~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 6, 2011

**H. 3066**

Introduced by 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

S. Printed 4/6/11--S.

Read the first time March 3, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3066) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

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

/ Part I

Citation

SECTION 1. This act may be cited as the “South Carolina Restructuring Act of 2011”.

Part II

Budget and Control Board

SECTION 2. Section 1-11-20 of the 1976 Code is amended to read:

“Section 1‑11‑20. (A) 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~~ its 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~~ Each division ~~to consist~~ consists 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.

(B) Effective July 1, 2011, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, the Department of Administration:

(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intrastate mail, parking, and 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 understanding with appropriate officials of applicable legislative and judicial agencies or departments as provided in Section 1-30-125;

(2) Division of State Information Technology including the Data Center, Information Technology Services, and South Carolina Enterprise Information System, but not including, support of the Joint Strategic Technology Committee;

(3) Office of Human Resources, except that any additions or amendments to the State Human Resource Regulations must be submitted for approval to the State Budget and Control Board;

(4) the Information Technology Office of the Procurement Division; and

(5) the State Engineer’s Office.

(C) Effective July 1, 2011, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, the Department of Health and Environmental Control:

(1) South Carolina Infrastructure Facilities Authority;

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

(3) State Revolving Fund in support of water quality projects.

(D) Effective July 1, 2011, the State Energy Office, including the responsibility for Federal Grants and Petroleum Violation Escrow Funds, is transferred from the State Budget and Control Board to the Office of Regulatory Staff.

(E) On and after July 1, 2011, the State Budget and Control Board consists of the:

(1) State Auditor;

(2) Office of Research and Statistics, except for the employees required to provide revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties, who are transferred to the Legislative Fiscal Office;

(3) Office of State Budget, except for the employees required to provide fiscal impact statements on proposed legislation and to support the General Assembly's budget writing duties, who are transferred to the Legislative Fiscal Office;

(4) Employee Insurance Program;

(5) Retirement Division;

(6) Procurement Division, except for the Information Technology Procurement Office and State Engineer’s Office that are transferred to the Department of Administration;

(7) Insurance Reserve Fund;

(8) Board of Economic Advisors; and

(9) Confederate Relic Room.

(F) Notwithstanding another provision of law, if the State Budget and Control Board maintains primary responsibility related to a program administered by the Department of Administration, whether the responsibility is regulatory, oversight, approval, or other, the board may receive and expend revenues generated by the programs to support the board’s responsibilities related to the programs. The funds may be retained and expended in subsequent fiscal years.”

Part III

Department of Administration

SECTION 3. Section 1-30-10(A) of the 1976 Code is 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. Chapter 30, Title 1 of the 1976 Code is amended by adding:

“Section 1‑30‑125. (A) Effective July 1, 2011, the following offices, divisions, or components of the 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 with the advice and consent of the Senate as provided in Section 1‑30‑10(B)(1)(i):

(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 understanding with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection.

(a) The memorandum of understanding 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 chill water to the offices, areas, and facilities occupied by the applicable agencies at actual costs, not including administrative overhead or other surcharges;

(vii) the ability for each agency or department to maintain building access control for its allocated office space; and

(ix) access control for the Senate and House chambers and courtrooms as appropriate.

(b) The parties may modify the memorandum of understanding by mutual consent at any time;

(2) Division of State Information Technology including the Data Center, Information Technology Services, and South Carolina Enterprise Information System, but not including, support of the Joint Strategic Technology Committee;

(a) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to the Joint Strategic Technology Commission by September first of each year;

(b) The Joint Strategic Technology Commission shall make recommendations to the division including, but not limited to, priorities for state government enterprise information technology projects, resource requirements, and efficiency. In addition, the division shall cooperate with and provide assistance to the Joint Strategic Technology Commission in the furtherance of the commission’s mission;

(3) Office of Human Resources, except that any additions or amendments to the State Human Resource Regulations must be submitted for approval to the State Budget and Control Board;

(4) Office of Executive Policy and Programs, except for the State Ombudsman and Children’s Services programs that are contained within this office;

(5) Guardian ad Litem program as established in Section 63-11-500;

(6) Office of Economic Opportunity;

(7) Developmental Disabilities Council;

(8) Continuum of Care as established by Section 20‑7‑5610;

(9) Children’s Foster Care as established by Section 20‑7‑2379;

(10) Veterans Affairs as established by Section 25‑11‑10;

(11) Commission on Women as established by Section 1‑15‑10;

(12) Victims Assistance as established by Article 13, Chapter 3, Title 16; and

(13) Small and Minority Business as established by Section 11‑35‑5270.

(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) Notwithstanding any other provision of law, the Department of Administration may organize its staff as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions and management and organizational entities.

(D) Each transferred office must be maintained as a distinct component of the Department of Administration. Any funds appropriated to a distinct component of the department must not be transferred to another component. Any funds appropriated to the department, and not to a distinct component of the department, may be used at the discretion of the director.

(E)(1) 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 Department of Administration, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration. 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, with the same compensation, classification, and grade level, as applicable. The Executive Director of the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(2) The Department of Administration shall use the existing resources of each division transferred to the department including, but not limited to, funding, personnel, equipment, and supplies to carry out each division’s responsibilities. The department shall also receive an equitable allocation of 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.

(F) Regulations promulgated by these transferred offices as they formerly existed under the 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 Department of Administration.

(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, rates, and fees, 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 and deliver this information monthly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.”

Part IV

Legislative Fiscal Office

SECTION 5. The 1976 Code is amended by adding:

“Section 2-3-240. (A) Effective July 1, 2011, the following personnel of the State Budget and Control Board are transferred to a Legislative Fiscal Office organized as recommended by the Clerk of the Senate and the Clerk of the House of Representatives and approved by the President Pro Tempore of the Senate and the Speaker of the House of Representatives:

(1) the employees of the Office of State Budget required to provide fiscal impact statements on proposed legislation and to support the General Assembly's budget writing duties; and

(2) the employees of the Office of Research and Statistics required to provide revenue impact statements on proposed legislation and to support the General Assembly's budget writing duties.

(B) The Clerk of the Senate and the Clerk of the House of Representatives must direct and assist the transfer of these personnel. The Legislative Fiscal Office must support the work of the General Assembly through the provision of data without regard to political or other considerations beyond technical accuracy and professionalism required to perform the duties of the office.

(C) The executive director of the Budget and Control Board, in consultation with the Senate Finance Committee and the House Ways and Means Committee, shall determine the employees, authorized appropriations, and assets and liabilities to be transferred from items (1) and (2) of subsection (A).”

SECTION 6. Section 2-7-71 of the 1976 Code is amended to read:

“Section 2‑7‑71. When a bill relating to state taxes is reported out of a standing committee of the Senate or House of Representatives for consideration, there must be attached and printed as a part of the committee report a statement of the estimated revenue impact of the bill on the finances of the State ~~certified by the Board of Economic Advisors~~ prepared by the Legislative Fiscal Office. As used in this section, ‘statement of estimated revenue impact’ means the consensus of the persons executing the required statement as to the increase or decrease in the net tax revenue to the State if the bill concerned is enacted by the General Assembly. In preparing a statement, the ~~Board of Economic Advisors~~ Legislative Fiscal Office may request technical advice of the Department of Revenue.”

SECTION 7. 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 Director of the ~~State Budget Division of the State Budget and Control Board~~ Legislative Fiscal 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 8. 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~~ Legislative Fiscal 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 9. 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~~ Legislative Fiscal 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~~ Legislative Fiscal Office. The ~~Office of State Budget~~ Legislative Fiscal 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~~ Legislative Fiscal Office requests an extension of time. The ~~Office of State Budget~~ Legislative Fiscal 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~~ Legislative Fiscal 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~~ Legislative Fiscal Office in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the ~~Office of State Budget~~ Legislative Fiscal Office in a timely fashion.

(G) In preparing fiscal impact statements, the ~~Office of State Budget~~ Legislative Fiscal Office shall consider and evaluate information as submitted by state agencies and political subdivisions. The ~~Office of State Budget~~ Legislative Fiscal 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~~ Legislative Fiscal Office.

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

Part V

Conforming and Miscellaneous Amendments for the Department of Administration

SECTION 10. A. Section 1‑11‑22 of the 1976 Code is amended to read:

“Section 1‑11‑22. (A) Notwithstanding any other provision of law, the Budget and Control Board may organize its staff as it ~~deems~~ considers most appropriate to carry out the various duties, responsibilities and authorities assigned to it and to its various divisions and management and organizational entities.

(B) To the extent that any provision of law divides any responsibilities of any division, office, or program of the Budget and Control Board between the board and one or more state agencies, the receiving agency must, within forty‑five days of the effective date of the relevant law, submit a realignment plan for the allocation of staff, assets, and resources to the board’s executive director, who shall immediately distribute the plan to the members of the board. A realignment plan shall be considered adopted at the conclusion of the next Budget and Control Board meeting unless three members of the board at that meeting vote to reject it. Upon approval, the Office of the Executive Director must provide for the allocation as specified in the realignment plan as soon as practicable.”

B. Sections 1‑11‑55, 1‑11‑56, and 1‑11‑58 of the 1976 Code are 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.

(6) Any proposed real property transaction under the jurisdiction of the Department of Administration, either directly or indirectly, that exceeds one million dollars must be presented to the Budget and Control Board for approval.

Section 1‑11‑56. 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. 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 approval before the adoption of any new lease that commits more than one million dollars in a five‑year period.

Section 1‑11‑58. (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.

(5) Any proposed surplus property transaction under the jurisdiction of the Department of Administration, either directly or indirectly, that exceeds one million dollars must be presented to the Budget and Control Board for approval.”

C. Sections 1‑11‑65, 1‑11‑67, 1‑11‑70, 1‑11‑80, 1‑11‑90, 1‑11‑100, and 1‑11‑110 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, except that a transaction of real property exceeding one million dollars in value shall instead be approved by the Budget and Control Board. 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~~ approving entity’s approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The ~~board~~ approving entity 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 S~~tate 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 non-appropriated funds are both directed to apportion the payment of these charges equitably among all funds to ensure that each bears its proportionate share.

Any rent charged to the legislative and judicial agencies must be in compliance with the memorandum of understanding required in Section 1-30-125.

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 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 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. A grant exceeding one million dollars in value shall instead require the approval of the Budget and Control Board.

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, 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.

Section 1‑11‑110. (1) The ~~State Budget and Control Board~~ Department of Administration 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. An acquisition exceeding one million dollars in value shall instead require the approval of the State Budget and Control Board.

(2) The State Budget and Control Board 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. The right of condemnation is limited to the right to acquire land necessary for the development of the Capitol Complex ~~mall~~ grounds in the City of Columbia.”

D. Section 1‑11‑180 of the 1976 Code is amended to read:

“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 ~~may~~ 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 Budget and Control Board pursuant to this chapter or another provision of law, the board may 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.

(B) The Budget and Control Board may promulgate regulations necessary to carry out its duties.

(C) The respective divisions of the Budget and Control Board and 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; and

(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~~ department 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.

(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 and 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 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 Budget and Control Board ~~(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 2‑13‑240(a) of the 1976 Code is amended by adding at the end:

“(89) Department of Administration, six.”

I. 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.

(h) Any proposed property transaction under the provisions of this chapter that exceeds one million dollars must be presented to the Budget and Control Board for approval.

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.”

J. Section 10‑1‑10, Section 10‑1‑30, as last amended by Act 628 of 1988, and Section 10‑1‑40 of the 1976 Code are 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.

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,~~ the State House steps and grounds~~,~~ and other public buildings and grounds in accordance with ~~regulations promulgated~~ restrictions set by the board.

(B) The Budget and Control Board shall obtain the joint approval of the Clerk of the Senate and Clerk of the House of Representatives before authorizing the use of the second and third floors of the State House. The ~~director~~ board shall obtain the approval of the Clerk of the Senate before authorizing any use of the Gressette Building and shall obtain the approval of the Clerk of the House of Representatives before authorizing any use of the Blatt Building.

(C) The ~~regulations~~ restrictions upon the use of the buildings and grounds 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~~ Budget and Control Board 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.

Section 10‑1‑40. There is hereby established a committee to be known as the ‘State House Committee’, consisting of five members of the Senate, appointed by the Lieutenant Governor and five members of the House of Representatives, appointed by the Speaker, whose duties shall be to review all proposals for alterations and/or renovations to the State House. No alterations or renovations shall be undertaken without the approval of this committee.”

K. 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 recommendation of the Department of Administration ~~concurrence and acquiescence of the State Budget and Control Board~~, whenever it appears that such easements ~~will~~ 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.”

L. 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.”

M. 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~~ 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 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.”

N. 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.”

O. 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.”

P. 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.”

Q. 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 or the Department of Administration to grant permission to use the State House grounds for educational, electrical decorations, and similar purposes.”

R 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.”

S. 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 must report annually on the financial status of the Sinking Fund to the Budget and Control Board.

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. Whenever the value of the property, assets, or effects exceeds one million dollars, the power to sell or convey shall instead reside with the Budget and Control Board.”

T. 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. ”

U. Section 13‑7‑830 of the 1976 Code, as last amended by Act 357 of 2000, is further amended to read:

“Section 13‑7‑830. The recommendations described in Section 13‑7‑620 shall be made available to the General Assembly, the Governor, ~~and~~ the Budget and Control Board, and the Department of Administration.”

V. 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.”

W. 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.”

Part VI

Conforming Amendments for the State Energy Office, Atlantic Compact, and

Governor’s Nuclear Advisory Council

SECTION 11. Section 13-7-810 of the 1976 Code is 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 12. Section 13-7-830 of the 1976 Code is amended to read:

“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. Section 13-7-860 of the 1976 Code is amended to read:

“Section 13‑7‑860. Staff support for the council shall be provided by the State Energy Office Department of Administration.”

SECTION 14. 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 Department of Administration.”

SECTION 15. 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).”

SECTION 16. 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.

SECTION 17. Section 48-46-90 of the 1976 Code is amended to read:

“Section 48‑46‑90. (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.

(B) Nothing in this chapter may be construed to alter or diminish the existing statutory authority of the Department of Health and Environmental Control to regulate activities involving radioactive materials and radioactive wastes.”

SECTION 18. 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 19. 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~~ Executive Director of the Office of Regulatory Staff, except as provided in item (14) of this section. Members shall serve at the pleasure of the ~~State Budget and Control Board~~ Executive Director of State Regulatory Staff 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~~ Executive Director of the Office of Regulatory Staff 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.

SECTION 20. 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 21. 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 22. 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.”

Part VII

Joint Strategic Technology Committee

SECTION 23. 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 VIII

Office of the State Inspector General

SECTION 23. Section 1‑3‑240 of the 1976 Code is amended to read:

“Section 1‑3‑240. (A) Any officer of the county or State, except:

(1) an officer whose removal is provided for in Section 3 of Article XV of the State Constitution; or

(2) an officer guilty of the offense named in Section 8 of Article VI of the State Constitution; or

(3) pursuant to subsection (B) of this section, an officer of the State appointed by a the Governor, either with or without the advice and consent of the Senate; who is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity shall be subject to removal by the Governor upon any of the foregoing causes being made to appear to the satisfaction of the Governor. But before removing any such officer, the Governor shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard.

(B) Any person appointed to a state office by ~~a~~ the Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer.

(C)(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:

(a) Workers’ Compensation Commission;

(b) Department of Transportation Commission;

(c) Ethics Commission;

(d) Election Commission;

(e) Professional and Occupational Licensing Boards;

(f) Juvenile Parole Board;

(g) Probation, Parole and Pardon Board;

(h) Director of the Department of Public Safety;

(i) Board of the Department of Health and Environmental Control, excepting the chairman;

(j) Chief of State Law Enforcement Division;

(k) South Carolina Lottery Commission;

(l) Executive Director of the Office of Regulatory Staff; ~~and~~

(m) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58‑31‑20. A director of the South Carolina Public Service Authority also may be removed for his breach of any duty arising under Section 58‑31‑55 or 58‑31‑56. The Governor must not request a director of the South Carolina Public Service Authority to resign unless cause for removal, as established by this subsection, exists. Removal of a director of the South Carolina Public Service Authority, except as is provided by this section or by Section 58‑31‑20(A), must be considered to be an irreparable injury for which no adequate remedy at law exists~~.~~;

(n) State Ports Authority; and

(o) State Inspector General.

(2) Upon the expiration of an officeholder’s term, the individual may continue to serve until a successor is appointed and qualifies.”

SECTION 24. Title 1 of the 1976 Code is amended by adding:

“Chapter 6

Office of the State Inspector General

Section 1‑6‑10. As used in this title:

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

(a) the judicial department of state government;

(b) the legislative department of state government; or

(c) political subdivisions.

(2) ‘Business relationship’ means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

(a) a pecuniary interest in a contract or purchase with the agency; or

(b) a license or permit requiring the exercise of judgment or discretion by the agency.

(3) ‘Employee’ means an individual who is employed by an agency on a full‑time, part‑time, temporary, intermittent, or hourly basis. ‘Employee’ includes an individual who contracts with an agency for personal services.

(4) ‘Person’ means:

(a) an individual, labor union and organization, joint apprenticeship committee, partnership, association, corporation, legal representative, mutual company, joint‑stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other legal or commercial entity located in part or in whole in the State or doing business in the State;

(b) the State and any agency or local subdivision of an agency; or

(c) a political subdivision.

(5) ‘Political subdivision’ includes a county, city, municipality, town, village, township, district, authority, special purpose district, school district, other local government entity, or other public corporation or entity whether organized and existing under charter or general law.

(6) ‘Special state appointee’ means a person who is:

(a) not a state officer or employee; and

(b) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:

(i) is authorized by statute or executive order; and

(ii) functions in a policy or an advisory role in the executive, including the administrative, department of state government, including a separate body corporate and politic.

(7) ‘State officer’ means any of the following:

(a) the Governor;

(b) the Lieutenant Governor;

(c) the Secretary of State;

(d) the State Comptroller General;

(e) the State Treasurer;

(f) the Attorney General;

(g) the Superintendent of Education;

(h) the Commissioner of Agriculture; or

(i) the Adjutant General.

(8) ‘Wrongdoing’ means action by an agency which results in substantial abuse, misuse, destruction, or loss of substantial public funds or public resources. ‘Wrongdoing’ also includes an allegation that a public employee has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

Section 1‑6‑20. (A) There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and any staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

(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.

(C) The Governor shall appoint the State Inspector General with the advice and consent of the Senate for a term of four years. A Governor may reappoint the State Inspector General for additional terms. The State Inspector General’s compensation must not be reduced during the State Inspector General’s uninterrupted continued tenure in office.

(D) The State Inspector General:

(1) may be removed from office only by the Governor as provided in Section 1‑3‑240(C);

(2) must be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields;

(3) is entitled to receive compensation set by the Governor and approved by the Budget and Control Board.

(E) Upon request of the State Inspector General for information or assistance, all agencies are directed to fully cooperate with and furnish the State Inspector General with all documents, reports, answers, records, accounts, papers, and other necessary data and documentary information to perform the mission of the State Inspector General.

(F) Except for information declared confidential under this chapter, records of the office of the State Inspector General are subject to public inspection under Section 30‑4‑15 et seq.

Section 1‑6‑30. The State Inspector General may:

(1) initiate, supervise, and coordinate investigations authorized by this chapter;

(2) recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state government;

(3) receive complaints alleging a violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, or person who has a business relationship with an agency;

(4) receive complaints from any individual, including those employed by any agency, alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency;

(5) adopt rules and regulations for administering the office of the State Inspector General;

(6) offer every employee, state officer, special state appointee, and person who has a business relationship with an agency training in the Rules of Conduct as provided in Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws;

(7) provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency;

(8) recommend legislation to the Governor and General Assembly to strengthen public integrity laws; and

(9) annually submit a report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives detailing the State Inspector General’s activities.

Section 1‑6‑40. (A) If the State Inspector General has reasonable cause to believe that fraud, waste, abuse, mismanagement, misconduct, or wrongdoing has occurred or is occurring, he must report the suspected conduct to:

(1) the Governor; and

(2) the head of the agency affected by the conduct or employing the person allegedly engaged in the suspected conduct.

(B) In addition to the reporting requirements in subsection (A), if the State Inspector General has reasonable cause to believe that a crime has occurred or is occurring, he must report the conduct to the appropriate state or federal law enforcement agencies and prosecuting authorities that have jurisdiction over the matter.

(C) In addition to fully cooperating with the State Inspector General’s investigation, the head of the agency employing a person allegedly engaged in the suspected conduct is responsible for submitting a report to the State Inspector General describing any and all actions taken with the employee and within the agency to prevent the alleged conduct from occurring again.

Section 1‑6‑50. The State Inspector General has the following powers:

(A) As part of an investigation, the State Inspector General may:

(1) administer oaths;

(2) examine witnesses under oath;

(3) issue subpoenas and subpoenas duces tecum; and

(4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.

(B) The State Inspector General may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Inspector General or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Inspector General.

(C) For any investigation that results in a report, the State Inspector General must prepare a written report that remains confidential until it is issued as a final report. The State Inspector General is the authority who determines if an investigation requires a report. The State Inspector General, in his discretion, may give an agency advice or recommendations that remain confidential and are not issued as a report.

(D) If the Attorney General has elected not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained, the State Inspector General may file a civil action for the recovery of the funds in accordance with Section 1‑6‑70 of this chapter.

Section 1‑6‑60. If the State Inspector General investigates and determines that there is specific and credible evidence that a current or former employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the State Inspector General may file a complaint with the Ethics Commission and represent the State in any proceeding before the Ethics Commission.

Section 1‑6‑70. (A) This section applies if the State Inspector General finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the State or in an unlawful benefit to an individual in the conduct of state business.

(B) If the State Inspector General finds evidence described in subsection (A), the State Inspector General shall certify a report of the matter to the Attorney General and provide the Attorney General with any relevant documents, transcripts, written statements, or other evidence. Not later than one hundred eighty days after receipt of the report from the State Inspector General, the Attorney General must do one of the following:

(1) file a civil action, including an action upon a state officer’s official bond, to secure for the State the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the Attorney General, the State Inspector General shall assist the Attorney General in the investigation, preparation, and prosecution of the civil action;

(2) inform the State Inspector General that the Attorney General does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the Attorney General elects not to file a civil action, the Attorney General must return to the State Inspector General all documents, transcripts, written statements, or other evidence initially provided by the State Inspector General; or

(3) inform the State Inspector General that the Attorney General is diligently reviewing the matter and after further review may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty‑five days have passed since the State Inspector General certified the report to the Attorney General, and the Attorney General has neither filed a civil action nor informed the State Inspector General that he does not intend to file a civil action, the Attorney General loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and must return to the State Inspector General all documents, transcripts, written statements, or other evidence provided by the State Inspector General.

(C) The State Inspector General may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained if the State Inspector General has found evidence described in subsection (A) and reported to the Attorney General under subsection (B) and:

(1) the Attorney General has elected under subsection (B)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) under subsection (B)(3), more than three hundred sixty‑five days have passed since the State Inspector General certified the report to the Attorney General under subsection (B), and the Attorney General has not filed a civil action.

(D) If the State Inspector General has found evidence described in subsection (A), the State Inspector General may institute forfeiture proceedings as allowed by law in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds is located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

Section 1‑6‑80. (A) If the State Inspector General discovers evidence of criminal activity, the State Inspector General shall certify to the appropriate prosecuting attorney the following information:

(1) the identity of any person who may be involved in the criminal activity; and

(2) the criminal statute that the State Inspector General believes has been violated.

(B) In addition, the State Inspector General must provide the prosecuting attorney with any relevant documents, transcripts, written statements, or other evidence. If the prosecuting attorney decides to prosecute the crime described in the information certified to the prosecuting attorney, or any other related crimes, the State Inspector General must cooperate with the prosecuting attorney in the investigation and prosecution of the case. Upon request of the prosecuting attorney, the State Inspector General may participate on behalf of the State in any resulting criminal trial.

Section 1‑6‑90. The State Inspector General must establish a toll‑free public telephone number for the purpose of receiving information concerning fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency. The phone number must be prominently posted by all agencies, in clear view of all employees and the public, and in a conspicuous location on the agency’s Internet website.

Section 1‑6‑100. (A) If any individual discloses information alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency in good faith to the State Inspector General, the individual’s identity is confidential and must not be disclosed to anyone other than the Governor, the staff of the Office of the State Inspector General, or an authority to whom the investigation is subsequently referred or certified, unless:

(1) the State Inspector General makes a written determination that it is in the public interest to disclose the individual’s identity; or

(2) the individual consents in writing to disclosure of the individual’s identity.

(B) After an investigation is completed and a report is issued as provided in Section 1‑6‑50(C), the investigative records of the State Inspector General are subject to public inspection under the provisions of Section 30‑4‑15 et seq. However, if an individual’s identity is confidential as provided in subsection (A), the individual’s identity or any information that reasonably might lead to the discovery of the individual’s identity must not be disclosed, except as provided in subsection (A) or subsection (E).

(C) This subsection does not apply to a person who is a party to an action brought by the State Inspector General. Information received by the State Inspector General is not required to be produced in the course of discovery, unless ordered by a court after a showing of particularized need and proof that the information requested cannot be obtained from any other source.

(D) Except as provided in subsection (E), a person commits the misdemeanor of unlawful disclosure of confidential information if he knowingly or intentionally discloses:

(1) confidential information or records; or

(2) the identity of a person whose identity is confidential under subsection (A).

A person convicted pursuant to this subsection must be fined not more than one thousand dollars or imprisoned not more than one year. If the person convicted is an officer or employee of the State, he must be dismissed from office or employment and is ineligible to hold any public office in this State for a period of five years after the conviction.

(E) A person may disclose confidential information, records, or an individual’s identity that is confidential under subsection (A) if the Governor authorizes the disclosure of this information in the public interest.”

SECTION 26. Part VIII takes effect on January 1, 2012.

Part IX

Naval Base Museum Authority

SECTION 27. (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 duties, powers, and functions of the Hunley Commission as provided in Sections 54‑7‑100 and 54‑7‑110 of the 1976 Code, and as otherwise provided by law are transferred to and devolved upon the Navy Base Museum Authority. In addition, the Navy Base Museum Authority shall possess all other powers and duties conferred upon instrumentalities of this State as provided by law. Contracts and agreements between the Hunley Commission and Clemson University, as well as any other contracts and agreements of the Hunley Commission, inure to the benefit of the Navy Base Museum Authority, and it is considered the successor‑in‑interest to the Hunley Commission in all these regards. There shall remain a three‑member panel of the Hunley Commission to oversee the timely devolution of duties and responsibilities remaining with the Hunley Commission, if any. The panel shall consist of one member appointed by the Governor, one member appointed by the Speaker of the House of Representatives, and one member appointed by the President Pro Tempore of the Senate. The panel shall terminate upon completion of all duties and responsibilities.

Part X

Performance Audit and Effective Date

SECTION 28. During the year 2015, 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.

SECTION 29. On or before January 15, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of all code references and cross‑references which he considers in need of correction or modification insofar as the 1976 Code has been affected by this act.

SECTION 30. Unless otherwise provided, this act takes effect July 1, 2011. The General Assembly shall undertake a joint oversight review investigation of the Department of Administration during the department’s fifth year of operation. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LARRY A. MARTIN CREIGHTON B. COLEMAN

For Majority. C. BRADLEY HUTTO

For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

The Senate and the House of Representatives

The Legislature reports this bill will have no impact on the General Fund of the State or on federal and/or other funds.

Legislative Audit Council (LAC)

The bill, as amended, would require the LAC to conduct a performance review in 2015 of the provisions of the act. The LAC reports that the review would have a one-time cost to the general fund of $150,000.

Governor’s Office - OEPP

This bill would have an indeterminate amount of general fund savings for the OEPP divisions moving to the Department of Administration if the administrative support functions are merged with the divisions of the Budget and Control Board. However, the remaining divisions of OEPP (Correspondence, Crime Victims Ombudsman and Client Assistance Program) would incur the cost of stand-alone administrative costs. These costs could be between $200,000 and $350,000 per division based on the size and scope of their organization.

This bill would move most of the Office of Executive Policy and Programs (OEPP) to the Department of Administration. OEPP currently provides the administrative support for the Governor’s Office – Executive Control of State (ECOS) and Mansion and Grounds. ECOS and Mansion and Grounds would require $245,700 in general funds for salary, fringe and other operating expenses to cover the cost of administrative support. The bill requires that a reorganization plan be put in place to equitably allocate resources and positions between the Budget and Control Board and the Department of Administration, and therefore resources may be available to support the Governor’s Office.

State Budget and Control Board

This bill provides for the creation of a Department of Administration formed from designated programs of the Budget and Control Board and Office of the Governor. The bill further requires the establishment of two new offices, an Executive Budget Office within the Department of Administration and a Legislative Fiscal Affairs Office. The Legislative Fiscal Affairs Office is comprised of employees of the Office of State Budget and Office of Research and Statistics who provide impact statements on proposed legislation and support budget writing duties of the General Assembly. The Executive Budget Office is formed from existing resources of the various organizations transferred to the Department of Administration and any vacant positions at the Budget and Control Board that may be needed. In addition, the Office of Local Government is transferred from the Budget and Control Board to DHEC, and the State Energy Office is transferred to the Office of Regulatory staff.

The bill divides some programs that presently share staff, equipment, supplies and information technology resources into different agencies. The Information Technology Management Office and State Engineer’s Office, which are presently part of the Division of Procurement Services, are transferred to the Department of Administration while the Materials Management Office remains a part of the Board. The Energy Office and the Board’s responsibilities relative to nuclear waste are separated into the Office of Regulatory Staff and the Department of Administration. The Joint Strategic Technology Committee, presently established by proviso, is created in statute but support for the committee, presently provided by the board’s Division of Information Technology (DSIT), is not included in the transfer of DSIT to the Department of Administration. The Office of Local Government grants program may be separated from the office’s local government water and sewer loan functions. Finally, “administrative support units” of the Budget and Control Board are to be equitably allocated between the Department of Administration and Budget and Control Board. For any programs divided between agencies, the “receiving agency” must develop a plan for the realignment of staff, assets, and resources.

Appropriate economies of scale may exist in sending and receiving agencies so that no additional cost would be incurred to replace shared resources. However, that determination cannot be accurately projected at this time. The bill also provides that each office transferred from the board to the Department of Administration must be maintained as a distinct component whose appropriated funds cannot be transferred to any other. This restriction may result in misalignments of funding and present program costs, which would need to be addressed either through adjustments in appropriations/revenue or operational costs. These adjustments may involve increases, decreases or both.

Costs would be incurred to configure the statewide accounting system to establish the new state agency and transfer employees and accounts according to new organizational structures. Based on experience establishing a new agency and transferring a division from one agency to another, the board estimates the restructuring will require approximately 1,000 hours if all organizational units were moved intact. This equates to an estimated fiscal impact of $80,000. Additional, indeterminate cost will be incurred as a result of dividing programs between agencies.

The Office of Regulatory Staff

The Office of Regulatory Staff estimates this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

Department of Health and Environmental Control

The department indicates that the bill as amended would have no impact on the General Fund of the State or federal and/or other funds as long as the intent is to transfer existing staff and resources.

*Approved By:*

Harry Bell

Office of State Budget

**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.

Be it enacted by the General Assembly of the State of South Carolina:

Part I

Citation

SECTION 1. This act may be cited as the “South Carolina Restructuring Act of 2011”.

Part II

Department of Administration

SECTION 2. Section 1‑30‑10(A) of the 1976 Code, as last amended by Act 146 of 2010, is further amended by adding a new item to be appropriately numbered at the end:

“\_\_\_. Department of Administration”

SECTION 3. Chapter 30, Title 1 of the 1976 Code is amended by adding:

“Section 1‑30‑125. (A) Effective July 1, 2011, the following offices, divisions, or components of the 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 General Assembly rather than the Senate:

(1) Division of General Services including Facilities Management, Business Services together with Fleet Management, and Property Services;

(2) Office of Human Resources;

(3) Office of Executive Policy and Programs, except for the State Ombudsman and Children’s Services programs which are contained within this office;

(4) Office of Economic Opportunity;

(5) Developmental Disabilities Council;

(6) Children’s Foster Care as established by Section 20‑7‑2379;

(7) Veterans Affairs as established by Section 25‑11‑10;

(8) Commission on Women as established by Section 1‑15‑10;

(9) Victims Assistance as established by Article 13, Chapter 3, Title 16;

(10) Procurement Services Division of the State Budget and Control Board;

(11) State Energy Office as established by Section 48‑52‑410;

(12) Division of State Information Technology of the State Budget and Control Board;

(13) Employee Insurance program of the State Budget and Control Board as established by Article 5, Chapter 11, Title 1; and

(14) Guardian Ad Litem program as established by Section 63-11-500.

(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) Notwithstanding any other provision of law, the Department of Administration may organize its staff as it considers most appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions and management and organizational entities.”

SECTION 4. (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, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration. 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, with the same compensation, classification, and grade level, as applicable. The Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(B) Regulations promulgated by these transferred offices as they formerly existed under the 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.

(C) The Code Commissioner is directed to change or correct all references to these offices of the 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. 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. This authority shall not be construed to remove any authority from the Budget and Control Board for approval of statewide policies, procedures, regulations, rates and fees, or specific actions requiring board approval.

Part III

Legislative Oversight of Executive Departments

SECTION 5. 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 constitution of this State 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, 2012, 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 shall conduct oversight studies and investigations. A proposed seven‑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 shall 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 shall conduct oversight studies and investigations. A proposed seven‑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 shall 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) shall make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation, and

(2) shall not consist of fewer than three members.

Section 2‑2‑40. (A) In addition to the scheduled seven‑year oversight studies and investigations, a standing committee of the Senate or the House of Representatives may by majority vote of the standing committee’s membership 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 shall 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 shall 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 Chapter 69 of this title; 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 shall 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 nonelectronically, 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 five years and the number of anticipated filings for the next five 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, object to any question detrimental to the witness’ interests 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 procedures and rules of evidence observed by the circuit courts of this State.

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

Section 2-2-100. Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and wilfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of or pleads guilty to contempt of the General Assembly is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

Section 2‑2‑110. Whenever any person violates Section 2‑2‑100 it is the duty of the chair of the committee or subcommittee before which the false, misleading, or incomplete testimony was given, to notify the Attorney General of South Carolina who shall cause charges to be filed in the appropriate county.

Section 2-2-220. A person is guilty of criminal contempt when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he:

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

(2) refuses to be sworn; or

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

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

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

Part IV

Conforming and Miscellaneous Amendments

SECTION 6. A. Section 1‑11‑20 of the 1976 Code, as last amended by Act 164 of 2005, is further amended to read:

“Section 1‑11‑20. (A) 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.

(B)(1) Notwithstanding subsection (A), as of July 1, 2011, the Division of General Services of the State Budget and Control Board including Facilities Management, Business Services together with Fleet Management, and Property Services as well as the Procurement Services Division, Division of State Information Technology, State Energy Office, Office of Human Resources, Employee Insurance Program, and the other offices or divisions of the State Budget and Control Board specified in Section 1‑30‑125 are transferred to, and incorporated into, the Department of Administration.

(2) Notwithstanding another provision of law, if the State Budget and Control Board maintains primary responsibility related to a program administered by the Department of Administration, whether the responsibility is regulatory, oversight, approval, or other, the board may receive and expend revenues generated by the programs to support the board’s responsibilities related to the programs. The funds may be retained and expended in subsequent fiscal years.

(3) The Department of Administration shall use the existing resources of each division transferred to the department including, but not limited to, funding, personnel, equipment, and supplies to carry out each division’s responsibilities. The department shall also receive an equitable allocation of 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.

(C)(1) Notwithstanding subsection (A) or any other provision of law, the Division of General Services shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of understanding with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection.

(2) The memorandum of understanding shall provide for:

(a) continued use of existing office space;

(b) a method for the allocation of new, additional, or different office space;

(c) adequate parking;

(d) a method for the allocation of new, additional, or different parking;

(e) the provision of appropriate levels of custodial, maintenance, and other services currently provided by the General Services Division of the State Budget and Control Board;

(f) the ability for each agency or department to maintain building access control for its allocated office space; and

(g) access control for the Senate and House chambers and courtrooms as appropriate.

(3) The parties may modify the memorandum of understanding by mutual consent at any time.”

B. Section 1‑11‑22 of the 1976 Code is amended to read:

“Section 1‑11‑22. (A) Notwithstanding any other provision of law, the Budget and Control Board may organize its staff as it ~~deems~~ considers most appropriate to carry out the various duties, responsibilities and authorities assigned to it and to its various divisions and management and organizational entities.

(B) To the extent that any provision of law divides any responsibilities of any division, office, or program of the Budget and Control Board between the board and one or more state agencies, the receiving agency must, within forty‑five days of the effective date of the relevant law, submit a realignment plan for the allocation of staff, assets, and resources to the board’s executive director, who shall immediately distribute the plan to the members of the Board. A realignment plan shall be considered adopted at the conclusion of the next Budget and Control Board meeting unless three members of the board at that meeting vote to reject it. Upon approval, the Office of the Executive Director must provide for the allocation as specified in the realignment plan as soon as practicable.”

C. Sections 1‑11‑55, 1‑11‑56, and 1‑11‑58 of the 1976 Code are 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.

Section 1‑11‑56. 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. 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~~ department 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~~ department approval before the adoption of any new lease that commits more than one million dollars in a five‑year period.

Section 1‑11‑58. (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.”

D. Sections 1‑11‑65, 1‑11‑67, 1‑11‑70, 1‑11‑80, 1‑11‑90, 1‑11‑100, and 1‑11‑110 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, except that a transaction of real property exceeding one million dollars in value shall instead be approved by the Budget and Control Board. 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~~ approving entity’s approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The ~~board~~ approving entity 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 S~~tate 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 non-appropriated 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 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 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. A grant exceeding one million dollars in value shall instead require the approval of the Budget and Control Board.

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 the Department of Administration ~~authorized by resolution of the Budget and Control Board, duly recorded in the minutes and records of such board~~, 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.

Section 1‑11‑110. (1) The ~~State Budget and Control Board~~ Department of Administration 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. An acquisition exceeding one million dollars in value shall instead require the approval of the State Budget and Control Board.

(2) The State Budget and Control Board 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. The right of condemnation is limited to the right to acquire land necessary for the development of the Capitol Complex ~~mall~~ grounds in the City of Columbia.”

E. Section 1‑11‑180 of the 1976 Code is amended to read:

“Section 1‑11‑180. (A) In addition to the powers granted the ~~Budget and Control Board~~ South Carolina 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;

~~(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 ~~may~~ shall promulgate regulations necessary to carry out this section.”

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

“Section 1‑11‑185. (A) In addition to the powers granted the Budget and Control Board pursuant to this chapter or another provision of law, the board may 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.

(B) The Budget and Control Board may promulgate regulations necessary to carry out its duties.

(C) The respective divisions of the Budget and Control Board and 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.”

G. (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~~ department 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~~ South Carolina 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.

(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~~ South Carolina 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 and the South Carolina 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.”

H. 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 Budget and Control Board ~~(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.”

I. Section 2‑13‑240(a) of the 1976 Code is amended by adding at the end:

“(89) Department of Administration, six.”

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~~ South Carolina 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~~ South Carolina 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, Section 10‑1‑30, as last amended by Act 628 of 1988, and Section 10‑1‑40 of the 1976 Code are 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.

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,~~ the State House steps and grounds~~,~~ and other public buildings and grounds in accordance with ~~regulations promulgated~~ restrictions set by the board.

(B) The Budget and Control Board may authorize the use of the State House lobbies and the Gressette and Blatt Office Buildings in accordance with restrictions set by the board. The ~~director~~ board shall obtain the approval of the Clerk of the Senate before authorizing any use of the Gressette Building and shall obtain the approval of the Clerk of the House of Representatives before authorizing any use of the Blatt Building.

(C) The ~~regulations~~ restrictions upon the use of the buildings and grounds 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~~ Budget and Control Board 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.

Section 10‑1‑40. There is hereby established a committee to be known as the ‘State House Committee’, consisting of five members of the Senate, appointed by the Lieutenant Governor and five members of the House of Representatives, appointed by the Speaker, whose duties shall be to review all proposals for alterations and/or renovations to the State House. No alterations or renovations shall be undertaken without the approval of this committee.”

L. 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 recommendation of the Department of Administration ~~concurrence and acquiescence of the State Budget and Control Board~~, whenever it appears that such easements ~~will~~ 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.”

M. 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.”

N. 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. I 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~~ 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~~ South Carolina 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~~ South Carolina 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 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)~~ South Carolina 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 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.”

O. 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.”

P. 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.”

Q. 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~~ South Carolina 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.”

R. 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 or the Department of Administration to grant permission to use the State House grounds for educational, electrical decorations, and similar purposes.”

S 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 South Carolina 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.”

T. 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~~ South Carolina Department of Administration shall receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State. The department must report annually on the financial status of the Sinking Fund to the Budget and Control Board.

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~~ South Carolina 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. Whenever the value of the property, assets, or effects exceeds one million dollars, the power to sell or convey shall instead reside with the Budget and Control Board.”

U. 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 South Carolina 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. ”

V. Section 13‑7‑830 of the 1976 Code, as last amended by Act 357 of 2000, is further amended to read:

“Section 13‑7‑830. The recommendations described in Section 13‑7‑620 shall be made available to the General Assembly, the Governor, ~~and~~ the Budget and Control Board, and the Department of Administration.”

W. 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~~ South Carolina 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.”

X. 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~~ South Carolina 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.”

Y. Section 48‑46‑30(4) of the 1976 Code is amended to read:

“(4) ‘Board’ means the South Carolina Budget and Control Board or its designated official, and ‘Department’ means the South Carolina Department of Administration or its designee.”

Z. Section 48‑46‑40 of the 1976 Code is amended to read:

“Section 48‑46‑40. (A)(1) The board, upon consultation with the Department of Administration, 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 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 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 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~~ shall not exceed initial disposal rates set by the board, upon consultation with the department pursuant to subsection (2).

(4) In March of each year the board 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 or a successor index.

(5) In consultation with the site operator and the department, the board 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 pursuant to subsections (2) and (3). Requests by the site operator for such approval shall be in writing to the board. In approving such special rates, the board 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 shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the board 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, the 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 for a regional generator is lower than a disposal rate approved by the board 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 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 and the compact commission.

(6)(a) To the extent authorized by the compact commission, the board, upon consultation with the Department of Administration and 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 is authorized by the compact commission to enter into agreements for importation of waste.

The board 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 shall not authorize the importation of nonregional waste for purposes of disposal.

(b) The board, in consultation with the department may approve disposal rates applicable to nonregional generators. In approving disposal rates applicable to nonregional generators, the board, in consultation with the 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 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 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 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 and the Department of Administration, the board 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. Requests by the site operator for such approval shall be in writing to the board. In approving such special rates, the board 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 shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the board 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 for a nonregional generator is lower than a disposal rate approved by the board 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 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, upon consultation with the Department of Administration and 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 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, 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 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 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, in consultation with the 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 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).”

AA. Section 48‑46‑50(A) of the 1976 Code is amended to read:

“(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, the Department of Administration, 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.”

BB. Section 48‑46‑60 of the 1976 Code is amended to read:

“Section 48‑46‑60. (A) The Governor and the board 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, upon consultation with the department. Expenditures must be authorized by the Barnwell County governing body and with the approval of the board, upon consultation with the 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, the Department of Administration, 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 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 in accordance with the board’s directions. All such surcharges shall be included within the disposal rates set by the board 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.”

CC. 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.”

DD. 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~~ Department of Administration 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.”

EE. Section 48‑52‑440 of the 1976 Code is amended to read:

“Section 48‑52‑440. (A) There is established the Energy Advisory Committee, whose members ~~are~~ shall be appointed by the ~~State Budget and Control Board~~ Director of the Department of Administration~~, except as provided in item (14) of this section~~. Members shall serve at the pleasure of the ~~State Budget and Control Board~~ director ~~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~~ director.

The ~~Budget and Control Board~~ Director of the Department of Administration shall ~~elect~~ select 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.

(B) Members of the Energy Advisory Committee serving in office on July 1, 2011, shall continue to serve until their successors are appointed and qualify.”

FF. 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~~ Department of Administration, 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.”

Part V

Performance Audit and Effective Date

SECTION 7. During the year 2015, 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.

SECTION 8. (A) Effective July 1, 2011, the duties, functions, responsibilities, personnel, funding, and physical assets of the Small and Minority Business Assistance Office created by Section 11‑35‑5270 and located within the Governor’s Office of Executive Policy and Programs are transferred to the Office of the Secretary of State.

(B)(1) Section 11‑35‑5260 of the 1976 Code is amended to read:

“Section 11‑35‑5260. The Small and Minority Business Assistance Office shall report annually in writing to the ~~Governor~~ Secretary of State concerning the number and dollar value of contracts awarded for each governmental body to a firm certified as a minority firm pursuant to Section 11‑35‑5230 during the preceding fiscal year. These records must be maintained to evaluate the progress of this program.”

(2) Section 11‑35‑5270 of the 1976 Code is amended to read:

‘Section 11‑35‑5270. A Small and Minority Business Assistance Office (SMBAO) ~~shall~~ must be established to assist the ~~board~~ Secretary of state and the Department of Revenue in carrying out the intent of this article. The responsibilities of the office ~~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) ~~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) After a period of one year, the SMBAO 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.”

(C) Where the provisions of this act abolish the Small and Minority Business Assistance Office as a separate division in the executive branch of state government and reconstitute it as a division of the Office of the Secretary of State, the employees, authorized appropriations, and assets and liabilities of the Small and Minority Business Assistance Office are also transferred to and become part of the Office of the Secretary of State. All classified or unclassified personnel employed by the Small and Minority Business Assistance Office on the effective date of this act, either by contract or by employment at will, become employees of the Office of the Secretary of State with the same compensation, classification, and grade level, as applicable.

(D) The Code Commissioner is directed to change or correct all references to the Small and Minority business Assistance Office, Governor’s Office of Executive Policy and Programs, to reflect its status as a division of the Secretary of State.

SECTION 9. A. Section 1‑30‑110 of the 1976 Code is amended to read:

“Section 1‑30‑110. Effective July 1, 1993, the following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the office of the Governor:

(1) ~~Continuum of Care for Emotionally Disturbed Children provided for at Section 63‑11‑1310, et seq.;~~

~~(2)~~ Guardian Ad Litem Program, formerly provided for at Section 63‑11‑500, et seq.;

~~(3)~~(2) State Office of Victim’s Assistance, formerly provided for at Section 16‑3‑1110, et seq.;

~~(4)~~(3) Department of Veterans Affairs, formerly provided for at Section 25‑11‑10, et seq.;

~~(5)~~(4) Commission on Women, formerly provided for at Section 1‑15‑10, et seq.;

~~(6)~~(5) Commission on Aging, formerly provided for at Section 43‑21‑10, et seq.;

~~(7)~~(6) Foster Care Review Board, formerly provided for at

B. 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~~;”

C. 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 Mental Health. This article supplements and does not supplant existing services provided to this population.”

D. 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~~ director of the department may employ a division director to serve at his pleasure who is subject to removal pursuant to the provisions of Section 1‑3‑240. The division 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.”

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

“Section 63‑11‑1360. The Division for Continuum of Care ~~Division~~ shall submit an annual report to the ~~Governor~~ department and General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children.”

F. (1) Where the provisions of this section transfer the Continuum of Care for Emotionally Disturbed Children, Office of the Governor to the Department of Mental Health, Division for Continuum of Care for Emotionally Disturbed Children, the employees, authorized appropriations, and assets and liabilities of the Continuum of Care for Emotionally Disturbed Children, Office of the Governor are also transferred to and become part of the Department of Mental Health, Division for Continuum of Care for Emotionally Disturbed Children. All classified or unclassified personnel employed by the Continuum of Care for Emotionally Disturbed Children, Office of the Governor on the effective date of this act, either by contract or by employment at will, become employees of the Department of Mental Health, Division for Continuum of Care for Emotionally Disturbed Children with the same compensation, classification, and grade level, as applicable.

(2) The Code Commissioner is directed to change or correct all references to the Continuum of Care for Emotionally Disturbed Children, Office of the Governor to reflect its status as a division of the Department of Mental Health. References to the name of the Continuum of Care for Emotionally Disturbed Children, Office of the Governor in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

SECTION 10. Unless otherwise provided, Sections 1 through 4 and 6 through 8 take effect July 1, 2011. Notwithstanding the above, Part III of this act containing Section 5 relating to the Legislative Oversight of Executive Departments takes effect January 1, 2012. The General Assembly shall undertake a joint oversight review investigation of the Department of Administration during the department’s fifth year of operation.

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