daily basis, must be bona fide engaged primarily and substantially in the preparation and serving of meals as defined in Section 61-6-20(2);

(3) the festival must have a projected attendance of at least thirty thousand people during the time the festival is held, and past attendance may be considered;

(4) the festival has engaged and continues to engage in tourism promotion;

(5) the festival is held in a defined premises that is separate and apart from other areas, and is enclosed by a fence or other type of enclosure for the duration of the festival with a controlled, restricted access;

(6) the festival applicant shall establish a procedure that requires sufficient identification to determine that individuals who have paid for entrance to the festival and who are purchasing alcoholic beverages meet the age requirements to consume alcohol and further requires those individuals purchasing alcoholic beverages maintain in their possession a personal identifier that is easily identified by a server of alcoholic beverages, as well as requiring that alcoholic beverages are served in beverage containers that are distinct in color or design from the beverage containers used to serve nonalcoholic beverages; and

(7) the festival shall employ a security service licensed by the State Law Enforcement Division.

(B) Except as otherwise provided in this subsection, a festival liquor by the drink license shall be issued to a qualifying applicant only once a year. If, after a license has been issued, the festival is not held, the festival organizer or holder of the festival liquor by the drink license must notify the department within forty-eight hours of the decision to not hold the festival and return the license to the department and may apply for another festival liquor by the drink license in the same year.

(C) The department shall charge a nonrefundable filing fee of thirty-five dollars for processing an application for a festival liquor by the drink license. Applications for the festival liquor by the drink license must also be accompanied by the license fee of three thousand dollars payable to the department. License fees must be deposited with the State Treasurer or are refundable if a license is not issued or is returned in accordance with subsection (B). The application must include a statement by the applicant as to the nature, acreage of location, information requested in subsection (A), and dates of the festival. All of the buildings and grounds of the defined festival location that are under the direct control of the festival liquor by the drink license holder are presumed to be the premises used by the licensee to conduct the festival, including, but not limited to, the areas designated within the festival for entertainment, cultural events, food and beverage services, and retail spaces. The department in its discretion may specify the terms and conditions of the license, pursuant to existing statutes and regulations governing these applications.

(D) The department shall require the applicant to complete the law enforcement notification contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary license application and given an opportunity to object.

(E) The applicant must undergo a state criminal records check, supported by fingerprints, by the State Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal record checks must be reported to the department. The applicant is responsible for all costs associated with the criminal record checks. The department shall deny the application if the criminal record checks are not submitted with the application and filing fee or if they are obtained more than ninety days before the date of the festival.

(F) This section does not prohibit an applicant for a festival liquor by the drink license to apply for a temporary beer and wine permit, pursuant to Section 61-4-550.

(G) The issuance of this license authorizes the festival liquor by the drink licensee to purchase alcoholic liquors from licensed retail dealers in the same manner that a person with a biennial license issued pursuant to subarticle 1 of this article purchases its alcoholic liquors.

(H)(1) In addition to all other requirements, a licensee under this section is required to obtain a general liability or tort insurance policy that does not exclude liquor liability, a liquor liability insurance policy, or a general liability insurance policy with a liquor liability endorsement with a total coverage of at least one million dollars during the period of the festival. Failure to maintain this coverage constitutes grounds for suspension or revocation of the license. Each applicant for this license shall include in the application for the festival liquor by the drink license documentation of the required policy in the required amounts.

(2) Each insurer writing a general liability or tort insurance policy that does not exclude liquor liability, a liquor liability insurance policy, or a general liability insurance policy with a liquor liability endorsement to a person licensed under this section for a festival liquor by the drink license must notify the department in a manner prescribed by the department regulation of the lapse or termination of the required insurance.

SECTION 2. This Act takes effect upon the signature of the Governor.

4. Alcohol Beverage Modernization – Liability Coverage

Summary of Current Law:

The current tort claims act as it relates to liability coverage for governmental entities does not satisfy the requirements set forth for governmental entities who hold an alcohol beverage on premise consumption license.

Recommendation:

Modify existing statute to allow the liability coverage provided by the tort claims act for governmental entities to satisfy the liability coverage required for a governmental entity to hold an alcohol beverage on premise consumption license.

Other agencies that may be impacted:

South Carolina Insurance Reserve Fund

Draft Language:

Section 61-2-145 is amended by adding an appropriately numbered item at the end to read:

SECTION 1. During the period of the biennial permit or license, a governmental entity licensed or permitted to sell alcoholic beverages for on premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on premises consumption, is required to maintain a tort insurance policy that does not exclude liquor liability.

SECTION 2. This Act takes effect upon the signature of the Governor.

5. Alcohol Beverage Modernization – Penalties

Summary of Current Law:

There are penalty provisions contained in the statute that are not consistent. The SCDOR has used policy document guidelines as a guide in applying penalties that are on occasion not accepted by the courts.

Recommendation:

This proposed legislation will provide consistent statutory guidance for the SCDOR and the courts in applying penalties.

Other agencies that may be impacted:

South Carolina Law Enforcement Division

Draft Language:

Amend Title 61, Chapter 2 by adding the following section:

SECTION 1. (A) Notwithstanding any other provision in Title 61, the Department has the sole authority to revoke or suspend any license issued under Title 61 for any violation of this title.

(B) Should the Department not use the authority allowed in subsection (A) of this section the following penalties shall be imposed for any violation of this Title:

- (1) First offense there shall be imposed a penalty on the license holder of not less than five hundred dollars;
- (2) Second offense there shall be imposed a penalty on the license holder of not less than one thousand dollars;
- (3) Third offense there shall be imposed a penalty of suspension of the license issued under this Title of not less than forty-five days;
- (4) Fourth offense there shall be imposed a penalty of revocation of the license issued under this Title.

The Department shall review the prior three years from the date of the most recent violation to determine which offense applies.

SECTION 2. This Act takes effect upon the signature of the Governor.

6. Credit for Energy Efficient Vehicles

Summary of Current Law:

The current law allows for an income tax credit for the purchase of new qualified fuel cell motor vehicles, advanced lean burn technology motor vehicles or hybrid motor vehicles meeting federal criteria. Unfortunately, the federal code section providing the criteria has been repealed leaving no guidelines to determine eligibility.

Recommendation:

Modify existing statute to provide clear guidelines to determine eligibility for the credit.

Other agencies that may be impacted:

None

Draft Language:

Amend Title 12, Chapter 6 by adding the following new section:

SECTION 1. (A) For tax years beginning on or after January 1, 2018 and before January 1, 2021, a resident individual taxpayer is allowed an income tax credit for the purchase of a new motor vehicle that meets the requirements of subsection (D). The credit must be claimed for the tax year in which the new motor vehicle is purchased.

(B) The credit amount for any new motor vehicle is:

(1) one hundred dollars for each new motor vehicle for which the mileage is at least forty-five but less than fifty-five; or

(2) three hundred dollars for each new motor vehicle for which the mileage is at least fifty-five.

(C) The credit allowed by this section is nonrefundable. If the amount of the credit exceeds the taxpayer's income tax liability for the applicable tax year, any unused credit may be carried forward for five years.

(D) For purposes of this section:

(1) 'new motor vehicle' means a car or truck that:

(a) is classified as a 'private passenger motor vehicle' pursuant to Section 56-3-630;

(b) is registered for operation upon the highways in this State; and

(c) has incurred five thousand or fewer miles at the time of purchase.

(2) 'mileage' means the combined miles per gallon of gasoline ("MPG") or miles per gallon of gasoline equivalent ("MPGe") for the make and model of the vehicle as published in the Fuel Economy Guide for the applicable model year.

(3) 'Fuel Economy Guide' means the annual Fuel Economy Guide published by the United States Department of Energy, Office of Energy Efficiency and Renewable Energy, and the United States Environmental Protection Agency.

SECTION 2. This act takes effect upon approval by the Governor and applies to income tax years beginning on or after January 1, 2018 and before January 1, 2021.

7. Marketplace Facilitator

Amended September 6, 2018

Summary of Current Law:

There is no law related to taxation of third party sales.

Recommendation:

Definitions have been revised in Chapter 36 of Title 12 to ensure that third party sales will be subject to tax.

Other agencies that may be impacted:

None

Draft Language:

SECTION 1

The General Assembly finds that the South Carolina Sales and Use Tax Act requires any person engaged in business as a retailer to remit the sales and use tax on all retail sales of tangible personal property not otherwise excluded or exempted from the tax. This requirement applies to all retail sales of tangible personal property by the retailer, whether the tangible personal property is owned by the retailer or another person. Retailers selling tangible personal property at retail on consignment, by auction, or in any other manner must remit the sales and use tax on such retail sales.

The General Assembly further finds that Internet marketplaces where a person sells tangible personal property at retail by listing or advertising, or allowing the listing or advertising of another person's products on an online marketplace, and collects or processes the payment from the customer are retailers required to remit the sales and use tax on such retail sales under the provisions of the South Carolina sales and use tax law.

The General Assembly also finds, with the changing economy and ever expanding role of the Internet in the retail market, that the longstanding requirement in the sales and use tax law that a retailer remit the tax on retail sales of tangible personal property owned by another person must apply to all retailers, including both Internet retailers and brick and mortar retailers.

Therefore, to ensure retailers selling another person's tangible personal property on the Internet clearly understand, and are complying with, the sales and use tax law in the same manner as retailers selling another person's tangible personal property in a brick and mortar store, the following provisions, which do not represent a change in policy, are enacted to further set forth South Carolina's longstanding position:

SECTION 2

AMEND CODE SECTION 12-36-70 TO ADD ITEM (3) AS FOLLOWS:

SECTION 12-36-70. “Retailer” and “seller”.

“Retailer” and “seller” include every person:

- (1)(a) selling or auctioning tangible personal property whether owned by the person or others;
 - (b) furnishing accommodations to transients for a consideration, except an individual furnishing accommodations of less than six sleeping rooms on the same premises, which is the individual's place of abode;
 - (c) renting, leasing, or otherwise furnishing tangible personal property for a consideration;
 - (d) operating a laundry, cleaning, dyeing, or pressing establishment for a consideration;
 - (e) selling electric power or energy;
 - (f) selling or furnishing the ways or means for the transmission of the voice or of messages between persons in this State for a consideration. A person engaged in the business of selling or furnishing the ways or means for the transmission of the voice or messages as used in this subitem (f) is not considered a processor or manufacturer;
- (2)(a) maintaining a place of business or qualifying to do business in this State; ~~or~~
 - (b) not maintaining an office or location in this State but soliciting business by direct or indirect representatives, manufacturers agents, distribution of catalogs, or other advertising matter or by any other means, and by reason thereof receives orders for tangible personal property or for storage, use, consumption, or distribution in this State; or
 - (3) operating as a marketplace facilitator, as defined in Code Section 12-36-71.

The department, when necessary for the efficient administration of this chapter, may treat any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom they operate or from whom they obtain the tangible personal property sold by them, regardless of whether they are making sales on their own behalf or on behalf of the dealer, distributor, supervisor, employer, or other person. The department may also treat the dealer, distributor, supervisor, employer, or other person as a retailer for purposes of this chapter.

ADD NEW CODE SECTION 12-36-71 TO READ:

SECTION 12-36-71: Marketplace facilitator

(A) “Marketplace facilitator” means any person engaged in the business of facilitating a retail sale of tangible personal property by:

- (1) listing or advertising, or allowing the listing or advertising of, the products of another person in any marketplace where sales at retail occur; and
 - (2) collecting or processing payments from the purchaser, either directly or indirectly through an agreement or arrangement with a third party;
- regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

(B) A marketplace may be physical or electronic and includes, but is not limited to, any space, store, booth, catalog, website, television or radio broadcast, or similar place, medium, or forum.

(C) For purposes of subsection (A), a marketplace facilitator includes any related entities assisting the marketplace facilitator in sales, storage, distribution, payment collection, or in any other manner with respect to the marketplace.

(D) When a marketplace facilitator is comprised of multiple entities, the entity that lists or advertises, or allows the listing or advertising of, the products sold at retail in the marketplace is the entity responsible for remitting the sales and use tax to the State.

AMEND CODE SECTION 12-36-90(1)(a) TO READ:

SECTION 12-36-90. "Gross proceeds of sales".

Gross proceeds of sales, or any similar term, means the value proceeding or accruing from the sale, lease, or rental of tangible personal property.

(1) The term includes:

(a) the proceeds from the sale ~~of property sold on consignment~~ by the taxpayer of property of another person, including proceeds from property sold on consignment and property sold through a marketplace by a marketplace facilitator.

AMEND CODE SECTION 12-36-130(1) TO READ:

SECTION 12-36-130. "Sales price".

"Sales price" means the total amount for which tangible personal property is sold, without any deduction for the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses, or any other expenses.

(1) The term includes:

(a) any services or transportation costs that are a part of the sale, whether paid in money or otherwise; ~~and~~

(b) any manufacturers or importers excise tax imposed by the United States; ~~and,~~

(c) the proceeds from the sale of property sold on consignment by the taxpayer of property of another person, including proceeds from property sold on consignment and property sold through a marketplace by a marketplace facilitator.

AMEND CODE SECTION 12-36-1340 AS FOLLOWS:

Each seller making retail sales of tangible personal property for storage, use, or other consumption in this State shall collect and remit the tax in accordance with this chapter and shall obtain from the department a retail license as provided in this chapter, if the retail seller:

(1) maintains a place of business;

(2) qualifies to do business;

(3) solicits and receives purchases or orders by an agent, independent contractor, representative, Internet website, or any other means ~~or salesman; or~~

(4) distributes catalogs, or other advertising matter, and by reason of that distribution receives and accepts orders from residents within the State; ~~or~~

(5) operates as a marketplace facilitator; or

(6) meets constitutional standards for economic nexus with South Carolina for purposes of the sales and use tax.

SECTION 3

This Act takes effect on July 1, 2019

Legislative Oversight Committee



South Carolina House of Representatives

Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website: [http://www.scstatehouse.gov/CommitteeInfo/
HouseLegislativeOversightCommittee.php](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php)

Phone Number: 803-212-6810

Email Address: HCommLegOv@schouse.gov

Location: Blatt Building, Room 228