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Senate Doc. No. H:\LEGWORK\SENATE\AMEND\DKA\4170SD12.DOCX)

CONFERENCE REPORT

H. 3066

The General Assembly, Columbia, S.C., June 12, 2012

The COMMITTEE OF CONFERENCE, to whom was referred:

H. 3066 -- Reps. G.R. Smith, Daning, Ballentine, Harrison, Allison, Hamilton, G.M. Smith, Bingham, Long, Henderson, Erickson, Horne, Willis, Weeks, McLeod, Pope, Simrill, Lucas, Norman, D.C. Moss, Clemmons, Harrell, Atwater, Bedingfield, Funderburk and Edge: A BILL TO ENACT THE "SOUTH CAROLINA RESTRUCTURING ACT OF 2011" INCLUDING PROVISIONS TO AMEND SECTION 1-30-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AGENCIES OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT BY ADDING THE DEPARTMENT OF ADMINISTRATION; BY ADDING SECTION 1-30-125 SO AS TO ESTABLISH THE DEPARTMENT OF ADMINISTRATION AS AN AGENCY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO BE HEADED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, AND TO TRANSFER TO THIS NEWLY CREATED DEPARTMENT CERTAIN OFFICES AND DIVISIONS OF THE STATE BUDGET AND CONTROL BOARD, OFFICE OF THE GOVERNOR, AND OTHER AGENCIES, AND TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO ACCOMPLISH THE ABOVE; BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO PROVIDE FOR LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS AND THE PROCESSES AND PROCEDURES TO BE FOLLOWED IN CONNECTION WITH THIS OVERSIGHT; TO AMEND SECTIONS 1-11-20, AS AMENDED, 1-11-22, 1-11-55, 1-11-56, 1-11-58, 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, 1-11-110, 1-11-180, 1-11-220, 1-11-225, 1-11-250, 1-11-260, 1-11-270, 1-11-280, 1-11-290, 1-11-300, 1-11-310, AS AMENDED, 1-11-315, 1-11-320, 1-11-335, 1-11-340, 1-11-435; 2-13-240, CHAPTER 9, TITLE 3; 10-1-10, 10-1-30, AS AMENDED, 10-1-40, 10-1-130, 10-1-190, CHAPTER 9, TITLE 10, 10-11-50, AS AMENDED, 10-11-90, 10-11-110, 10-11-140, 10-11-330; 11-9-610, 11-9-620, 11-9-630, 11-35-3810, AS AMENDED, 11-35-3820, AS AMENDED, 11-35-3830, AS AMENDED, 11-35-3840, AS AMENDED, 13-7-30, AS AMENDED, 13-7-830, AS AMENDED; 44-53-530, AS AMENDED, AND 44-96-140; 48-46-30, 48-46-40, 48-46-50, 48-46-60, 48-46-90, 48-52-410, 48-52-440, AND 48-52-460; AND BY ADDING SECTION 1-11-185 RELATING TO VARIOUS AGENCY OR DEPARTMENT PROVISIONS SO AS TO CONFORM THEM TO THE ABOVE PROVISIONS PERTAINING TO THE NEW DEPARTMENT OF ADMINISTRATION OR TO SUPPLEMENT SUCH PROVISIONS.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments: (Reference is to Printer's Version 5/2/12--H.)

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

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/ Part I

Citation

SECTION 1. This act may be cited as the “South Carolina Restructuring Act of 2012”.

Part II

Budget and Control Board Abolished

SECTION 2. A. Effective July 1, 2013, the State Budget and Control Board, and its related divisions and offices, is abolished and its duties and functions specified by law, except as otherwise provided, are devolved upon the Department of Administration.

B. After determining how many vacant FTE’s at the State Budget and Control Board shall be used to fill needed positions in the Executive Budget Office as provided in subsection (C)(2) of Section 1-30-125, to be done in consultation with the Office of the Governor, the Executive Director of the State Budget and Control Board, upon approval of the board, prior to July 1, 2013, shall eliminate at least one hundred forty-seven vacant FTE’s within the board or its divisions, components, or offices prior to the devolvement of specified duties and functions of the board upon the Department of Administration as provided in this act.

Part III

Establishing the Department of Administration

SECTION 3. Section 1-30-10(A) of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Administration
2. Department of Agriculture
- ~~2-3.~~ Department of Alcohol and Other Drug Abuse Services
- ~~3-4.~~ Department of Commerce
- 4-5. Department of Corrections
- ~~5-6.~~ Department of Disabilities and Special Needs
- ~~6-7.~~ Department of Education
- 7-8. Department of Health and Environmental Control
- 8-9. Department of Health and Human Services
- 9-10. Department of Insurance
- ~~10-11.~~ Department of Juvenile Justice
- ~~11-12.~~ Department of Labor, Licensing and Regulation
- ~~12-13.~~ Department of Mental Health
14. Department of Motor Vehicles
- ~~13-15.~~ Department of Natural Resources
- 14-16. Department of Parks, Recreation and Tourism
- ~~15-17.~~ Department of Probation, Parole and Pardon Services
- ~~16-18.~~ Department of Public Safety
- 17-19. Department of Revenue
- ~~18-20.~~ Department of Social Services

~~19-21.~~ Department of Transportation
~~20-22.~~ Department of Employment and Workforce.”

SECTION. 4. A. Section 1-11-10 of the 1976 Code is amended to read:

~~“Section 1-11-10. The State Budget and Control Board shall be comprised of the Governor, ex officio, who shall be chairman, the State Treasurer, ex officio, the Comptroller General, ex officio, and the chairman of the Senate Finance Committee, ex officio, and the chairman of the Ways and Means Committee of the House of Representatives, ex officio. (A) Effective July 1, 2013, the following offices, divisions, or components of the former State Budget and Control Board, Office of the Governor, or other agencies are transferred to, and incorporated into, the Department of Administration, a department of the executive branch of state government headed by a director appointed by the Governor as provided in Section 1-30-10(B)(1)(i) except that this appointment must be upon the advice and consent of the Senate:~~

~~(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intrastate mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the Director of the Department of Administration enters into a memorandum of agreement with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection. There shall be a single memorandum involving the Department of Administration and the legislative and judicial branches with appropriate officials of each to be signatories to the memorandum.~~

~~(a) The memorandum of agreement shall provide for:~~

- ~~(i) continued use of existing office space;~~
- ~~(ii) a method for the allocation of new, additional, or different office space;~~
- ~~(iii) adequate parking;~~
- ~~(iv) a method for the allocation of new, additional, or different parking;~~
- ~~(v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board;~~
- ~~(vi) the provision of water, electricity, steam, and chilled water to the offices, areas, and facilities occupied by the applicable agencies;~~
- ~~(vii) the ability for each agency or department to maintain building access control for its allocated office space; and~~
- ~~(viii) access control for the Senate and House chambers and courtrooms as appropriate.~~

~~(b) The parties may modify the memorandum of agreement by mutual consent at any time.~~

~~(c) The General Services Division must provide the services described in subsection (a) and any other maintenance and support, at a level that is greater than or equal to what is provided prior to the effective date of this act, to each building on the Capitol Complex, including the Supreme Court, without charge. The General Services Division must coordinate with the appropriate officials of applicable legislative and judicial agencies or departments when providing these services to the buildings and areas controlled by those agencies.~~

~~(d) In the fiscal year succeeding implementation of this act, the Department of Administration must include in its annual budget request to the Governor, the House Ways and Means Committee, and the Senate Finance Committee a specific line item for maintenance and support of the Capitol Complex, including the Supreme Court.~~

~~(2) the Office of State Budget required to support the Executive Budget Office: portions of the Office of State Budget of the State Budget and Control Board which are directly related to the development of the annual general appropriations act are transferred to the Revenue and Fiscal Affairs Office except for the employees required to support the Executive Budget Office;~~

~~(3) the Office of Human Resources;~~

~~(4) the Office of Executive Policy and Programs;~~

(5) the Office of State Retirement System;
(6) the Employee Insurance Program in the Office of Insurance Services;
(7) the Guardian Ad Litem Program as established in Section 63-11-500;
(8) the Office of Economic Opportunity;
(9) the Developmental Disabilities Council;
(10) the Continuum of Care for Emotionally Disturbed Children as established by Section 63-11-1310;
(11) the Children's Foster Care as established by Article 7, Chapter 11, Title 63;
(12) the Children's Case Resolution System as provided in Section 63-11-1110;
(13) the Veterans Affairs as established by Section 25-11-10;
(14) the Commission on Women as established by Section 1-15-10;
(15) the Victim's Assistance as established by Article 13, Chapter 13 of Title 16;
(16) the Division of Small and Minority Business Contracting and Certification, as established pursuant to Section 11-35-5270, formerly known as the Small and Minority Business Assistance Office;
and:

(17) the Division of State Information Technology, including the Data Center, Telecommunications and Information Technology Services, the South Carolina Enterprise Information System, and the Information Technology Management Office.

(B)(1) There is established, within the Department of Administration, the Executive Budget Office which shall support the Office of the Governor by conducting analysis, coordinating executive agency requests for funding, and evaluating program performance.

(2) The Executive Budget Office shall use the existing resources of the organizations transferred to the Department of Administration including, but not limited to, funding, personnel, equipment, and supplies. Vacant FTE's at the State Budget and Control Board also may be used to fill needed positions for the office.

(C)(1) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to the Director of the Department of Administration by September 1, 2013, and biennially thereafter. The director shall review the Statewide Strategic Information Technology Plan and recommend to the Governor priorities for state government enterprise information technology projects and resource requirements. The director shall also review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating agency information technology.

(2) All oversight concerning the South Carolina Enterprise Information System must remain as provided in Chapter 53, Title 11.

(D)(1) Each agency, office, authority, function, power, duty, or responsibility transferred to or devolved upon the Department of Administration by Act _____ of 2012, R. _____, H. 3066, must be maintained as a distinct component, function, power, duty, or responsibility of the Department of Administration unless a reorganization plan is approved by the General Assembly. Any funds appropriated to a distinct component of the department must not be transferred to another component. Any funds appropriated for a distinct function, power, duty, or responsibility must be exercised by the distinct component to which that function, power, duty, or responsibility was vested. Any funds appropriated to the department, and not to a distinct component of the department or for a distinct function, power, duty, or responsibility, may be used at the discretion of the director.

(2) No later than December 31, 2013, the department's director shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that contains an analysis of and recommendations regarding the most appropriate organizational placement for each current component of the Office of Executive Policy and Programs. The department shall solicit input from and consider the recommendation of affected constituencies while developing its report.

(E) No later than December 31, 2013, the Office of Human Resources, in coordination with the Department of Archives and History, shall develop policies and procedures related to providing agency

public records officers with annual training concerning records retention laws, regulations, and guidelines.

(F) The Department of Administration and the Office of Inspector General shall use the existing resources of each division, insofar as it promotes efficiency and effectiveness, transferred to the department including, but not limited to, funding, personnel, equipment, and supplies from the board's administrative support units, including, but not limited to, the Office of the Executive Director, Office of General Counsel, and the Office of Internal Operations. 'Funding' means state, federal, and other funds. Vacant FTE's at the State Budget and Control Board also may be used to fill needed positions at the department. No new FTE's may be assigned to the department without authorization from the General Assembly.

(G) The Department of Administration shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the executive chamber kept pursuant to Section 1-3-30.

(H) Any duties to approve statewide policies, procedures, regulations, or other specific actions must be acted upon by the Department of Administration in a timely manner. The Department of Administration must post its decisions on its website within sixty days of the day approval was sought. Except for internal charges between state agencies, departments, or entities, the Department of Administration must not increase or implement a rate or fee by regulation or administrative action for performing a service or function.

(I) No later than December 31, 2013, the Department of Administration and the Procurement Oversight Board shall jointly undertake a strategic sourcing initiative through which they must analyze the state's current spending on various categories of goods and services, identify the greatest opportunities to leverage the state's purchasing power, and prioritize the state's subsequent efforts to maximize achievable savings.

(J) No later than December 31, 2013, the Department of Administration and the Procurement Oversight Board shall jointly submit a report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives to recommend changes to statutes, policies, and procedures governing state procurement activities. The recommendations shall be formulated in order to reduce costs, accelerate processing times, and improve services provided to state agencies and their business partners."

B. Section 1-11-20 of the 1976 Code is amended to read:

~~"Section 1-11-20. The functions of the State Budget and Control Board must be performed, exercised, and discharged under the supervision and direction of the board through three divisions, the Finance Division (embracing the work of the State Auditor, the former State Budget Commission, the former State Finance Committee and the former Board of Claims for the State of South Carolina), the Purchasing and Property Division (embracing the work of the former Commissioners of the Sinking Fund, the former Board of Phosphate Commissioners, the State Electrician and Engineer, the former Commission on State House and State House Grounds, the central purchasing functions, the former Surplus Procurement Division of the State Research, Planning and Development Board and the Property Custodian) and the Division of Personnel Administration (embracing the work of the former retirement board known as the South Carolina Retirement System and the administration of all laws relating to personnel), each division to consist of a director and clerical, stenographic and technical employees necessary, to be employed by the respective directors with the approval of the board. The directors of the divisions must be employed by the State Budget and Control Board for that time and compensation as may be fixed by the board in its judgment. Effective July 1, 2013:~~

(A) the Division of Local Government of the State Budget and Control Board is transferred to, and incorporated into, the South Carolina Rural Infrastructure Authority as established in Section 11-50-30. All functions, powers, duties, responsibilities, and authority vested in the Division of Local Government is devolved upon the South Carolina Rural Infrastructure Authority.

(B) the South Carolina Confederate Relic Room and Military Museum is transferred from the State Budget and Control Board and is governed by the South Carolina Confederate Relic Room and Military Museum Commission, as established in Section 60-17-10.

(C) the Board of Economic Advisors of the State Budget and Control Board is transferred to the Revenue and Fiscal Affairs Office.

(D) the Office of Research and Statistics of the Budget and Control Board is transferred to, and incorporated into the Revenue and Fiscal Affairs Office.

(E) the State Energy Office is transferred from the State Budget and Control Board to the Office of Regulatory Staff.

(F) the Office of State Auditor is abolished and all of the functions, duties, and responsibilities of the office are transferred to, and incorporated into, the Office of Inspector General. The employees, authorized appropriations, and assets and liabilities of the transferred office are also transferred to and become part of the Office of Inspector General. All classified or unclassified personnel employed by the office on the effective date of this section, either by contract or by employment at will, shall become employees of the Office of Inspector General to which the transfer was made, with the same compensation, classification, and grade level, as applicable.

(G) all functions, powers, duties, responsibilities, and authority vested in the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the Department of Administration and the department shall constitute the agencies and authorities, including their governing boards, if any, named in this subsection:

(1) State Educational Assistance Authority;

(2) Educational Facilities Authority for Private, Nonprofit Institutions of Higher Learning; and

(3) South Carolina Resources Authority.

(H) the offices, divisions, or components of the State Budget and Control Board named in this subsection are transferred to, and incorporated into, the South Carolina Rural Infrastructure Authority as established in Section 11-50-30. All functions, powers, duties, responsibilities, and authority vested in the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the South Carolina Rural Infrastructure Authority and the authority shall constitute the agencies and authorities, including their governing boards, if any, named in this subsection:

(1) South Carolina Infrastructure Facilities Authority;

(2) Local Government Division in support of the local government loan program; and

(3) South Carolina Water Quality Revolving Fund Authority in support of water quality projects and federal loan programs.

(I) the Materials Management Office and the Office of State Engineer are transferred to and incorporated into the Procurement Oversight Board from the Budget and Control Board.”

SECTION 5. (A) Where the provisions of this act transfer offices, or portions of offices, of the Budget and Control Board, Office of the Governor, or other agencies to the new Department of Administration or other entities, including those newly created by the provisions of this act, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration or other entities, including those newly created by the provisions of this act. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the Department of Administration or other entities, including those newly created by the provisions of this act, with the same compensation, classification, and grade level, as applicable.

(B) Regulations promulgated by these transferred offices as they formerly existed under the former Budget and Control Board, Office of the Governor, or other agencies are continued and are considered to be promulgated by these offices under the newly created Department of Administration or other entities, including those newly created by the provisions of this act.

(C)(1) The Code Commissioner is directed to change or correct all references to these offices of the former Budget and Control Board in the 1976 Code, Office of the Governor, or other agencies to reflect

the transfer of them to the Department of Administration or other entities, including those newly created by the provisions of this act. References to the names of these offices in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(2) On or before July 1, 2013, the Code Commissioner also shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this act.

Part IV

Legislative Oversight of Executive Departments

SECTION 6. A. Subsections (B) through (H) of Section 1-30-10 of the 1976 Code are amended to read:

“(B)(1) The governing authority of each department shall be ~~either~~:

(i) a director, ~~and in the case of the Department of Commerce, the~~ or a secretary, who must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to provisions of Section 1-3-240(B); ~~or~~

(ii) a seven member board to be appointed and constituted in a manner provided for by law; ~~or~~

(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education, respectively, elected to office under the Constitution of this State; or

(iv) in the case of the Department of Transportation, a seven member commission constituted in a manner provided by law, and a Secretary of Transportation appointed by and serving at the pleasure of the Governor.

(2) In making an appointment for a governing authority of a department, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. The Governor in making appointments provided for by this section shall endeavor to appoint individuals who have demonstrated exemplary managerial skills in either the public or private sector.

(C) Each department shall be organized into appropriate ~~divisions~~ subdivisions by the governing authority of the department through further consolidation or further subdivision. The power to organize and reorganize the department ~~supersedes any provision of law to the contrary pertaining to individual divisions; provided, however, the~~ into divisions lies with the General Assembly in furtherance of its mandate pursuant to Article XII of the South Carolina Constitution. The dissolution of any division must ~~receive legislative approval by authorization included in the annual general appropriations act likewise be~~ statutorily approved by the General Assembly.

~~Any other approval procedures for department reorganization in effect on the effective date of this act no longer apply.~~

(D) The governing authority of a department is vested with the duty of overseeing, managing, and controlling the operation, administration, and organization of the department. The governing authority has the power to create and appoint standing or ad hoc advisory committees in its discretion or at the direction of the Governor to assist the department in particular areas of public concern or professional expertise as is deemed appropriate. Such committees shall serve at the pleasure of the governing authority and committee members shall not receive salary or per diem, but shall be entitled to reimbursement for actual and necessary expenses incurred pursuant to the discharge of official duties not to exceed the per diem, mileage, and subsistence amounts allowed by law for members of boards, commissions, and committees.

(E) The governing authority of a department director may appoint ~~deputy directors~~ deputies to head the divisions of their department, with each deputy ~~director~~ managing one or more of the divisions; in the case of the Department of Commerce, the Secretary of Commerce may appoint a departmental executive director and also may appoint directors to manage the various divisions of the Department of Commerce. In making appointments race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. ~~Deputy directors~~ Deputies serve at the will and pleasure of the ~~department director~~ governing authority. The deputy ~~director~~ of a division is vested with the duty of overseeing, managing, and controlling the operation and administration of the division under the direction and control of the ~~department director~~ department's governing authority and performing such other duties as delegated by the ~~department director~~ department's governing authority.

(F)(1) In the event a vacancy ~~should occur~~ occurs in the office of ~~department director~~ the department's governing authority at a time when the General Assembly is not in session, the Governor may temporarily fill the vacancy pursuant to Section 1-3-210.

(2) ~~Notwithstanding the provisions of subitem (F)(1), as of July 1, 1993, for each department created pursuant to the provisions of this act which must be governed by a single director, an initial interim director shall serve as the governing authority, serving until January 31, 1994. During that period the following departments must be governed by the director or interim director of the following agencies as of June 30, 1993:~~

- (i) ~~Department of Corrections, created pursuant to Section 1-30-30, by the director of the former Department of Corrections;~~
- (ii) ~~Department of Juvenile Justice created pursuant to Section 1-30-60, by the interim director of the former Department of Youth Services;~~
- (iii) ~~Department of Probation, Parole, and Pardon Services created pursuant to Section 1-30-85 by the director of the former Department of Probation, Pardon and Parole;~~
- (iv) ~~Department of Social Services created pursuant to Section 1-30-100, by the director of the former Department of Social Services;~~
- (v) ~~Department of Parks, Recreation and Tourism created pursuant to Section 1-30-80, by the director of the former Department of Parks, Recreation and Tourism;~~
- (vi) ~~Department of Commerce created pursuant to Section 1-30-25, by the Executive Director of the former State Development Board;~~
- (vii) ~~Department of Alcohol and Other Drug Abuse Services created pursuant to Section 1-30-20, by the director of the former South Carolina Commission on Alcohol and Drug Abuse.~~

(3) ~~As of December 1, 1993, the Governor must submit to the Senate the names of appointees to the permanent department directorships for those departments created on July 1, 1993 and February 1, 1994. If no person has been appointed and qualified for a directorship as of February 1, 1994, the Governor may appoint an interim director to serve pursuant to the provisions of (F)(1).~~

(4) ~~Notwithstanding provisions of (2) and (3) to the contrary, the initial interim director of the Department of Public Safety shall be appointed by the Budget and Control Board. The initial interim director may be appointed as the permanent director of the department by the Governor.~~

(G)(1) Department and agency governing authorities must, no later than the first day of the 1994 2013 Legislative Session and every twelve months thereafter for the following three years, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House

and Senate may provide by rule for the referral of these reports. ~~Thereafter,~~ The Governor shall must periodically consult with the governing authorities of the various departments and upon such consultation, the Governor shall must submit a report of any restructuring recommendations to the General Assembly for its review and consideration.

(2) ~~The Governor shall report to the General Assembly no later than the second Tuesday in January of 1994, his recommendation for restructuring the following offices and divisions presently under his direct supervision, and as to how each might be restructured within other appropriate departments or divisions amended by this act:~~

- ~~(i) Office of Executive Policy and Programs;~~
- ~~(ii) Office of Energy Programs;~~
- ~~(iii) Office of Personnel and Program Services;~~
- ~~(iv) Office of Research;~~
- ~~(v) Division of Health;~~
- ~~(vi) Division of Economic Opportunity;~~
- ~~(vii) Division of Economic of Development;~~
- ~~(viii) Division of Ombudsman and Citizens' Services;~~
- ~~(ix) Division of Education;~~
- ~~(x) Division of Natural Resources;~~
- ~~(xi) Division of Human Services.~~

Department and agency governing authorities must, no later than the first day of the 2013 Legislative Session, and, as a part of the agency's four-year oversight study and investigation conducted pursuant to Chapter 2 of Title 2, submit to the Governor and the General Assembly a four-year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected four-year period.

~~(H) Department governing authorities must submit to the General Assembly by the first day of the 1994 legislative session and every five years thereafter a mission statement that must be approved by the General Assembly by Joint Resolution. RESERVED~~

B. Section 8-27-10(4) of the 1976 Code is amended to read:

“(4) ‘Report’ means:

~~(a) a written document alleging a written or oral allegation of waste or wrongdoing that contains the following information:~~

- ~~(a) the date of disclosure;~~
- ~~(b) the name of the employee making the report; and~~
- ~~(c) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within ~~sixty days~~ one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing; or~~

~~(b) sworn testimony regarding wrongdoing, regardless of when the wrongdoing allegedly occurred, given to any standing committee, subcommittee of a standing committee, or study committee of the Senate or the House of Representatives.”~~

C. Chapter 27 of Title 8 of the 1976 Code is amended by adding:

“Section 8-27-60. Each public body must make a summary of this chapter available on the public body's internet website. The summary must include an explanation of the process required to report wrongdoing, an explanation of what constitutes wrongdoing, and a description of the protections available to an employee who reports wrongdoing. If the public body does not maintain an internet website, the public body must annually provide a written summary of this chapter to its employees and maintain copies of the summary at all times.”

D. Title 2 of the 1976 Code is amended by adding:

“Chapter 2

Legislative Oversight of Executive Departments

Section 2-2-5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:

(1) Section 1 of Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.

(2) This constitutional duty is a continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and departments and their responsiveness to the needs of the state’s citizens by the standing committees of the State Senate or House of Representatives.

Section 2-2-10. As used in this chapter:

(1) ‘Agency’ means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive or judicial departments of state government, including administrative bodies. ‘Agency’ includes a body corporate and politic established as an instrumentality of the State. ‘Agency’ does not include:

- (a) the legislative department of state government; or
- (b) a political subdivision.

(2) ‘Investigating committee’ means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee’s subject matter jurisdiction.

(3) ‘Program evaluation report’ means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.

(4) ‘Request for information’ means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department, or agency’s actions that are the subject of the investigation.

(5) ‘Standing committee’ means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.

Section 2-2-20. (A) Beginning January 1, 2015, each standing committee shall conduct oversight studies and investigations on all agencies within the standing committee’s subject matter jurisdiction at least once every seven years in accordance with a schedule adopted as provided in this chapter.

(B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:

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

(C) 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.

Section 2-2-30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.

(B)(1) The President Pro Tempore of the Senate, upon consulting with the chairmen of the standing committees in the Senate and the Clerk of the Senate, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed four-year review schedule must be published in the Senate Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for an agency.

(C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed four-year review schedule must be published in the House Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for the agency.

(D) The chairman of an investigating committee may vest the standing committee's full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency: (1) must make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation, and (2) must not consist of fewer than three members.

Section 2-2-40. (A) In addition to the scheduled four-year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation.

The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

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

Section 2-2-50. When an investigating committee conducts an oversight study and investigation or a legislative investigation is conducted pursuant to Section 2-2-40(B), evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:

(A) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty-five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. The head of the department or agency must sign the answers verifying them as true and correct. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings, or other documents is included with the answer;

(B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee must provide the person being deposed and the agency under investigation with no less than ten days' notice of the deposition. The notice to the agency shall state the time and place for taking the deposition and name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice. The deposition must be taken under oath administered by the chairman of the investigating committee or his designee. The testimony must be taken stenographically or recorded by some other means and may be videotaped. A person may be compelled to attend a deposition in the county in which he resides or in Richland County;

(C) issuing subpoenas and subpoenas duces tecum pursuant to Title 2, Chapter 69; and

(D) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.

Section 2-2-60. (A) An investigating committee's request for a program evaluation report must contain:

- (1) the agency program or operations that it intends to investigate;
- (2) the information that must be included in the report; and
- (3) the date that the report must be submitted to the committee.

(B) An investigating committee may request that the program evaluation report contain any of the following information:

- (1) enabling or authorizing law or other relevant mandate, including any federal mandates;
- (2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:
 - (a) established priorities, including goals and objectives in meeting each priority;
 - (b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;
 - (c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the

agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;

(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;

(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last ten years;

(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;

(6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;

(7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

(8) identification of emerging issues for the agency;

(9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;

(10) agency policies for collecting, managing, and using personal information over the internet and non-electronically, information on the agency's implementation of information technologies;

(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:

(a) the statutory authority for each filing requirement;

(b) the date each filing requirement was adopted or last amended by the agency;

(c) the frequency that filing is required;

(d) the number of filings received annually for the last four years and the number of anticipated filings for the next four years;

(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;

(12) any other relevant information specifically requested by the investigating committee.

(C) All information contained in a program evaluation report must be presented in a concise and complete manner.

(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.

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

Section 2-2-70. All testimony given to the investigating committee must be under oath.

Section 2-2-80. Any witness testifying before or deposed by the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony or deposition, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.

Section 2-2-90. A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action."

E This part takes effect July 1, 2012.

Part V

Conforming and Miscellaneous Amendments to Divisions, Offices, and Other Entities or Programs Transferred to the Department of Administration

SECTION 7. A. Section 1-11-22 of the 1976 Code is amended to read:

“Section 1-11-22. Notwithstanding any other provision of law, ~~the Budget and Control Board may organize its staff as it deems most appropriate to carry out the various duties, responsibilities and authorities assigned to it and to its various divisions~~ each of the offices, entities, or programs transferred to the Department of Administration shall become divisions or offices of the department; provided that the department may organize its staff, divisions, offices, and programs as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions, offices, and management and organizational entities.”

B. Sections 1-11-55 of the 1976 Code is amended to read:

“Section 1-11-55. (1) ‘Governmental body’ means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, ~~legislative body,~~ agency, government corporation, or other establishment or official of the executive, ~~judicial, or legislative branches~~ branch of this State. Governmental body excludes the General Assembly, Legislative Council, the Office of Legislative Printing, Information and Technology Systems, the judicial department and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) ~~The Budget and Control Board~~ Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the ~~Office~~ Division of General Services of its requirement on rental request forms prepared by the ~~office division~~. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body’s requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the ~~office division~~ agree meets necessary requirements and standards for state leasing as prescribed in procedures of the ~~board department~~ as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) ~~The board department~~ shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not been properly followed, may request review of the transaction by the director of the ~~Office~~ Division of General Services of the Department of Administration or his designee.”

C. Sections 1-11-56 and 1-11-58 of the 1976 Code are amended to read:

“Section 1-11-56. (A) The ~~State Budget and Control Board,~~ Division of General Services of the Department of Administration, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of ~~state agencies~~ a governmental body. The department must submit regulations for the implementation of this section to the General Assembly as provided in the Administrative Procedures Act, Chapter 23 of Title 1. The ~~board’s~~ department’s regulations, upon General Assembly approval, shall include procedures for:

- (1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;
- (2) establishing standards for the quality and quantity of space to be leased by a requesting agency;
- (3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state’s prerogatives including, but not limited to, a right of cancellation in the event of:
 - (a) a nonappropriation for the renting agency,
 - (b) a dissolution of the agency, and
 - (c) the availability of public space in substitution for private space being leased by the agency;
- (4) rejecting an agency’s request for additional space or space at a specific location, or both;
- (5) directing agencies to be located in public space, when available, before private space can be leased;
- (6) requiring the agency to submit a multi-year financial plan for review by the ~~board’s budget office~~ department with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; ~~and requiring prior review by the Joint Bond Review Committee and the requirement of Budget and Control Board approval before the adoption of any new lease that commits more than one million dollars in a five year period;~~ and
- (7) requiring prior review by the Joint Bond Review Committee and the requirement of ~~Budget and Control Board~~ State Contracts and Accountability Authority approval before the adoption of any new or renewal lease that commits more than two hundred thousand dollars annually in rental or lease payments or more than one million dollars in such payments in a five-year period.

(B) Leases or rental agreements involving amounts below the thresholds provided in item (7) of subsection (A) may be executed by the Department of Administration without this prior review and approval.

(C) The threshold requirements requiring review by the Joint Bond Review Committee and approval by the State Contracts and Accountability Authority as contained in item (7) of subsection (A) also apply to leases or rental agreements with nonstate entities whether or not the state or its agencies or departments is the lessee or lessor.

Section 1-11-58. ~~(A)~~(1) Every state agency, as defined by Section 1-19-40, shall annually perform an inventory and prepare a report of all residential and surplus real property owned by it. The report shall be submitted to the ~~State Budget and Control Board~~ Department of Administration, ~~Office~~ Division of General Services, on or before June thirtieth and shall indicate current use, current value, and projected use of the property. Property not currently being utilized for necessary agency operations shall be made available for sale and funds received from the sale of the property shall revert to the general fund.

(2) The ~~Office~~ Division of General Services ~~will~~ shall review the annual reports addressing real property submitted to it and determine the real property which is surplus to the State. A central listing of such property will be maintained for reference in reviewing subsequent property acquisition needs of agencies.

(3) Upon receipt of a request by an agency to acquire additional property, the ~~Office~~ Division of General Services shall review the surplus property list to determine if the agency’s needs ~~can~~ may be met from existing state-owned property. If such property is identified, the ~~Office~~ division of General Services

shall act as broker in transferring the property to the requesting agency under terms and conditions that are mutually agreeable to the agencies involved.

(4) The ~~Budget and Control Board~~ department may authorize the ~~Office~~ Division of General Services to sell any unassigned surplus real property. The ~~Office of General Services~~ division shall have the discretion to determine the method of disposal to be used, which possible methods include: auction, sealed bids, listing the property with a private broker or any other method determined by the ~~Office of General Services~~ division to be commercially reasonable considering the type and location of property involved.

(B) The procedures involving surplus real property sales under this section are also subject to the approvals required in Section 1-11-65 for surplus real property sales above five hundred thousand dollars.”

D. Sections 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, 1-11-110, and 1-11-180 of the 1976 Code are amended to read:

“Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the ~~State Budget and Control Board~~ Department of Administration for transactions of the five hundred thousand dollars or less. For transactions of more than five hundred thousand dollars, approval of the ~~State Contracts and Accountability Authority~~ is required in lieu of the department, although the recording will be with the department. Upon approval of the transaction ~~by the Budget and Control Board~~, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the ~~board’s~~ department’s and authority’s approval of the transaction if required. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The ~~board~~ department and authority may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution.

Section 1-11-67. The ~~State Budget and Control Board~~ Department of Administration shall assess and collect a rental charge from all state departments and agencies that occupy ~~State Budget and Control Board~~ space in state-controlled office buildings under its jurisdiction. The amount charged each department or agency must be calculated on a square foot, or other equitable basis of measurement, and at rates that will yield sufficient total annual revenue to cover the annual principal and interest due or anticipated on the Capital Improvement Obligations for projects administered or planned by the ~~Office of General Services~~ department, and maintenance and operation costs of ~~State Budget and Control Board~~ controlled department-controlled office buildings under the supervision of the Office of General Services. The amount collected must be deposited in a special account and must be expended only for payment on Capital Improvement Obligations and maintenance and operations costs of the buildings under the supervision of the ~~Office of General Services~~ department.

All departments and agencies against which rental charges are assessed and whose operations are financed in whole or in part by federal or other nonappropriated funds are both directed to apportion the payment of these charges equitably among all funds to ensure that each bears its proportionate share.

Section 1-11-70. All vacant lands and lands purchased by the former land commissioners of the State ~~shall be~~ are subject to the directions of the ~~State Budget and Control Board~~ Department of Administration.

Section 1-11-80. The ~~State Budget and Control Board~~ Department of Administration, upon approval of the ~~State Contracts and Accountability Authority~~, is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad

facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

Section 1-11-90. ~~The State Budget and Control Board~~ Department of Administration, upon approval of the State Contracts and Accountability Authority, may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the ~~Budget and Control Board~~ department, the interests of the State will not be adversely affected thereby.

Section 1-11-100. Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when ~~authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such board~~ authorized by the Department of Administration, upon approval of the State Contracts and Accountability Authority, and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the ~~majority of the members of the State Budget and Control Board~~ Director of the Department of Administration and the State Contracts and Accountability Authority.

Section 1-11-110. (1) The ~~State Budget and Control Board~~ Department of Administration, subject to the requirements of Section 1-11-65, is authorized to acquire real property, including any estate or interest therein, for, and in the name of, the State of South Carolina by gift, purchase, condemnation or otherwise.

(2) The ~~State Budget and Control Board~~ Department of Administration shall make use of the provisions of the Eminent Domain Procedure Act (Chapter 2 of Title 28) if it is necessary to acquire real property by condemnation. The actions must be maintained by and in the name of the ~~board~~ department. The right of condemnation is limited to the right to acquire land necessary for the development of the Capitol Complex ~~and grounds~~ in the City of Columbia.

Section 1-11-180. (A) In addition to the powers granted the ~~Budget and Control Board~~ Department of Administration under this chapter or any other provision of law, the ~~board~~ department may:

(1) survey, appraise, examine, and inspect the condition of state property to determine what is necessary to protect state property against fire or deterioration and to conserve the use of the property for state purposes;

(2) ~~approve the destruction or disposal of state agency records;~~

(3) ~~require submission and approval of plans and specifications for permanent improvements by a state department, agency, or institution before a contract is awarded for the permanent improvement;~~

(4) approve blanket bonds for a state department, agency, or institution including bonds for state officials or personnel. However, the form and execution of blanket bonds must be approved by the Attorney General; and

~~(5)~~(3) contract to develop an energy utilization management system for state facilities under its control and to assist other agencies and departments in establishing similar programs. However, this does not authorize capital expenditures.

(B) The ~~Budget and Control Board~~ South Carolina Department of Administration shall promulgate regulations necessary to carry out this section.”

E. Chapter 11, Title 1 of the 1976 Code is amended by adding:

“Section 1-11-185. (A) In addition to the powers granted the Department of Administration pursuant to this chapter or another provision of law, the department may require submission and approval

of plans and specifications for a permanent improvement project of a cost of five hundred thousand dollars or less by a state department, agency, or institution of the executive branch before a contract is awarded for the permanent improvement project. If the cost of the permanent improvement project is more than five hundred thousand dollars, approval of the State Contracts and Accountability Authority is required, in lieu of the department's, before the contract may be awarded and the authority may require submission of the plans and specifications for this purpose. The provisions of this subsection are in addition to any other requirements of law relating to permanent improvement projects, including the provisions of Chapter 47, Title 2.

(B) The Department of Administration may promulgate regulations necessary to carry out its duties.

(C) The respective divisions of the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which must be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and those funds may be retained and expended for the same purposes.”

F. 1. Section 1-11-220 of the 1976 Code, as last amended by Act 203 of 2008, is further amended to read:

“Section 1-11-220. There is hereby established within the ~~Budget and Control Board~~ South Carolina Department of Administration, the Division of Motor Vehicle Management General Services, Program of Fleet Management headed by a ~~Director, hereafter referred to as the~~ ‘State Fleet Manager’ appointed by and reporting directly to the ~~Budget and Control Board department, hereafter referred to as the Board.~~ The ~~Board department~~ shall develop a comprehensive state Fleet Management Program. The program shall address acquisition, assignment, identification, replacement, disposal, maintenance, and operation of motor vehicles.

The ~~Budget and Control Board department~~ shall, through ~~their~~ its policies and regulations, seek to ~~achieve the following objectives:~~

- (a) ~~to~~ achieve maximum cost-effectiveness management of state-owned motor vehicles in support of the established missions and objectives of the agencies, boards, and commissions;
- (b) ~~to~~ eliminate unofficial and unauthorized use of state vehicles;
- (c) ~~to~~ minimize individual assignment of state vehicles;
- (d) ~~to~~ eliminate the reimbursable use of personal vehicles for accomplishment of official travel when this use is more costly than use of state vehicles;
- (e) ~~to~~ acquire motor vehicles offering optimum energy efficiency for the tasks to be performed;
- (f) ~~to~~ insure motor vehicles are operated in a safe manner in accordance with a statewide Fleet Safety Program;
- (g) ~~to~~ improve environmental quality in this State by decreasing the discharge of pollutants.”

2. Section 1-11-225 of the 1976 Code is amended to read:

“Section 1-11-225. The ~~Division of Operations~~ South Carolina Department of Administration shall establish a cost allocation plan to recover the cost of operating the comprehensive statewide Fleet Management Program. The division shall collect, retain, and carry forward funds to ensure continuous administration of the program.”

3. Sections 1-11-250, 1-11-260, 1-11-270(A), 1-11-280, 1-11-290; 1-11-300, 1-11-310, as last amended by Act 203 of 2008, 1-11-315, 1-11-320; 1-11-335, and 1-11-340 of the 1976 Code are amended to read:

“Section 1-11-250. For purposes of Sections 1-11-220 to 1-11-330:

(a) 'State agency' means all officers, departments, boards, commissions, institutions, universities, colleges, and all persons and administrative units of state government that operate motor vehicles purchased, leased, or otherwise held with the use of state funds, pursuant to an appropriation, grant or encumbrance of state funds, or operated pursuant to authority granted by the State.

(b) '~~Board Department~~' means ~~State Budget and Control Board~~ the South Carolina Department of Administration.

Section 1-11-260. (A) The Fleet Manager shall report annually to the ~~Budget and Control Board~~ and ~~the~~ General Assembly concerning the performance of each state agency in achieving the objectives enumerated in Sections 1-11-220 through 1-11-330 and include in the report a summary of the ~~division's~~ program's efforts in aiding and assisting the various state agencies in developing and maintaining their management practices in accordance with the comprehensive statewide Motor Vehicle Fleet Management Program. This report also shall contain recommended changes in the law and regulations necessary to achieve these objectives.

(B) The ~~board~~ department, after consultation with state agency heads, shall promulgate and enforce state policies, procedures, and regulations to achieve the goals of Sections 1-11-220 through 1-11-330 and shall recommend administrative penalties to be used by the agencies for violation of prescribed procedures and regulations relating to the Fleet Management Program.

Section 1-11-270. (A) The ~~board~~ department shall establish criteria for individual assignment of motor vehicles based on the functional requirements of the job, which shall reduce the assignment to situations clearly beneficial to the State. Only the Governor, statewide elected officials, and agency heads are provided a state-owned vehicle based on their position.

Section 1-11-280. The ~~Board~~ department shall develop a system of agency-managed and interagency motor pools which are, to the maximum extent possible, cost beneficial to the State. All motor pools shall operate according to regulations promulgated by the ~~Budget and Control Board~~ department. Vehicles shall be placed in motor pools rather than being individually assigned except as specifically authorized by the ~~Board~~ department in accordance with criteria established by the ~~Board~~ department. ~~The motor pool operated by the Division of General Services shall be transferred to the Division of Motor Vehicle Management.~~ Agencies utilizing motor pool vehicles shall utilize trip log forms approved by the ~~Board~~ department for each trip, specifying beginning and ending mileage and the job function performed.

The provisions of this section shall not apply to school buses and service vehicles.

Section 1-11-290. The ~~Board~~ department in consultation with the agencies operating maintenance facilities shall study the cost-effectiveness of such facilities versus commercial alternatives and shall develop a plan for maximally cost-effective vehicle maintenance. The ~~Budget and Control Board~~ department shall promulgate rules and regulations governing vehicle maintenance to effectuate the plan.

The State Vehicle Maintenance program shall include:

- (a) central purchasing of supplies and parts;
- (b) an effective inventory control system;
- (c) a uniform work order and record-keeping system assigning actual maintenance cost to each vehicle; and
- (d) preventive maintenance programs for all types of vehicles.

All motor fuels shall be purchased from state facilities except in cases where such purchase is impossible or not cost beneficial to the State.

All fuels, lubricants, parts, and maintenance costs including those purchased from commercial vendors shall be charged to a state credit card bearing the license plate number of the vehicle serviced and the bill shall include the mileage on the odometer of the vehicle at the time of service.

Section 1-11-300. In accordance with criteria established by the ~~board~~ department, each agency shall develop and implement a uniform cost accounting and reporting system to ascertain the cost per mile of each motor vehicle used by the State under their control. Agencies presently operating under existing systems may continue to do so provided that ~~board~~ departmental approval ~~shall be~~ is required and that the existing systems ~~shall be~~ are uniform with the criteria established by the ~~board~~ department. All expenditures on a vehicle for gasoline and oil shall be purchased in one of the following ways:

- (1) from state-owned facilities and paid for by the use of Universal State Credit Cards except where agencies purchase these products in bulk;
- (2) from any fuel outlet where gasoline and oil are sold regardless of whether the outlet accepts a credit or charge card when the purchase is necessary or in the best interest of the State; and
- (3) from a fuel outlet where gasoline and oil are sold when that outlet agrees to accept the Universal State Credit Card.

These provisions regarding purchase of gasoline and oil and usability of the state credit card also apply to alternative transportation fuels where available. The ~~Budget and Control Board~~ Division of Operations ~~department~~ shall adjust the budgetary appropriation in ~~Part IA, Section 63B~~, for 'Operating Expenses--Lease Fleet' to reflect the dollar savings realized by these provisions and transfer such amount to other areas of the State Fleet Management Program. The ~~Board~~ department shall promulgate regulations regarding the purchase of motor vehicle equipment and supplies to ensure that agencies within a reasonable distance are not duplicating maintenance services or purchasing equipment that is not in the best interest of the State. The ~~Board~~ department shall develop a uniform method to be used by the agencies to determine the cost per mile for each vehicle operated by the State.

Section 1-11-310. (A) The ~~State Budget and Control Board~~ Department of Administration shall purchase, acquire, transfer, replace, and dispose of all motor vehicles on the basis of maximum cost-effectiveness and lowest anticipated total life cycle costs.

(B) The standard state fleet sedan or station wagon must be no larger than a compact model and the special state fleet sedan or station wagon must be no larger than an intermediate model. The ~~director of the Division of Motor Vehicle Management~~ State Fleet Manager shall determine the types of vehicles which fit into these classes. Only these classes of sedans and station wagons may be purchased by the State for nonlaw enforcement use.

(C) The State shall purchase police sedans only for the use of law enforcement officers, as defined by the Internal Revenue Code. Purchase of a vehicle under this subsection must be concurred in by the ~~director of the Division of Motor Vehicle Management~~ State Fleet Manager and must be in accordance with regulations promulgated or procedures adopted under Sections 1-11-220 through 1-11-340 which must take into consideration the agency's mission, the intended use of the vehicle, and the officer's duties. Law enforcement agency vehicles used by employees whose job functions do not meet the Internal Revenue Service definition of 'Law Enforcement Officer' must be standard or special state fleet sedans.

(D) All state motor vehicles must be titled to the State and must be received by and remain in the possession of the ~~Division~~ Program of Motor Vehicle Fleet Management pending sale or disposal of the vehicle.

(E) Titles to school buses and service vehicles operated by the State Department of Education and vehicles operated by the South Carolina Department of Transportation must be retained by those agencies.

(F) Exceptions to requirements in subsections (B) and (C) must be approved by the ~~director of the Division of Motor Vehicle Management~~ State Fleet Manager. Requirements in subsection (B) do not apply to the ~~State Development Board~~ Department of Commerce.

(G) Preference in purchasing state motor vehicles must be given to vehicles assembled in the United States with at least seventy-five percent domestic content as determined by the appropriate federal agency.

(H) Preference in purchasing state motor vehicles must be given to hybrid, plug-in hybrid, bio-diesel, hydrogen, fuel cell, or flex-fuel vehicles when the performance, quality, and anticipated life cycle costs are comparable to other available motor vehicles.

Section 1-11-315. The ~~State Budget and Control Board~~ Department of Administration, Division of General Services, Program of Motor Vehicle Fleet Management, shall determine the extent to which the state vehicle fleet can be configured to operate on alternative transportation fuels. This determination must be based on a thorough evaluation of each alternative fuel and the feasibility of using such fuels to power state vehicles. The state fleet must be configured in a manner that will serve as a model for other corporate and government fleets in the use of alternative transportation fuel. By March 1, 1993, the ~~Division Program~~ of Motor Vehicle Fleet Management must submit a plan to the General Assembly for the use of alternative transportation fuels for the state vehicle fleet that will enable the state vehicle fleet to serve as a model for corporate and other government fleets in the use of alternative transportation fuel. This plan must contain a cost/benefit analysis of the proposed changes.

Section 1-11-320. The ~~Board~~ department shall ensure that all state-owned motor vehicles are identified as such through the use of permanent ~~state government~~ state government license plates and either state or agency seal decals. No vehicles shall be exempt from the requirements for identification except those exempted by the ~~Board~~ department.

This section shall not apply to vehicles supplied to law enforcement officers when, in the opinion of the ~~Board~~ department after consulting with the Chief of the State Law Enforcement Division, those officers are actually involved in undercover law enforcement work to the extent that the actual investigation of criminal cases or the investigators' physical well-being would be jeopardized if they were identified. The ~~Board~~ department is authorized to exempt vehicles carrying human service agency clients in those instances in which the privacy of the client would clearly and necessarily be impaired.

Section 1-11-335. The respective divisions of the ~~Budget and Control Board~~ Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services, as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which shall be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and such funds may be retained and expended for the same purposes.

Section 1-11-340. The ~~Board~~ department shall develop and implement a statewide Fleet Safety Program for operators of state-owned vehicles which shall serve to minimize the amount paid for rising insurance premiums and reduce the number of accidents involving state-owned vehicles. The ~~Board~~ department shall promulgate ~~rules and~~ regulations requiring the establishment of an accident review board by each agency and mandatory driver training in those instances where remedial training for employees would serve the best interest of the State.”

G. Section 1-11-435 of the 1976 Code is amended to read:

“Section 1-11-435. To protect the state's critical information technology infrastructure and associated data systems in the event of a major disaster, whether natural or otherwise, and to allow the services to the citizens of this State to continue in such an event, the ~~Office~~ Division of the State ~~Chief Information Officer~~ Technology in the Department of Administration (~~CIO~~) should develop a Critical Information Technology Infrastructure Protection Plan devising policies and procedures to provide for the confidentiality, integrity, and availability of, and to allow for alternative and immediate online access to critical data and information systems including, but not limited to, health and human services, law enforcement, and related agency data necessary to provide critical information to citizens and ensure the

protection of state employees as they carry out their disaster-related duties. All state agencies and political subdivisions of this State are directed to assist the ~~Office of the State CIO~~ division in the collection of data required for this plan.”

H. Section 1-15-10 of the 1976 Code, as last amended by Act 249 of 2008, is further amended to read:

“Section 1-15-10. There is hereby created a Commission on Women to be composed of fifteen members appointed by the Governor with the advice and consent of the Senate from among persons with a competency in the area of public affairs and women’s activities. One member must be appointed from each congressional district and the remaining members from the State at large. The commission shall be under and a part of the ~~Office of the Governor~~ Department of Administration for administrative purposes. Members of the commission shall serve for terms of four years and until their successors are appointed and qualify, except of those members first appointed after the expansion of the commission to fifteen members, two members shall serve a term of one year, two members shall serve a term of two years, two members shall serve a term of three years, and two members shall serve a term of four years. Members appointed prior to and after the expansion of the commission to fifteen members shall be designated by the Governor as being appointed to serve either from a particular congressional district or at large. Vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. No member shall be eligible to serve more than two consecutive terms.”

I. a. Section 1-30-110 of the 1976 Code is repealed.

b. Section 2-59-10(1) of the 1976 Code is amended to read:

“1. management of the L. Marion Gressette Building and the Senate areas of the State House with sole authority to formulate and implement policies and procedures for the effective utilization of personnel, equipment, and space within the ~~building~~ L. Marion Gressette Building and the Senate areas of the State House;”

J. Chapter 9, Title 3 of the 1976 Code is amended to read:

“CHAPTER 9

Acquisition and Distribution of Federal Surplus Property

Section 3-9-10. (a) The Division of General Services of the ~~State Budget and Control Board~~ Department of Administration is authorized:

(1) to acquire from the United States of America under and in conformance with the provisions of Section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, hereafter referred to as the ‘act,’ such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law;

(2) to warehouse such property; and

(3) to distribute such property within the State to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the State, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which are exempt from taxation under Section 501 (c)(3) of the United States Internal Revenue Code of 1954, to civil defense organizations of the State, or political subdivisions and instrumentalities thereof, which are established pursuant to State law, and to such other types of institutions or activities as may now be or hereafter become eligible under Federal law to acquire such property.

(b) The Division of General Services of the Department of Administration is authorized to receive applications from eligible health and educational institutions for the acquisition of Federal surplus real property, investigate the applications, obtain expression of views respecting the applications from the appropriate health or educational authorities of the State, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for the purposes, and otherwise assist in the processing of the applications for acquisition of real and related personal property of the United States under Section 203 (k) of the act.

(c) For the purpose of executing its authority under this chapter, the Division of General Services is authorized to adopt, amend or rescind rules and regulations and prescribe such requirements as may be deemed necessary; and take such other action as is deemed necessary and suitable, in the administration of this chapter, to assure maximum utilization by and benefit to health, educational and civil defense institutions and organizations within the State from property distributed under this chapter.

(d) The ~~Budget and Control Board~~ Department of Administration is authorized to appoint advisory boards or committees, and to employ such personnel and prescribe their duties as are deemed necessary and suitable for the administration of this chapter.

(e) The Director of the Division of General Services is authorized to make such certifications, take such action and enter into such contracts, agreements and undertakings for and in the name of the State (including cooperative agreements with any Federal agencies providing for utilization of property and facilities by and exchange between them of personnel and services without reimbursement), require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing, and distribution of personal property received by him from the United States of America.

(f) The Division of General Services is authorized to act as clearinghouse of information for the public and private nonprofit institutions, organizations and agencies referred to in subparagraph (a) of this section and other institutions eligible to acquire federal surplus personal property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above-mentioned institutions, organizations, and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations, and agencies in every way possible in the consummation of acquisitions or transactions hereunder.

(g) The Division of General Services, in the administration of this chapter, shall cooperate to the fullest extent consistent with the provisions of the act; and with the departments or agencies of the United States of America, ~~and shall~~ file a State plan of operation, and operate in accordance therewith, ~~and~~ take such action as may be necessary to meet the minimum standards prescribed in accordance with the act, ~~and~~ make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and ~~it shall~~ comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for, property donable or donated to the State.

Section 3-9-20. The Director of the Division of General Services may delegate such power and authority as he deems reasonable and proper for the effective administration of this chapter. The ~~State Budget and Control Board~~ South Carolina Department of Administration may require bond of any person in the employ of the Division of General Services receiving or distributing property from the United States under authority of this chapter.

Section 3-9-30. Any charges made or fees assessed by the Division of General Services for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health, or civil defense purposes, including research for any such purpose, or for any purpose which may now be or hereafter become eligible under the act, shall be limited to those reasonably

related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution, or transfer.

Section 3-9-40. The provisions of this chapter shall not apply to the acquisition of property acquired by agencies of the State under the priorities established by Section 308 (b), Title 23, United States Code, Annotated.”

K. Section 10-1-10 of the 1976 Code, as last amended by Act 628 of 1988, is further amended to read:

“Section 10-1-10. The ~~State Budget and Control Board~~ Department of Administration shall keep, landscape, cultivate, and beautify the State House and State House grounds with authority to expend such amounts as may be annually appropriated therefor. The ~~board~~ department shall employ all help and labor in policing, protecting, and caring for the State House and State House grounds and shall have full authority over them.”

L. Section 10-1-30 of the 1976 Code, as last amended by Act 628 of 1988, is further amended to read:

“Section 10-1-30. (A) The Director of the Division of General Services ~~of the State Budget and Control Board~~ may authorize the use of the ~~State House lobbies, areas of State House except for those provided in subsection (B),~~ the State House steps and grounds, and other public buildings and grounds ~~except for those provided in subsection (B)~~ in accordance with regulations promulgated by the ~~board department and the laws of this State.~~

(B) The Clerk of the Senate and the Clerk of the House of Representatives shall provide joint approval for access to or the use of the second and third floors of the State House; provided, that use of the respective chambers of each house shall be the prerogative of that house. The ~~director shall obtain the approval of the~~ Clerk of the Senate ~~before authorizing~~ shall provide prior authorization for any access to or use of the Gressette Senate Office Building and shall obtain the approval of the Clerk of the House of Representatives ~~before authorizing~~ shall provide prior authorization for any access to or use of the Blatt House Office Building. Management and supervision of the office buildings of each house of the General Assembly shall be exercised by their presiding officer acting through the respective clerks.

(C) The regulations promulgated pursuant to subsection (A) must contain provisions to ~~insure~~ ensure that the public health, safety, and welfare ~~will be~~ are protected in the use of the areas including reasonable time, place, and manner restrictions and application periods before use. If sufficient measures ~~cannot be~~ are not taken to protect the public health, safety, and welfare, the director shall deny the requested use. Other restrictions may be imposed on the use of the areas as are necessary for the conduct of business in those areas and the maintenance of the dignity, decorum, and aesthetics of the areas.”

M. Section 10-1-130 of the 1976 Code is amended to read:

“Section 10-1-130. The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the ~~concurrence and acquiescence of the State Budget and Control Board~~ recommendation of the Department of Administration and approval of the State Contracts and Accountability Authority, whenever it appears that such easements ~~will do~~ do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any ~~such~~ amounts ~~shall~~ must be placed in the State Treasury to the credit of the institution or agency having control of the property involved.”

N. Section 10-1-190 of the 1976 Code, as added by Act 145 of 1995, is amended to read:

“Section 10-1-190. As part of the approval process relating to trades of state property for nonstate property, the ~~Budget and Control Board~~ Department of Administration is authorized to approve the

application of any net proceeds resulting from such a transaction to the improvement of the property held by the ~~board~~ department.”

O. Chapter 9, Title 10 of the 1976 Code is amended to read:

“CHAPTER 9

Minerals and Mineral Interests
in Public Lands

Article 1

General Provisions

Section 10-9-10. The Public Service Authority may, through its board of directors, make and execute leases of gas, oil, and other minerals and mineral rights, excluding phosphate and lime and phosphatic deposits, over and upon the lands and properties owned by said authority; and the ~~State Budget and Control Board~~ South Carolina Department of Administration and the forfeited land commissions of the ~~several~~ counties of this State may, with the approval of the Attorney General, make and execute such leases over and upon the lands and waters of the State and of the ~~several~~ counties under the ownership, management, or control of ~~such Board~~ the department and commissions respectively.

Section 10-9-20. No such lease shall provide for a royalty of less than twelve and one-half per cent of production of oil and gas from the lease.

Section 10-9-30. Nothing contained in this article shall estop the State from enacting proper laws for the conservation of the oil, gas and other mineral resources of the State and all leases and contracts made under authority of this article shall be subject to such laws; provided, that the ~~State Budget and Control Board~~ South Carolina Department of Administration may negotiate for leases of oil, gas, and other mineral rights upon all of the lands and waters of the State, including offshore marginal and submerged lands.

Section 10-9-35. In the event that the State of South Carolina is the recipient of revenues derived from offshore oil leases within the jurisdictional limits of the State such revenues shall be deposited with the State Treasurer in a special fund and shall be expended only by authorization of the General Assembly.

Funds so accumulated shall be expended only for the following purposes:

- (1) to retire the bonded indebtedness incurred by South Carolina;
- (2) for capital improvement expenditures.

Section 10-9-40. The authority conferred upon the Public Service Authority, the ~~State Budget and Control Board~~ South Carolina Department of Administration, and the forfeited land commissions by this article shall be cumulative and in addition to the rights and powers heretofore vested by law in such authority, ~~such State Budget and Control Board~~ the South Carolina Department of Administration, and such commissions, respectively.

Article 3

Phosphate

Section 10-9-110. The ~~State Budget and Control Board~~ South Carolina Department of Administration shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof.

Section 10-9-120. The ~~Board~~ department may inquire into and protect the interests of the State in and to any phosphatic deposits or mines, whether in the navigable waters of the State or in land marshes or other territory owned or claimed by other parties, and in the proceeds of any such mines and may take such action for, or in behalf of, the State in regard thereto as it may find necessary or deem proper.

Section 10-9-130. The ~~Board~~ department may issue to any person who applies for a lease or license granting a general right to dig, mine, and remove phosphate rock and phosphatic deposits from all the navigable streams, waters, and marshes belonging to the State and also from such of the creeks, not navigable, lying therein as may contain phosphate rock and deposits belonging to the State and not previously granted. Such leases or licenses may be for such terms as may be determined by the ~~Board~~ department. The annual report of the ~~Board~~ department to the General Assembly shall include a list of all effective leases and licenses. The ~~Board~~ department may make a firm contract for the royalty to be paid the State which shall not be increased during the life of the license. Provided, that prior to the grant or issuance of any lease or license, the ~~Board~~ department shall cause to be published a notice of such application in a newspaper having general circulation in the county once a week for three successive weeks prior to the grant or issuance. ~~Provided, further~~ However, the lessee or licensee ~~may shall~~ not take possession if there ~~be is~~ an adverse claim and the burden of proving ownership in the State shall be placed upon the lessee or licensee.

Section 10-9-140. In every case in which ~~such an~~ application ~~shall be~~ is made to the ~~Board~~ department for a license, the ~~Board~~ department may grant or refuse the license as it ~~may deem~~ considers best for the interest of the State and the proper management of the interests of the State in ~~such those~~ deposits.

Section 10-9-150. As a condition precedent to the right to dig, mine, and remove the rocks and deposits granted by ~~any such~~ a license, each licensee shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making at the end of every month of true and faithful returns to the Comptroller General of the number of tons of phosphate rock and phosphatic deposits so dug or mined and the punctual payment to the State Treasurer of the royalty provided at the end of every quarter or three months. ~~Such~~ The bond and sureties ~~thereon shall be~~ are subject to the approval required by law for the bonds of state officers.

Section 10-9-160. Whenever the ~~Board~~ department shall have reason to doubt the solvency of any surety whose name appears upon any bond executed for the purpose of securing the payment of the phosphate royalty by any person digging, mining and removing phosphate rock or phosphatic deposits in any of the territory, the property of the State, under any grant or license, the ~~Board~~ department shall forthwith notify the person giving such bond and the sureties thereon and require that one or more sureties, as the case may be, shall be added to the bond, such surety or sureties to be approved by the ~~Board~~ department.

Section 10-9-170. The ~~Board~~ department, upon petition filed by any person who is surety on any such bond as aforesaid and who considers himself in danger of being injured by such suretyship, shall notify the person giving such bond to give a new bond with other sureties and upon failure of such person to do so within thirty days shall cause such person to suspend further operations until a new bond be given. ~~But~~ In no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and such sureties shall not be discharged from any antecedent liability by reason of such suretyship.

Section 10-9-180. The ~~Board~~ department is hereby vested with full and complete power and control over all mining in the phosphate territory belonging to this State and over all persons digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters or in the marshes thereof, with full power and authority, subject to the provisions of Sections 10-9-130 and 10-9-190 to fix, regulate, raise, or reduce such royalty per ton as shall from time to time be paid to the State by such persons for all or any such phosphate rock dug, mined, removed, and shipped or otherwise sent to the market therefrom. ~~But six~~ Six months' notice shall be given all persons at such time digging or mining phosphate rock in such navigable streams, waters, or marshes before any increase shall be made in the rate of royalty theretofore existing.

Section 10-9-190. Each person to whom a license shall be issued must, at the end of every month, make to the Comptroller General a true and lawful return of the phosphate rock and phosphatic deposits he may have dug or mined during such month and shall punctually pay to the State Treasurer, at the end of every quarter or three months, a royalty of five cents per ton upon each and every ton of the crude rock (not of the rock after it has been steamed or dried), the first quarter to commence to run on the first day of January in each year.

Section 10-9-200. The ~~State Budget and Control Board~~ Department of Administration shall, within twenty days after the grant of any license as aforesaid, shall notify the Comptroller General of the issuing of such license, with the name of the person to whom issued, the time of the license, and the location for which it was issued.

Section 10-9-210. Every person who shall dig, mine, or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams, waters, and marshes of the State without license therefor previously granted by the State to such person shall be liable to a penalty of ten dollars for each and every ton of phosphate rock or phosphatic deposits so dug, mined, or removed, to be recovered by action at the suit of the State in any court of competent jurisdiction. One-half of such penalty shall be for the use of the State and the other half for the use of the informer.

Section 10-9-220. It shall be unlawful for any person to purchase or receive any phosphate rock or phosphatic deposit dug, mined, or removed from the navigable streams, waters, or marshes of the State from any person not duly authorized by act of the General Assembly of this State or license of the ~~Board~~ department to dig, mine, or remove such phosphate rock or phosphatic deposit.

Section 10-9-230. Any person violating Section 10-9-220 shall forfeit to the State the sum of ten dollars for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any court of competent jurisdiction. One-half of such forfeiture shall be for the use of the State and the other half for the use of the informer.

Section 10-9-240. Should any person whosoever interfere with, obstruct, or molest or attempt to interfere with, obstruct, or molest the ~~Board~~ department or anyone by it authorized or licensed hereunder in the peaceable possession and occupation for mining purposes of any of the marshes, navigable streams, or waters of the State, then the ~~Board~~ department may, in the name and on behalf of the State, take such measures or proceedings as it may be advised are proper to enjoin and terminate any such molestation, interference, or obstruction and place the State, through its agents, the ~~Board~~ department or anyone under it authorized, in absolute and practical possession and occupation of such marshes, navigable streams, or waters.

Section 10-9-250. Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters, or streams, including the Coosaw River phosphate

territory, by and with any boat, vessel, marine dredge, or other appliances for such mining or removal, without the leave or license of the ~~Board department~~ thereto first had and obtained, all such boats, vessels, marine dredges, and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges, or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.

Section 10-9-260. Any person wilfully interfering with, molesting, or obstructing or attempting to interfere with, molest, or obstruct the State or the ~~State Budget and Control Board~~ Department of Administration or anyone by it authorized or licensed in the peaceable possession and occupation of any of the marshes, navigable streams, or waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine or attempt to dig or mine any of the phosphate rock or phosphatic deposits of this State without a license so to do issued by the ~~Board department~~ shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than one nor more than twelve months, or both, at the discretion of the court.

Section 10-9-270. The ~~Board department~~ shall report annually to the General Assembly its actions and doings under this article during the year to the time of the meeting of the assembly, with an itemized account of its expenses for the year incurred in connection with its duties and powers under this article.

Article 5

Geothermal Resources

Section 10-9-310. For purposes of this article 'geothermal resources' ~~mean~~ means the natural heat of the earth at temperatures greater than forty degrees Celsius and includes:

- (1) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;
- (2) the material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium;
- (3) all dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.

Section 10-9-320. The ~~State Budget and Control Board (board)~~ Department of Administration may lease development rights to geothermal resources underlying surface lands owned by the State. The ~~board department~~ must promulgate regulations regarding the method of lease acquisition, lease terms, and conditions due the State under lease operations. The South Carolina Department of Natural Resources is designated as the exclusive agent for the ~~board department~~ in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to geothermal resource leases as may be included herein as responsibilities of the ~~board department~~.

Section 10-9-330. Any lease of rights to drill for and use oil, natural gas, or minerals on public or private lands must not allow drilling for or use of geothermal energy by the lessee unless the instrument creating the lease specifically provides for such use."

P. Section 10-11-50 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 10-11-50. It shall be unlawful for anyone to park any vehicle on any of the property described in Section 10-11-40 and subsection (2) of Section 10-11-80 except in the spaces and manner now marked and designated or that may hereafter be marked and designated by the ~~State Budget and Control Board~~ Department of Administration, in cooperation with the Department of Transportation, or to block or impede traffic through the alleys and driveways.”

Q. Section 10-11-90 of the 1976 Code is amended to read:

“Section 10-11-90. The watchmen and policemen employed ~~by the Budget and Control Board~~ for the protection of the property described in Sections 10-11-30 and 10-11-40 and subsection (2) of Section 10-11-80 are hereby vested with all of the powers, privileges, and immunities of constables while on this area or in fresh pursuit of those violating the law in this area, provided that such watchmen and policemen take and file the oath required of peace officers, execute and file bond in the form required of state constables, ~~in the amount of one thousand dollars, with the Budget and Control Board,~~ and be duly commissioned by the Governor.”

R. Section 10-11-110 of the 1976 Code is amended to read:

“Section 10-11-110. In connection with traffic and parking violations only, the watchmen and policemen referred to in Section 10-11-90, state highway patrolmen and policemen of the City of Columbia shall have the right to issue and use parking tickets of the type used by the City of Columbia, with such changes as are necessitated hereby, to be prepared and furnished by the ~~Budget and Control Board~~ Department of Administration, upon the issuance of which the procedures shall be followed as prevail in connection with the use of parking tickets by the City of Columbia. Nothing herein shall restrict the application and use of regular arrest warrants.”

S. Section 10-11-140 of the 1976 Code is amended to read:

“Section 10-11-140. Nothing contained in this article shall be construed to abridge the authority of the ~~State Budget and Control Board~~ Department of Administration to grant permission to use the State House grounds for educational, electrical decorations, and similar purposes.”

T. Section 10-11-330 of the 1976 Code is amended to read:

“Section 10-11-330. It shall be unlawful for any person or group of persons ~~willfully~~ wilfully and knowingly: (a) to enter or to remain within the capitol building unless such person is authorized by law or by rules of the House or Senate ~~or of the State Budget and Control Board~~ or the Department of Administration, respectively, when such entry is done for the purpose of uttering loud, threatening, and abusive language or to engage in any disorderly or disruptive conduct with the intent to impede, disrupt, or disturb the orderly conduct of any session of the legislature or the orderly conduct within the building or of any hearing before or any deliberation of any committee or subcommittee of the legislature; (b) to obstruct or to impede passage within the capitol grounds or building; (c) to engage in any act of physical violence upon the capitol grounds or within the capitol building; or (d) to parade, demonstrate, or picket within the capitol building.”

U. Sections 11-9-610, 11-9-620, and 11-9-630 of the 1976 Code are amended to read:

“Section 11-9-610. The ~~State Budget and Control Board~~ Department of Administration shall receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State. The department shall report annually on the financial status of the Sinking Fund to the General Assembly.

Section 11-9-620. All ~~moneys~~ monies arising from the redemption of lands, leases, and sales of property or otherwise coming to the ~~State Budget and Control Board~~ Department of Administration for the Sinking Fund, ~~shall~~ must be paid into the State Treasury and ~~shall be~~ kept on a separate account by the treasurer as a fund to be drawn upon the warrants of the ~~Board~~ department for the exclusive uses and purposes which have been or shall be declared in relation to the Sinking Fund.

Section 11-9-630. The ~~State Budget and Control Board~~ Department of Administration shall sell and convey, for and on behalf of the State, all such real property, assets, and effects belonging to the State as are not in actual public use, such sales to be made from time to time in such manner and upon such terms as it may deem most advantageous to the State. This shall not be construed to authorize the sale ~~by the Board~~ of any property held in trust for a specific purpose by the State or the property of the State in the phosphate rocks or phosphatic deposits in the beds of the navigable streams and waters and marshes of the State.”

V. Sections 11-35-3810 and 11-35-3830, both as last amended by Act 153 of 1997, and Sections 11-35-3820 and 11-35-3840, both as last amended by Act 376 of 2006, of the 1976 Code are further amended to read:

“Section 11-35-3810. Subject to existing provisions of law, the ~~board~~ Department of Administration shall promulgate regulations governing:

- (1) the sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate methods designated by such regulations;
- (2) the transfer of excess supplies between agencies and departments.

Section 11-35-3820. Except as provided in Section 11-35-1580 and Section 11-35-3830 and the regulations pursuant to them, the sale of all state-owned supplies, or personal property not in actual public use must be conducted and directed by the ~~designated board office~~ Division of General Services of the Department of Administration. The sales must be held at such places and in a manner as in the judgment of the ~~designated board office~~ Division of General Services is most advantageous to the State. Unless otherwise determined, sales must be by either public auction or competitive sealed bid to the highest bidder. Each governmental body shall inventory and report to the ~~designated board office~~ division all surplus personal property not in actual public use held by that governmental body for sale. The ~~designated board office~~ division shall deposit the proceeds from the sales, less expense of the sales, in the state general fund or as otherwise directed by regulation. This policy and procedure applies to all governmental bodies unless exempt by law.

Section 11-35-3830. (1) Trade-in Value. Unless otherwise provided by law, governmental bodies may trade-in personal property, the trade-in value of which may be applied to the procurement or lease of like items. The ~~trade-in~~ trade-in value of such personal property shall not exceed an amount as specified in regulations promulgated by the ~~board~~ Department of Administration.

(2) Approval of Trade-in Sales. When the trade-in value of personal property of a governmental body exceeds the specified amount, the ~~board~~ Department of Administration shall have the authority to determine whether:

- (a) the subject personal property shall be traded in and the value applied to the purchase of new like items; or
- (b) the property shall be classified as surplus and sold in accordance with the provisions of Section 11-35-3820. The ~~board~~ departmental determination shall be in writing and be subject to the provisions of this chapter.

(3) Record of Trade-in Sales. Governmental bodies shall submit quarterly to the materials management officer a record listing all trade-in sales made under subsections (1) and (2) of this section.

Section 11-35-3840. ~~The State Budget and Control Board~~ Department of Administration may license for public sale publications, including South Carolina Business Opportunities, materials pertaining to training programs, and information technology products that are developed during the normal course of ~~the board's~~ its activities. The items must be licensed at reasonable costs established in accordance with the cost of the items. All proceeds from the sale of the publications and materials must be placed in a revenue account and expended for the cost of providing the services.”

W. Section 11-35-5270 of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“Section 11-35-5270. ~~A Small and Minority Business Assistance Office (SMBAO) shall~~ The Division of Small and Minority Business Contracting and Certification must be established within the Department of Administration to assist the ~~board~~ Department of Administration and the Department of Revenue in carrying out the intent of this article. The responsibilities of the division ~~shall~~ include, but are not be limited to, the following:

(1) ~~Assist~~ assisting the chief procurement officers and governmental bodies in developing policies and procedures which will facilitate awarding contracts to small and minority firms;

(2) ~~Assist~~ assisting the chief procurement officers in aiding small and minority-owned firms and community-based business in developing organizations to provide technical assistance to minority firms;

(3) ~~Assist~~ assisting with the procurement and management training for small and minority firm owners;

(4) ~~Assist~~ assisting in the identification of responsive small and minority firms;

(5) ~~Receive and process~~ receiving and processing applications to be registered as a minority firm in accordance with Section 11-35-5230(B);

(6) create a new Uniform Certification System to streamline the certification process and reduce the redundancy in certifying women and minority-owned businesses and create a centralized small and minority business contracting and certification database.

(7) ~~The SMBAO may revoke~~ revoking the certification of any firm ~~which~~ that has been found to have engaged in any of the following:

(a) fraud or deceit in obtaining the certification;

(b) furnishing of substantially inaccurate or incomplete information concerning ownership or financial status;

(c) failure to report changes which affect the requirements for certification;

(d) gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of his business; or

(e) wilful violation of any provision of this article.

~~(7)(8)~~ After a period of one year, the ~~SMBAO~~ division may reissue a certificate of eligibility provided acceptable evidence has been presented to the commission that the conditions which caused the revocation have been corrected.”

X. Section 11-53-20 of the 1976 Code is amended to read:

“Section 11-53-20. It is mandated by the General Assembly that the SCEIS shall be implemented for all agencies, with the exception of lump sum agencies, the General Assembly or its respective branches or its committees, Legislative Council, and the ~~Office of Legislative Printing and Information Technology Resources~~ Services Agency. The South Carolina Enterprise Information System Oversight Committee, as appointed by the Comptroller General, shall provide oversight for the implementation and continued operations of the system. The ~~Budget and Control Board~~ Department of Administration is authorized to use any available existing technology resources to assist with funding of the initial implementation of the system. It is further the intent of the General Assembly to fund the central government costs related to the

implementation of the system. Agencies are required to implement SCEIS at a cost and in accordance with a schedule developed and approved by the SCEIS Oversight Committee. Full implementation must be completed within five years. ~~An agency's implementation cost shall be borne by that agency through existing appropriations, grants, and/or the State Treasurer's Master Lease Program and shall be for the implementation of the "back office" administrative functions that are common to all agencies in the areas of purchasing, finance, human resources, payroll, and budgeting.~~ The Department of Administration must make an appropriation request for the implementation and operational costs for SCEIS, and the funding for those costs must be set out as a specific line item in the annual general appropriations act. Any issues arising with regard to project scope, implementation schedule, and associated costs shall be directed to the SCEIS Oversight Committee for resolution. In cooperation with the Comptroller General and the ~~Budget and Control Board's Division of the State CIO~~ Department of Administration, the South Carolina Enterprise Information System Oversight Committee is required to report by January 31, of the fiscal year to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee the status of the system's implementation and ongoing operations."

Y. Sections 13-7-810, 13-7-830, and 13-7-860 of the 1976 Code are amended to read:

"Section 13-7-810. There is hereby established a Governor's Nuclear Advisory Council in the Department of Administration, which shall be responsible to the Director of the Department of Administration and report to the Governor.

Section 13-7-830. The recommendations described in Section 13-7-620 shall be made available to the General Assembly; and the Governor; ~~and the Budget and Control Board.~~

Section 13-7-860. Staff support for the council shall be provided by the ~~State Energy Office~~ Department of Administration."

Z. Section 16-3-1620(A), (B), and (C) of the 1976 Code, as last amended by Act 271 of 2008, is further amended to read:

"(A) ~~The Crime Victims' Ombudsman of the Office of the Governor~~ to be administratively a part of the Department of Administration is created. The Crime Victims' Ombudsman is appointed by the Governor with the advice and consent of the Senate and serves at the pleasure of the Governor.

(B) ~~The Crime Victims' Ombudsman of the Office of the Governor~~ Department of Administration shall:

(1) refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both, when services are requested by crime victims or are necessary as determined by the ombudsman;

(2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and victims when the need for liaison services is recognized by the ombudsman; and

(3) review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both, made to the ombudsman by victims of criminal activity within the state's jurisdiction.

(C) There is created within the Crime Victims' Ombudsman Office of the ~~Office of the Governor~~ Department of Administration, the Office of Victim Services Education and Certification which shall:

(1) provide oversight of training, education, and certification of victim assistance programs;

(2) with approval of the Victim Services Coordinating Council, promulgate training standards and requirements;

(3) approve training curricula for credit hours toward certification;

(4) provide victim service provider certification; and

(5) maintain records of certified victim service providers."

AA. Section 16-3-1680 of the 1976 Code as added by Act 271 of 2008 is amended to read:

“Section 16-3-1680. The Crime Victims’ Ombudsman ~~of the Office of the Governor~~ through the Department of Administration may promulgate those regulations necessary to assist it in performing its required duties as provided by this chapter.”

BB. 1. Section 25-11-10 of the 1976 Code amended to read:

“Section 25-11-10. A Division of Veterans’ Affairs ~~in the Office of the Governor~~ to be administratively a part of the Department of Administration is hereby created for the purpose of assisting ex-servicemen in securing the benefits to which they are entitled under the provisions of federal legislation and under the terms of insurance policies issued by the federal government for their benefit. This division shall be under the direct supervision of a panel consisting of the Governor as chairman, the Attorney General for the purpose of giving legal advice, and the Adjutant and Inspector General.”

2. Section 25-11-80(C)(3) of the 1976 Code is amended to read:

“(3) the ~~Budget and Control Board~~ Department of Administration.”

3. Section 25-11-90(E) of the 1976 Code is amended to read:

“(E) The preparation and distribution of the roster is subject to the availability of funds as appropriated by the General Assembly to the ~~Governor’s Office~~ Department of Administration, Division of Veterans Affairs for this purpose. These rosters and their distribution must be maintained and updated based on workloads and availability of funds.”

4. Section 25-11-310(2) of the 1976 Code is amended to read:

“(2) ‘Division’ means the Division of Veterans Affairs in the ~~Office of the Governor~~ Department of Administration.”

CC. Section 44-53-530(a) and (b) of the 1976 Code, as last amended by Act 345 of 2006, is further amended to read:

“(a) Forfeiture of property defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court within a reasonable time period following seizure and shall set forth the facts upon which the seizure was made. The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances shall also include: the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. The petition shall set forth the type and quantity of the controlled substance involved. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.

The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. If the judge finds a forfeiture, he shall then determine the lienholder's interest as provided in this article. The judge shall determine whether any property must be returned to a law enforcement agency pursuant to Section 44-53-582.

If there is a dispute as to the ~~division~~ allocation of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to subsection (e) of this section.

All property, conveyances, and equipment ~~which will not be~~ reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred must not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency shall be at the discretion and approval of the ~~Budget and Control Board~~ Department of Administration.

If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a South Carolina Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.

(b) If the property is seized by a state law enforcement agency and is not transferred by the court to the seizing agency, the judge shall order it transferred to the Division of General Services of the Department of Administration for sale. Proceeds may be used by the division for payment of all proper expenses of the proceedings for the forfeiture and sale of the property, including the expenses of seizure, maintenance, and custody, and other costs incurred by the implementation of this section. The net proceeds from any sale must be remitted to the State Treasurer as provided in subsection (g) of this section. The Division of General Services of the South Carolina Department of Administration may authorize payment of like expenses in cases where monies, negotiable instruments, or securities are seized and forfeited.”

DD. Section 44-96-140 of the 1976 Code is amended to read:

“Section 44-96-140. (A) Not later than twelve months after the date on which the department submits the state solid waste management plan to the Governor and to the General Assembly, the General Assembly, the ~~Governor's Office of the Governor~~, the Judiciary, each state agency, and each state-supported institution of higher education shall:

(1) establish a source separation and recycling program in cooperation with the department and the Division of General Services of the ~~State Budget and Control Board~~ Department of Administration for the collection of selected recyclable materials generated in state offices throughout the State including, but not limited to, high-grade office paper, corrugated paper, aluminum, glass, tires, composting materials, plastics, batteries, and used oil;

(2) provide procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with collectors or buyers of the recyclable materials, or both;

(3) evaluate the amount of waste paper material recycled and make all necessary modifications to the recycling program to ensure that all waste paper materials are recycled to the maximum extent feasible; and

(4) establish and implement, in cooperation with the department and the Division of General Services of the Department of Administration, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.

(B) Not later than September fifteen of each year, each state agency and each state-supported institution of higher learning shall submit to the department a report detailing its source separation and recycling program and a review of all goods and products purchased during the previous fiscal year by those agencies and institutions containing recycled materials using the content specifications established by the ~~Office of Materials Management~~ Division of General Services, Department of Administration.

(C) By November first of each year the department shall submit a report to the Governor and to the General Assembly reviewing all goods and products purchased by the State and determining what percentage of state purchases contain recycled materials using content specifications established by the ~~Office of Materials Management~~, Division of General Services, Department of Administration. The report also must review existing procurement regulations for the purchase of products and materials and must identify any portions of such regulations that discriminate against products and materials with recycled content and products and materials which are recyclable.

(D) Not later than one year after this chapter is effective, the Division of General Services, Department of Administration shall amend the procurement regulations to eliminate the portions of the regulations identified in its report as discriminating against products and materials with recycled content and products and materials which are recyclable.

(E) Not later than one year after the effective date of the amendments to the procurement regulations, the General Assembly, the ~~Governor's Office of the Governor~~, the Judiciary, all state agencies, all political subdivisions using state funds to procure items, and all persons contracting with such agency or political subdivision where such persons procure items with state funds shall procure products and materials with recycled content and products and materials which are recyclable where practicable, as determined by the ~~Office of Materials Management~~, Division of General Services, Department of Administration. The list of recycled content specifications must be updated annually. It is the goal of the General Assembly for state and local governmental agencies to reflect a twenty-five percent goal in their procurement policies. The decision not to procure such items shall be based on a determination that such procurement items:

- (1) are not available within a reasonable period of time;
- (2) fail to meet the performance standards set forth in the applicable specifications; or
- (3) are only available at a price that exceeds by more than seven and one-half percent the price of alternative items.

(F) Not later than six months after this chapter is effective, and annually thereafter, the Department of Transportation shall submit a report to the Governor and to the General Assembly on the use of:

- (1) compost as a substitute for regular soil amendment products in all highway projects;
- (2) solid waste including, but not limited to, ground rubber from tires and fly ash or mixtures of them from coal-fired electrical facilities in road surfacing of subbase materials;
- (3) solid waste including, but not limited to, glass aggregate, plastic, and fly ash in asphalt or concrete; and
- (4) recycled mixed-plastic materials for guardrail posts, right-of-way fence posts, and sign supports.”

EE. Section 48-46-30(4) and (5) of the 1976 Code are amended to read:

“(4) ~~‘Board’ means the South Carolina Budget and Control Board or its designated official.~~

(5) ~~‘Decommissioning trust fund’ means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem-Nuclear Systems, Inc. (grantor), the South Carolina Budget and Control Board~~ Department of Administration (beneficiary), and the South Carolina State Treasurer

(trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose.

(5) ‘Department’ means the Office of Regulatory Staff.’”

FF. Section 48-46-40 of the 1976 Code is amended to read:

“Section 48-46-40. (A)(1) The ~~board~~ department shall approve disposal rates for low-level radioactive waste disposed at any regional disposal facility located within the State. The approval of disposal rates pursuant to this chapter is neither a regulation nor the promulgation of a regulation as those terms are specially used in Title 1, Chapter 23.

(2) The ~~board~~ department shall adopt a maximum uniform rate schedule for regional generators containing disposal rates that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4) and that do not exceed the approximate disposal rates, excluding any access fees and including a specification of the methodology for calculating fees for large components, generally applicable to regional generators on September 7, 1999. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. The maximum uniform rate schedule approved under this section becomes effective immediately upon South Carolina’s membership in the Atlantic Compact. The maximum uniform rate schedule shall be the rate schedule applicable to regional waste whenever it is not superseded by an adjusted rate approved by the ~~board~~ department pursuant to paragraph (3) of this subsection or by special disposal rates approved pursuant to paragraphs (5) or (6)(e) of this subsection.

(3) The ~~board~~ department may at any time of its own initiative, at the request of a site operator, or at the request of the compact commission, adjust the disposal rate or the relative proportions of the individual components that constitute the overall rate schedule. Except as adjusted for inflation in subsection (4), rates adjusted in accordance with this section, that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4), may not exceed initial disposal rates set by the ~~board~~ department pursuant to subsection (2).

(4) In March of each year the ~~board~~ department shall adjust the rate schedule based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics as chosen by the ~~board~~ department or a successor index.

(5) In consultation with the site operator, the ~~board~~ department or its designee, on a case-by-case basis, may approve special disposal rates for regional waste that differ from the disposal rate schedule for regional generators set by the ~~board~~ department pursuant to subsections (2) and (3). Requests by the site operator for such approval shall be in writing to the ~~board~~ department. In approving such special rates, the ~~board~~ department or its designee, shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, or other relevant factors; provided, however, that the ~~board~~ department shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the ~~board~~ department under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or the request for proposal containing the special rate is accepted by the regional generator; provided, however, that such special rates when accepted by a regional generator shall be disclosed to the compact commission and to all other regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing this special rate is accepted by the regional generator. Within one business day of a special disposal rate’s acceptance, the site operator shall notify the ~~board~~ department, the compact commission, and the regional generators of each special rate that has been accepted by a regional generator, and the ~~board~~ department, the compact commission, and regional generators may communicate with each other about such special rates. If any

special rate approved by the ~~board~~ department for a regional generator is lower than a disposal rate approved by the ~~board~~ department for regional generators pursuant to subsections (2) and (3) for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the regional generator. Regional generators may enter into contracts for waste disposal at such special rates and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the ~~board~~ department and the compact commission each month that no regional generator's disposal rate exceeds any other regional generator's special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the ~~board~~ department and the compact commission.

(6)(a) To the extent authorized by the compact commission, the ~~board~~ department on behalf of the State of South Carolina may enter into agreements with any person in the United States or its territories or any interstate compact, state, U.S. territory, or U.S. Department of Defense military installation abroad for the importation of waste into the region for purposes of disposal at a regional disposal facility within South Carolina. No waste from outside the Atlantic Compact region may be disposed at a regional disposal facility within South Carolina, except to the extent that the ~~board~~ department is authorized by the compact commission to enter into agreements for importation of waste.

The ~~board~~ department shall authorize the importation of nonregional waste into the region for purposes of disposal at the regional disposal facility in South Carolina so long as nonregional waste would not result in the facility accepting more than the following total volumes of all waste:

- (i) 160,000 cubic feet in fiscal year 2001;
- (ii) 80,000 cubic feet in fiscal year 2002;
- (iii) 70,000 cubic feet in fiscal year 2003;
- (iv) 60,000 cubic feet in fiscal year 2004;
- (v) 50,000 cubic feet in fiscal year 2005;
- (vi) 45,000 cubic feet in fiscal year 2006;
- (vii) 40,000 cubic feet in fiscal year 2007;
- (viii) 35,000 cubic feet in fiscal year 2008.

After fiscal year 2008, the ~~board~~ department shall not authorize the importation of nonregional waste for purposes of disposal.

(b) The ~~board~~ department may approve disposal rates applicable to nonregional generators. In approving disposal rates applicable to nonregional generators, the ~~board~~ department may consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors.

(c) Absent action by the ~~board~~ department under subsection (b) above to establish disposal rates for nonregional generators, rates applicable to these generators must be equal to those contained in the maximum uniform rate schedule approved by the ~~board~~ department pursuant to paragraph (2) or (3) of this subsection for regional generators unless these rates are superseded by special disposal rates approved by the ~~board~~ department pursuant to paragraph (6)(e) of this subsection.

(d) Regional generators shall not pay disposal rates that are higher than disposal rates for nonregional generators in any fiscal quarter.

(e) In consultation with the site operator, the ~~board~~ department or its designee, on a case-by-case basis, may approve special disposal rates for nonregional waste that differ from the disposal rate schedule for nonregional generators set by the ~~board~~ department. Requests by the site operator for such approval shall be in writing to the ~~board~~ department. In approving such special rates, the ~~board~~ department or its designee shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors; provided, however, that the ~~board~~ department shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the ~~board~~ department under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator; provided, however, that such special rates when accepted by a nonregional generator shall be

disclosed to the compact commission and to all regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator. Within one business day of a special disposal rate's acceptance, the site operator shall notify the board department, the compact commission, and the regional generators in writing of each special rate that has been accepted by a nonregional generator, and the board department, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the board department for a nonregional generator is lower than a disposal rate approved by the board department for regional generators for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the nonregional generator. Regional generators may enter into contracts for waste disposal at such special rate and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the board department and the compact commission each month that no regional generator disposal rate exceeds any nonregional generator's special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the board department and the compact commission.

(B)(1) Effective upon the implementation of initial disposal rates by the board department under Section 48-46-40(A), the PSC is authorized and directed to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.

(2) In identifying the allowable costs for operating a regional disposal facility, the PSC shall:

(a) prescribe a system of accounts, using generally accepted accounting principles, for disposal site operators, using as a starting point the existing system used by site operators;

(b) assess penalties against disposal site operators if the PSC determines that they have failed to comply with regulations pursuant to this section; and

(c) require periodic reports from site operators that provide information and data to the PSC and parties to these proceedings. The Office of Regulatory Staff shall obtain and audit the books and records of the site operators associated with disposal operations as determined applicable by the PSC.

(3) Allowable costs include the costs of those activities necessary for:

(a) the receipt of waste;

(b) the construction of disposal trenches, vaults, and overpacks;

(c) construction and maintenance of necessary physical facilities;

(d) the purchase or amortization of necessary equipment;

(e) purchase of supplies that are consumed in support of waste disposal activities;

(f) accounting and billing for waste disposal;

(g) creating and maintaining records related to disposed waste;

(h) the administrative costs directly associated with disposal operations including, but not limited to, salaries, wages, and employee benefits;

(i) site surveillance and maintenance required by the State of South Carolina, other than site surveillance and maintenance costs covered by the balance of funds in the decommissioning trust fund or the extended care maintenance fund;

(j) compliance with the license, lease, and regulatory requirements of all jurisdictional agencies;

(k) administrative costs associated with collecting the surcharges provided for in subsections (B) and (C) of Section 48-46-60;

(l) taxes other than income taxes;

(m) licensing and permitting fees; and

(n) any other costs directly associated with disposal operations determined by the PSC to be allowable.

Allowable costs do not include the costs of activities associated with lobbying and public relations, clean-up and remediation activities caused by errors or accidents in violation of laws, regulations, or violations of the facility operating license or permits, activities of the site operator not directly in support of waste disposal, and other costs determined by the PSC to be unallowable.

(4) Within ninety days following the end of a fiscal year, a site operator may file an application with the PSC to adjust the level of an allowable cost under subsection (3), or to allow a cost not previously designated an allowable cost. A copy of the application must be provided to the Office of Regulatory Staff. The PSC shall process such application in accordance with its procedures. If such application is approved by the PSC, the PSC shall authorize the site operator to adjust allowable costs for the current fiscal year so as to compensate the site operator for revenues lost during the previous fiscal year.

(5) A private operator of a regional disposal facility in South Carolina is authorized to charge an operating margin of twenty-nine percent. The operating margin for a given period must be determined by multiplying twenty-nine percent by the total amount of allowable costs as determined in this subsection, excluding allowable costs for taxes and licensing and permitting fees paid to governmental entities.

(6) The site operator shall prepare and file with the PSC a Least Cost Operating Plan. The plan must be filed within forty-five days of enactment of this chapter and must be revised annually. The plan shall include information concerning anticipated operations over the next ten years and shall evaluate all options for future staffing and operation of the site to ensure least cost operation, including information related to the possible interim suspension of operations in accordance with subsection (B)(7). A copy of the plan must be provided to the Office of Regulatory Staff.

(7)(a) If the ~~board~~ department, upon the advice of the compact commission or the site operator, concludes based on information provided to the ~~board~~ department, that the volume of waste to be disposed during a forthcoming period of time does not appear sufficient to generate receipts that will be adequate to reimburse the site operator for its costs of operating the facility and its operating margin, then the ~~board~~ department shall direct the site operator to propose to the compact commission plans including, but not necessarily limited to, a proposal for discontinuing acceptance of waste until such time as there is sufficient waste to cover the site operator's operating costs and operating margin. Any proposal to suspend operations must detail plans of the site operator to minimize its costs during the suspension of operations. Any such proposal to suspend operations must be approved by the Department of Health and Environmental Control with respect to safety and environmental protection.

(b) Allowable costs applicable to any period of suspended operations must be approved by the PSC according to procedures similar to those provided herein for allowable operating costs. During any such suspension of operations, the site operator must be reimbursed by the ~~board~~ department from the extended care maintenance fund for its allowable costs and its operating margin. During the suspension funding to reimburse the ~~board~~ department, the PSC, and the State Treasurer under Section 48-46-60(B) and funding of the compact commission under Section 48-46-60(C) must also be allocated from the extended care maintenance fund as approved by the ~~board~~ department based on revised budgets submitted by the PSC, State Treasurer, and the compact commission.

(c) Notwithstanding any disbursements from the extended care maintenance fund in accordance with any provision of this act, the ~~board~~ department shall continue to ensure, in accordance with Section 13-7-30, that the fund remains adequate to defray the costs for future maintenance costs or custodial and maintenance obligations of the site and other obligations imposed on the fund by this chapter.

(d) The PSC may promulgate regulations and policies necessary to execute the provisions of this section.

(8) The PSC may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of identifying allowable costs associated with waste disposal. The PSC may consider standards, precedents, findings, and decisions in other jurisdictions that regulate allowable costs for radioactive waste disposal.

(9) In all proceedings held pursuant to this section, the ~~board~~ department shall participate as a party representing the interests of the State of South Carolina, and the compact commission may participate as a party representing the interests of the compact states. The Executive Director of the Office of Regulatory Staff and the Attorney General of the State of South Carolina shall be parties to any such proceeding. Representatives from the Department of Health and Environmental Control shall participate in proceedings where necessary to determine or define the activities that a site operator must conduct in

order to comply with the regulations and license conditions imposed by the department. Other parties may participate in the PSC's proceedings upon satisfaction of standing requirements and compliance with the PSC's procedures. Any site operator submitting records and information to the PSC may request that the PSC treat such records and information as confidential and not subject to disclosure in accordance with the PSC's procedures.

(10) In all respects in which the PSC has power and authority under this chapter, it shall conduct its proceedings under the South Carolina Administrative Procedures Act and the PSC's rules and regulations. The PSC is authorized to compel attendance and testimony of a site operator's directors, officers, agents, or employees.

(11) At any time the compact commission, the ~~board~~ department, or any generator subject to payment of rates set pursuant to this chapter may file a petition against a site operator alleging that allowable costs identified pursuant to this chapter are not in conformity with the directives of this chapter or the directives of the PSC or that the site operator is otherwise not acting in conformity with the requirements of this chapter or directives of the PSC. Upon filing of the petition, the PSC shall cause a copy of the petition to be served upon the site operator. The petitioning party has the burden of proving that allowable costs or the actions of the site operator do not conform. The hearing shall conform to the rules of practice and procedure of the PSC for other cases.

(12) The PSC shall encourage alternate forms of dispute resolution including, but not limited to, mediation or arbitration to resolve disputes between a site operator and any other person regarding matters covered by this chapter.

(C) The operator of a regional disposal facility shall submit to the South Carolina Department of Revenue, the PSC, the Office of Regulatory Staff, and the ~~board~~ department within thirty days following the end of each quarter a report detailing actual revenues received in the previous fiscal quarter and allowable costs incurred for operation of the disposal facility.

(D)(1) Within ~~30~~ thirty days following the end of the fiscal year the operator of a regional disposal facility shall submit a payment made payable to the South Carolina Department of Revenue in an amount that is equal to the total revenues received for waste disposed in that fiscal year (with interest accrued on cash flows in accordance with instructions from the State Treasurer) minus allowable costs, operating margin, and any payments already made from such revenues pursuant to Section 48-46-60(B) and (C) for reimbursement of administrative costs to state agencies and the compact commission. The Department of Revenue shall deposit the payment with the State Treasurer.

(2) If in any fiscal year total revenues do not cover allowable costs plus the operating margin, the ~~board~~ department must reimburse the site operator its allowable costs and operating margin from the extended care maintenance fund within thirty days after the end of the fiscal year. The ~~board~~ department shall as soon as practicable authorize a surcharge on waste disposed in an amount that will fully compensate the fund for the reimbursement to the site operator. In the event that total revenues for a fiscal year do not cover allowable costs plus the operating margin, or quarterly reports submitted pursuant to subsection (C) indicate that such annual revenue may be insufficient, the ~~board~~ department shall consult with the compact commission and the site operator as early as practicable on whether the provisions of Section 48-46-40(B)(7) pertaining to suspension of operations during periods of insufficient revenues should be invoked.

(E) Revenues received pursuant to item (1) of subsection (D) must be allocated as follows:

(1) The South Carolina State Treasurer shall distribute the first two million dollars received for waste disposed during a fiscal year to the County Treasurer of Barnwell County for distribution to each of the parties to and beneficiaries of the order of the United States District Court in C.A. No. 1:90-2912-6 on the same schedule of allocation as is established within that order for the distribution of 'payments in lieu of taxes' paid by the United States Department of Energy.

(2) All revenues in excess of two million dollars received from waste disposed during the previous fiscal year must be deposited in a fund called the 'Nuclear Waste Disposal Receipts Distribution Fund'. Any South Carolina waste generator whose disposal fees contributed to the fund during the previous fiscal year may submit a request for a rebate of 33.33 percent of the funds paid by the generator during

the previous fiscal year for disposal of waste at a regional disposal facility. These requests along with invoices or other supporting material must be submitted in writing to the State Treasurer within fifteen days of the end of the fiscal year. For this purpose disposal fees paid by the generator must exclude any fees paid pursuant to Section 48-46-60(C) for compact administration and fees paid pursuant to Section 48-46-60(B) for reimbursement of the PSC, the Office of Regulatory Staff, the State Treasurer, and the ~~board~~ department for administrative expenses under this chapter. Upon validation of the request and supporting documentation by the State Treasurer, the State Treasurer shall issue a rebate of the applicable funds to qualified waste generators within sixty days of the receipt of the request. If funds in the Nuclear Waste Disposal Receipts Distribution Fund are insufficient to provide a rebate of 33.33 percent to each generator, then each generator's rebate must be reduced in proportion to the amount of funds in the account for the applicable fiscal year.

(3) All funds deposited in the Nuclear Waste Disposal Receipts Distribution Fund for waste disposed for each fiscal year, less the amount needed to provide generators rebates pursuant to item (2), shall be deposited by the State Treasurer in the 'Children's Education Endowment Fund'. Thirty percent of these monies must be allocated to Higher Education Scholarship Grants and used as provided in Section 59-143-30, and seventy percent of these monies must be allocated to Public School Facility Assistance and used as provided in Chapter 144 of Title 59.

(F) Effective beginning fiscal year 2001-2002, there is appropriated annually from the general fund of the State to the Higher Education Scholarship Grants share of the Children's Education Endowment whatever amount is necessary to credit to the Higher Education Scholarship Grants share an amount not less than the amount credited to that portion of the endowment in fiscal year 1999-2000. Revenues credited to the endowment pursuant to this subsection, for purposes of Section 59-143-10, are deemed to be received by the endowment pursuant to the former provisions of Section 48-48-140(C)."

GG. Section 48-46-50 of the 1976 Code is amended to read:

"Section 48-46-50. (A) The Governor shall appoint two commissioners to the Atlantic Compact Commission and may appoint up to two alternate commissioners. These alternate commissioners may participate in meetings of the compact commission in lieu of and upon the request of a South Carolina commissioner. Technical representatives from the Department of Health and Environmental Control, the ~~board~~ department, the PSC, and other state agencies may participate in relevant portions of meetings of the compact commission upon the request of a commissioner, alternate commissioner, or staff of the compact commission, or as called for in the compact commission bylaws.

(B) South Carolina commissioners or alternate commissioners to the compact commission may not vote affirmatively on any motion to admit new member states to the compact unless that state volunteers to host a regional disposal facility.

(C) Compact commissioners or alternate commissioners to the Atlantic Compact Commission may not vote to approve a regional management plan or any other plan or policy that allows for acceptance at the Barnwell regional disposal facility of more than a total of 800,000 cubic feet of waste from Connecticut and New Jersey.

(D) South Carolina's commissioners or alternate commissioners to the compact commission shall cast any applicable votes on the compact commission in a manner that authorizes the importation of waste into the region for purposes of disposal at a regional disposal facility in South Carolina so long as importation would not result in the facility accepting more than the following total volumes of all waste:

- (1) 160,000 cubic feet in fiscal year 2001;
- (2) 80,000 cubic feet in fiscal year 2002;
- (3) 70,000 cubic feet in fiscal year 2003;
- (4) 60,000 cubic feet in fiscal year 2004;
- (5) 50,000 cubic feet in fiscal year 2005;
- (6) 45,000 cubic feet in fiscal year 2006;
- (7) 40,000 cubic feet in fiscal year 2007;

(8) 35,000 cubic feet in fiscal year 2008.

South Carolina's commissioners or alternate commissioners shall not vote to approve the importation of waste into the region for purposes of disposal in any fiscal year after 2008."

HH. Section 48-46-60 of the 1976 Code is amended to read:

"Section 48-46-60. (A) The Governor and the ~~board~~ department are authorized to take such actions as are necessary to join the Atlantic Compact including, but not limited to, petitioning the Compact Commission for membership and participating in any and all rulemaking processes. South Carolina's membership in the Atlantic Compact pursuant to this chapter is effective July 1, 2000, if by that date the Governor certifies to the General Assembly that the Compact Commission has taken each of the actions specified below. If the Compact Commission by July 1, 2000, has not taken each of the actions specified below, then South Carolina's membership shall become effective as soon thereafter as the Governor certifies that the Atlantic Compact Commission has taken these actions:

(1) adopted a binding regulation or policy in accordance with Article VII(e) of the compact establishing conditions for admission of a party state that are consistent with this act and ordered that South Carolina be declared eligible to be a party state consistent with those conditions;

(2) adopted a binding regulation or policy in accordance with Article IV(i)(11) of the Atlantic Compact authorizing a host state to enter into agreements on behalf of the compact and consistent with criteria established by the compact commission and consistent with the provisions of Section 48-46-40(A)(6)(a) and Section 48-46-50(D) with any person for the importation of waste into the region for purposes of disposal, to the extent that these agreements do not preclude the disposal facility from accepting all regional waste that can reasonably be projected to require disposal at the regional disposal facility consistent with subitem (5)(b) of this section;

(3) adopted a binding regulation or policy in accordance with Article IV(i)(12) of the Atlantic Compact authorizing each regional generator, at the generator's discretion, to ship waste to disposal facilities located outside the Atlantic Compact region;

(4) authorized South Carolina to proceed with plans to establish disposal rates for low-level radioactive waste disposal in a manner consistent with the procedures described in this chapter;

(5) adopted a binding regulation, policy, or order officially designating South Carolina as a volunteer host state for the region's disposal facility, contingent upon South Carolina's membership in the compact, in accordance with Article V.b.1. of the Atlantic Compact, thereby authorizing the following compensation and incentives to South Carolina:

(a) agreement, as evidenced in a policy, regulation, or order that the compact commission will issue a payment of twelve million dollars to the State of South Carolina. Before issuing the twelve million-dollar payment, the compact commission will deduct and retain from this amount seventy thousand dollars, which will be credited as full payment of South Carolina's membership dues in the Atlantic Compact. The remainder of the twelve million-dollar payment must be credited to an account in the State Treasurer's office, separate and distinct from the fund, styled 'Barnwell Economic Development Fund'. This fund, and earnings on this fund which must be credited to the fund, may only be expended for purposes of economic development in the Barnwell County area including, but not limited to, projects of the Barnwell County Economic Development Corporation and projects of the Tri-County alliance which includes Barnwell, Bamberg, and Allendale Counties and projects in the Williston area of Aiken County. Economic development includes, but is not limited to, industrial recruitment, infrastructure construction, improvement, and expansion, and public facilities construction, improvement, and expansion. These funds must be spent according to guidelines established by the Barnwell County governing body and upon approval of the ~~board~~ department. Expenditures must be authorized by the Barnwell County governing body and with the approval of the ~~board~~ department. Upon approval of the Barnwell County governing body and the ~~board~~ department, the State Treasurer shall submit the approved funds to the Barnwell County Treasurer for disbursement pursuant to the authorization;

(b) adopted a binding regulation, policy, or order consistent with the regional management plan developed pursuant to Article V(a) of the Atlantic Compact, limiting Connecticut and New Jersey to the use of not more than 800,000 cubic feet of disposal capacity at the regional disposal facility located in Barnwell County, South Carolina, and also ensuring that up to 800,000 cubic feet of disposal capacity remains available for use by Connecticut and New Jersey unless this estimate of need is later revised downward by unanimous consent of the compact commission;

(c) agreement, as evidenced in a policy or regulation, that the compact commission headquarters and office will be relocated to South Carolina within six months of South Carolina's membership; and

(d) agreement, as evidenced in a policy or regulation, that the compact commission will, to the extent practicable, hold a majority of its meetings in the host state for the regional disposal facility.

(B) The ~~board~~ department, the State Treasurer, and the PSC shall provide the required staff and may add additional permanent or temporary staff or contract for services, as well as provide for operating expenses, if necessary, to administer new responsibilities assigned under this chapter. In accordance with Article V.f.2. of the Atlantic Compact the compensation, costs, and expenses incurred incident to administering these responsibilities may be paid through a surcharge on waste disposed at regional disposal facilities within the State. To cover these costs the ~~board~~ department shall impose a surcharge per unit of waste received at any regional disposal facility located within the State. A site operator shall collect and remit these fees to the ~~board~~ department in accordance with the ~~board's~~ department's directions. All such surcharges shall be included within the disposal rates set by the ~~board~~ department pursuant to Section 48-46-40.

(C) In accordance with Article V.f.3. of the Atlantic Compact, the compact commission shall advise the ~~board~~ department at least annually, but more frequently if the compact commission deems appropriate, of the compact commission's costs and expenses. To cover these costs the ~~board~~ department shall impose a surcharge per unit of waste received at any regional disposal facility located within the State as determined in Section 48-46-40. A site operator shall collect and remit these fees to the ~~board~~ department in accordance with the ~~board~~ department's directions, and the ~~board~~ department shall remit those fees to the compact commission."

II. Section 48-46-90(A) of the 1976 Code is amended to read:

"(A) In accordance with Section 13-7-30, the ~~board~~ department, or its designee, is responsible for extended custody and maintenance of the Barnwell site following closure and license transfer from the facility operator. The Department of Health and Environmental Control is responsible for continued site monitoring."

JJ. Section 63-11-500(A) of the 1976 Code is amended to read:

"(A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 63-7-1620. This program must be administered by the ~~Office of the Governor~~ Department of Administration."

KK. 1. Section 63-11-700 of the 1976 Code are amended to read:

"Section 63-11-700. (A) There is created, ~~as part of the Office of the Governor,~~ to be administratively a part of the Department of Administration, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of ~~seven~~ eight members, all of whom must be past or present members of local review boards. There must be one member from each congressional district and one member from the State at large, all appointed by the Governor with the advice and consent of the Senate.

(B) Terms of office for the members of the board are for four years and until their successors are appointed and qualify. Appointments must be made by the Governor for terms of four years to expire on June thirtieth of the appropriate year.

(C) The board shall elect from its members a chairman who shall serve for two years. ~~Four~~ Five members of the board constitute a quorum for the transaction of business. Members of the board shall receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees while engaged in the work of the board.

(D) The board shall meet at least quarterly and more frequently upon the call of the division director to review and coordinate the activities of the local review boards and make recommendations to the Governor and the General Assembly with regard to foster care policies, procedures, and deficiencies of public and private agencies which arrange for foster care of children as determined by the review of cases provided for in Section 63-11-720(A)(1) and (2). These recommendations must be submitted to the Governor and included in an annual report, filed with the General Assembly, of the activities of the state office and local review boards.

(E) The board, upon recommendation of the division director, shall promulgate regulations to carry out the provisions of this article. These regulations shall provide for and must be limited to procedures for: reviewing reports and other necessary information at state, county, and private agencies and facilities; scheduling of reviews and notification of interested parties; conducting local review board and board of directors' meetings; disseminating local review board recommendations, including reporting to the appropriate family court judges the status of judicially approved treatment plans; participating and intervening in family court proceedings; and developing policies for summary review of children privately placed in privately-owned facilities or group homes.

(F) The Governor may employ a division director to serve at the Governor's pleasure who may be paid an annual salary to be determined by the Governor. The director may be removed pursuant to Section 1-3-240. The division director shall employ staff as is necessary to carry out this article, and the staff must be compensated in an amount and in a manner as may be determined by the Governor.

(G) This article may not be construed to provide for subpoena authority."

2. Section 63-11-730(A) of the 1976 Code is amended to read:

~~"(A) No person may be employed by the Division for Review of the Foster Care of Children, Office of the Governor, Department of Administration, or may serve on the state or a local foster care review board if the person:~~

(1) is the subject of an indicated report or affirmative determination of abuse or neglect as maintained by the Department of Social Services in the Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7;

(2) has been convicted of or pled guilty or nolo contendere to:

(a) an 'offense against the person' as provided for in Title 16, Chapter 3;

(b) an 'offense against morality or decency' as provided for in Title 16, Chapter 15; or

(c) contributing to the delinquency of a minor, as provided for in Section 16-17-490."

LL. 1. Section 63-11-1110 of the 1976 Code is amended to read:

~~"Section 63-11-1110. There is created the Children's Case Resolution System; to be administratively a part of the Department of Administration and referred to in this article as the System, which is a process of reviewing cases on behalf of children for whom the appropriate public agencies collectively have not provided the necessary services. ~~The System must be housed in and staffed by the Office of the Governor.~~"~~

2. Section 63-11-1140(5), (8), and (9) of the 1976 Code are amended to read:

“(5) when unanimous consent is not obtained as required in item (4), a panel must be convened composed of the following persons:

(a) one public agency board member and one agency head appointed by the Governor. Recommendations for appointments may be submitted by the Human Services Coordinating Council. No member may be appointed who represents any agency involved in the resolution of the case;

(b) one legislator appointed by the Governor; and

(c) two members appointed by the Governor, drawn from a list of qualified individuals not employed by a child-serving public agency, established in advance by the System, who have knowledge of public services for children in South Carolina.

The chairman must be appointed by the Governor from members appointed as provided in subitem (c) of this item. A decision is made by a majority of the panel members present and voting, but in no case may a decision be rendered by less than three members. The panel shall review a case at the earliest possible date after sufficient staff review and evaluation pursuant to items (3) and (4) and shall make a decision by the next scheduled panel meeting. When private services are necessary, financial responsibility must be apportioned among the appropriate public agencies based on the reasons for the private services. Agencies designated by the panel shall carry out the decisions of the panel, but the decisions may not substantially affect the funds appropriated for the designated agency to such a degree that the intent of the General Assembly is changed. Substantial impact of the decisions must be defined by regulations promulgated by the ~~State Budget and Control Board~~ Department of Administration. When the panel identifies similar cases that illustrate a break in the delivery of service to children, either because of restrictions by law or substantial lack of funding, the panel shall report the situation to the General Assembly and subsequently may not accept any similar cases for decision until the General Assembly takes appropriate action, however, the System may continue to perform the functions provided in items (3) and (4).

Each member of the panel is entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions. The respective agency is responsible for the compensation of the members appointed in subitems (a) and (b) of this item, and the System is responsible for the compensation of the members appointed in subitem (c) of this item;

(8) submit an annual report on the activities of the System to the Governor, Director of the Department of Administration, the General Assembly, and agencies designated by the System as relevant to the cases; and

(9) compile and transmit additional reports on the activities of the System; and recommendations for service delivery improvements, as necessary, to the Governor and the Joint Citizens and Legislative Committee on Children.”

MM. 1. Section 44-38-380(A)(1)(h) of the 1976 Code is amended to read:

“(h) Director of the Continuum of Care for Emotionally Disturbed Children ~~Division of the Governor’s Office~~,”

2. Section 63-11-1310 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63-11-1310. It is the purpose of this article to develop and enhance the delivery of services to severely emotionally disturbed children and youth and to ensure that the special needs of this population are met appropriately to the extent possible within this State. To achieve this objective, the Continuum of Care for Emotionally Disturbed Children Division is established as a division in the ~~office of the Governor~~ Department of Administration. This article supplements and does not supplant existing services provided to this population.”

3. Section 63-11-1340 of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“Section 63-11-1340. The Governor may ~~employ~~ appoint a Director of the Continuum of Care to serve at his pleasure who is subject to removal pursuant to the provisions of Section 1-3-240. The director shall employ staff necessary to carry out the provisions of this article. The funds for the division director, staff, and other purposes of the Continuum of Care Division must be provided in the annual general appropriations act. The department, upon the recommendation of the division director, shall ~~may~~ promulgate regulations in accordance with this article and the provisions of the Administrative Procedures Act and formulate necessary policies and procedures of administration and operation to carry out effectively the objectives of this article.”

4. Section 63-11-1360 of the 1976 Code as added by Act 361 of 2008, is amended to read:

~~Division~~ shall submit an annual report to the ~~Governor~~ Department of Administration and General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.”

5. Section 63-11-1510 of the 1976 Code is amended to read:

“Section 63-11-1510. There is established the Interagency System for Caring for Emotionally Disturbed Children, an integrated system of care to be developed by the Continuum of Care for Emotionally Disturbed Children ~~of the Governor’s Office in the Department of Administration~~, the Department of Disabilities and Special Needs, the State Health and Human Services Finance Commission, the Department of Mental Health, and the Department of Social Services to be implemented by November 1, 1994. The goal of the system is to implement South Carolina’s Families First Policy and to support children in a manner that enables them to function in a community setting. The system shall provide assessment and evaluation procedures to insure a proper service plan and placement for each child. This system must have as a key component the clear identification of the agency accountable for monitoring on a regular basis each child’s care plan and procedures to evaluate and certify the programs offered by providers.”

Part VI

Revenue and Fiscal Affairs Office and Other Transfer Provisions

Subpart 1

SECTION 8. Article 1, Chapter 11, Title 1 of the 1976 Code is amended by adding:

“Section 1-11-15. (A) Effective July 1, 2013, the Division of Local Government of the State Budget and Control Board is transferred to, and incorporated into, the South Carolina Rural Infrastructure Authority as established in Section 11-50-30. All functions, powers, duties, responsibilities, and authority vested in the Division of Local Government is devolved upon the South Carolina Rural Infrastructure Authority.

(B) Effective January 1, 2013, the South Carolina Confederate Relic Room and Military Museum is transferred from the State Budget and Control Board and is governed by the South Carolina Confederate Relic Room and Military Museum Commission, as established in Section 60-17-10.

(C) Effective July 1, 2013, the Board of Economic Advisors of the State Budget and Control Board is transferred to the Revenue and Fiscal Affairs Office.

(D) Effective July 1, 2013, the Office of Research and Statistics of the Budget and Control Board is transferred to, and incorporated into the Revenue and Fiscal Affairs Office.

(E) Effective July 1, 2013, the State Energy Office is transferred from the State Budget and Control Board to the Office of Regulatory Staff.

(F) Effective July 1, 2013, the Office of State Auditor is abolished and all of the functions, duties, and responsibilities of the office are transferred to, and incorporated into, the Office of Inspector General. The employees, authorized appropriations, and assets and liabilities of the transferred office are also transferred to and become part of the Office of Inspector General. All classified or unclassified personnel employed by the office on the effective date of this section, either by contract or by employment at will, shall become employees of the Office of Inspector General to which the transfer was made, with the same compensation, classification, and grade level, as applicable.”

Subpart 2

SECTION 9. Chapter 9, Title 11 of the 1976 Code is amended by adding:

“Article 11

Revenue and Fiscal Affairs Office

Section 11-9-1110. (A) Effective July 1, 2013, there is established the Revenue and Fiscal Affairs Office to be governed by the three appointed members of the Board of Economic Advisors pursuant to Section 11-9-820. The office is comprised of the Board of Economic Advisors, Office of Research and Statistics, and the Office of State Budget. The functions of the office must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective, efficient, operation of the office.

(B) The Department of Administration shall provide such administrative support to the Revenue and Fiscal Affairs Office or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

Section 11-9-1120. The Board of Economic Advisors division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of Act ___ of 2012, R. ___, H. 3066.

Section 11-9-1130. (A) The Office of Research and Statistics must be comprised of an Economic Research division and an Office of Precinct Demographics division.

(B) The Economic Research division shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of Act ___ of 2012, R. ___, H. 3066.

(C) The Office of Precinct Demographics shall:

(1) review existing precinct boundaries and maps for accuracy and develop and rewrite descriptions of precincts for submission to the legislative process;

(2) consult with members of the General Assembly or their designees on matters related to precinct construction or discrepancies that may exist or occur in precinct boundary development in the counties they represent;

(3) develop a system for originating and maintaining precinct maps and related data for the State;

(4) represent the General Assembly at public meetings, meetings with members of the General Assembly, and meetings with other state, county, or local governmental entities on matters related to precincts;

(5) assist the appropriate county officials in the drawing of maps and writing of descriptions or precincts preliminary to these maps and descriptions being filed in this office for submission to the United States Department of Justice;

(6) coordinate with the Census Bureau in the use of precinct boundaries in constructing census boundaries and the identification of effective uses of precinct and census information for planning purposes; and

(7) serve as a focal point for verifying official precinct information for the counties of South Carolina.

Section 11-9-1140. The Office of State Budget division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of Act ___ of 2012, R. ___, H. 3066.”

Subpart 3

SECTION 10. Section 11-9-820(A), (B), and (C) of the 1976 Code are amended to read:

“(A)(1)There is created the Board of Economic Advisors, a division of the Revenue and Fiscal Affairs Office, as follows:

(1)(a) one member, appointed by, and serving at the pleasure of, the Governor, who shall serve as chairman and shall receive annual compensation of ten thousand dollars;

(2)(b) one member appointed by, and serving at the pleasure of, the Chairman of the Senate Finance Committee, who shall receive annual compensation of eight thousand dollars;

(3)(c) one member appointed by, and serving at the pleasure of, the Chairman of the Ways and Means Committee of the House of Representatives, who shall receive annual compensation of eight thousand dollars;

(4)(d) the Director of the Department of Revenue, who shall serve ex officio, with no voting rights.

(2) The board shall unanimously select an Executive Director of the Revenue and Fiscal Affairs Office who shall serve a four-year term. The executive director may only be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the board. The executive director shall have the authority and perform the duties prescribed by law and as may be directed by the board.

(B) The Chairman of the Board of Economic Advisors shall report directly to the ~~Budget and Control Board~~ Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee to establish policy governing economic trend analysis. The Board of Economic Advisors shall provide for its staffing and administrative support from funds appropriated by the General Assembly.

(C) The Executive Director of the ~~Budget and Control Board~~ Revenue and Fiscal Affairs Office shall assist the Governor, Chairman of the Board of Economic Advisors, Chairman of the Senate Finance Committee, and Chairman of the Ways and Means Committee of the House of Representatives in providing an effective system for compiling and maintaining current and reliable economic data. The Board of Economic Advisors may establish an advisory board to assist in carrying out its duties and responsibilities. All state agencies, departments, institutions, and divisions shall provide the information and data the advisory board requires. The Board of Economic Advisors is considered a public body for purposes of the Freedom of Information Act, pursuant to Section 30-4-20(a).”

SECTION 11. Sections 11-9-825 and 11-9-830 of the 1976 Code are amended to read:

“Section 11-9-825. The staff of the Board of Economic Advisors must be supplemented by the following officials who each shall designate one professional from their individual staffs to assist the

BEA staff on a regular basis: the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and the State Department of Revenue Chairman, ~~and the Director of the Budget Division of the Budget and Control Board~~. The BEA staff shall meet monthly with these designees in order to solicit their input.

Section 11-9-830. In order to provide a more effective system of providing advice to the ~~Budget and Control Board~~ Governor and the General Assembly on economic trends, the Board of Economic Advisors shall:

- (1) compile and maintain in a unified, concise, and orderly form information about total revenues and expenditures which involve the funding of state government operations, revenues received by the State which comprise general revenue sources of all receipts to include amounts borrowed, federal grants, earnings, and the various activities accounted for in other funds;
- (2) continuously review and evaluate total revenues and expenditures to determine the extent to which they meet fiscal plan forecasts/projections;
- (3) evaluate federal revenues in terms of impact on state programs;
- (4) compile economic, social, and demographic data for use in the publishing of economic scenarios for incorporation into the development of the state budget;
- (5) bring to the attention of the Governor and the General Assembly the effectiveness, or lack thereof, of the economic trends and the impact on statewide policies and priorities;
- (6) establish liaison with the Congressional Budget Office and the Office of Management and Budget at the national level.”

SECTION 12. Section 11-9-880(C) of the 1976 Code is amended to read:

“(C) All forecasts, adjusted forecasts, and reports of the Board of Economic Advisors, including the synopsis of the current year’s review as required by subsection (B), must be published and reported to the Governor, ~~the members of the Budget and Control Board~~, the members of the General Assembly, and made available to the news media.”

SECTION 13. Section 11-9-890B. of the 1976 Code is amended to read:

“B. (1) If at the end of the first, second, or third quarter of any fiscal year ~~quarterly revenue collections are two percent or more below the amount projected for that quarter by the Board of Economic Advisors~~ reduces the revenue forecast for the fiscal year by three percent or less below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, the State Budget and Control Board, within seven ~~three~~ days of that determination, ~~shall take action to avoid a year-end deficit. Notwithstanding Section 1-11-495, if the State Budget and Control Board does not take unanimous action within seven days,~~ the Director of the ~~Office of State~~ Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the ~~Office of State~~ Executive Budget Office immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the ~~Office of State~~ Executive Budget Office. A reduction of rate of expenditure by the Director of the ~~Office of State~~ Executive Budget Office, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.

(2) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by more than three percent below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal

year is ratified, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may call each respective house into session to take action to avoid a year-end deficit. If the General Assembly has not taken action within twenty days of the determination of the Board of Economic Advisors, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law and in accordance with item (1) of this subsection.”

SECTION 14. A. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 79

State Agency Deficit Prevention and Recognition

Section 2-79-10. This chapter may be cited as the ‘State Agency Deficit Prevention and Recognition Act’.

Section 2-79-20. It is the responsibility of each state agency, department, and institution to operate within the limits of appropriations set forth in the annual general appropriations act, appropriation acts, or joint resolution supplemental thereto, and any other approved expenditures of monies. A state agency, department, or institution shall not operate in a manner that results in a year-end deficit except as provided in this chapter.

Section 2-79-30. If at the end of each quarterly deficit monitoring review by the Executive Budget Office, it is determined by either the Executive Budget Office or a state agency, department, or institution that the likelihood of a deficit for the current fiscal year exists, the state agency shall notify the General Assembly within fifteen days of this determination and shall further request the Executive Budget Office to work with it to develop a plan to avoid the deficit. Within fifteen days of the deficit avoidance plan being completed, the Executive Budget Office shall either request the General Assembly to recognize the deficit in the manner provided in this chapter if it determines the deficit avoidance plan will not be sufficient to avoid a deficit or notify the General Assembly of how the deficit will be avoided based on the deficit avoidance plan if the Executive Budget Office determines the plan will be sufficient to avoid a deficit.

Section 2-79-40. (A) Upon notification from the Executive Budget Office as provided in Section 2-79-30 that an agency will run a deficit and requesting that it be recognized, the General Assembly, by joint resolution, may make a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the state agency, department, or institution, and recognize the deficit. Any legislation to recognize a deficit must be in a separate joint resolution enacted for the sole purpose of recognizing the deficit of a particular state agency, department, or institution. A deficit only may be recognized by an affirmative vote of each branch of the General Assembly.

(B) If the General Assembly recognizes the deficit, then the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the General Reserve Fund and the Capital Reserve Fund, as required by the Constitution of this State.

Section 2-79-50. Once a deficit has been recognized by the General Assembly, the state agency, department, or institution shall limit travel and conference attendance to that which is deemed essential by the director of the agency, department, or institution. In addition, the General Assembly, when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles must be approved by the Executive Budget Office.”

B. Section 1-11-495 of the 1976 Code, as last amended by Act 152 of 2010, is repealed.

Subpart 4

SECTION 15. Section 2-7-72 of the 1976 Code is amended to read:

“Section 2-7-72. Whenever a bill or resolution is introduced in the General Assembly requiring the expenditure of funds, the principal author shall affix a statement of estimated fiscal impact and cost of the proposed legislation. Before reporting the bill out of committee, if the amount is substantially different from the original estimate, the committee shall attach a statement of estimated fiscal impact to the bill signed by the Executive Director of the State Budget Division of the State Budget and Control Board Revenue and Fiscal Affairs Office or his designee. As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.”

SECTION 16. Section 2-7-73 of the 1976 Code is amended to read:

“Section 2-7-73. (A) Any bill or resolution which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must have attached to it a statement of the financial impact of the coverage, according to the guidelines enumerated in subsection (B). This financial impact analysis must be conducted by the Division of Research and Statistical Services Revenue and Fiscal Affairs Office and signed by an authorized agent of the Department of Insurance, or his designee. The statement required by this section must be delivered to the Senate or House committee to which any bill or resolution is referred, within thirty days of the written request of the chairman of such committee.

(B) Guidelines for assessing the financial impact of proposed mandated or mandatorily offered health coverage to the extent that information is available, must include, but are not limited to, the following:

- (1) to what extent does the coverage increase or decrease the cost of treatment or services;
- (2) to what extent does the coverage increase or decrease the use of treatment or service;
- (3) to what extent does the mandated treatment or service substitute for more expensive treatment or service;
- (4) to what extent does the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and
- (5) what is the impact of this coverage on the total cost of health care.”

SECTION 17. Section 2-7-74 of the 1976 Code is amended to read:

“Section 2-7-74. (A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Office of State Budget Revenue and Fiscal Affairs Office shall assist in preparing the fiscal impact statement.

(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Office of State Budget Revenue and Fiscal Affairs Office. The Office of State Budget Revenue and Fiscal Affairs Office shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Office of State Budget Revenue and Fiscal Affairs Office requests an extension of time. The Office of State Budget Revenue and Fiscal Affairs Office shall not unreasonably delay the delivery of a fiscal impact statement.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the ~~Office of State Budget~~ Revenue and Fiscal Affairs Office and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the ~~Office of State Budget~~ Revenue and Fiscal Affairs Office in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the ~~Office of State Budget~~ Revenue and Fiscal Affairs Office in a timely fashion.

(G) In preparing fiscal impact statements, the ~~Office of State Budget~~ Revenue and Fiscal Affairs Office shall consider and evaluate information as submitted by state agencies and political subdivisions. The ~~Office of State Budget~~ Revenue and Fiscal Affairs Office shall provide to the requesting Senate or House of Representatives committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the ~~Office of State Budget~~ Revenue and Fiscal Affairs Office.

(H) The ~~Office of State Budget~~ Revenue and Fiscal Affairs Office may request information from nongovernmental agencies and organizations to assist in preparing the fiscal impact statement.”

SECTION 18. Section 2-7-76 of the 1976 Code is amended to read:

“Section 2-7-76. (A) The chairman of the legislative committee to which a bill or resolution was referred shall direct the ~~Budget Division or the Economic Research Section of the Budget and Control Board, as appropriate,~~ Revenue and Fiscal Affairs Office to prepare and affix to it a statement of the estimated fiscal ~~or~~ and revenue impact and cost to the counties and municipalities of the proposed legislation before the legislation is reported out of that committee if a bill or resolution:

(1) requires a county or municipality to expend funds allocated to the county or municipality pursuant to Chapter 27 of Title 6;

(2) is introduced in the General Assembly to require the expenditure of funds by a county or municipality;

(3) requires the use of county or municipal personnel, facilities, or equipment to implement a general law or regulations promulgated pursuant to a general law; or

(4) relates to taxes imposed by political subdivisions.

(B) A revised estimated fiscal ~~or~~ and revenue impact and cost statement must be prepared at the direction of the presiding officer of the House of Representatives or the Senate by the ~~Budget Division or Economic Research Section of the Budget and Control Board~~ Revenue and Fiscal Affairs Office before third reading of the bill or resolution, if there is a significant amendment to the bill or resolution.

(C) For purposes of this section, ‘political subdivision’ means a county, municipality, school district, special purpose district, public service district, or consolidated political subdivision.”

Subpart 5

SECTION 19. Section 48-52-410 of the 1976 Code is amended to read:

“Section 48-52-410. There is established the State Energy Office within the ~~State Budget and Control Board~~ Office of Regulatory Staff which shall serve as the principal energy planning entity for the State. Its primary purpose is to develop and implement a well-balanced energy strategy and to increase the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The State Energy Office must not function as a regulatory body.”

SECTION 20. Section 48-52-440 of the 1976 Code is amended to read:

~~“Section 48-52-440. There is established the Energy Advisory Committee, whose members are appointed by the State Budget and Control Board, except as provided in item (14) of this section. Members shall serve at the pleasure of the State Budget and Control Board except that those appointed pursuant to item (14) shall serve for a term coterminous with that of their appointing authority. The committee is composed as follows:~~

- ~~(1) two representatives of investor owned electricity companies;~~
- ~~(2) two representatives of electric cooperatives;~~
- ~~(3) one representative of the South Carolina Public Service Authority, who shall serve ex officio;~~
- ~~(4) one representative of municipally owned electric utilities;~~
- ~~(5) one representative of publicly owned natural gas companies;~~
- ~~(6) one representative of investor owned gas companies;~~
- ~~(7) one representative of oil suppliers or dealers;~~
- ~~(8) one representative of propane suppliers or dealers;~~
- ~~(9) one representative of nonprofit public transportation providers;~~
- ~~(10) two representatives of industrial consumers;~~
- ~~(11) two representatives of commercial consumers;~~
- ~~(12) two representatives of individual consumers; one must be the Executive Director of the Office of Regulatory Staff or his designee, who shall serve ex officio;~~
- ~~(13) two representatives of environmental groups; and~~
- ~~(14) one at large member appointed by the Governor.~~

~~The Budget and Control Board shall elect one of the committee members to serve as chairman. The members of the Energy Advisory Committee are not eligible for per diem payments or for reimbursement for lodging or meals. The functions of the Energy Advisory Committee are advisory to the State Energy Office. The committee shall meet at least annually and at the call of the chair or at the request of at least six members to receive information on the activities of the State Energy Office and the formulation and implementation of the state energy action plan. It may comment and advise on the activities and the plan as considered appropriate by members of the committee. The State Energy Office may seek advice and guidance from the committee as considered appropriate by the director of the office. Members shall adopt rules governing meeting attendance and abide by these rules.~~

~~(A) All funds allocated or directed to this State by the federal government relating to energy planning, energy conservation, and energy efficiency must be allocated or directed to the State Energy Office in the Office of Regulatory Staff to be distributed in accordance with the provisions of this section; provided, however, that no funding from the following federal programs is subject to the provisions of this section:~~

~~(1) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low-Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005, which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies; or~~

~~(2) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.~~

~~Nothing in this section changes the exclusive administration of the Low Income Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the~~

Department of Administration's Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(B) All funds described in subsection (A) that are not exempted by items (1) and (2) of subsection (A) must be distributed by the State Energy Office in the Office of Regulatory Staff in accordance with all requirements of federal law associated with these funds. Persons seeking to obtain funding for energy related programs must submit to the State Energy Office a plan for the use of the funds in a manner consistent with the provisions of this section.

(C) Upon receipt of the plans required by subsection (B), the State Energy Office of the Office of Regulatory Staff must prepare an analysis of the plans and their consistency with the provisions of this section and submit that analysis to the Department Advisory Council for its review and recommendations.

(D) There is hereby created in the Office of Regulatory Staff the Energy Advisory Council, which will advise the State Energy Office on all matters for which the State Energy Office is responsible and specifically with respect to its review of the annual plans required to be submitted pursuant to this section. The Advisory Council shall be composed of nine members as follows:

(1) three appointed by the Governor, one of whom must have a substantial background in environmental or consumer protection matters;

(2) three appointed by the President Pro Tempore of the Senate, one of whom must have a substantial background in environmental or consumer protection matters; and

(3) three appointed by the Speaker of the House of Representatives, one of whom must have a substantial background in environmental or consumer protection matters.

All appointees must have backgrounds in environmental issues; the electricity, transportation, or natural gas industries; or economic development related to these sectors.

(E) In evaluating the plans required by this section, the Advisory Council shall consider the extent to which the plans allocate funds in a cost effective manner and promote the following alternative sources of domestic energy or avoidance of consumption of energy:

(1) the development of energy efficiency and conservation;

(2) renewable sources of energy, including wind power, solar power, energy from biomass sources, and energy storage;

(3) nuclear energy; and

(4) alternative fuels or power sources for the transportation sector.

In considering the cost-effectiveness of the plans the Advisory Council must consider the cost of the proposed measures as to the expected useful life of the measures being proposed and the impact of the proposed measures on consumers. For each proposed plan, the Advisory Council must consider the value of the avoided cost of complying with anticipated state and federal environmental regulations.

(F) Upon completion of its review of plans submitted in compliance with this section, the Advisory Council must prepare a report describing the results of its review and submit copies of that report to the State Energy Office of the Office of Regulatory Staff and the Public Utility Review Committee of Article 5 of Chapter 3 of Title 58.

(G) The Executive Director of the Office of Regulatory Staff shall make the final determinations of distributions of funds as required by this section, taking into account the recommendations of the Advisory Council. Grant awards shall be made in a manner consistent with this section."

SECTION 21. Section 48-52-460 of the 1976 Code is amended to read:

"Section 48-52-460. The establishment of the State Energy Office within the ~~State Budget and Control Board~~ Office of Regulatory Staff, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing."

SECTION 22. Section 48-52-635 of the 1976 Code is amended to read:

“Section 48-52-635. Pursuant to Section 48-52-630, an agency’s savings realized in the prior fiscal year from implementing an energy conservation measure as compared to a baseline energy use as certified by the State Energy Office, may be retained and carried forward into the current fiscal year. This savings, as certified by the State Energy Office, must first be used for debt retirement of capital expenditures, if any, on the energy conservation measure, after which time savings may be used for agency operational purposes and where practical, reinvested into energy conservation areas. The agency must report all actual savings in the energy portion of its annual report to the ~~State Budget and Control Board~~ Office of Regulatory Staff.”

SECTION 23. Section 48-52-680 of the 1976 Code is amended to read:

“Section 48-52-680. (A) The State Energy Office shall assist the Materials Management Office as established in Section 11-35-810 and all governmental bodies defined in and subject to the Consolidated Procurement Code, by identifying goods which are ‘energy efficient’ or for which the State can achieve long-term savings through consideration of life cycle costs. The State Energy Office must compile a list of these goods. Before issuing any solicitation for these goods, the procuring agency shall notify the State Energy Office which shall assist in drafting or reviewing specifications for the goods being procured and which shall approve the specifications before issuing the solicitation. Upon request of a governmental body the State Energy Office shall provide assistance in evaluating bids or offers received in response to the solicitation to ensure that procurements are made in accordance with the purposes and policies of this article.

(B) The State Energy Office shall assist the Office of the State Engineer and all governmental bodies defined in and subject to the Consolidated Procurement Code by drafting energy conservation standards to be applied in the design and construction of buildings that are owned or lease/purchased by these governmental bodies. Before any construction contracts are bid under Section 11-35-3020, the State Engineer’s Office or the governmental body soliciting the bids shall review the plans and specifications to ensure that they are in compliance with the standards drafted by the State Energy Office. The State Energy Office shall provide assistance in reviewing these plans and specifications upon the request of the State Engineer’s Office or the affected governmental body.

(C) The State Energy Office shall provide the ~~Office of Property Management of the Budget and Control Board~~, Division of General Services of the Department of Administration, information to be used in evaluating energy costs for buildings or portions of buildings proposed to be leased by governmental bodies that are defined in and subject to the Consolidated Procurement Code. The information provided must be considered with the other criteria provided by law by a governmental body before entering into a real property lease.”

Subpart 6

SECTION 24. A. Section 1-11-25 of the 1976 Code is amended to read:

“Section 1-11-25. There is hereby established a Local Government Division within the State ~~Budget and Control Board~~ Rural Infrastructure Authority to act as a liaison for financial grants ~~among local governments, the General Assembly and the Governor’s Office~~ from the funds available to the authority. The division shall be under the supervision of a director who shall be appointed by and who shall serve at the pleasure of the ~~Budget and Control Board~~ Director of the Rural Infrastructure Authority ~~and whose compensation shall be as provided for by the General Assembly.~~ He may employ such staff as may be approved by the ~~board~~ Director of the Rural Infrastructure Authority. The division shall be responsible for certifying grants to local governments from both federal and state funds. The term ‘local government’ shall mean any political entity below the state level. Notwithstanding the fact that the Local Government Division is now a part of the State Rural Infrastructure Authority, where certain grants of the division

depending upon their funding source require additional approvals other than the division and the authority before they may be made, those additional approvals must also be secured.

The division shall establish guidelines and procedures which ~~local governments~~ public entities shall follow in applying for grants ~~certified by the division~~. The director shall make known to ~~local governments~~ these entities the availability of all grants available through the ~~division~~ authority and shall make periodic reports to ~~the Budget and Control Board~~, the General Assembly and the Governor's Office. The reports shall contain information concerning the amount of funds available from both federal and state sources, requests for grants and the status of such requests and such other information as the director may deem appropriate. The director shall maintain such records as may be necessary for the efficient operation of the office.

~~The Division of Administration, under contractual agreement, shall furnish the Local Government Division such accounting service support as may be requested."~~

B. Section 1-11-26 of the 1976 Code is amended to read:

"Section 1-11-26. (A) Grant funds received by a ~~county, municipality, political subdivision, or other public~~ entity from the ~~Division of Local Government of the State Budget and Control Board~~ Rural Infrastructure Authority must be deposited in a separate fund and may not be commingled with other funds, including other grant funds. Disbursements may be made from this fund only on the written authorization of the individual who signed the grant application filed with the division, or his successor, and only for the purposes specified in the grant application. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for six months, or both.

(B) It is not a defense to an indictment alleging a violation of this section that grant funds received ~~from the Division of Local Government~~ were used by a grantee or subgrantee for governmental purposes other than those specified in the grant application or that the purpose for which the grant was made ~~by the Division of Local Government~~ was accomplished by funds other than grant funds.

(C) The Division of Local Government of the State ~~Budget and Control Board~~ Rural Infrastructure Authority shall furnish a copy of this section to a grantee when the grant is awarded."

C. Section 11-50-50 of the 1976 Code is amended to read:

"Section 11-50-50. (A) The board of directors is the governing board of the authority. The board consists of ~~seven~~ eight voting directors appointed as follows:

(1) ~~six~~ seven members who reside in counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and ~~two~~ three appointed by the Governor, one of which must be selected from three candidates recommended by the Municipal Association of South Carolina, one must be selected from three candidates recommended by the South Carolina Association of Counties, and one must be selected from three candidates recommended by the South Carolina Rural Water Association; and

(2) the Secretary of Commerce, ex officio, who shall serve as chairman.

(B) ~~Appointed members~~ Members shall serve for terms of four years and until their successors are appointed and qualify except that of the members first appointed by the Speaker of the House, President Pro Tempore of the Senate, and one of the members first appointed by the Governor, the member shall serve for a term of two years and the term must be noted on the appointment. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions."

D. Section 11-50-60(A)(15) of the 1976 Code is amended to read:

“(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the authority and may hire a director for the authority, so long as one of the gubernatorial appointees and three of the legislative appointees vote in favor of the hiring;”

E. Chapter 50, Title 11 of the 1976 Code is amended by adding:

“Section 11-50-65. The Department of Administration shall provide such administrative support to the State Rural Infrastructure Authority or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.”

F. 1. Notwithstanding Section 12-10-85, the Department of Revenue is authorized to deposit revenues from the Rural Infrastructure Fund in excess of twelve million dollars to the South Carolina Rural Infrastructure Fund under the South Carolina Rural Infrastructure Authority. Any revenues in excess of seventeen million dollars shall be deposited in the Rural Infrastructure Fund under the Department of Commerce, Coordinating Council.”

2. The State Budget and Control Board shall transfer all the funds in the South Carolina Rural Infrastructure Bank Trust Fund, created by Act 115 of 2005, to the South Carolina Rural Infrastructure Fund, authorized by Act 171 of 2010.

Subpart 7

SECTION 25. A. Chapter 17, Title 60 of the 1976 Code is amended by adding:

“CHAPTER 17

South Carolina Confederate Relic Room and Military Museum Commission

Section 60-17-10. (A) Effective July 1, 2013, the South Carolina Confederate Relic Room and Military Museum Commission is established and must be composed of nine voting members who shall be appointed for terms of four years and until their successors are appointed and qualify, except as specified in subsection (B) for initial terms. The members of the board shall be appointed as follows:

- (1) three members appointed by the Governor;
- (2) two members appointed by the President Pro Tempore of the Senate;
- (3) one member appointed by the President Pro Tempore of the Senate upon the recommendation of the South Carolina Division Commander of the Sons of Confederate Veterans;
- (4) two members appointed by the Speaker of the House of Representatives; and
- (5) one member appointed by the Speaker of the House of Representatives upon the recommendation of the President of the South Carolina Division of the United Daughters of the Confederacy.

(B) Initially, in order to stagger terms:

- (1) one member appointed by the Governor shall serve a term of one year;
- (2) one member appointed by the Governor shall serve a term of two years;
- (3) one member appointed by the Governor shall serve for three years;
- (4) one member appointed by the President Pro Tempore of the Senate shall serve for one year;
- (5) one member appointed by the President Pro Tempore of the Senate shall serve for two years;
- (6) one member appointed by the President Pro Tempore of the Senate shall serve for three years;

- (7) one member appointed by the Speaker of the House of Representatives shall serve for one year;
- (8) one member appointed by the Speaker of the House of Representatives shall serve for two years; and
- (9) one member appointed by the Speaker of the House of Representatives shall serve for three years.

At the expiration of these initial terms, successors must be appointed for terms of four years.

Section 60-17-20. (A) The South Carolina Confederate Relic Room and Military Museum is authorized to supplement its state appropriations by receiving donations of funds and artifacts and admission fees and to expend these donations and fees to support its operations and for the acquisition, restoration, preservation, and display of its collection.

(B) The South Carolina Confederate Relic Room and Military Museum is authorized to collect, retain, and expend fees from research and photographic processing requests and from the sale of promotional items.

Section 60-17-30. No artifacts owned by the State in the permanent collections of the South Carolina Confederate Relic Room and Military Museum may be permanently removed or disposed of except by a Concurrent Resolution of the General Assembly.

Section 60-17-40. The Director of the South Carolina Confederate Relic Room and Military Museum must be selected by the South Carolina Confederate Relic Room and Military Museum Commission after consultation with the South Carolina Division Commander of the Sons of the Confederate Veterans and the President of the South Carolina Chapter of the United Daughters of the Confederacy. The director shall serve at the pleasure of the commission.”

B. Article 7, Chapter 11, Title 1 of the 1976 Code is repealed.

Part VII

State Contracts and Accountability Authority and Related EIP, Retirement, Bond, and Procurement Provisions

Subpart 1

SECTION 26. Title 11 of the 1976 Code is amended by adding:

“CHAPTER 55

State Contracts and Accountability Authority

Section 11-55-10. (A) There is established the State Contracts and Accountability Authority (SCAA) consisting of seven members as follows:

- (1) the Governor, who shall serve as ex officio as chairman;
- (2) the State Treasurer, who shall serve ex officio;
- (3) the Comptroller General, who shall serve ex officio;
- (4) one member of the House of Representatives, ex officio; and
- (5) one member of the Senate, ex officio/

Members shall serve at the pleasure of their appointing authority. Vacancies must be filled in the manner of the original appointment. Members shall serve without compensation, but shall receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(B)(1) The SCAA shall select an executive director who in turn shall employ other staff under the direction of the SCAA as necessary for the operations of the SCAA.

(2) The executive director shall serve a four-year term. The executive director may only be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the SCAA. The executive director shall have that responsibility and perform the duties prescribed by law and as may be directed by the SCAA.

(3) The General Assembly, in the annual general appropriations act, shall appropriate those funds necessary for the operations of the SCAA except that, to the extent that operational expenses of the SCAA are attributable to carrying out its functions provided pursuant to Title 9, as determined by SCAA, those expenses must be paid from funds of the South Carolina Retirement System.

(C) The SCAA may organize its staff as it considers most appropriate to carry out the various functions, powers, duties, responsibilities, and authority assigned to it.

(D) The Department of Administration shall provide such administrative support to the State Contracts and Accountability Authority or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

Section 11-55-20. (A) The functions and duties of the State Budget and Control Board pursuant to Section 1-11-710(A)(2), (3), and (4), (B) and (C) as those subsections existed as of June 30, 2013, with respect to the operations of the various state insurance plans and variants of such plans are devolved effective July 1, 2013, upon SCAA.

(B)(1) Effective July 1, 2013, all of the functions, powers, and duties of the State Budget and Control Board, pursuant to Title 9 as that title existed June 30, 2013, are devolved upon the SCAA in the following particulars:

(a) as trustee of the retirement systems established pursuant to Title 9;

(b) as the entity charged by law with maintaining the financial soundness of the retirement systems established by that title with respect to all actuarial assumptions, and adjusting contributions to the system so as to ensure that the amortization periods for meeting the unfunded liabilities of the retirement systems established by that title do not exceed thirty years. The annual rate of return for the investments of the various retirement systems must be established by the General Assembly by general law.

(2) The SCAA shall receive and provide to members of the General Assembly the annual valuation reports for the state retirement systems established pursuant to Title 9 no later than January tenth of each year. If those reports are that the unfunded liabilities of a particular system as currently constituted cannot be amortized within thirty years, and if the General Assembly fails to enact system changes to achieve that amortization schedule by the following March first, then SCAA shall increase employer and employee contributions, as applicable, to the affected system, in an amount sufficient to maintain a thirty year amortization schedule for that system. After June 30, 2013, and notwithstanding provisions of Chapters 1 and 11, Title 9, relating to the setting of employer and employee contributions required for the South Carolina Retirement System (SCRS) and the South Carolina Police Officers Retirement System (SCPORS), by statute or administratively, the State Contracts and Accountability Authority, in maintaining the required amortization schedule as required pursuant to this item, shall increase SCRS and SCPORS employer and employee contributions in equal percentages of earnable compensation in an amount sufficient to maintain the thirty year amortization schedule. The SCRS and SCPORS employer and employee contribution rates in effect on June 30, 2013, continue to apply and constitute the base on which adjustments made pursuant to this item apply. The SCAA may not decrease contribution rates. Changes in contribution rates for SCRS and SCPORS other than as provided pursuant to this item may be made only by the General Assembly by general law.

(3) Except as provided in items (1) and (2) of this subsection, the administration of the retirement systems established by that Title 9 is devolved on the Department of Administration effective July 1, 2013.

(C)(1) There is established within SCAA the Office of Accountability and Auditing. Included in this office is the Office of the State Inspector General as established pursuant to Chapter 6, Title 1.

(2) The Office of Accountability and Auditing also shall be the body that shall receive annual accountability reports pursuant to Article 13, Chapter 1, Title 1.

Section 11-55-30. In the course of conducting and managing state affairs where a matter arises which would under prior precedents and practices be referred to the former Budget and Control Board for decision, although the procedure for the decision is not specifically provided for by general law, the matter instead shall be referred to and decided by the SCAA.”

Subpart 2

SECTION 27. A. Chapter 11, Title 1 of the 1976 Code is amended by adding:

“Section 1-11-30. (A) There is established the Bond Review Authority comprised of the Governor, ex officio, who shall be chairman, the State Treasurer, ex officio, the Comptroller General, ex officio, one Senator selected by the Senate who shall serve ex officio, and one member of the House of Representatives selected by the House of Representatives who shall serve ex officio.

(B)(1) The Bond Review Authority shall exercise all functions, powers, duties, responsibilities, and authority related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law, except for the functions, powers, duties, responsibilities, and authority vested in the Joint Bond Review Committee.

(2) Bonded indebtedness issued by the South Carolina Jobs - Economic Development Authority (JEDA) requires approval by the authority as provided in Chapter 43, Title 41. Bonded indebtedness issued pursuant to this item does not constitute nor give rise to a pecuniary liability to the State or a charge against the credit or taxing powers of the State.

(C) The authority may employ and organize its staff as it deems most appropriate to carry out the various functions, powers, duties, responsibilities, and authority assigned to it.

(D) The authority shall establish criteria, upon consultation with the Joint Bond Review Committee, to apply to the review and approval process.”

B. Chapter 47, Title 2 of the 1976 Code is amended to read:

“CHAPTER 47

Joint Bond Review Committee

Section 2-47-10. The General Assembly finds that a need exists for careful planning of permanent improvements and of the utilization of state general obligation and institutional bond authority in order to ensure the continued favorable bond credit rating our State has historically enjoyed. It further finds that the responsibility for ~~proper~~ management of these matters is properly placed upon the ~~General Assembly by our State Constitution~~ legislative and executive branches of government. It is the purpose of this ~~resolution~~ act to further ensure the proper legislative and executive response in the fulfillment of this responsibility.

Section 2-47-15. Where the amount of a permanent improvement project is five hundred thousand dollars or less and the applicable enabling statute or the general law relating to the project or the issuance of bonds or funding relating to the project requires both the review of the Joint Bond Review Committee and the approval by the former Budget and Control Board, the responsibility of the former Budget and Control Board, in this regard, is devolved upon the Director of the Department of Administration (department). Where the amount of the project or funding exceeds five hundred thousand dollars, the

responsibility of the former Budget and Control Board, in this regard, is devolved upon the Bond Review Authority with no prior approval required on the part of the department.

Section 2-47-20. There is hereby created a six member joint committee of the General Assembly to be known as the Joint Bond Review Committee to study and monitor policies and procedures relating to the approval of permanent improvement projects and to the issuance of state general obligation and institutional bonds; to evaluate the effect of current and past policies on the bond credit rating of the State; and provide advisory assistance in the establishment of future capital management policies. Three members shall be appointed from the Senate Finance Committee by the chairman thereof and three from the Ways and Means Committee of the House of Representatives by the chairman of that committee ~~correspond~~ corresponding to the terms for which they are elected to the General Assembly. The committee shall elect officers of the committee, but any person so elected may succeed himself if elected to do so.

The expenses of the committee shall be paid from approved accounts of both houses. The Legislative Council and all other legislative staff organizations shall provide such assistance as the joint committee may request.

Section 2-47-25. In addition to the members provided for by Section 2-47-20, two additional members shall be appointed by the Chairman of the Ways and Means Committee of the House of Representatives from the membership of that body. Two additional members shall be appointed by the Chairman of the Finance Committee of the Senate from the membership of the Senate. Members shall serve the same terms as the members of the committee provided for in Section 2-47-20.

Section 2-47-30. The committee is specifically charged with, but not limited to, the following responsibilities:

(1) To review, prior to approval by the ~~Budget and Control Board~~ authority or the director of the department, as appropriate, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly.

(2) To study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues.

(3) To recommend priorities of future bond issuance based on the social and economic needs of the State.

(4) To recommend prudent limitations of bond obligations related to present and future revenue estimates.

(5) To consult with independent bond counsel and other nonlegislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short- and long-term recommendations for the General Assembly.

(6) To carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the ~~Budget and Control Board~~ authority and the department.

(7) To report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.

Section 2-47-35. No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the ~~Budget and Control Board~~ authority or the department, establishes priorities for the funding of the projects within their area of responsibility. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.

Section 2-47-40. (A) To assist the ~~State Budget and Control Board (the Board)~~ authority, the department, and the Joint Bond Review Committee ~~(the Committee)~~ in carrying out their respective

responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the Board authority or department, whichever is responsible for approving the project, in such form and at such times as the Board authority or department, after review by the committee, may prescribe:

- (a)(1) a complete description of the proposed project;
- (b)(2) a statement of justification for the proposed project;
- (c)(3) a statement of the purposes and intended uses of the proposed project;
- (d)(4) the estimated total cost of the proposed project;
- (e)(5) an estimate of the additional future annual operating costs associated with the proposed project;
- (f)(6) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project;
- (g)(7) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and
- (h)(8) the specification of the priority of each project among those proposed.

(B) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the Board authority or department, whichever is responsible for approving the project, through the Commission on Higher Education which shall forward all such statements and all supporting documentation received to the Board authority or department together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

The Board authority or department shall forward a copy of each project proposal and justification statement and supporting documentation received together with the Board's authority's or department director's recommendations on such projects to the committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the committee by the Board authority or department.

(C) No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

Section 2-47-50. (A) The board authority or department shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the board authority or department to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the board authority or director of the department, requests to establish permanent improvement projects shall be made in such form and at such times as the board authority or department may require.

(B) Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the board authority or director of the department and reviewed by the committee shall be referred to the committee for review prior to approval by the board authority or director of the department.

(C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the board authority or department to be substantial shall be referred to the committee for its review prior to any final action by the board authority or department. In making their

determinations regarding changes in project scope, the ~~board authority, department,~~ and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the ~~board authority or director of the department~~ and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the ~~board authority or director of the department~~ which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the ~~board authority or director of the department~~.

(D) For purposes of this chapter, with regard to all institutions of higher learning, permanent improvement project is defined as:

(1) acquisition of land, regardless of cost, with staff level review of the committee and the ~~Budget and Control Board, Capital Budget Office~~ Department of Administration, up to two hundred fifty thousand dollars;

(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost, with staff level review of the committee and the ~~Budget and Control Board, Capital Budget Office~~ Department of Administration, up to two hundred fifty thousand dollars;

(3) work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is one million dollars or more;

(4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;

(5) capital lease purchase of a facility acquisition or construction in which the total cost is one million dollars or more;

(6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project in which the total cost is one million dollars or more; and

(7) new construction of a facility that exceeds a total cost of five hundred thousand dollars.

(E) Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve funds or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.

(F) For purposes of establishing permanent improvement projects, Clemson University Public Service Activities (Clemson-PSA) and South Carolina State University Public Service Activities (SC State-PSA) are subject to the provisions of this chapter.

Section 2-47-55. (A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee, ~~and the Budget and Control Board authority, and the department.~~ The CPIP must include all of the agency's permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July 1 after submission. The purpose of the CPIP process is to provide the ~~board authority, department,~~ and the committee with an outline of each agency's permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee, ~~and the board authority, and the department~~ on or before a date to be determined by the committee, ~~and the board authority, and the department.~~ The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the ~~board authority, the department,~~ and the committee. The ~~board~~

authority, director of the department, and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

Section 2-47-56. Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the director of the ~~Division of General Services~~ department, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

Section 2-47-60. The Joint Bond Review Committee is hereby authorized and directed to regulate the starting date of the various projects approved for funding through the issuance of state highway bonds so as to ensure that the sources of revenue for debt service on such bonds shall be sufficient during the current fiscal year.

Section 2-47-70. (A) To ensure the integrity and the effectiveness of the procurement process, the Joint Bond Review Committee shall receive a monthly report from the Department of Administration and the Procurement Oversight Board identifying each contract newly executed, against which the appropriate agency expects that at least five million dollars will be expended over the life of the agreement, inclusive of any available extensions or renewals. The monthly reports must also provide notice of any renewals or extensions approved for such contracts during the relevant period.

(B) Each governmental body, as defined in Section 11-35-310, shall, by the fifteenth day of each month, furnish the department and the board with records they shall require in order to satisfy the reporting requirements established in this section. The monthly reports must provide information on contracts executed, extended, or renewed during the period concluding one month prior to the date on which the report is transmitted to the Joint Bond Review Committee.

(C) The Joint Bond Review Committee may also, when deemed necessary, refer matters to the Legislative Audit Council or other appropriate investigative or prosecutorial entities for further review. Whenever the Joint Bond Review Committee identifies deficiencies in procurement policies or procedures, the committee shall notify and make recommendations to the Department of Administration and the Procurement Oversight Board.”

Subpart 3

SECTION 28. A. (1) The Office of Insurance Services, including the Insurance Reserve Fund, is transferred to the State Contracts and Accountability Authority (SCAA) on July 1, 2013, as a division of the authority.

(2) The Office of Insurance Services, including the Insurance Reserve Fund, transferred to the SCAA shall administer and perform all administrative and operational functions of the Office of Insurance Services, including the Insurance Reserve Fund, except that the Attorney General of this State must continue to approve the attorneys-at-law retained to represent the clients of the Insurance Reserve Fund in the manner provided by law.

B. Section 1-11-140 of the 1976 Code is amended to read:

“Section 1-11-140. (A) The ~~State Budget and Control Board~~ State Contracts and Accountability Authority (authority), through the Office of Insurance Services which includes the Insurance Reserve Fund, is authorized to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions,

commissions, and boards so as to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the ~~Budget and Control Board~~ board authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state-supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above-referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The ~~board~~ authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.

(B) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15-78-140.

(C) The procurement of tort liability insurance in the manner provided is the exclusive means for the procurement of this insurance.

(D) The ~~State Budget and Control Board~~ authority, through the Office of Insurance Services, also is authorized to offer insurance to governmental hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established; and chartered, nonprofit, eleemosynary hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established in this State so as to protect these hospitals against tort liability. Notwithstanding any other provision of this section, the procurement of tort liability insurance by a hospital and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established supported wholly or partially by public funds contributed by the State or any of its political subdivisions in the manner herein provided is not the exclusive means by which the hospital may procure tort liability insurance.

(E) The ~~State Budget and Control Board~~ authority, through the Office of Insurance Services, is authorized to provide insurance for duly appointed members of the boards and employees of health system agencies, and for members of the State Health Coordinating Council which are created pursuant to Public Law 93-641.

(F) The ~~board~~ authority, through the Office of Insurance Services, is further authorized to provide insurance as prescribed in Sections 10-7-10 through 10-7-40, 59-67-710, and 59-67-790.

(G) Documentary or other material prepared by or for the Office of Insurance Services in providing any insurance coverage authorized by this section or any other provision of law which is contained in any claim file is subject to disclosure to the extent required by the Freedom of Information Act only after the claim is settled or finally concluded by a court of competent jurisdiction.

(H) The ~~board~~ authority, through the Office of Insurance Services, is further authorized to provide insurance for state constables, including volunteer state constables, to protect these personnel against tort liability arising in the course of their employment, whether or not for compensation, while serving in a law enforcement capacity.”

C. Section 15-78-140 of the 1976 Code is amended to read:

“Section 15-78-140. (a) (Reserved)

(b) The political subdivisions of this State, in regard to tort and automobile liability, property, and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by (1) the purchase of liability insurance pursuant to Section 1-11-140; or (2) the purchase of liability insurance from a private carrier; or (3) self-insurance; or (4) establishing pooled self-insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance. A pooled self-insurance liability pool is authorized to purchase specific and aggregate excess insurance. A pooled self-insurance liability fund must provide liability coverage for all employees of a political subdivision applying for participation in the fund. If the insurance is obtained other than pursuant to Section 1-11-140, it must be obtained subject to the following conditions:

(1) if the political subdivision does not procure tort liability insurance pursuant to Section 1-11-140, it must also procure its automobile liability and property and casualty insurance from other sources and shall not procure these coverages through the ~~Budget and Control Board Insurance Reserve Fund~~;

(2) if a political subdivision procures its tort liability insurance, automobile liability insurance, or property and casualty insurance through the ~~Budget and Control Board Insurance Reserve Fund~~, all liability exposures of the political subdivision as well as its property and casualty insurance must be insured with the ~~Budget and Control Board Insurance Reserve Fund~~;

(3) if the political subdivision, at any time, procures its tort liability, automobile liability, property, or casualty insurance other than through the ~~Budget and Control Board Insurance Reserve Fund~~ and then subsequently desires to obtain this coverage with the ~~Budget and Control Board Insurance Reserve Fund~~, notice of its intention to so obtain this subsequent coverage must be provided the ~~Budget and Control Board Insurance Reserve Fund~~ at least ninety days prior to the beginning of the coverage with the ~~State Budget and Control Board Insurance Reserve Fund~~. The other lines of insurance that the political subdivision is required to procure from the ~~board fund~~ are not required to commence until the coverage for that line of insurance expires. Any political subdivision may cancel all lines of insurance with the ~~State Budget and Control Board Insurance Reserve Fund~~ if it gives ninety days' notice to the ~~board fund~~. The ~~Budget and Control Board Insurance Reserve Fund~~ may negotiate the insurance coverage for any political subdivision separate from the insurance coverage for other insureds;

(4) if any political subdivision cancels its insurance with the ~~Budget and Control Board Insurance Reserve Fund~~, it is entitled to an appropriate refund of the premium, less reasonable administrative cost.

(c) For any claim filed under this chapter, the remedy provided in Section 15-78-120 is exclusive. The immunity of the State and its political subdivisions, with regard to the seizure, execution, or encumbrance of their properties is reaffirmed."

Subpart 4

SECTION 29. A. Section 1-11-440 of the 1976 Code is amended to read:

"Section 1-11-440. (A) The State must defend the members of the ~~State Budget and Control Board~~ State Contracts and Accountability Authority, Bond Review Authority, and the Director of the Department of Administration against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the ~~board authority or the department~~ and must indemnify ~~these members~~ them for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State must defend officers and management employees of the ~~board authority~~ and legislative employees performing duties for ~~board~~ the authority's members, and management employees of the department against a claim or suit that arises out of or by virtue of the performance of official duties unless the officer, management employee, or legislative employee was acting in bad faith and must indemnify these officers, management employees, and legislative employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers, the director

and management employees of the department, and legislative employees after they have left their employment with the board authority, or the General Assembly, as applicable, or the department, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the board authority or the department.

(B) The State must defend the members of the Retirement Systems Investment Panel established pursuant to Section 16, Article X of the Constitution of this State and Section 9-16-310 against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the panel and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the panel after they have left their service with the panel if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the panel.”

B. 1. Section 11-18-20 of the 1976 Code, as added by Act 290 of 2010, is amended to read:

“Section 11-18-20. (a) ‘ARRA Bonds’ mean:

(1) recovery zone bonds authorized under Section 1401 of ARRA; and

(2) Qualified Energy Conservation Bonds authorized under Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110-343, 122 Stat. 1365 (2008) as amended by Section 112 of ARRA.

(b) ‘Board’ means the ~~South Carolina Budget and Control Board~~ State Contracts and Accountability Authority.

(c) ‘Code’ means the Internal Revenue Code of 1986, as amended.

(d) ‘Local Government’ means each county and municipality that received an allocation of Volume Cap pursuant to the Code and IRS Notice 2009-50.

(e) ‘Other federal bonds’ mean any such bond, whether tax--exempt, taxable or tax credit, created after the date hereof whereby a volume cap limitation is proscribed under the Code.

(f) ‘Qualified energy conservation bond’ means the term as defined in Section 54D(a) of the Code.

(g) ‘Recovery zone’ means the term as defined in Section 1400U-1(b) of the Code.

(h) ‘Recovery zone economic development bond’ means the term as defined in Section 1400U-2 of the Code.

(i) ‘Recovery zone facility bond’ means the term as defined in Section 1400U-3 of the Code.

(j) ‘State’ means the State of South Carolina.

(k) ‘Volume Cap’ means the amount or other limitation of ARRA Bonds allocated to each state and to counties and large municipalities within each state in accordance with Section 1400U-1(a)(4) of the Code, with respect to Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds, Section 54D(e)(1) of the Code, with respect to Qualified Energy Conservation Bonds, and any other section of the Code which imposes a volume cap limitation on any other Federal Bonds.”

2. The Code Commissioner is directed to change references in Chapter 18 of Title 11 of the 1976 Code from “State Budget and Control Board” or any similar derivation of this term to “State Contracts and Accountability Authority”.

C. Section 11-37-200(A) of the 1976 Code is amended to read:

“(A) There is established by this section the Water Resources Coordinating Council which shall establish the priorities for all sewer, wastewater treatment, and water supply facility projects addressed in this chapter, except as otherwise established by Section 48-6-40. The council shall consist of a representative of the Governor, the Director of the Department of Health and Environmental Control, the Director of the South Carolina Department of Natural Resources, the Director of the ~~Division of Local Government of the Budget and Control Board~~ Rural Infrastructure Authority, the Secretary of Commerce,

the Chairman of the Jobs Economic Development Authority, and the Chairman of the Joint Bond Review Committee. These representatives may designate a person to serve in their place on the council, and the Governor shall appoint the chairman from among the membership of the council for a one-year term. The council shall establish criteria for the review of applications for projects. Not less often than annually, the council shall determine its priorities for projects. The council after evaluating applications shall notify the authority of the priority projects. The South Carolina Jobs Economic Development Authority shall provide the staff to receive, research, investigate, and process applications for projects made to the coordinating council and assist in the formulating of priorities. Upon notification by the council, the authority shall proceed under the provisions of this chapter. The authority may consider applications for projects based upon the existence of a documented emergency consistent with regulations that may be promulgated by the authority. In determining which local governments are to receive grants, the local governments shall provide not less than a fifty percent match for any project. The authority may provide financing for the local matching funds on terms and conditions determined by the authority.”

D. 1. Section 11-40-250 of the 1976 Code is amended to read:

“Section 11-40-250. The Division of Local Government of the State ~~Budget and Control Board~~ Rural Infrastructure Authority shall provide staff and otherwise assist the authority in the administration of the fund and the performance of its functions under this chapter. The funds to be used for purposes of the Infrastructure Facilities Authority must come from funds appropriated to or made available to the Infrastructure Facilities Authority and not those funds of the Rural Infrastructure Authority, the administration of which also is a part of the responsibilities of the Division as provided by law. In providing such assistance the Division of Local Government shall:

- (1) assist in the formulation, establishment, and structuring of programs undertaken by the authority pursuant to this chapter;
- (2) provide local governments information as to the programs of the authority and the procedures for obtaining the assistance intended by the chapter;
- (3) assist local governments in making application to such state and federal agencies, including the authority, as may be necessary or helpful in order to avail themselves of such programs;
- (4) assist the authority in analyzing and evaluating local government requests for assistance pursuant to this chapter;
- (5) assist in the structuring and negotiation of local government loan agreements and loan obligations and authority bonds;
- (6) administer the fund, including any accounts therein;
- (7) administer the authority’s programs and loans, including monitoring compliance by local governments with any rules, regulations, or other requirements of the authority with respect to such programs and compliance with covenants and agreements made by local governments with respect to any loan agreement or loan obligation; and
- (8) provide ~~such~~ other assistance and perform ~~such~~ other duties as may be requested or directed by the authority.”

E. 1. Section 11-49-40(A) of the 1976 Code is amended to read:

“(A) The authority is governed by a board, ~~which that~~ shall consist of ~~five members as follows: the Governor or his designee, the State Treasurer, the Comptroller General, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.~~ The Governor shall serve as chairman; and in the absence of the Governor, meetings must be chaired by the State Treasurer the members of the State Contracts and Accountability Authority. All members serve ex officio in the same capacity they serve as members of the SCAA.

(B) Members of the board serve without pay but are allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions.

(C) Members of the board and its employees, if any, are subject to the provisions of Chapter 13, Title 8, the Ethics, Government Accountability, and Campaign Reform Act, and Chapter 17, ~~of~~ Title 2, relating to lobbying.

(D) To the extent that administrative assistance is needed for the functions and operations of the authority, the board may obtain this assistance from the Office of the State Treasurer and the State ~~Budget and Control Board~~ Contracts and Accountability Authority, and any successor agency, office, or division, each of which must provide the assistance requested by the board at no cost to the board or to the authority other than for expenses incurred and paid to entities that are not agencies or departments of the State. The board must retain ultimate responsibility and provide proper oversight for the implementation of this chapter.

(E) The board shall exercise the powers of the authority. A majority of the members of the board constitutes a quorum for the purpose of conducting all business. The board shall determine the number of personnel it requires, their compensation, and duties.”

2. Section 11-11-90 of the 1976 Code is repealed effective July 1, 2013.

F. 1. Section 41-43-100 of the 1976 Code is amended to read:

“Section 41-43-100. In addition to other powers vested in the authority by existing laws, the authority has all powers granted the counties and municipalities of this State pursuant to the provisions of Chapter 29, ~~of~~ Title 4, including the issuance of bonds by the authority and the refunding of bonds issued under that chapter. The authority may issue bonds upon receipt of a certified resolution by the county or municipality in which the project, as defined in Chapter 29, ~~of~~ Title 4, is or will be located, containing the findings set forth in Section 4-29-60 and evidence of a public hearing held not less than fifteen days after publication of notice in a newspaper of general circulation in the county in which the project is or will be located. The authority may combine for the purposes of a single offering bonds to finance more than one project. The interest rate of bonds issued pursuant to this section is ~~not~~ subject to approval by the ~~State Budget and Control Board~~ authority.”

2. Section 41-43-110(A) of the 1976 Code is amended to read:

“(A) The authority may issue bonds to provide funds for any program authorized by this chapter. The bonds authorized by this chapter are limited obligations of the authority. The principal and interest are payable solely out of the revenues derived by the authority. The bonds issued do not constitute an indebtedness of the State or the authority within the meaning of any state constitutional provision or statutory limitation. They are an indebtedness payable solely from a revenue producing source or from a special source ~~which that~~ does not include revenues from any tax or license. The bonds do not constitute nor give rise to a pecuniary liability of the State or the authority or a charge against the general credit of the authority or the State or taxing powers of the State and this fact must be plainly stated on the face of each bond. The bonds may be executed and delivered at any time as a single issue or from time to time as several issues, may be in such form and denominations, may be of such tenor, may be in coupon or registered form, may be payable in such installments and at such time, may be subject to terms of redemption, may be payable at such place, may bear interest at such rate payable at such place and evidenced in such manner, and may contain such provisions not inconsistent herewith, all of which are provided in the resolution of the authority authorizing the bonds. Subject to ~~Budget and Control Board~~ approval by the authority as to their issuance and sale, any bonds issued under this section may be sold at public or private sale as may be determined to be most advantageous. The bonds may be sold at public or private sale and, if by private sale, the authority shall designate the syndicate manager or managers. The authority may pay all expenses, premiums, insurance premiums, and commissions which it considers necessary from proceeds of the bonds or program funds in connection with the sale of bonds. The interest

rate of bonds issued pursuant to this section is ~~not~~ subject to approval by the ~~State Budget and Control Board~~ authority.”

G. Section 54-3-119 of the 1976 Code, as added by Act 73 of 2009, is amended to read:

“Section 54-3-119. (A) Except as provided in subsection (B), the State Ports Authority Board is directed to sell under those terms and conditions it considers most advantageous to the authority and the State of South Carolina all real property it owns on Daniel Island and Thomas (St. Thomas) Island except for the dredge disposal cells that are needed in connection with the construction of the North Charleston terminal on the Charleston Naval Complex and for harbor deepening and for channel and berth maintenance. The sale shall be timed and concluded on a schedule that prudently considers all market conditions affecting the sale but in any event must be under contract for sale by December 31, 2012, and the sale completed by December 31, 2013. The property must be transferred to the ~~State Budget and Control Board~~ Department of Administration for sale if authority is unable to complete the sale by December 31, 2013. To assist in the sale of the property, the board shall have the property appraised by at least two independent qualified commercial appraisers not affiliated with the authority. The real property appraisers must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those of the surrounding properties. The sale price must be equal to or greater than at least one of the independent appraisals. The approval of the State Budget and Control Board is required to effectuate the sale if completed on or before ~~December 31~~ July 1, 2013, and after July 1, 2013, the State Contracts and Accountability Authority (SCAA) must approve the sale.

(B) The board shall give the right of first refusal to those former landowners on Thomas (St. Thomas) Island who sold their land located within the transportation corridor to the authority in anticipation of the authority’s exercise of eminent domain. The right of first refusal must provide that the landowner may repurchase his land at the same price for which the authority purchased it from him. Each contract for the sale of a parcel located in the transportation corridor on Thomas Island must contain a covenant creating an easement over the parcel. The easement must permit the authority, and any successor in interest to the authority, reasonable ingress and egress to the real property on Daniel Island owned by the authority as of the effective date of this section. The easement must contain express language that the easement runs with the land.

(C)(1) With regard to the sale of real property pursuant to subsection (A), the State Budget and Control Board or the Department of Administration, as appropriate, is vested with all of the board’s fiduciary duties to the authority and the authority’s bondholders if the property is transferred to the State Budget and Control Board or the Department of Administration for sale. The acceptance of any sales price by either the board, ~~or the State Budget and Control Board,~~ or the Department of Administration must be exercised with due regard to the fiduciary duty owed to the authority and for the protection of the interests of the authority’s bondholders as set forth in its bond covenants, and otherwise according to law, including the conversion of a nonperforming asset into revenues in the most expeditious manner.

(2) The State Budget and Control Board or the Department of Administration may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority.”

Subpart 5

SECTION 30. Article 5, Chapter 11, Title 1 of the 1976 Code, as last amended by Act 31 of 2011, is further amended to read:

“Article 5

Employees and Retirees Insurance-Accounting for Post-Employment Benefits

Section 1-11-703. As used in this article:

(1) 'Actuarial accrued liability' means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided for by future normal costs.

(2) 'Actuarial assumptions' means assumptions regarding the occurrence of future events affecting costs of the SCRHI Trust Fund or LTDI Trust Fund such as mortality, withdrawal, disability, and retirement; changes in compensation; aging effects and cost trends for post-employment benefits; benefit election rates; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other such relevant items.

(3) 'Actuarial cost method' means a method for determining the actuarial present value of the obligations and administrative expenses of the SCRHI Trust Fund or LTDI Trust Fund and for developing an actuarially equivalent allocation of such value to time periods, usually in the form of a normal cost and an actuarial-accrued liability. Acceptable actuarial methods are the aggregate, attained age, individual entry age, frozen attained age, frozen entry age, and projected unit credit methods.

(4) 'Actuarial present value of total projected benefits' means the present value, at the valuation date, of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probability of payment.

(5) 'Actuarial valuation' means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values for the SCRHI Trust Fund or LTDI Trust Fund.

(6) 'Actuarially sound' means that calculated contributions to the SCRHI Trust Fund or LTDI Trust Fund are sufficient to pay the full actuarial cost of these trust funds. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over a period of no more than thirty years.

(7) 'Administrative expenses' means all expenses incurred in the operation of the SCRHI Trust Fund and LTDI Trust Fund, including all investment expenses.

(8) 'LTDI Trust Fund' means the Long Term Disability Insurance Trust Fund established pursuant to Section 1-11-707 to fund benefits under the state's Basic Long Term Disability (BLTD) Income Benefit Plan.

(9) ~~'Board' means the State Budget and Control Board~~ 'Authority' means the State Contracts and Accountability Authority established pursuant to Chapter 55, Title 11, acting through its Insurance Services Division.

(10) 'Employee insurance program' or 'EIP' means the office of the board designated by the board to operate insurance programs pursuant to this article.

(11) 'IBNR' means unpaid health claims incurred but not reported. The liability for IBNR claims is actuarially estimated based on the most current historical claims experience of previous payments, inflation, award trends, and estimates of health care trend changes.

(12) 'Operating account' means the health insurance program's business operating activities account maintained by the State Treasurer in which are deposited all premiums for enrollees in self-funded health plans authorized in this article, along with employer contributions for active employees covered by such self-funded health plans, and from which claims and administrative expenses of the self-funded health and dental plans administered by the employee insurance program are paid.

(13) 'State-covered entity' means state agencies and institutions, however described, and school districts. It also includes political subdivisions of the State that participate in the state health and dental plans.

(14) 'State health and dental plans' means any insurance program administered by the employee insurance program pursuant to this article.

(15) 'SCRHI Trust Fund' means the South Carolina Retiree Health Insurance Trust Fund established pursuant to Section 1-11-705 to fund the employer cost for health benefits for retired state employees and retired public school district employees.

(16) 'State Retirement System' or 'State Retirement Systems' means all retirement systems established pursuant to Title 9 except for the National Guard Retirement System.

(17) 'Unfunded actuarial accrued liability' means for any actuarial valuation the excess of the actuarial accrued liability over the actuarial value of the assets of the fund under an actuarial cost method utilized by the fund for funding purposes.

(18) 'Trust fund paid premiums' means the employer premium for state health and dental plans coverage paid by the SCRHI Trust Fund on behalf of a retiree. When it is expressed as a percentage of trust fund paid premiums, it means that the SCRHI Trust Fund shall pay the stated percentage of the employer premiums, with the retiree paying the balance of the employer premiums and the entire employee premium.

Section 1-11-705. (A) There is established in the State Treasury separate and distinct from the general fund of the State and all other funds the South Carolina Retiree Health Insurance Trust Fund (SCRHI Trust Fund) to provide for the employer costs of retiree post-employment health insurance benefits for retired state employees and retired employees of public school districts. Earnings on the SCRHI Trust Fund must be credited to it and unexpended funds carried forward in it to succeeding fiscal years.

(B) The ~~board~~ authority is the trustee of the SCRHI Trust Fund and the State Treasurer is the custodian of the funds of the SCRHI Trust Fund.

(C) The employee insurance program shall administer the SCRHI Trust Fund.

(D) The employee insurance program shall engage actuarial and other services as required to transact the business of the SCRHI Trust Fund. The actuary engaged by the employee insurance program shall provide technical advice to the ~~board~~ authority regarding operation of the SCRHI Trust Fund.

(E) Upon recommendations of the actuary, the ~~board~~ authority shall adopt generally accepted and reasonable actuarial assumptions and methods for the operation and funding of the SCRHI Trust Fund as it considers necessary and prudent. The actuarial assumptions and methods adopted by the ~~board~~ authority must be appropriate for the purposes at hand and must be reasonable, individually and in the aggregate, taking into account the experience of the plan and reasonable expectations. Utilizing the actuarial assumptions most recently adopted by the ~~board~~ authority, the actuary engaged by the employee insurance program shall set the annual actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the SCRHI Trust Fund.

(F) The ~~board~~ authority may adopt policies and procedures and promulgate regulations as necessary for the proper administration of the SCRHI Trust Fund.

(G)(1) The funds of the SCRHI Trust Fund must be invested and reinvested by the State Treasurer in the manner allowed by law. The State Treasurer shall consult with the employee insurance program and the employee insurance program's actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees.

(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, shall invest and reinvest the funds of the SCRHI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program's actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the SCRHI Trust

Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.

(H) The ~~board~~ authority annually shall determine the minimum annual required contributions to the SCRHI Trust Fund on an actuarially sound basis in accordance with Governmental Accounting Standards Board Statement No. 45, or any other Governmental Accounting Standards Board statements that may be applicable to the SCRHI Trust Fund.

(I) The ~~board~~ authority shall fund the SCRHI Trust Fund:

(1) through the employer contributions for the South Carolina Retirement Systems as provided in Section 1-11-710(A)(2). The total employer contributions collected from the State and school districts for post-employment benefits must be transferred immediately to the SCRHI Trust Fund for investment, reinvestment, and the payment of post-employment benefits;

(2) by transfer of the Employee Insurance Program as of January thirty-first of each calendar year to the trust fund from the employee insurance program's operating account, the cash balance in the operating account in excess of one hundred forty percent of the actuarially-determined IBNR reserves of the state's health plans as of December thirty-first of the preceding year. On May 1, 2008, an initial transfer must take place applicable to the cash balance as of December 31, 2007; and

(3) with funding as authorized by the General Assembly pursuant to Section 1-11-710(D).

(J) Each month, the employee insurance program shall determine the monthly amount of the state-funded employer premium with respect to retired state employees and retired public school district employees who are eligible for state-paid employer premiums pursuant to Section 1-11-730, and shall transfer this amount to the operating account from the SCRHI Trust Fund. In addition, the employee insurance program shall transfer the total cost of post-employment benefits for retirees and their dependents, net of premium contributions made on behalf of retirees and other sources of revenue attributable to retirees, in accordance with Governmental Accounting Standards Board Statements Nos. 43 and 45 and the Implementation Guide.

(K) The funds of the SCRHI Trust Fund may only be used for the payment of employer-provided other post-employment benefits under the terms of the state health and dental plans. The administrative costs related to the administration of the SCRHI Trust Fund, and the investment and reinvestment of its funds, may be funded from the earnings of the SCRHI Trust Fund.

(L) As a trust, the funds of the SCRHI Trust Fund are not assets of the State or the school districts or their respective agencies. The contributions to the SCRHI Trust Fund are irrevocable and may not revert to the employer except upon complete satisfaction of all liabilities and administrative expenses of the state health and dental plans of other post-employment benefits provided pursuant to the state health and dental plans.

Section 1-11-707. (A) There is established in the State Treasury separate and distinct from the general fund of the State and all other funds the South Carolina Long Term Disability Insurance Trust Fund (LTDI Trust Fund) to provide for the payment of benefits under the state's Basic Long Term Disability Income Benefit Plan. Earnings on the LTDI Trust Fund must be credited to it and unexpended funds carry forward in it to succeeding fiscal years.

(B) The ~~board~~ authority is the trustee of the LTDI Trust Fund and the State Treasurer is the custodian of the funds of the LTDI Trust Fund.

(C) The employee insurance program shall administer the LTDI Trust Fund.

(D) The employee insurance program shall engage actuarial and other services as required to transact the business of the LTDI Trust Fund. The actuary engaged by the employee insurance program shall provide technical advice to the ~~board~~ authority regarding operation of the LTDI Trust Fund.

(E) Upon recommendations of the actuary, the ~~board~~ authority shall adopt generally accepted and reasonable actuarial assumptions and methods for the operation and funding of the LTDI Trust Fund as it considers necessary and prudent. The actuarial assumptions and methods adopted by the ~~board~~ authority must be appropriate for the purposes at hand and must be reasonable, individually and in the aggregate, taking into account the experience of the plan and reasonable expectations. Utilizing the actuarial

assumptions most recently adopted by the ~~board~~ authority, the actuary engaged by the employee insurance program shall set the annual actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the LTDI Trust Fund.

(F) The ~~board~~ authority may adopt policies and procedures and promulgate regulations as necessary for the proper administration of the LTDI Trust Fund.

(G)(1) The funds of the LTDI Trust Fund must be invested and reinvested by the State Treasurer in the manner allowed by law. The State Treasurer shall consult with the employee insurance program and the employee insurance program's actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees.

(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9, shall invest and reinvest the funds of the LTDI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program's actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the LTDI Trust Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.

(H) The ~~board~~ authority annually shall determine the minimum annual required contributions to the LTDI Trust Fund on an actuarially sound basis in accordance with Governmental Accounting Standards Board Statement No. 45, or any other Governmental Accounting Standards Board statements that may be applicable to the LTDI Trust Fund.

(I) The ~~board~~ authority shall increase the employer contributions used to fund the BLTD Plan by an amount equal to or greater than the minimum annual required contribution for the LTDI Trust Fund as determined in subsection (H) of this section. The increased employer contributions remitted to the employee insurance program under this subsection must be deposited in the LTDI Trust Fund.

(J) Each month, the employee insurance program shall transfer to the operating account from the LTDI Trust Fund the amount invoiced by the third-party administrator for the BLTD Plan for payment of LTDI claims, including reasonable expenses associated with claims administration of the BLTD Plan.

(K) The assets of the LTDI Trust Fund may only be used for the payment of the state's claims under the BLTD Plan along with reasonable expenses associated with the operation of the BLTD Plan, and the assets of the LTDI Trust Fund may not be used for any other purpose. The administrative costs related to the administration of the LTDI Trust Fund, and the investment and reinvestment of its funds, must be funded from the earnings of the LTDI Trust Fund.

(L) As a trust, the funds of the LTDI Trust Fund are not assets of the State or the school districts or their respective agencies. The contributions to the LTDI Trust Fund are irrevocable and may not revert to the employer except upon complete satisfaction of all liabilities and administrative expenses of the State Basic Long Term Disability Income Benefit Plan of other post-employment benefits provided pursuant to the State Basic Long Term Disability Income Benefit Plan.

Section 1-11-710. (A)(1) ~~The State Budget and Control Board shall:~~

~~(+) The Department of Administration (department), acting through its Employee Insurance Program, shall~~ make available to active and retired employees of this State and its public school districts and their eligible dependents group health, dental, life, accidental death and dismemberment, and disability insurance plans and benefits in an equitable manner and of maximum benefit to those covered within the available resources;

(2) The authority shall:

(a) approve by August fifteenth of each year a plan of benefits, eligibility, and employer, employee, retiree, and dependent contributions for the next calendar year. The ~~board~~ authority shall devise a plan for the method and schedule of payment for the employer and employee share of contributions and by July first of the current fiscal year, develop and implement a plan increasing the employer contribution rates of the State Retirement Systems to a level adequate to cover the employer's share for the current fiscal year's cost of providing health and dental insurance to retired state and school district employees. The state health and dental plans must include a method for the distribution of the funds appropriated as provided by law which are designated for retiree insurance and also must include a method for allocating to school districts, excluding EIA funding, sufficient general fund monies to offset the additional cost incurred by these entities in their federal and other fund activities as a result of this employer contribution charge. The funds collected through increasing the employer contribution rates for the State Retirement Systems under this section must be deposited in the SCRHI Trust Fund established pursuant to Section 1-11-705. The amounts appropriated in this section shall constitute the State's pro rata contributions to these programs except the State shall pay its pro rata share of health and dental insurance premiums for retired state and public school employees for the current fiscal year;

~~(3)~~(b) adjust the plan, benefits, or contributions, at any time to insure the fiscal stability of the system;

~~(4)~~(c) set aside in separate continuing accounts in the State Treasury, appropriately identified, all funds, state-appropriated and other, received for actual health and dental insurance premiums due. Funds credited to these accounts may be used to pay the costs of administering the state health and dental plans and may not be used for purposes of other than providing insurance benefits for employees and retirees. A reserve equal to not less than one and one-half months' claims must be maintained in the accounts.

(B) The ~~board~~ authority may authorize the Insurance Reserve Fund to provide reinsurance, in an approved format with actuarially developed rates, for the operation of the group health insurance or cafeteria plan program, as authorized by Section 9-1-60, for active and retired employees of the State, and its public school districts and their eligible dependents. Premiums for reinsurance provided pursuant to this subsection must be paid out of state appropriated and other funds received for actual health insurance or cafeteria plan premiums due.

(C) Notwithstanding Sections 1-23-310 and 1-23-320 or any other provision of law, claims for benefits under any self-insured plan of insurance offered by the State to state and public school district employees and other eligible individuals must be resolved by procedures established by the ~~board~~ authority, which shall constitute the exclusive remedy for these claims, subject only to appellate judicial review consistent with the standards provided in Section 1-23-380.

(D) The General Assembly intends to authorize funding for the SCRHI Trust Fund in order to make progress toward reaching or maintaining the minimum annual required contribution under Governmental Accounting Standards Board Statement No. 45. The ~~board~~ authority shall determine the minimum annual required contribution pursuant to Section 1-11-705(H).

Section 1-11-715. The Employee Insurance Program of the ~~Budget and Control Board~~ Department is directed to develop and implement, for employees and their spouses who participate in the health plans offered by the Employee Insurance Program, an incentive plan to encourage participation in programs offered by the Employee Insurance Program that promote health and the prevention of disease. The Employee Insurance Program is further directed to implement a premium reduction or other financial incentive, beginning on January 1, 2012, for those employees and their spouses who participate in these programs.

Section 1-11-720. (A) In addition to the employees and retirees and their eligible dependents covered under the state health and dental insurance plans pursuant to Section 1-11-710, employees and retirees and their eligible dependents of the following entities are eligible for coverage under the state health and dental insurance plans pursuant to the requirements of subsection (B):

(1) counties;

- (2) regional tourism promotion commissions funded by the Department of Parks, Recreation and Tourism;
- (3) county intellectual disability boards funded by the State Mental Retardation Department;
- (4) regional councils of government established pursuant to Article 1, Chapter 7 of Title 6;
- (5) regional transportation authorities established pursuant to Chapter 25 of Title 58;
- (6) alcohol and drug abuse planning agencies designated pursuant to Section 61-12-20;
- (7) special purpose districts created by act of the General Assembly that provide gas, water, fire, sewer, recreation, hospital, or sanitation service, or any combination of these services;
- (8) municipalities;
- (9) local councils on aging or other governmental agencies providing aging services funded by the Office on Aging, Office of the Lieutenant Governor;
- (10) community action agencies that receive funding from the Community Services Block Grant Program administered by the Governor's Office, Division of Economic Opportunity;
- (11) a residential group care facility providing on-site teaching for residents if the facility's staff are currently members of the South Carolina Retirement System established pursuant to Chapter 1, Title 9 and if it provides at no cost educational facilities on its grounds to the school district in which it is located.
- (12) the South Carolina State Employees' Association;
- (13) the Palmetto State Teachers' Association;
- (14) the South Carolina Education Association;
- (15) the South Carolina Association of School Administrators;
- (16) the South Carolina School Boards Association;
- (17) the South Carolina Student Loan Corporation.
- (18) legislative caucus committees as defined in Section 8-13-1300(21).
- (19) soil and water conservation districts established pursuant to Title 48, Chapter 9.
- (20) housing authorities as provided for in Chapter 3, Title 31;
- (21) the Greenville-Spartanburg Airport District;
- (22) cooperative educational service center employees.
- (23) the South Carolina Sheriff's Association.
- (24) the Pee Dee Regional Airport District.
- (25) the Children's Trust Fund as established pursuant to Section 63-11-910.
- (26) a residential group facility which provides on-site teaching for residents if the facility's employees are currently members of the South Carolina Retirement System or if it provides, at no cost, educational facilities on its grounds to the school district in which it is located.
- (27) a federally qualified health center.
- (28) County First Steps Partnership established pursuant to Section 59-152-60.
- (29) Palmetto Pride as established pursuant to paragraph 26.7, Part 1B, Act 115 of 2005.
- (30) joint agencies established pursuant to Chapter 23, Title 6.

(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the ~~State Budget and Control Board Department~~, and the benefits provided must be the same benefits provided to state and school district employees. These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.

(C) If an entity participating in the plans pursuant to subsection (A) is delinquent in remitting proper payments to cover its obligations, the ~~board's Office of Insurance Services Department~~ shall certify the delinquency to the department or agency of the State holding funds payable to the delinquent entity, and that department or agency shall withhold from those funds an amount sufficient to satisfy the unpaid obligation and shall remit that amount to the ~~Office of Insurance Services Department~~ in satisfaction of the delinquency.

Section 1-11-725. The ~~State Budget and Control Board's~~ authority's experience rating of all local disabilities and special needs providers pursuant to Section 1-11-720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.

Section 1-11-730. (A) If a person began employment eligible for coverage under the state health and dental plans on or before May 1, 2008, the following eligibility provisions govern that person's participation in state health and dental plans as a retiree:

(1) A person covered by the state health and dental plans who terminates employment with at least twenty years' retirement service credit by a state-covered entity before eligibility for retirement under a state retirement system is eligible for state health and dental plans coverage, effective on the date of retirement under a state retirement system, if the last five years are consecutive and in a full-time permanent position with a state-covered entity. With respect to a retiree eligible for coverage pursuant to this subsection, the retiree is eligible for trust fund paid premiums and the retiree is responsible for the entire employee premium.

(2) A member of the General Assembly who leaves office or retires with at least eight years' credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the ~~State Budget and Control Board~~ authority.

(3) With respect to an active employee: (a) employed by the State or a public school district, (b) retiring with ten or more years of state-covered entity service credited under a state retirement system, and (c) with the last five years of earned service credit consecutive and in a full-time permanent position with the State or a public school district, the retiree is eligible for trust fund paid premiums and the retiree is responsible for the entire employee premium.

(4) A person covered by the state health and dental plans who retires with at least five years' state-covered entity service credited under a state retirement system is eligible to participate in the state health and dental plans by paying the full premium as determined by the ~~board~~ authority, if the last five years are consecutive and in a full-time permanent position with a state-covered entity.

(5) A spouse or dependent of a person covered by the plans who is killed in the line of duty after December 31, 2001, shall receive equivalent coverage under the state health and dental plans for a period of twelve months and the State is responsible for paying the full premium. After the twelve-month period, a spouse or dependent is eligible for trust fund paid premiums. A spouse is eligible for trust fund paid premiums under this subsection until the spouse remarries. A dependent is eligible for trust fund paid premiums under this subsection until the dependent's eligibility for coverage under the plans would ordinarily terminate.

(6) A former municipal or county council member of a county or municipality which participates in the state health and dental plans who served on the council for at least twelve years and who was covered under the plans at the time of termination is eligible to maintain coverage under the plans if the former member pays the full employer and employee contributions and if the county or municipal council elects to allow this coverage for former members.

(7) A person covered by the state health and dental plans who terminated employment with at least eighteen years' retirement service credit by a state-covered entity before eligibility for retirement under a state retirement system before 1990 is eligible for the plans effective on the date of retirement, if this person returns to a state-covered entity and is covered by the state health and dental plans and completes at least two consecutive years in a full-time permanent position before the date of retirement.

(B) If a person began employment eligible for coverage under the state health and dental plans after May 1, 2008, the following eligibility provisions govern that person's participation in state health and dental plans as a retiree:

(1) An active employee covered by the state health and dental plans who retires with at least five years of earned retirement service credit under a state retirement system with a state-covered entity is eligible to participate as a retiree in the state health and dental plans if the last five years of the person's covered employment were consecutive and in a full-time permanent position.

(2) A person covered by the state health and dental plans who terminates employment before the person's date of retirement with at least twenty years of earned retirement service credit under a state retirement system with a state-covered entity is eligible to participate as a retiree in the state health and dental plans on the person's date of retirement under a state retirement system, if the last five years of the person's covered employment before termination were consecutive and in a full-time permanent position.

(3) A retired state employee or a retired employee of a public school district who retires under a state retirement system and who is eligible for state health and dental plan coverage under the provisions of item (1) or (2) of this subsection, is eligible for trust fund paid premiums as follows:

(a) If the retiree's earned service credit in a state retirement system is five or more years but fewer than fifteen years with a state-covered entity, then the retiree shall pay the full premium for health and dental plans.

(b) If the retiree's earned service credit in a state retirement system is more than fifteen years, but fewer than twenty-five years with a state-covered entity, then the retiree is eligible for fifty percent trust fund paid premiums and the retiree shall pay the remainder of the premium cost.

(c) If the retiree's earned service credit in a state retirement system is twenty-five or more years with a state-covered entity, then the retiree is eligible for trust fund paid premiums and the retiree is responsible for the entire employee premium.

(4) If a retiree under a state retirement system was employed by an entity that participates in the state health and dental plans pursuant to the provisions of Section 1-11-720 and is eligible to participate in state health and dental plans as a retiree pursuant to the provisions of item (1) or (2) of this subsection, then the retiree's employer, at its discretion, may elect to pay all or a portion of the premium for the retiree's state health and dental plans.

(5) A spouse or dependent of a person covered by the plans who is killed in the line of duty on or after May 1, 2008, shall continue to maintain coverage under state health and dental plans for a period of twelve months after the covered person's death and the State is responsible for paying the full premium. After the twelve-month period, a spouse or dependent is eligible for trust fund paid premiums and the spouse or dependent is responsible for the entire employee premium. A spouse is eligible for trust fund paid premiums under this subsection until the spouse remarries. A dependent is eligible for trust fund paid premiums pursuant to this subsection until the dependent's eligibility for coverage under the plans would ordinarily terminate.

(C) For employees who participate in the state health and dental plans pursuant to the provisions of Section 1-11-720 but who are not members of the State Retirement Systems, one year of full-time employment or its equivalent under their employment relation equates to one year of earned retirement service credit under a state retirement system for purposes of the requirements of subsection (B)(1) and (2) of this section. The EIP shall implement the provisions of this subsection and make determinations pursuant to it. A person aggrieved by a determination of the EIP pursuant to this subsection may appeal that determination as a contested case as provided in Chapter 23 of Title 1, the Administrative Procedures Act.

Section 1-11-740. The ~~Division of Insurance Services of the State Budget and Control Board~~ Department may develop an optional long-term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.

Section 1-11-750. The ~~Budget and Control Board~~ Department shall devise a method of withholding long-term care insurance premiums offered under Section 1-11-740 for retirees if sufficient enrollment is obtained to make the deductions feasible.

Section 1-11-770. (A) Subject to appropriations, the General Assembly authorizes the ~~state Budget and Control Board~~ Department to plan, develop, and implement a statewide South Carolina 211 Network,

which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:

- (1) provide comprehensive and cost-effective access to health and human services information;
- (2) improve access to accurate information by simplifying and enhancing state and local health and human services information and referral systems and by fostering collaboration among information and referral systems;
- (3) electronically connect local information and referral systems to each other, to service providers, and to consumers of information and referral services;
- (4) establish and promote standards for data collection and for distributing information among state and local organizations;
- (5) promote the use of a common dialing access code and the visibility and public awareness of the availability of information and referral services;
- (6) provide a management and administrative structure to support the South Carolina 211 Network and establish technical assistance, training, and support programs for information and referral-service programs;
- (7) test methods for integrating information and referral services with local and state health and human services programs and for consolidating and streamlining eligibility and case-management processes;
- (8) provide access to standardized, comprehensive data to assist in identifying gaps and needs in health and human services programs; and
- (9) provide a unified systems plan with a developed platform, taxonomy, and standards for data management and access.

(B) In order to participate in the South Carolina 211 Network, a 211 provider must be certified by the ~~board~~ Department. The ~~board~~ Department must develop criteria for certification and must adopt the criteria as regulations.

(1) If any provider of information and referral services or other entity leases a 211 number from a local exchange company and is not certified by the agency, the agency shall, after consultation with the local exchange company and the Public Service Commission, request that the Federal Communications Commission direct the local exchange company to revoke the use of the 211 number.

(2) The agency shall seek the assistance and guidance of the Public Service Commission and the Federal Communications Commission in resolving any disputes arising over jurisdiction related to 211 numbers.

Section 1-11-780. The State Employee Insurance Program shall continue to provide mental health parity in the same manner and with the same management practices as included in the plan beginning in 2002, and is not under the jurisdiction of the Department of Insurance. The continuation by the State Employee Insurance Program of providing mental health parity in accordance with the plan set forth in 2002 constitutes compliance with this act.”

Subpart 6

SECTION 31. A.1. Section 8-23-20 of the 1976 Code, as last amended by Act 305 of 2008; and Section 8-23-110 of the 1976 Code, as added by Act 387 of 2000, are amended to read:

“Section 8-23-20. A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State ~~Budget and Control Board~~ Contracts and Accountability Authority, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of

three years and until their successors are appointed and qualify. The State ~~Budget and Control Board~~ Contracts and Accountability Authority shall designate the chairman.

The commission shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The commission shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program, an individual account shall be maintained in the name of each employee.

The commission shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the commission may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

Section 8-23-110. (A) The commission shall ensure that plan documents governing deferred compensation plans administered by the commission permit employer contributions to the extent allowed under the Internal Revenue Code.

(B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the commission or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.

(C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the commission or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the State ~~Budget and Control Board~~ Contracts and Accountability Authority.”

2. Section 9-1-10 of the 1976 Code, as last amended by Act 353 of 2008, and Section 9-1-20 of the 1976 Code is further amended to read:

“Section 9-1-10. As used in this chapter, unless a different meaning is plainly required by the context:

(1) ‘Accumulated contribution’ means the sum of all the amounts deducted from the compensation of a member and credited to the members individual account in the employee annuity savings fund, together with regular interest on the account, as provided in Article 9 of this chapter.

(2) ‘Active member’ means an employee who is compensated by an employer participating in the system and who is making regular retirement contributions to the system.

(3) ‘Actuarial equivalent’ means a benefit of equal value when computed upon the basis of mortality tables adopted by the ~~board~~ authority and regular interest.

(4) ‘Average final compensation’ with respect to those members retiring on or after July 1, 1986, means the average annual earnable compensation of a member during the twelve consecutive quarters of his creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty-five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty-six consecutive months before the expiration of the elected official’s term of office.

(5) ‘Beneficiary’ means a person in receipt of a pension, an annuity, a retirement allowance or other benefit provided under the system.

(6) ~~‘Board’~~ ‘Department’ means the ~~State Budget and Control Board~~ Department of Administration which shall act under the provisions of this chapter through its ~~Division of Retirement Systems~~ Division (division).

(6A) ‘Authority’ means the State Contracts and Accountability Authority.

(7) 'Creditable service' means a member's earned service, prior service, and purchased service.

(8) 'Earnable compensation' means the full rate of the compensation that would be payable to a member if the member worked the member's full normal working time; when compensation includes maintenance, fees, and other things of value the ~~board~~ division shall fix the value of that part of the compensation not paid in money directly by the employer.

(9) 'Earned service' means:

(a) paid employment as a teacher or employee of an employer participating in the system where the teacher or employee makes regular retirement contributions to the system; or

(b) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to Section 9-1-1140(F); or

(c) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(10) 'Educational service' means paid service as a classroom teacher in a public, private, or sectarian school providing elementary or secondary education, kindergarten through grade twelve.

(11) 'Employee' means:

(a) to the extent compensated by this State, an employee, agent, or officer of the State or any of its departments, bureaus, and institutions, other than the public schools, whether the employee is elected, appointed, or employed;

(b) the president, dean, professor, or teacher or any other person employed in any college, university, or educational institution of higher learning supported by and under the control of the State;

(c) an employee, agent, or officer of a county, municipality, or school district, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9-1-470, to the extent the employee, agent, or officer is compensated for services from public funds;

(d) an employee of the extension service and any other employee a part of whose salary or wage is paid by the federal government if the federal funds from which the salary or wage is paid before disbursement become state funds;

(e) an employee of a service organization, the membership of which is composed solely of persons eligible to be teachers or employees as defined by this section, if the compensation received by the employees of the service organization is provided from monies paid by the members as dues or otherwise, or from funds derived from public sources and if the employee contributions prescribed by this title are paid from the funds of the service organization;

(f) an employee of an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61-12-20;

(g) an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor.

'Employee' does not include supreme and circuit court judges, any person whose services are remunerated solely by per diem payments, or any person employed by a school, college, or university at which the person is enrolled as a student or otherwise regularly attending classes for academic credit unless the person is employed as a school bus driver and is paid by the same school district in which the person is enrolled in school. In determining student status, the system may consider the guidelines of the Social Security Administration regarding student services and other criteria the system uniformly prescribes.

(12) 'Employee annuity' means annual payments for life derived from the accumulated contributions of a member.

(13) 'Employee annuity reserve' means the present value of all payments to be made on account of an employee annuity or benefit in lieu of the employee annuity, computed on the basis of mortality tables adopted by the ~~board~~ authority and regular interest.

(14) 'Employer' means this State, a county board of education, a district board of trustees, the board of trustees or other managing board of a state-supported college or educational institution, or any other agency of this State by which a teacher or employee is paid; the term 'employer' also includes a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9-1-470, a service organization referred to in item (11)(e) of this section, an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61-12-20, and a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor.

(15) 'Employer annuity' means annual payments for life derived from money provided by the employer.

(16) 'Employer annuity reserve' means the present value of all payments to be made on account of an employer annuity or benefit in lieu of the employee annuity, computed on the basis of mortality tables adopted by the ~~board~~ authority and regular interest.

(17) [Reserved]

(18) 'Member' means a teacher or employee included in the membership of the system as provided in Article 5 of this chapter.

(19) 'Military service' means:

(a) service in the United States Army, United States Navy, United States Marine Corps, United States Air Force, or United States Coast Guard;

(b) service in the select reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or the Coast Guard Reserve, and

(c) service as a member of the Army National Guard or Air National Guard of this or any other state.

(20) 'Nonqualified service' means purchased service other than public service, educational service, military service, leave of absence, and reestablishment of withdrawals.

(21) 'Prior service' means service rendered as a teacher or employee before July 1, 1945, for which credit is allowable under Article 7 of this chapter.

(22) 'Public school' means a school conducted within this State under the authority and supervision of a duly elected or appointed school district board of trustees.

(23) 'Public service' means service as an employee of the government of the United States, a state or political subdivision of the United States, or an agency or instrumentality of any of these. 'Public service' does not include 'educational service' or 'military service' as defined in this section. 'Public service' does include paid service rendered as an employee of a postsecondary public technical college or public junior college, or a public four-year or postgraduate institution of higher education, while the member was a student at that institution.

(24) 'Purchased service' means service credit purchased by an active member while an employee of an employer participating in the system.

(25) 'Regular interest' means interest compounded annually at a rate determined by the ~~board~~ authority in accordance with Section 9-1-280.

(26) 'Retirement' means the withdrawal from active service with a retirement allowance granted under the system.

(27) 'Retirement allowance' means the sum of the employer annuity and the employee annuity or any optional benefit payable in lieu of the annuity.

(28) 'Retirement system' or 'system' means the South Carolina Retirement System established under Section 9-1-20.

(29) 'State' or 'this State' means the State of South Carolina;

(30) 'Teacher' means a classroom teacher employed in the public schools supported by this State as determined by the ~~board~~ division.

Section 9-1-20. (A) A retirement system is hereby established and placed under the management of the ~~State Budget and Control Board~~ Retirement Systems Division of the Department of Administration;

except as otherwise provided by law in regard to State Contracts and Accountability Authority, for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The system so created shall have the power and privileges of a corporation and shall be known as the ‘South Carolina Retirement System’, and by such name all of its business shall be transacted, all of its funds invested and all of its cash, securities, and other property held.

(B) To the extent provisions of law impose a duty in regard to the administration of the State Retirement System upon the State Contracts and Accountability Authority that do not specifically involve policy or other decisions reserved to the Authority under Section 11-55-20 or by law, the Authority may delegate these administrative duties to the Department of Administrative, Retirement Systems Division.”

3. Section 9-1-230 of the 1976 Code is amended to read:

“Section 9-1-230. The board authority shall engage such actuarial and other services as shall be required to transact the business of the system.”

4. Section 9-1-240 of the 1976 Code is amended to read:

“Section 9-1-240. The board authority shall designate an actuary who shall be the technical adviser of the board authority on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith.”

5. Section 9-1-250 of the 1976 Code is amended to read:

“Section 9-1-250. At least once in each five-year period, the first of which began in 1947, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the contingent assets and liabilities of the system and the Board authority, after taking into account the results of such investigations and valuations, shall adopt for the system such mortality, service and other tables as shall be deemed necessary.”

6. Section 9-1-260 of the 1976 Code is amended to read:

“Section 9-1-260. On the basis of regular interest and tables last adopted by the board authority the actuary shall make an annual valuation of the contingent assets and liabilities of the system.”

7. Section 9-1-270 of the 1976 Code is amended to read:

“Section 9-1-270. The board authority shall keep in convenient form such data as shall be necessary for actuarial valuation of the contingent assets and liabilities of the system for checking the experience of the system.”

8. Section 9-1-280 of the 1976 Code is amended to read:

“Section 9-1-280. The board authority shall determine from time to time the rate of regular interest for use in all calculations, with the rate of four ~~per cent~~ percent per annum applicable unless heretofore or hereafter changed by the board authority.”

9. Section 9-1-300 of the 1976 Code is amended to read:

“Section 9-1-300. The ~~board~~ authority shall keep a record of all its proceedings under this chapter, which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition-of the system by means of an actuarial valuation of the contingent assets and liabilities of the system.”

10. Section 9-1-310 of the 1976 Code, as last amended by Act 155 of 2005, is further amended to read:

“Section 9-1-310. The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the ~~State Budget and Control Board~~ department and authority jointly and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year and further prorated to reflect the authority’s and department’s time on task with respect to their Title 9 functions.”

11. Section 9-1-1020 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9-1-1020. The employee annuity savings fund shall be the account in which shall be recorded the contributions deducted from the earnable compensation of members to provide for their employee annuities. Each employer shall cause to be deducted from the compensation of each member on each and every payroll of such employer for each and every payroll period four percent of his earnable compensation. With respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Chapter 7 of this Title; however, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is effective, be at the rate of three percent of the part of his earnable compensation not in excess of four thousand eight hundred dollars, plus five percent of the part of his earnable compensation in excess of four thousand eight hundred dollars. In the case of any member so eligible and receiving compensation from two or more employers, such deductions may be adjusted under such rules as the ~~Board~~ department may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. In determining the amount earnable by a member in a payroll period, the ~~Board~~ department may consider the rate of annual earnable compensation of such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from earnable compensation for any period less than a full payroll period if a teacher or employee was not a member on the first day of the payroll period.

Each employer shall certify to the ~~Board~~ department on each and every payroll or in such other manner as the ~~Board~~ department may prescribe the amounts to be deducted and such amounts shall be deducted and, when deducted, shall be credited to said employee annuity savings fund, to the individual accounts of the members from whose compensation the deductions were made.

The rates of the deductions, without regard to a member’s coverage under the Social Security Act, must be the percentage of earnable compensation as ~~provided in the following schedule:~~

	Class One	Class Two
Before July 1, 2005	5	6
July 1, 2005 through June 30, 2006	5.25	6.25
After June 30, 2006	5.50	6.50

in effect June 30, 2013, and as those percentages may be adjusted as provided in Section 11-55-20(B)(2).

Each ~~department~~ agency and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each ~~department~~ agency and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The ~~department~~ agency and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The ~~department~~ agency and political subdivision may pick up these contributions by a reduction in the cash salary of the employee.

The employee, however, must not be given the option of choosing to receive the contributed amount of the pick ups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made prior to the date picked up.

Payments for unused sick leave, single special payments at retirement, bonus and incentive-type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. Contributions are deductible on up to and including forty-five days' termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty-five days' termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty-five days' pay for unused annual leave from the member's last termination payment shall be included in a member's average final compensation calculation."

12. Section 9-1-1050 of the 1976 Code is amended to read:

"Section 9-1-1050. The employer annuity accumulation fund shall be the account:

(1) In which shall be recorded the reserves on all employee annuities in force and against which shall be charged all employee annuities and all benefits in lieu of employee annuities;

(2) In which must be recorded all reserves for the payment of all employer annuities and other benefits payable from contributions made by employers and against which is charged all employer annuities and other benefits on account of members with prior service credit; and

(3) In which shall be recorded the reserves on all employer annuities granted to members not entitled to prior service credit and against which such employer annuities and benefits in lieu thereof shall be charged.

There shall be paid to the system and credited to the employer annuity accumulation fund contributions by the employers in an amount equal to a certain percentage of the earnable compensation of each member employed by each employer to be known as the 'normal contribution' and an additional amount equal to a percentage of such earnable compensation to be known as the 'accrued liability contribution'. The rate percent of such contributions ~~shall be fixed~~ must be not less than those set as provided in Section 11-55-20(B)(2) on the basis of the liabilities of the system as shown by actuarial valuation."

13. Section 9-1-1060 of the 1976 Code is amended to read:

"Section 9-1-1060. On the basis of regular interest and of such mortality and other tables as shall be adopted by the ~~board authority~~, the actuary engaged by the ~~board authority~~ to make each annual valuation during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant throughout his entire period of active service which would be sufficient to provide for the payment of any employer annuity payable on his account. The rate ~~per cent~~ percent so determined shall be known as the 'normal contribution rate'. After the accrued liability contribution has ceased to be

payable, the normal contribution rate shall be the rate ~~per cent~~ percent of the earnable compensation of all members obtained by deducting from the total liabilities of the employer annuity accumulation fund the amount of the funds in hand to the credit of that account and dividing the remainder by one ~~per cent~~ percent of the present value of the prospective future earnable compensation of all members as computed on the basis of the mortality and service tables adopted by the ~~board~~ authority and regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.”

14. Section 9-1-1070 of the 1976 Code is amended to read:

“Section 9-1-1070. The rate ~~per cent~~ percent determined immediately after the first valuation by the actuary engaged by the ~~board~~ authority as the rate ~~per cent~~ percent of the total annual earnable compensation of all members which is equivalent to four ~~per cent~~ percent of the amount of the total employer annuity liability on account of all members and beneficiaries which is not dischargeable by the aforesaid normal contribution made on account of such members during the remainder of their active service shall be known as the ‘accrued liability contribution rate’. Such rate shall be increased on the basis of subsequent valuations if benefits are increased over those included in the valuation on the basis of which the original accrued liability contribution rate was determined. Upon certification by the actuary engaged by the ~~board~~ authority that the accrued liability contribution rate may be reduced without impairing the system, the ~~board~~ authority may cause the accrued liability contribution rate to be reduced.”

15. Section 9-1-1090 of the 1976 Code is amended to read:

“Section 9-1-1090. The accrued liability contribution shall be discontinued as soon as the accumulated reserve in the employer annuity accumulation fund shall equal the present value, as actuarially computed and approved by the ~~board~~ authority, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of all persons who are at the time members.”

16. Section 9-1-1140 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9-1-1140. (A) An active member may establish service credit for any period of paid public service by making a payment to the system to be determined by the ~~board~~ authority, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(B) An active member may establish service credit for any period of paid educational service by making a payment to the system determined by the ~~board~~ authority, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A

member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making a payment to the system to be determined by the ~~board~~ authority, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making a payment to the system to be determined by the ~~board~~ authority, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making a payment to the system to be determined by the ~~board~~ authority, but not less than thirty-five percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education, by making a payment to the system to be determined by the ~~board~~ authority, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the system or in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

Service purchased under this subsection is 'earned service' and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned for periods purchased under this subsection while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for

Publicly Supported Four-Year and Postgraduate Institutions of Higher Education shall be treated as earnable compensation and shall be used in calculating a member's average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA-CREF Retirement Annuity contract shall be eligible to make a plan to plan transfer in accordance with the terms of that contract.

(G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

(H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

(I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee's purchase of service credit under this chapter. Any amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

(J) Service credit purchased under this section is not 'earned service' and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) The ~~board~~ authority or division, as appropriate, shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(M) At retirement, after March 31, 1991, a member shall receive credit for not more than ninety days of his unused sick leave from the member's last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(N) An employee drawing workers' compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer."

17. Section 9-1-1175 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

~~"Section 9-1-1175. Effective July 1, 2006, the board shall increase the employer contribution rate for the system by one half percent of the earnable compensation of all members employed by an employer participating in the system. The board shall further increase the employer contribution rate by one half percent effective July 1, 2007. The employer rate provided in this section also pursuant to Section 11-55-20(B)(2) applies to payments for unused annual leave under the circumstances provided in Section 9-1-1020. The employer rate provided in this section pursuant to Section 11-55-20(B)(2) includes the system's normal contribution rate and accrued liability contribution rate, but does not include contributions for group life insurance or other benefits that are remitted to the retirement systems. Contributions for group life insurance or other benefits are in addition to the applicable employer contribution rate. After June 30, 2007, the board, in its discretion, may increase or decrease the employer contribution rate set by this section based on the actuarial valuation provided to the board by the system's actuaries and considering the normal contribution rate determined pursuant to Section 9-1-1060 and the accrued liability contribution rate determined pursuant to Section 9-1-1070."~~

18. Section 9-1-1310(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“(A) The board authority is the trustee of the retirement system as ‘retirement system’ is defined in Section 9-16-10(8). The Retirement System Investment Commission shall invest and reinvest the funds of the retirement system as ‘retirement system’ is defined in Section 9-16-10(8), subject to all the terms, conditions, limitations, and restrictions imposed by Section 16, Article X of the South Carolina Constitution, subsection (B) of this section, and Chapter 16 of this title.”

19. Section 9-1-1320 of the 1976 Code is amended to read:

“Section 9-1-1320. The State Treasurer shall be the custodian of the funds of the system. All payments from such funds shall be made by him only upon vouchers signed by two persons designated by the board authority.”

20. Section 9-1-1340 of the 1976 Code, as last amended by Act 264 of 2006, is further amended to read:

“Section 9-1-1340. Except as otherwise provided in this chapter or in Chapters 8, 9, 10, and 11 of this title, no member of or person employed by the Retirement System Investment Commission shall have any direct interest in the gains or profits of any investment made by the commission. No commission member or employee of the commission ~~shall~~, directly or indirectly, for himself or as an agent in any manner shall use the funds of the commission except to make such current and necessary payments as are authorized by the ~~board division, authority, or commission~~ as appropriate. Nor shall any member or employee of the commission become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the commission.”

21. Section 9-1-1515(D)(2) of the 1976 Code is amended to read:

“(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services ~~of the State Budget and Control Board~~.”

22. Section 9-1-1750 of the 1976 Code is amended to read:

“Section 9-1-1750. Effective July 1, 1968, the monthly benefits, inclusive of the supplemental allowances payable under the provisions of Sections 9-1-1910, 9-1-1920 and 9-1-1930, for persons who commenced receiving benefits from the system prior to July 1, 1967 and subsequent to June 30, 1966 shall be increased by five percent, and such monthly benefits to persons who commence receiving benefits in each fiscal year thereafter through the fiscal year ending June 30, 1970, shall be increased by five percent provided that there is sufficient investment income in excess of the valuation interest assumption to fund such increases or a proportionate part thereof on a lifetime basis, as determined by the actuary.

The minimum increase pursuant to this section, inclusive of the increase in the supplemental allowances, shall be five dollars per month. However, if an optional benefit has been elected, the minimum shall be reduced actuarially as determined by the board authority, and shall be applicable to the retired member or his designated beneficiary under the option elected.”

23. Section 9-1-1775 of the 1976 Code, as last amended by Act 176 of 2010, is further amended to read:

“Section 9-1-1775. (A) The Death Benefit Plan for members of the South Carolina Retirement System, hereinafter referred to as the ‘plan, is established for the purpose of providing for the payment of the benefits provided by Section 9-1-1770.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is established within the South Carolina Retirement System, hereinafter referred to as the ‘retirement system’, to be held in trust by the ~~board~~ authority. The fund shall consist of all contributions paid by the employers and other monies received and paid into the fund for death benefit purposes, and of the investment earnings on these monies, and must be used only to pay the death benefits prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of the benefit, for the death benefit provided and to be paid for pursuant to this plan, there must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section the amounts determined by the actuary to be necessary to pay anticipated death benefit claims. Subsequent segregations and transfers must be made as required to pay the death benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) At the death of a member who has met the eligibility requirements set forth in Section 9-1-1770, a benefit equal to the death benefit provided by Section 9-1-1770 must be paid to the person nominated by the member in accordance with the provisions of Section 9-1-1770 or to the member’s estate.

(D) The actuary shall investigate the claim experience of the plan as provided by Section 9-1-250. On the basis of these investigations and upon the recommendation of the actuary, as provided in Section 9-1-1210, the ~~board~~ authority shall certify the contribution rates necessary to fund the death benefit authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the ~~board~~ authority shall determine the contribution which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be covered as provided in this section effective commencing as of June 19, 1973.”

24. Section 9-1-1810 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9-1-1810. (A) As of the end of each calendar year, the increase in the ratio of the Consumer Price Index to the index as of the prior December thirty-first must be determined.

(B)(1) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by no more than one percent, the retirement allowance, inclusive of the supplemental allowances payable under the provisions of Sections 9-1-1910, 9-1-1920, and 9-1-1930, of each beneficiary in receipt of an allowance must be increased by a percentage equal to the increase in the index.

(2) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by more than one percent, then:

(a) the retirement allowance of each beneficiary in receipt of an allowance, inclusive of the supplement allowances payable under the provisions of Section 9-1-1910, 9-1-1920, and 9-1-1930, must be increased by one percent; and

(b) the retirement allowance may be further increased beyond one percent up to the lesser of the total percentage increase in the Consumer Price Index or four percent, to the extent that the additional liabilities because of the increase in allowances would not extend the amortization period to liquidate the unfunded actuarial accrued liability of the South Carolina Retirement System beyond thirty years. In considering this additional increase, the ~~board~~ authority shall consider unrealized investment gains and losses.

(C) The increase in retirement allowances commences the July first immediately following the December thirty-first that the increase in ratio was determined, and all increases in retirement allowances

must be granted to these beneficiaries in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increases, irrespective of any subsequent decrease in the Consumer Price Index.

(D) The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this section ~~must~~, when and if payable, must be increased by the same percent.

(E) For purposes of this section, 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers, as published by the United States Department of Labor, Bureau of Labor Statist."

25. Section 9-1-1830 of the 1976 Code is amended to read:

"Section 9-1-1830. Starting July 1, 1981, there must be paid to the system, and credited to the post-retirement increase special fund, contributions by the employers in an amount equal to two-tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the State ~~Budget and Control Board shall~~ Contracts and Accountability Authority, on the recommendation of the actuary, shall transfer a portion of the monies as are received pursuant to Section 9-1-1050 that are available due to actuarial gains in the system if the transfers do not adversely affect the funding status of the system. Starting July 1, 1986, all contributions previously credited to the post-retirement increase special fund must be diverted and credited to the employer annuity accumulation fund."

B. Chapter 2, Title 9 of the 1976 Code, as last amended by Act 170 of 1991, is further amended to read:

"CHAPTER 2

Retirement and Pre-Retirement Advisory ~~Board~~ Panel

Section 9-2-10. There is ~~hereby~~ created the South Carolina Retirement and Pre-Retirement Advisory ~~Board~~ Panel for the purpose of advising the director of the South Carolina Retirement System and the director of the State Personnel Division on matters relating to retirement and pre-retirement programs and policies.

Section 9-2-20. (a) The ~~board~~ panel shall consist of eight members appointed by the State ~~Budget and Control Board~~ Contracts and Accountability Authority and must be constituted as follows:

- (1) one member representing municipal employees;
- (2) one member representing county employees;
- (3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;
- (4) two members representing public school teachers, one of whom must be retired;
- (5) one member representing the higher education teachers. The ~~Budget and Control Board~~ authority shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the ~~board~~ panel.

(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again, four years after the expiration of his second term. Provided that of those first appointed, four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.

(c) A chairman, vice chairman, and secretary shall be elected from among the membership to serve for terms of two years.

Section 9-2-30. The ~~board~~ panel shall meet once a year with the Director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the ~~State Budget and Control Board~~ authority. The chairman may call additional meetings of the ~~board~~ panel at such other times as ~~deemed~~ considered necessary and shall give timely notice of such meetings.

Section 9-2-40. The ~~board~~ panel shall review retirement and pre-retirement programs and policies, propose recommendations, and identify major issues for consideration.

Section 9-2-50. The ~~board~~ panel is authorized to seek reasonable staff assistance from the South Carolina Retirement System, the State Personnel Division, and other state agencies which may be concerned with a particular area of study. The ~~board~~ panel is also encouraged to use such resources as faculty and students at public universities, colleges, and technical education schools in South Carolina.”

C. 1. Section 9-8-10 of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

“Section 9-8-10. The following as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) ‘System’ means the Retirement System for Judges and Solicitors of the State of South Carolina.
- (2) ‘State’ means the State of South Carolina.
- (3) ‘~~Board~~’ ‘Department’ means the ~~State Budget and Control Board~~ Department of Administration acting through its Retirement Systems Division.
- (3A) ‘Authority’ means the State Contracts and Accountability Authority.
- (4) ‘Member of the system’ means any person included in the membership of the system, as set forth in Section 9-8-40.
- (5) ‘Credited service’ means service for which credit is allowable as provided in Section 9-8-50.
- (6) ‘Retirement allowance’ means monthly payments for life under the system payable as provided in Section 9-8-80.
- (7) ‘Beneficiary’ means any person in receipt of a retirement allowance or other benefit as provided by the system.
- (8) ‘Aggregate contributions’ means the sum of all the amounts deducted from the compensation of a member of the system, or directly remitted by him to the system, and credited to his individual account in the system.
- (9) ‘Regular interest’ means interest compounded annually at such rates as shall be determined by the ~~board~~ authority for a particular purpose in accordance with Section 9-8-30.
- (10) ‘Accumulated contributions’ means the member’s aggregate contributions, together with regular interest thereon.
- (11) ‘Actuarial equivalent’ means a benefit of equal value when computed on the basis of the tables and regular interest rate last adopted for the particular purpose by the ~~board~~ authority, as provided in Section 9-8-30.
- (12) ‘Date of establishment’ means July 1, 1979.
- (13) ‘Compensation’ means the total salary paid to a judge, solicitor, or circuit public defender for service rendered to the State.
- (14) ‘Employee annuity’ means annual payments for life derived from the accumulated contributions of a member.
- (15) ‘Employer annuity’ means annual payments for life derived from money provided by the State.
- (16) ‘Judge’ means a justice of the Supreme Court or a judge of the court of appeals, circuit or family court of the State of South Carolina.
- (17) ‘Solicitor’ means the person holding office as described under Section 1-7-310 of the 1976 Code.

(18) 'Earned service' means paid employment as a judge, solicitor, or circuit public defender where the judge, solicitor, or circuit public defender makes regular contributions to the system.

(19) 'Circuit public defender' means a person holding the office defined in Section 17-3-5(4)."

2. Section 9-8-30 of the 1976 Code is amended to read:

"Section 9-8-30. (1) The administration and responsibility for the operation of the system and for making effective the provisions of this chapter are vested in the ~~State Budget and Control Board~~ department and authority.

(2) The ~~board authority is the trustee of the system and~~ shall engage such actuarial and other services ~~as shall be required for it to transact the business of the system and the department similarly shall engage the services it requires for the administration of the system.~~

(3) The ~~board authority~~ shall designate an actuary who shall be the technical advisor of the ~~board authority~~ on matters regarding the operation of the system and who shall perform such other duties as are required in connection therewith.

(4) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the contingent assets and liabilities of the system. The ~~board authority~~, after taking into account the results of the investigations and valuations, shall adopt for the system such mortality, service and other tables as shall be deemed necessary.

(5) On the basis of regular interest and tables last adopted by the ~~board authority~~, for purposes of actuarial valuations, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.

(6) The ~~board authority~~ shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

(7) The ~~board authority~~ shall determine from time to time the rates of regular interest for use in calculations, with the rate of four percent per annum applicable for all purposes other than for actuarial valuations unless changed by the ~~board authority~~.

(8) Subject to the limitations hereof, the ~~board shall department or authority, as appropriate,~~ from time to time, shall establish regulations for the administration of the system and for the transaction of business.

(9) The ~~board authority~~ shall keep a record of all its proceedings under this chapter which shall be open to public inspection. Notwithstanding any other provisions of law governing the system, all persons employed by the ~~board department and authority~~ and the expenses of the ~~Board department and authority~~ to carry out the provisions of this chapter ~~shall~~ must be paid from the interest earnings of the system as provided in Section 9-1-310."

3. The last undesignated paragraph of Section 9-8-60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

"A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly, and ~~must~~ also must be a member of the General Assembly Retirement System unless the person files a statement with the ~~State Budget and Control Board Retirement Systems Division~~ Retirement Systems Division on a form prescribed by the ~~board division~~ electing not to participate in the General Assembly Retirement System while a member of the General Assembly. A person making this election shall not make contributions to the General Assembly Retirement System nor shall the State make contributions on the member's behalf and the person is not entitled to benefits from the General Assembly Retirement System after ceasing to be a member of the General Assembly."

4. Section 9-8-140 of the 1976 Code is amended to read:

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“Section 9-8-140. The contributions of the State to the system shall be determined by the ~~board authority~~ each year on the basis of annual actuarial valuations of the system. Each year the ~~board authority~~ shall certify to the State the amount of its contribution due the system. The State’s contributions shall be appropriated annually from the general fund to the system and shall include such sums as are found necessary in order to create reserves in the system sufficient to cover the cost of the allowances currently accruing under this chapter, to include a contribution each year toward the cost of prior service credits and to cover any administrative expenses which the ~~board authority~~ may incur in the operation of the system.

The employer contribution shall be remitted to the system within thirty days after the beginning of each fiscal year.”

D. 1. Section 9-9-10 of the 1976 Code, as last amended by Act 153 of 2001, is further amended to read:

“Section 9-9-10. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) ‘System’ ~~shall mean~~ means the Retirement System for members of the General Assembly of the State of South Carolina.

(2) ‘State’ ~~shall mean~~ means the State of South Carolina.

(3) ~~‘Board’ shall mean the State Budget and Control Board~~ ‘Authority’ means the State Contracts and Accountability Authority.

(3A) ‘Department’ means the Department of Administration acting through its Retirement Systems Division.

(4) ‘Member of the system’ shall mean any person included in the membership of the system, as set forth in Section 9-9-40.

(5) ‘Credited service’ ~~shall mean~~ means service for which credit is allowable as provided in Section 9-9-50.

(6) ‘Retirement allowance’ ~~shall mean~~ means monthly payments for life under the system payable as provided in Section 9-9-80.

(7) ‘Beneficiary’ ~~shall mean~~ means any person in receipt of a retirement allowance or other benefit as provided by the system.

(8) ‘Aggregate contributions’ ~~shall mean~~ means the sum of all the amounts deducted from the compensation of a member of the system, or directly remitted by him to the system, and credited to his individual account in the system.

(9) ‘Regular interest’ ~~shall mean~~ means interest compounded annually at such rate as shall be determined by the ~~board authority~~ in accordance with Section 9-9-30.

(10) Accumulated contributions’ ~~shall mean~~ means the member’s aggregate contributions, together with regular interest thereon.

(11) ‘Actuarial equivalent’ ~~shall mean~~ means a benefit of equal value when computed on the basis of the tables and regular interest rate last adopted by the ~~board authority~~, as provided in Section 9-9-30.

(12) ‘Date of establishment’ ~~shall mean~~ means January 1, 1966.

(13) ‘Earnable compensation’ means forty times the daily rate of ~~remuneration~~ remuneration, plus twelve thousand dollars, of a member of the General Assembly, as from time to time in effect.

(14) ‘Employee annuity’ ~~shall mean~~ means annual payments for life derived from the accumulated contributions of a member.

(15) ‘Employer annuity’ ~~shall mean~~ means annual payments for life derived from money provided by the State.”

2. Section 9-9-30 of the 1976 Code is amended to read:

“Section 9-9-30. (1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ department and authority.

(2) The ~~board~~ authority is the trustee of the system and shall engage such actuarial and other services ~~as shall be required for it to transact its Title 9 functions the business of the system~~. Similarly, the department shall engage such services as necessary for the administration of the system.

(3) The ~~board~~ authority shall designate an actuary who shall be the technical advisor of the ~~board~~ authority on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith.

(4) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the contingent assets and liabilities of the system. The ~~board~~ authority, after taking into account the results of such investigations and valuations, shall adopt for the system such mortality, service and other tables as shall be deemed necessary.

(5) On the basis of regular interest and tables last adopted by the ~~board~~ authority, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.

(6) The ~~board~~ authority shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

(7) The ~~board~~ authority shall determine from time to time the rate of regular interest for use in all calculations, with the rate of four percent per annum applicable unless changed by the ~~board~~ authority.

(8) Subject to the limitations hereof, the ~~board shall~~ department and division, from time to time, shall establish rules and regulations for the administration of the system and for the transaction of business.

(9) The ~~board~~ authority shall keep a record of all its proceedings under this chapter which shall be open to public inspection. Notwithstanding any other provisions of law governing the system, all persons employed by the ~~board~~ department and division and the expenses of the ~~board~~ department and division to carry out the provisions of this chapter shall be paid from the interest earnings of the system as provided in Section 9-1-30.”

3. Section 9-9-130 of the 1976 Code is amended to read:

“Section 9-9-130. The contributions of the State to the system shall be determined by the ~~board~~ authority each year on the basis of annual actuarial valuations of the system.

Each year the ~~board~~ authority shall certify to the State the amount of its contribution due the system. The State’s contributions shall be appropriated annually from the general fund to the system, and shall include such sums as are found necessary in order to create reserves in the system sufficient (i) to cover the cost of the allowances currently accruing under this chapter, (ii) to include a contribution, each year, toward the cost of prior service credits, and (iii) to cover any administrative expenses which the ~~board~~ authority and department may incur in the operation of the system.”

4. Section 9-9-160 of the 1976 Code is amended to read:

“Section 9-9-160. (1) The State Treasurer shall be the custodian of the funds of the system. All payments from such funds shall be made by him only upon vouchers signed by two persons designated by the ~~board~~ authority. No voucher shall be drawn unless it has previously been authorized by resolution of the ~~board~~ authority.

(2) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the system, on deposit with the State Treasurer.”

E. 1. Section 9-10-10 of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“Section 9-10-10. As used in this chapter, unless a different meaning is plainly required by the context:

(1) ~~‘Board’ or ‘board’~~ Department means the ~~State Budget and Control Board~~ Department of Administration, acting pursuant to the provisions of this chapter through its ~~Division of Retirement Systems~~ Division.

(1A) ‘Authority’ means the State Contracts and Accountability Authority.

(2) ‘Director’ means the Director of the National Guard Retirement System.

(3) ‘System’ or ‘system’ means the National Guard Retirement System established pursuant to this chapter.”

2. Section 9-10-20 of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“Section 9-10-20. (A) A retirement system is established to provide pension benefits for members of the National Guard of South Carolina who became members of the National Guard of South Carolina before July 1, 1993. This retirement system has the powers and privileges of a corporation and must be known as the National Guard Retirement System. By this name all of its business must be transacted, all of its funds invested, and all of its cash, securities, and other property held. The authority is the trustee of the system.

(B) The general administration and responsibility for the proper operation of the system and for making effective the provisions of this chapter are vested in the ~~board~~ department.

(C) There is created an office of Director of the National Guard Retirement System. The Director of the South Carolina Retirement System shall serve as director.

(D) The ~~board~~ authority shall engage the actuarial and other services as required to transact the business of the system.

(E) The ~~board~~ authority shall designate an actuary to be the technical advisor of the ~~board~~ authority on matters regarding the operation of the system and who shall perform other duties as are required in connection with the system.

(F) At least once in each five year period following July 1, 2006, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the participants of the system and make a valuation of the contingent assets and liabilities of the system. The ~~board~~ authority, after taking into account the results of these investigations and valuations, shall adopt for the system the mortality, service, and other tables as are necessary.

(G) On the basis of regular interest and tables last adopted by the ~~board~~ authority, the actuary shall make a valuation of the contingent assets and liabilities of the system at least every other year.

(H) The ~~board~~ authority shall keep in convenient form the data as necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

(I) Subject to the limitations of this chapter, the ~~board~~ department and authority shall establish regulations for the administration of the system and for the transaction of business.

(J) The ~~board~~ authority shall keep a record of all its proceedings under this chapter, which must be open to public inspection. Notwithstanding any other provisions of law governing the system, all persons employed by the ~~board~~ department and authority and the expenses of the ~~board~~ department and authority to carry out the provisions of this chapter must be paid from the interest earnings of the system as provided in Section 9-1-310.”

3. Section 9-10-60 of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“Section 9-10-60. (A) Notwithstanding any other provision of this chapter, a person who becomes a member of the National Guard of South Carolina after June 30, 1993, is ineligible to receive the pension authorized by this chapter.

(B) Persons with a break in service remain eligible for pension benefits under this chapter if the person was a member of the National Guard of South Carolina before July 1, 1993.

(C) Reserved

(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the ~~State Budget and Control Board~~ authority.

(E) Assets and funds of the National Guard Retirement System must be used to pay obligations to persons entitled to receive benefits under this chapter and may not be diverted or used for any other purpose.”

4. Section 9-10-80 of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“Section 9-10-80. (A) The State Treasurer is the custodian of the funds of the National Guard Retirement System. All payments from the funds must be made by him only upon vouchers signed by two persons designated by the ~~board~~ authority. No voucher may be drawn unless it has previously been authorized by resolution of the ~~board~~ authority.

(B) For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total funds of the National Guard Retirement System, on deposit with the State Treasurer.”

F. 1. Section 9-11-10 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“Section 9-11-10. As used in this chapter, unless a different meaning is plainly required by the context:

(1) ‘Accumulated additional contributions’ means a member’s aggregate additional contributions, together with regular interest on the contributions.

(2) ‘Accumulated contributions’ means the sum of all the amounts deducted from the compensation of a member and credited to the member’s individual account in the employee annuity savings fund, together with regular interest on the account, as provided in this chapter.

(3) ‘Active member’ means a member who is compensated by an employer participating in the system and who is making regular retirement contributions to the system.

(4) ‘Actuarial equivalent’ means a benefit of equal value when computed on the basis of the tables and regular interest rate last adopted by the ~~board~~ authority, as provided in Section 9-11-30.

(5) ‘Aggregate additional contributions’ means the sum of all the contributions made by a member pursuant to Section 9-11-210 in effect before July 1, 1974, and any amounts transferred from another fund which are treated as additional contributions pursuant to Section 9-11-210 in effect before July 1, 1974, or Section 9-11-210(6) as amended as of that date.

(6) ‘Aggregate contributions’ means the sum of all the amounts deducted from the compensation of a member and credited to the member’s individual account in the system, including any amounts transferred from another fund to the system as provided in Section 9-11-210(6).

(7) ‘Average final compensation after July 1, 1986’ means the average annual compensation of a member during the twelve consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty-five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty-six consecutive months prior to the expiration of his term of office.

(8) ‘Beneficiary’ means a person in receipt of a retirement allowance or other benefit provided by the system.

(9) ~~‘Board’~~ ‘Department’ means the ~~State Budget and Control Board~~ Department of Administration acting through its ~~Division of Retirement Systems~~ Division.

(9A) ‘Authority’ means the State Contracts and Accountability Authority.

(10) ‘Class one service’ means credited service which is not class two service.

(11) ‘Class two service’ means credited service after June 30, 1974, as a class two member, as defined in subsection (7) of Section 9–11–40, and credited service before July 1, 1974, or date of membership, if later, with respect to which contributions have been made by a member, or on the member’s behalf, under the supplemental allowance program or pursuant to subsection (2), (3), or (10) of Section 9–11–210.

(12) ‘Compensation’ means the total remuneration paid to a police officer for service rendered to an employer for his full normal working time; when compensation includes maintenance, fees and other things of value, the ~~board~~ authority shall fix the value of that part of the compensation not paid in money directly by the employer.

(13) ‘Credited service’ means a member’s earned service and purchased service.

(14) ‘Date of establishment’ means July 1, 1962.

(15) ‘Earned service’ means:

(a) the paid employment of a member of the system with an employer participating in the system where the member makes regular retirement contributions to the system;

(b) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four–Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to Section 9–11–50(F); or

(c) service with a participating employer in the system, the South Carolina Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(16) ‘Educational service’ means paid service as a classroom teacher in a public, private, or sectarian school providing elementary or secondary education, kindergarten through grade twelve.

(17) ‘Employer’ means:

(a) the State;

(b) a political subdivision, agency, or department of the State which employs police officers and which has been admitted to the system as provided in Section 9–11–40; and

(c) a service organization, the membership of which is composed solely of persons eligible to be members as defined by this section, if the compensation received by the employees of the service organization is provided from monies paid by the members as dues, or otherwise, or from funds derived from public sources and if the contributions prescribed by this chapter are to be paid from the funds of the service organization.

(18) [Reserved]

(19) ‘Member’ means a person included in the membership of the system, as provided in this chapter.

(20) ‘Military service’ means:

(a) service in the United States Army, United States Navy, United States Marine Corps, United States Air Force, or United States Coast Guard;

(b) service in the select reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or the Coast Guard Reserve; and

(c) service as a member of the Army National Guard or Air National Guard of this or any other state.

(21) ‘Nonqualified service’ means purchased service other than public service, educational service, military service, leave of absence, and reestablishment of withdrawals.

(22) ‘Other fund’ means:

(a) the South Carolina Retirement System; or

(b) the Police Insurance and Annuity Fund of the State of South Carolina.

(23) ‘Police officer’ means a person who receives his salary from an employer and who is:

(a) required by the terms of his employment, either by election or appointment, to give his time to the preservation of public order, the protection of life and property, and the detection of crimes in this State; or

(b) an employee after January 1, 2000, of the South Carolina Department of Corrections, the South Carolina Department of Juvenile Justice, or the South Carolina Department of Mental Health who, by the terms of his employment, is a peace officer as defined by Section 24-1-280.

Notwithstanding prior duties performed by a person who is a police officer as defined in this item, the provisions of Section 9-11-40(9) apply to a person who is or who becomes a member of the Police Officers Retirement System.

(24) 'Public service' means service as an employee of the government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of these. The term 'public service' does not include 'educational service' or 'military service' as defined in this section. 'Public service' does include paid service rendered as an employee of a postsecondary public technical college or public junior college, or a public four-year or postgraduate institution of higher education, while the member was a student at that institution.

(25) 'Purchased service' means service credit purchased by an active member while an employee of an employer participating in the system.

(26) 'Regular interest' means interest compounded annually at the rate or rates determined for a particular purpose by the ~~board~~ authority in accordance with Section 9-11-30.

(27) 'Retirement allowance' means monthly payments for life under the system payable as provided in Section 9-11-160.

(28) 'State' means the State of South Carolina.

(29) 'Supplemental allowance program' means the supplemental allowance program established under the system as of July 1, 1966, and as in effect on June 30, 1974.

(30) 'System' means the South Carolina Police Officers Retirement System."

2. Section 9-11-20 of the 1976 Code is amended to read:

"Section 9-11-20. (1) A retirement system is hereby created and placed under the administration of the ~~board department and authority~~ to provide retirement allowances and other benefits for police officers. The system shall begin operation as of July 1, 1962. It shall have the power and privileges of a corporation and shall be known as the South Carolina Police Officers Retirement System, and by such name all of its business shall be transacted, all of its funds invested, and all of its cash, securities and other property held. The authority is the trustee of the system.

(2) There is hereby created an office to be known as Director of the South Carolina Police Officers Retirement System. The Director of the South Carolina Retirement System shall serve as Director of this system."

3. Section 9-11-30 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"Section 9-11-30. (1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board department and authority~~.

(2) [Reserved]

(3) The ~~board~~ authority shall engage such actuarial and other services as ~~shall be required for it to transact the business of the system~~ its Title 9 functions. Similarly, the department may engage the services required for the administration of the system.

(4) The ~~board~~ authority shall designate an actuary who shall be the technical adviser of the ~~board authority~~ on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith and shall be a member of the American Academy of Actuaries.

(5) At least once in each five-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the contingent assets and liabilities of the system and the ~~board~~ authority, after taking into account the results of such investigations and valuations, shall adopt for the system such mortality, service and other tables as shall be deemed necessary.

(6) On the basis of regular interest and tables last adopted by the ~~board~~ authority the actuary shall make an annual valuation of the contingent assets and liabilities of the system.

(7) The ~~board~~ authority shall keep in convenient form such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

(8) The ~~board~~ authority shall determine from time to time the rate or rates of regular interest for use in all calculations.

(9) Subject to the limitations hereof, the ~~board~~ department and authority shall, from time to time, establish rules and regulations for the administration of the system and for the transaction of business.

(10) The ~~board~~ department and authority shall keep a record of ~~all its~~ their proceedings under this article which shall be open to public inspection. ~~It~~ The authority shall publish an annual report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the contingent assets and liabilities of the system. Notwithstanding any other provisions of law governing the system, all persons employed by the ~~board~~ department and authority and the expenses of the ~~board~~ department and authority to carry out the provisions of this chapter shall be paid from the interest earnings of the system as provided pursuant to Section 9-1-310.”

4. Section 9-11-45 of the 1976 Code is amended to read:

“Section 9-11-45. Notwithstanding the provisions of Section 9-11-40, an employer who maintains a local retirement system for police officers prior to the date of admission may require all active members of that system to become members of this system on the date of admission. If this option is exercised, all assets of the local retirement system including accumulated member contributions, if any, not needed to meet the local retirement system’s retiree liability, if any, must be transferred to this system as of the date of admission. Any actuarial accrued liabilities realized by the system on account of the transfer, as determined by the ~~board’s~~ authority’s actuary and not met by transferred assets, must be paid by the employer in a lump sum or in installments over a period not to exceed ten years, as the ~~board~~ authority under uniform rules may determine. The asset transfer and employer payment, if required by this subsection, is in lieu of any other payments that would otherwise be required by this section.

The ~~board’s~~ authority’s actuary shall determine, for the protection of the current retirees of the local system, the amount of retainage necessary by the employer to meet this retiree liability and to have adequate revenue therefor; and the same must be retained and escrowed by the employer which will have the continuing responsibility to see that all retirement payments continue at present levels for current retirees until the death of the last survivor, including any costs of living increases in future years provided for in the local system plan.”

5. Section 9-11-48 of the 1976 Code, as last amended by Act 506 of 1990, is further amended to read:

“Section 9-11-48. Notwithstanding the provisions of Section 9-11-40, an employer who maintains a local retirement system for firefighters before the date of admission to the Police Officers’ Retirement System may transfer the local system to the Police Officers’ Retirement System by meeting the requirements of one of the following items:

(1)(a) The employer may require all active members and retirees or their beneficiaries of that local system to become members or beneficiaries of the South Carolina Police Officers’ Retirement System on

the date of admission. The date of admission is April 1, 1989, or at the beginning of any quarter thereafter. If this option is exercised, all assets of the local retirement system must be transferred to this system as of the date of admission. Any actuarial accrued liabilities realized by the system on account of the transfer, including retiree liability, as determined by the ~~board's~~ authority's actuary and not met by transferred assets, must be paid by the employer in a lump sum or in installments over a period not to exceed ten years, as the ~~board~~ authority under uniform regulations may determine. The asset transfer and employer payment, if required by this subitem, is in lieu of any other payments that would otherwise be required by this subitem.

(b) Retirees or their beneficiaries transferred to this system shall receive benefits equal to those they received under the former local retirement system plus increases provided by law for beneficiaries of this system on or after the date of admission.

(c) If a retiree on the date of transfer is employed in employment covered by the system, the earnings limitation of Section 9-11-150(4) does not apply while the retiree remains in the same covered employment.

(2)(a) The employer may require all active members of the local retirement system for firefighters to become members of the South Carolina Police Officers' Retirement System on the date of admission. The date of admission is April 1, 1990, or at the beginning of any quarter thereafter. If this option is exercised, all assets of the local retirement system including accumulated member contributions, if any, not needed to meet the local retirement system's retiree liability, if any, must be transferred to this system as of the date of admission. Any actuarial accrued liabilities realized by the system on account of the transfer, as determined by the ~~board's~~ authority's actuary and not met by transferred assets, must be paid by the employer in a lump sum or in installments over a period not to exceed ten years, as the ~~board~~ authority under uniform rules may determine. The asset transfer and employer payment, if required by this subitem, is in lieu of any other payments that would otherwise be required by this subitem.

(b) The ~~board's~~ authority's actuary shall determine the amount of assets necessary to be retained to provide the funds to meet retiree liability. The amount determined must be retained and escrowed by the employer. The employer has the continuing responsibility to insure that retirement benefits of current retirees continue at current levels, including cost-of-living increases in future years as provided in the local retirement system, until the death of the last survivor."

6. Section 9-11-125 of the 1976 Code, as last amended by Act 176 of 2010, is further amended to read:

"Section 9-11-125. (A) The Death Benefit Plan for members of the South Carolina Police Officers Retirement System, hereinafter referred to as the 'plan', is established for the purpose of providing for the payment of the benefits provided by Section 9-11-120.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is established within the South Carolina Police Officers Retirement System, hereinafter referred to as the 'retirement system', to be held in trust by the ~~board~~ authority. The fund shall consist of all contributions paid by the employers and other monies received and paid into the fund for death benefit purposes, and of the investment earnings on these monies, and must be used only to pay the death benefits prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of the benefit, for the death benefit provided and to be paid for pursuant to this plan, there must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section the amounts determined by the actuary to be necessary to pay anticipated death benefit claims. Subsequent segregations and transfers must be made as required to pay the benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) At the death of a member who has met the eligibility requirements set forth in Section 9-11-120 a benefit equal to the death benefit provided by Section 9-11-120 must be paid to the person nominated by the member in accordance with the provisions of Section 9-11-120 or to the member's estate.

(D) The actuary shall investigate the experience of the plan as provided by Section 9-11-30. On the basis of the investigations and upon the recommendation of the actuary, as provided in Section 9-11-120, the ~~board~~ authority shall certify the contribution rates computed to be necessary to fund the death benefits authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the ~~board~~ authority shall determine the contribution rates which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be covered as provided in this section effective commencing as of June 19, 1973.”

7. Section 9-11-210 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9-11-210. (1) ~~Each Class One member shall contribute to the System twenty one dollars a month during his service after becoming a member. Each Class Two member shall contribute to the System six and one half percent of his compensation~~ Each member shall contribute to the system as provided pursuant to Section 11-55-20(B)(2).

(2) Any police officer who is a participant in the Supplemental Allowance Program on June 30, 1974 and has not made contributions under said Program with respect to his credited service prior to his date of participation therein may elect, by written notice filed with the ~~Board~~ department within ninety days after July 1, 1974, to establish credit for such service as Class Two service by making a special contribution equal to the amount which would have resulted had he, during each month of such service, made contributions to the system equal to two percent of the portion of his monthly compensation in excess of four hundred dollars during the month immediately preceding his participation in the Supplemental Allowance Program and had such contributions been accumulated with interest at the rate of four percent per annum to July 1, 1974 and at regular interest as determined by the ~~Board~~ department thereafter to the date of payment. Such contribution shall be paid within twelve months following the filing of the aforesaid notice.

(3) Any Class Two member, other than a member who makes the election provided in subsection (2) of this section, who has credited service which does not qualify as Class Two service may elect by written notice filed with the ~~Board~~ department at any time prior to retirement to establish credit for such service as Class Two service by making a special contribution prior to retirement equal to the excess of (a) five percent of his monthly rate of compensation at the time such contribution is made, over (b) sixteen dollars, multiplied by (c) the number of months of such credited service.

(4) Reserved.

(5) The ~~Board~~ department shall prescribe by appropriate rules and regulations the manner in which the contributions provided in subsections (2), (3), and (4) of this section shall be made.

(6) Each member who was, immediately prior to his becoming a member, a participant in another fund shall, and is hereby authorized and required to, cause the amount of his full contributions made under such other fund to be transferred to the system within two months of the date of his membership, provided that the service credited to him under such other fund is includable in his credited service under the system. If the amount so transferred exceeds the amount which would have been transferable from the Police Insurance and Annuity Fund had the member made all required contributions thereto in connection with service prior to July 1, 1962 before becoming a member, plus the amount which the member would have been required to contribute to the system on account of service after said date and prior to his actual date of membership, the ~~Board~~ department shall under uniform rules and regulations determine the amount of such excess and treat it as an additional contribution which upon his retirement shall be used to provide an additional retirement allowance. If, however, a deficiency exists, the ~~Board~~ department shall require that such deficiency be made up by the member within such period of time as the ~~Board~~ department may deem reasonable. This subsection shall not apply to a member transferred from a correlated system to whom the provisions of Section 9-11-40(9) are applicable.

(7) The collection of members' contributions is as follows:

Each employer must cause to be deducted on each and every payroll of a member the contributions payable by the member. In determining the amount to be deducted in a payroll period, the employer may consider the rate of compensation of the member on the first day of the payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if a police officer was not a member on the first day of the payroll period. The chief fiscal officer of each employer shall transmit the amounts deducted to the system together with a schedule of the contributions, on forms prescribed by the ~~Board~~ department, to reach the Retirement System on or before the last day of each month for the preceding month. If any employer fails to do so, or if arrears should at any time exist in making monthly payroll reports and remittances as required hereunder and by the rules and regulations of the ~~Board~~ department, the compensation of any person or officer of any employer charged with the responsibility of making monthly payroll reports and remittances to the system must be withheld by the employer in each instance of failure to make the reports and remittances until all reports and remittances required hereunder and by the rules and regulations of the ~~Board~~ department have been made. The system shall furnish monthly to the disbursing officers of each employer a statement of any failure to make payroll reports and remittances and the names of the persons or officers failing to make the reports and remittances.

Any person failing to transmit, in the manner and within the period herein required, the contributions deducted is guilty of a misdemeanor and must be punished by fine or imprisonment, or both, in the discretion of the court.

(8) Every member shall be deemed to consent and agree to the deductions made and provided for herein, and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under the system.

(9) Each of the amounts so deducted shall be credited to the individual account of the member from whose compensation the deduction was made.

(10) Any employer may pay to the system on behalf of the members in its employ the amounts which such members would otherwise be required to contribute pursuant to subsection (2) or (3) of this section in order to establish credit as Class Two service for any period of credited service prior to the date on which such members became eligible for Class Two membership or for participation in the Supplemental Allowance Program or any amounts which such members would otherwise be required to contribute pursuant to subsection (4) of this section in order to establish credit for any period of service prior to the date on which such members became eligible for membership. Such amounts contributed by an employer shall not be credited to the members' accumulated contributions, but in the event that a member's accumulated contributions are returned to him upon termination of his membership or are paid to the person designated by him upon his death prior to retirement, any amount contributed by the employer on behalf of the member pursuant to this subsection (10) shall be returned to said employer.

(11) Each ~~department~~ agency and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each department and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The ~~department~~ agency and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The ~~department~~ agency and political subdivision may pick up these contributions by a reduction in the cash salary of the employee. The employee, however, must not be given the option of choosing to receive the contributed amount of the pickups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made prior to the date picked up.

(12) Payments for unused sick leave, single special payments at retirement, bonus and incentive-type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. This item does not apply to bonus payments paid to certain categories of employees annually during their work careers. Bonus or special payments applied only during the ‘Average Final Compensation’ period are excluded as compensation. Contributions are deductible on up to and including forty-five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty-five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty-five days’ pay for unused annual leave from the member’s last termination payment shall be included in a member’s average final compensation calculation.”

8. Section 9-11-220(1) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(1) Commencing as of July 1, 1974, each employer shall contribute to the system seven and one-half percent of the compensation of Class One members in its employ and ~~ten percent of a percentage of~~ compensation of ~~Class Two~~ all other members in its employ. ~~Such rates of contribution shall be subject to adjustment from time to time on the basis of the annual actuarial valuations of the System as provided pursuant to Section 11-55-20(B)(2).~~”

9. Section 9-11-75 of the 1976 Code is repealed.

G. Chapter 12, Title 9 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“CHAPTER 12

Qualified Excess Benefits Arrangements

Section 9-12-10. As used in this chapter, unless a different meaning is plainly required by the context:

(1) ~~‘Board’~~ ‘Authority’ means the State ~~Budget and Control Board Contract and Accountability Authority~~ acting as trustee of the retirement systems and acting through ~~its Division of the Retirement Systems Division of the Department of Administration.~~

(2) ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended from time to time.

(3) ‘QEBA’ means a Qualified Excess Benefit Arrangements under Section 415(m) of the Internal Revenue Code.

(4) ‘Retirement system’ means the South Carolina Retirement System, Retirement System for Judges and Solicitors, Retirement System for Members of the General Assembly, and Police Officers Retirement System established pursuant to Chapters 1, 8, 9, and 11 of this title.

Section 9-12-20. Each retirement system may establish and maintain a QEBA. The amount of any annual benefit that would be payable pursuant to this chapter but for the limitation imposed by Section 415 of the Internal Revenue Code shall be paid from a QEBA established and maintained pursuant to this chapter. A QEBA established under this chapter shall be maintained through a separate unfunded QEBA. This arrangement is established for the sole purpose of enabling the retirement systems to continue to apply the same formulas for determining benefits payable to all employees covered by the retirement systems created under Chapters 1, 8, 9, and 11 of this title, including those whose benefits are limited by Section 415 of the Internal Revenue Code.

Section 9-12-30. The board authority shall administer the QEBAs. The board authority has full discretionary authority to determine all questions arising in connection with the QEBAs, including its interpretation and any factual questions arising under the QEBAs. Further, the board authority has full authority to make modifications to the benefits payable under the QEBAs as may be necessary to maintain the QEBAs' qualification under Section 415(m) of the Internal Revenue Code.

Section 9-12-40. All members, retired members, and beneficiaries of the retirement systems are eligible to participate in a QEBA if their benefits would exceed the limitation imposed by Section 415 of the Internal Revenue Code. Participation is determined for each calendar year, and participation shall cease for any calendar year in which the benefit of a member, retired member, or beneficiary is not limited by Section 415 of the Internal Revenue Code.

Section 9-12-50. On and after the effective date of the QEBA, the board authority shall pay to each eligible retiree and beneficiary a supplemental retirement allowance equal to the difference between the retiree's or beneficiary's monthly benefit otherwise payable from the applicable retirement system prior to any reduction or limitation because of Section 415 of the Internal Revenue Code and the actual monthly benefit payable from the retirement system as limited by Section 415. The board authority shall compute and pay the supplemental retirement allowance in the same form, at the same time, and to the same persons as such benefits would have otherwise been paid as a monthly pension under the retirement system except for the Internal Revenue Code Section 415 limitations.

Section 9-12-60. The board authority shall determine the amount of benefits that cannot be provided under the retirement systems because of the limitations of Section 415 of the Internal Revenue Code, and the amount of contributions that must be made to the QEBAs as separate funds within the retirement systems. The board authority shall engage such actuarial services as shall be required to make these determinations. If applicable, fees for the actuary's service shall be paid by the applicable employers.

Section 9-12-70. Contributions shall not be accumulated under a QEBA to pay future supplemental retirement allowances. Instead, each payment of contributions by the applicable employer that would otherwise be made to a retirement system shall be reduced by the amount necessary to pay the required supplemental retirement allowances, and these contributions will be deposited in a separate fund that is a portion of the retirement system. This separate fund is intended to be exempt from federal income tax under Sections 115 and 415(m) of the Internal Revenue Code. The board authority shall pay direct payment of the required supplemental retirement allowances to the member, retired member, or beneficiary out of the employer contributions so transferred. The employer contributions otherwise required under the terms of a retirement system shall be divided into those contributions required to pay supplemental retirement allowances hereunder, and those contributions paid into and accumulated in the retirement system funds created under Chapter 16 of this title to pay the maximum benefits permitted. Employer contributions made to a separate fund to provide supplemental retirement allowances shall not be commingled with the contributions paid into and accumulated in the retirement system funds created under Chapter 16. The supplemental retirement allowance benefit liability shall be funded on a calendar year to calendar year basis. Any assets of a separate QEBA fund not used for paying benefits for a current calendar year shall be used, as determined by the board authority, for the payment of administrative expenses of the QEBA for the calendar year.

Section 9-12-80. A member, retired member, or beneficiary cannot elect to defer the receipt of all or any part of the payments due under a QEBA.

Section 9-12-90. Payments under a QEBA are exempt from garnishment, assignment, alienation, judgments, and other legal processes to the same extent as a retirement allowance under a retirement system.

Section 9-12-100. Nothing in this chapter shall be construed as providing for assets to be held in trust or escrow or any form of asset segregation for members, retired members, or beneficiaries. To the extent any person acquires the right to receive benefits under a QEBA, the right shall be no greater than the right of any unsecured general creditor of the State of South Carolina.

Section 9-12-110. A QEBA is a portion of a governmental plan as defined in Section 414(d) of the Internal Revenue Code, and is intended to meet the requirements of Internal Revenue Code Sections 115 and 415(m), and shall be so interpreted and administered.

Section 9-12-120. Amounts deducted from employer contributions and deposited in a separate QEBA fund shall not increase the amount of employer contributions required under Chapters 1, 8, 9, and 11 of this title.”

H. 1. Section 9-16-10 of the 1976 Code, as last amended by Act 155 of 2005, is further amended to read:

“Section 9-16-10. As used in this chapter, unless a different meaning is plainly required by the context:

- (1) ‘Assets’ means all funds, investments, and similar property of the retirement system.
- (2) ‘Beneficiary’ means a person, other than the participant, who is designated by a participant or by a retirement program to receive a benefit under the program.
- (3) ‘~~Board~~ ‘Authority’ means the State ~~Budget and Control Board~~ Contract and Accountability Authority acting as trustee of the retirement system.
- (3.5) ‘Commission’ means the Retirement System Investment Commission.
- (4) ‘Fiduciary’ means a person who:
 - (a) exercises any authority to invest or manage assets of a system;
 - (b) provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so;
 - (c) is a member of the commission; or
 - (d) is the commission’s chief investment officer.
- (5) ‘Participant’ means an individual who is or has been an employee enrolled in a retirement program and who is or may become eligible to receive or is currently receiving a benefit under the program. The term does not include an individual who is no longer an employee of an employer as defined by laws governing the retirement system and who has withdrawn his contributions from the retirement system.
- (6) [Reserved]
- (7) ‘Retirement program’ means a program of rights and obligations which a retirement system establishes or maintains and which, by its express terms or as a result of surrounding circumstances:
 - (a) provides retirement benefits to qualifying employees and beneficiaries; or
 - (b) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond.
- (8) ‘Retirement system’ means the South Carolina Retirement System, Retirement System for Judges and Solicitors, Retirement System for Members of the General Assembly, National Guard Retirement System, and Police Officers Retirement System established pursuant to Chapters 1, 8, 9, 10 and 11 of this title.
- (9) ‘Trustee’ means the ~~State Budget and Control Board~~ authority.”

2. Section 9-16-20 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9-16-20. (A) All assets of a retirement system are held in trust. The commission has the exclusive authority, subject to this chapter and Section 9-1-1310, to invest and manage those assets.

(B) If the retirement system invests in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1, et seq.), the assets of the system include the security, but not assets of the investment company.

(C) The board authority shall hold the assets of the retirement systems in a group trust under Section 401(a)(24) of the Internal Revenue Code that meets the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, as amended by Revenue Ruling 2004-67. Any group trust shall be operated or maintained exclusively for the commingling and collective investment of funds from other trusts that it holds. The board authority shall be permitted to hold in this group trust funds that consist exclusively of trust assets held under plans qualified under Internal Revenue Code Section 401(a), individual retirement accounts that are exempt under Internal Revenue Code Section 408(e), and eligible governmental plans that meet the requirements of Internal Revenue Code Section 457(b). For this purpose, a trust includes a custodial account under Internal Revenue Code Section 401(f) or under Internal Revenue Code Section 457(g)(3).”

3. Section 9-16-55(F) of the 1976 Code, as added by Act 248 of 2008, is amended to read:

“(F) ~~Present, future, and Former board~~ members, officers, and employees, however described, of the State Budget and Control Board, and present, future, and former members, officers, and employees of the State Contracts and Accountability Authority, and the Retirement System Investment Commission, however described, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney’s fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former ~~board~~ members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section.”

4. Section 9-16-80 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“Section 9-16-80. (A) Meetings by the board authority while acting as trustee of the retirement system, or meetings of the commission, or by its fiduciary agents to deliberate about, or make tentative or final decisions on, investments or other financial matters may be in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives.

(B) A record of the board authority, or commission, or of its fiduciary agents that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is exempt from the disclosure requirements of Chapter 4 of Title 30, the Freedom of Information Act, to the extent and so long as its disclosure would jeopardize the ability to implement an investment decision or program or to achieve investment objectives.”

5. Section 9-16-90 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“Section 9-16-90. (A) The commission shall provide investment reports at least quarterly during the fiscal year to the ~~State Budget and Control Board~~ authority, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and other appropriate officials and entities.

(B) In addition to the quarterly reports provided in subsection (A), the commission shall provide an annual report to the ~~State Budget and Control Board~~ authority, the Speaker of the House of Representatives, members of the House of Representatives or Senate, but only upon their request, the

President Pro Tempore of the Senate, and other appropriate officials and entities of the investment status of the retirement systems. The report must contain:

(1) a description of a material interest held by a trustee, fiduciary, or an employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in a material transaction with the system within the last three years or proposed to be effected;

(2) a schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one-year, three-year, five-year, and ten-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;

(3) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years; and

(4) a schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor, or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, costs, and fair value and identifying an asset that is in default or classified as uncollectible.

These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law.”

6. Section 9-16-320(B) of the 1976 Code, as last amended by Act 105 of 2005, is further amended to read:

“(B) The commission shall meet at least once during each fiscal-year quarter for the purposes of reviewing the performance of investments, assessing compliance with the annual investment plan, and determining whether to amend the plan. The commission shall meet at such other times as are set by the commission or the chairman or requested by the ~~board~~ authority.”

7. Section 9-16-330(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“(A) The commission shall provide the chief investment officer with a statement of general investment objectives. The commission shall also provide the chief investment officer with a statement of actuarial assumptions developed by the system's actuary and approved by the ~~board~~ authority. The commission shall review the statement of general investment objectives annually for the purpose of affirming or changing it and advise the chief investment officer of its actions. The retirement system shall provide the commission and its chief investment officer that data or other information needed to prepare the annual investment plan.”

I. Section 9-18-10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

“(3) ‘Board’ means the State ~~Budget and Control Board~~ Contracts and Accountability Authority.”

J. Section 9-21-20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

“(2) ‘Board’ means the State ~~Budget and Control Board~~ Contract and Accountability Authority.”

Subpart 7

SECTION 32. A .Section 1-1-810 of the 1976 Code is amended to read:

“Section 1-1-810. Each agency and department of state government shall submit an annual accountability report to the Governor, State Contracts and Accountability Authority’s Office of Accountability and Auditing, and the General Assembly covering a period from July first to June thirtieth, unless otherwise directed by the specific statute governing the department or institution. The submission of the annual accountability report by state agencies and departments must be sent to the Office of Accountability and Auditing which in turn shall provide copies to the Governor’s Office and the General Assembly.”

B. 1. Section 1-6-20(B) of the 1976 Code, as added by Act ___ of 2012, R. 112, S. 258, is amended to read:

“(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies and must conduct annual audits of state agencies pursuant to Section 1-6-110.”

2. Section 1-6-20(D)(3) of the 1976 Code, as added by Act ___ of 2012, R. 112, S. 258, is amended to read:

“(3) is entitled to receive compensation set by the Governor ~~and approved by the Budget and Control Board.~~”

3. Chapter 6, Title 1 of the 1976 Code, as added by Act ___ of 2012, R. 112, S. 258, is amended by adding:

“Section 1-6-110. (A)(1) All agencies are subject to audit supported partially or entirely by public funds are subject to audit by or under the oversight of the State Inspector General, except as otherwise specifically provided by law. The State Inspector General, to the extent practicable and consistent with his overall responsibility, shall audit or cause to be audited each state agency and entity annually.

(2) Annually the State Inspector General shall audit or cause to be audited the state’s basic financial statements prepared by the Comptroller General of South Carolina.

(3) Annually the Inspector General shall audit or cause to be audited the compliance of the State of South Carolina with the U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement as applicable to major federal programs.

(4) Audits must be conducted in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations.

(B) To the extent practicable and consistent with his overall responsibility, the State Inspector General periodically shall audit or cause to be audited the financial records of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report if fines and assessments imposed pursuant to Sections 14-1-205 through 14-1-208 are collected properly and remitted to the State Treasurer. Upon the issuance of an audit report, the State Inspector General immediately shall notify the State Treasurer, Division of Court Administration, and the chief administrator of the affected agency, department, county, or municipality.

(C) Reports of audit findings must be available to the Governor, the Department of Administration, General Assembly, and the general public. The State Inspector General shall notify the Governor, the Department of Administration, and the General Assembly immediately upon the issuance of an audit report.

(D) In order to carry out his duties, the State Inspector General and his assistants or designees must have access to all records and facilities of every state agency during normal operating hours. The State Inspector General and his assistants or designees shall have access to all relevant records and facilities of

a private organization receiving appropriated state monies, relating to the management and expenditures of these state monies, during the organization's normal operating hours. In the performance of his official duties, the State Inspector General and his assistants or designees are subject to the statutory provisions and penalties regarding the confidentiality of records of the agency or organization under review. All audit working papers and memoranda of the State Inspector General, except final audit reports, are confidential and not subject to public disclosure.

(E) The State Inspector General shall bill the South Carolina Department of Health and Human Services monthly for fifty percent of the costs incurred by the State Inspector General in conducting the medical assistance audit. The amount billed by the State Inspector General must include those appropriated salary adjustments and employer contributions allowable under the Medicaid program. The Department of Health and Human Services shall remit the amount billed to the credit of the general fund of the State.

(F) As required by professional auditing standards, the State Inspector General shall maintain independence in the performance of his authorized duties. Neither the Governor nor an agency or entity of the executive or judicial branches of state government has the authority to limit the scope, direction, or report content of an audit undertaken by the State Inspector General.

(G)(1) To preserve the independence and objectivity of the audit function, the State Inspector General or his employees may not serve in any capacity on an administrative board, commission, or other organization that they have the responsibility or authority to audit, and they may not have a material, direct or indirect, financial or other economic interest in the transactions of a state agency.

(2) The State Inspector General or a member of his staff may not conduct an audit of a program, activity, or agency for which he had management responsibility or by which he has been employed during the last two years.

(H) The State Inspector General may obtain the services of independent public accountants as he considers necessary to carry out his duties and responsibilities. The State Inspector General may use funds appropriated for personal services to contract with private firms, using a request for proposals, to perform audits.

(I) The Office of State Inspector General must receive funding for audits conducted by that office through a specific line item in the annual general appropriations act.”

4. This subsection B. takes effect on July 1, 2012.

Subpart 8

SECTION 33. A. Whereas the context is appropriate and based on the devolutions provided in Section 11-55-20 of the 1976 Code, as added by this act, in those provisions of the 1976 Code where references to “board” or “State Budget and Control Board” appear, those references must be construed to mean:

- (1) the Department of Administration or a specific division of that department; or
- (2) the State Contracts and Accountability Authority or specific office or other component of that authority.

B. Where appropriate, the Code Commissioner, in the annual cumulative supplement to the 1976 Code, shall update these references to reflect the devolutions provided in Section 11-55-20 of the 1976 Code added by this act.

Subpart 9

SECTION 34. A. Chapter 11, Title 1 of the 1976 Code is amended by adding:

“Section 1-11-40. (A) For the purposes of this section:

- (1) ‘Economic interest’ has the same meaning as provided in Section 8-13-100(11).

- (2) 'Family member' has the same meaning as provided in Section 8-13-100(15).
- (3) 'Procurement' has the same meaning as provided in Section 11-35-310(24).
- (4) 'Public employee' has the same meaning as provided in Section 8-13-100(25).
- (5) 'Public member' has the same meaning as provided in Section 8-13-100(26).
- (6) 'Public official' has the same meaning as provided in Section 8-13-100(27).

(B) It is unlawful for a public official, public officer, or public employee who is not directly associated with procurement as provided by law or regulation to attempt to influence a public official, public officer, or public employee who is directly associated with procurement as provided by law or regulation in the exercise of his duties or responsibilities.

(C) A person who violates this section is guilty of a felony and, upon conviction, must be fined no more than ten thousand dollars or imprisoned for not more than ten years, or both."

B. Section 11-35-310(2) of the 1976 Code is amended to read:

"(2) 'Board' means ~~Budget and Control Board~~ the Procurement Oversight Board established in Section 11-35-315."

C. Subarticle 5, Article 1, Chapter 35, Title 11 of the 1976 Code is amended by adding:

"Section 11-35-315. (A) There is hereby established the Procurement Oversight Board to be comprised of three members appointed to four-year terms with one member each appointed by the Governor, the Comptroller General, and the State Treasurer. A board member may only be removed by his appointing official for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity, in writing with a copy published in a conspicuous location on the board's internet website. The board shall elect one member to serve as chairman and must meet at least quarterly to carry out the duties and responsibilities provided by this chapter. The members of the board may receive the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual expenses in connection with and as a result of their membership and service on the board.

(B) A board member or his immediate family must not have an economic interest that would cause the member to recuse himself from participating in the deliberations or voting on any matter before the board pursuant to Section 8-13-700."

D. Upon the effective date of the creation of the Procurement Oversight Board, all offices established by Chapter 35 of Title 11 and corresponding staff and equipment are transferred to the Procurement Oversight Board, except as provided in Section 1-11-20. The Department of Administration, at its own expense, must provide appropriate office space, building, and facility service including janitorial, utility and telephone services, computer and technology services, and related supplies to the board and the transferred offices pursuant to a Memorandum of Understanding executed by the Director of the Department of Administration and the Chairman of the Procurement Oversight Board.

Part VIII

Joint Strategic Technology Committee

SECTION 35. Title 2 of the 1976 Code is amended by adding:

"Chapter 9

Joint Strategic Technology Committee

Section 2-9-10. (A) There is created a joint committee of the General Assembly to be known as the Joint Strategic Technology Committee consisting of eight members. The Chairman of the Senate Finance Committee shall appoint four members, at least two of whom must be appointed from the Senate Finance Committee. The Chairman of the House Ways and Means Committee shall appoint four members, at least two of whom must be appointed from the House Ways and Means Committee.

(B) The Joint Strategic Technology Committee shall have the following purposes and responsibilities:

(1) The joint committee shall review the Statewide Strategic Information Technology Plan prepared by the Department of Administration and the Agency Directors Technology Advisory Committee and, as needed, make recommendations to the Senate Finance Committee and the House Ways and Means Committee regarding the plan by January 29 of the current fiscal year. Any expenditure or procurement under the jurisdiction of the Department of Administration, either directly or indirectly, which exceeds one million dollars must be presented to the joint committee for review and comment. The joint committee shall also recommend priorities for state government enterprise information technology projects and resource requirements as it determines appropriate.

(2) The joint committee shall review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating state agency information technology. State agencies must consult with hardware maintenance manager vendors under state contract to determine whether the agency may achieve cost savings by utilizing these contracts for information technology. The joint committee shall recommend to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, for referral to the appropriate standing committees, any statutory changes appropriate for the successful implementation of the Statewide Strategic Information Technology Plan and the efficient and effective management and use of information technology by state government.

(C) The Department of Administration and all state agencies shall cooperate with and provide assistance to the Joint Strategic Technology Committee as requested by the committee.

(D) The Director of the Department of Administration shall appoint an Agency Directors Technology Advisory Committee. The director shall determine the number and composition of this committee, which shall represent a cross-section of state government agencies. This committee shall provide input and advice regarding the Statewide Strategic Information Technology Plan developed by the State through the Department of Administration. The committee shall also assist and advise the Joint Strategic Technology Committee at its request.”

Part IX

Naval Base Museum Authority

SECTION 36. (A) Notwithstanding any other provision of law, in addition to the present members of the Charleston Naval Complex Redevelopment Authority, as created by gubernatorial executive order pursuant to Section 31-12-40 of the 1976 Code, there shall be four additional members, two appointed by the Speaker of the House of Representatives and two appointed by the President Pro Tempore of the Senate. These four additional members shall each serve for terms of four years and until their successors are appointed and qualify. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner of original appointment.

(B) These four additional members shall serve as members of the Charleston Naval Complex Redevelopment Authority with the same powers, duties, and responsibilities of other such members as provided by law. In addition, these four members, together with the gubernatorial appointees to the Charleston Naval Complex Redevelopment Authority, shall also constitute the Charleston Navy Base Museum Authority as a division of the Charleston Naval Redevelopment Authority. Service as a member of the Navy Base Museum Authority is considered an additional and supplemental function and duty of those specified members of the Naval Complex Redevelopment Authority and is not considered another

office of honor or profit of this State. The Navy Base Museum Authority shall select from among its members a chairman and such other officers as they consider necessary.

(C) The Naval Base Museum Authority shall become operative upon the signing of a Memorandum of Understanding between the RDA and the Hunley Commission. With respect to the Hunley project, the MOU must provide for the Naval Base Museum Authority division of the RDA to undertake and comply with the duties, responsibilities, powers, and functions of the Hunley Commission as specified in Sections 54-7-100 and 54-7-110 of the 1976 Code, and as otherwise provided by law. The Navy Base Museum Authority shall possess and may exercise all powers and authority granted to the Hunley Commission by specific statutory reference in Sections 54-7-100 and 54-7-110.

(D) Notwithstanding the provisions of this act, the provisions of this section take effect upon approval by the Governor.

Part X

Performance Audit, Other Transfers and Provisions, and Effective Date

SECTION 37. (A) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board, including board officials and board programs, prior to the effective date of this act that are not otherwise specifically accounted for in this act are devolved upon the Department of Administration along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities or authority.

(B) The name of the Office Legislative Printing, Information and Technology Systems is changed to the Legislative Services Agency. References in the 1976 Code to the "Office of Legislative Printing, Information and Technology Systems" or "LPITS" mean the "Legislative Services Agency" or "LSA", as appropriate. The Code Commissioner is directed to change references in the 1976 Code to conform to this name change, and such changes must be included in the next printing of replacement volumes of or cumulative supplements to the 1976 Code.

(C)(1) The Code Commissioner is directed to change or correct all references to these offices of the former Budget and Control Board in the 1976 Code, Office of the Governor, or other agencies to reflect the transfer of them to the Department of Administration or other entities, including those newly created by the provisions of this act. References to the names of these offices in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(2) On or before July 1, 2013, the Code Commissioner also shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this act.

SECTION 38. A. During the year 2018, the Legislative Audit Council shall conduct a performance review of the provisions of this act to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies provided for herein and the cost savings and benefits to the State.

B. Section 2-15-50(b)(2) of the 1976 Code is amended to read:

"(2) the effectiveness of organizations, programs, activities, or functions; and whether these organizations, programs, activities, or functions should be continued, revised, or eliminated."

SECTION 39. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections,

subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 40. Unless otherwise provided, this act takes effect July 1, 2013. However, beginning on January 1, 2013, the appropriate officials of the executive, legislative, and judicial branches involved with the implementation of the provisions of this act including the transfer of divisions, offices, and personnel to other agencies, the implementation of new offices or divisions within agencies, and the negotiation and execution of necessary agreements relating to this act such as memorandums of understanding may begin undertaking and executing these responsibilities so that the provisions of this act may be fully implemented on July 1, 2013, with the appropriations contained in the 2013-2014 general appropriations act to the fullest extent possible being reflective of the transfers, realignments and restructuring provided by this act. /

Amend title to conform.

Senator Larry A. Martin

Representative James H. Harrison

Senator Gerald Malloy

Representative W. Brian White

Senator A. Shane Massey

Representative James H. "Jay" Lucas

On Part of the Senate.

On Part of the House.