

**PROVISO REVIEW SUBCOMMITTEE
CORRECTIONS AND PUBLIC SAFETY RECOMMENDATIONS
FOR FY 2010-11**

SECTION 49 - K05 - DEPARTMENT OF PUBLIC SAFETY

- 49.6 DELETE** (Hunley Security) Directs DPS to assign two law enforcement officers to provide security services for the H.L. Hunley at the Warren Lasch Laboratory in Charleston using the funds appropriated to the department.
WMC: DELETE proviso. *Funds are no longer being received for this purpose and DPS is no longer being requested to provide a security detail.* Fiscal Impact: No impact on the General Fund. Requested by Department of Public Safety.
HOU: ADOPT deletion of proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT deletion of proviso.

~~**49.6.** (DPS: Hunley Security) From the funds appropriated to the Department of Public Safety, the department is directed to assign two law enforcement officers to provide security services for the H.L. Hunley at the Warren Lasch Laboratory in Charleston.~~

- 49.8 ADD** (Retention of DMV Cash Transfer) **WMC:** ADD new proviso to authorize DPS to retain, expend, and carry forward funds transmitted by DMV without any specific restrictions for the use of these funds pursuant to proviso 90.20 (SR: DMV Cash Transfer) of Act 23 of 2009. Fiscal Impact: No impact on the General Fund. The department anticipates carrying forward \$2,000,000.
HOU: ADOPT new proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

49.8. (DPS: Retention of DMV Cash Transfer) The Department of Public Safety is hereby authorized to retain, expend, and carry forward funds transmitted by the Department of Motor Vehicles without any specific restrictions for the utilization of these funds pursuant to proviso 90.20 (SR: DMV Cash Transfer) of Act 23 of 2009.

SECTION 49A - K09-CAPITOL POLICE FORCE

- 49A.1 DELETE** (Dispositions if Agency Not Established) Provides directives in the event legislation enacting the Capitol Police Force is not adopted by the General Assembly and in effect as of July 1, 2009.
WMC: DELETE proviso. Fiscal Impact: No impact on the General Fund.
HOU: ADOPT deletion of proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT deletion of proviso.

~~**49A.1.** (CPF: Dispositions if Agency Not Established) (A) The provisions of this paragraph apply if legislation is not enacted and in effect as of July 1, 2009, establishing in permanent law the Capitol Police Force. In that eventuality, the provisions of this paragraph and paragraph 44.17 of this Part apply and are deemed the intention of and the last expression of the General Assembly with respect to all matters addressed by this paragraph and paragraph 44.17.~~

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(B) The provisions of paragraphs 49A.1 through 49A.4 of this section are suspended and the following numbered paragraphs contained in this Part IB are amended, effective July 1, 2009, to read:

~~Section 48 – D10 – State Law Enforcement Division~~

~~“48.8. (SLED: Detective/Security Fee) The State Law Enforcement Division is hereby authorized to charge and collect additional license and registration fees for private detective businesses, private security businesses, including employees of these businesses, and companies which provide private security on their own premises. The funds generated will be transmitted to the Department of Public Safety and used for the purpose of providing additional security in the Capitol Complex area.”~~

~~Section 49 – K05 – Department of Public Safety~~

~~“49.2. (DPS: Retention of Private Detective Fees) The Department of Public Safety is hereby authorized to receive, expend, retain, and carry forward all funds transmitted from SLED related to fees charged and collected by SLED from license and registration fees for private detective businesses, private security businesses, including employees of these businesses, and companies which provide private security on their own premises. The funds transferred are to be used in the Bureau of Protective Services Program to provide security for state agencies and the Capitol Complex.”~~

~~Section 68A – U12 – Department of Transportation~~

~~“68A.13. (DOT: Shop Road Farmers Market Bypass Carry Forward) Unexpended funds appropriated for the Shop Road Farmers Market Bypass may be carried forward into the current fiscal year and expended for the matching requirement for the widening and expansion of Leesburg Road from Fairmont to Wildcat Road (Lower Richland roads Phase I).”~~

~~Section 89 – X90 – General Provisions~~

~~“89.80. (GP: Lt. Governor Security Detail) The State Law Enforcement Division (SLED) shall provide a security detail to the Lieutenant Governor in a manner agreed to by SLED and the Lieutenant Governor’s Office. Reimbursement to SLED to offset the cost of the security detail for the Lieutenant Governor’s Office shall be made in an amount agreed to by SLED and the Lieutenant Governor’s Office from funds appropriated to the Lieutenant Governor’s Office for this purpose.”~~

(C) The Office of State Budget shall transfer all amounts otherwise appropriated and FTE’s authorized in Part IA, Section 49A of this act for the operations of the Capitol Police Force to the appropriations categories of those agencies from whence those funds and FTE’s were drawn to establish the Capitol Police Force.

SECTION 51 - N04 - DEPARTMENT OF CORRECTIONS

51.lr ADD (LAC Recommendations) PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADD new proviso to direct the department to report on the status of implementing the recommendations contained in the LAC’s October 2009 Limited Scope Review of the Department of Corrections. Require that the report be provided to the Senate Corrections and Penology and the House 3M Committees by January 4, 2011. Requested by Special Subcommittee to Review the LAC’s Report on the Department of Corrections.

51.lr. (CORR: LAC Recommendations) The Department of Corrections is directed to provide a report on the status of implementation of the recommendations contained in the Legislative Audit Council’s October 2009 Limited-Scope Review of the Department of Corrections. The report must be provided by January 4, 2011, to the Senate Corrections and Penology Committee and the House of Representatives Medical, Military, Public and Municipal Affairs Committee.

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51.If **ADD** (Legal Fees) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the department to submit a report to the Senate Finance and House Ways and Means Committees that details expenditure of all funds, including Insurance Reserve Fund expenditures or any prepaid legal account, that have been expended within the last six fiscal years for private lawyers to defend wrongful termination actions or other personnel matters brought against the department's employees or former employees. Require the report include, at a minimum, a detailed accounting of expenditures; a determination of adequacy of the results; and an assessment of alternatives, including cost-saving alternatives, for managing any such lawsuit. Direct that the report be submitted by October 1 of the current fiscal year.

51.If. (CORR: Legal Fees) For the current fiscal year, the Department of Corrections shall submit a report to the Senate Finance Committee and the House Ways and Means Committee detailing the expenditure of all funds, including expenditures from the Insurance Reserve Fund or any prepaid legal account, within the last six fiscal years for private lawyers to defend actions for wrongful termination or other personnel matters against the department's employees or former employees. At a minimum, the report must: provide a detailed accounting of the expenditures; determine the adequacy of the results obtained by the private lawyers; and assess alternatives, including cost-saving alternatives, for managing any such lawsuit. The detailed accounting of the expenditures shall include the names of parties to the lawsuits, the cause(s) of action, the date of the alleged wrongdoing, name of private lawyers engaged, amount paid to each private lawyer, status of all pending lawsuits, outcome of any order or judgment. The report must be submitted by October 1 of the current fiscal year.

SECTION 52 - N08 - DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES

52.2 **AMEND** (Interstate Compact Application Fee) Authorizes the department to charge offenders applying for transfers out of state under the Interstate Compact Act, an application fee not to exceed \$100 and to retain and carry forward these funds to offset the cost of the Interstate Compact Act.

WMC: AMEND proviso to also charge the application fee to offenders who transfer into the state. *Allows the department to recover costs associated with offenders transferring into the state.* **Fiscal Impact:** OSB states that the department indicated no impact on the General Fund. The department stated that the total number of cases accepted by this state between 1/1/09 and 1/1/10 was 1,373. Had this provision been in place it would have generated \$137,300 in revenue for the department during that time period. Requested by Department Probation, Parole and Pardon Services.

HOU: ADOPT proviso as amended.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT proviso as amended.

52.2. (DPPP: Interstate Compact Application Fee) The department may charge offenders an application fee set by the department, not to exceed \$100, to offenders applying for transfers out of or into the state under the Interstate Compact Act. The application fee shall be retained by the department to offset the cost of the Interstate Compact Act. All unexpended funds at year-end may be retained and carried forward by the department to be expended for the same purpose.

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SECTION 53 - N12 - DEPARTMENT OF JUVENILE JUSTICE

- 53.15** **ADD** (Emergency Authority to Transfer PIP Funds) **WMC:** ADD new proviso to authorize DJJ to transfer up to \$1,500,000 of its Permanent Improvement Project (PIP) funds, excluding Capital Improvement Bond funds, to its operating and personal service accounts, if those funds are unobligated or not committed for active permanent improvement projects. Authorize DJJ to use these funds in FY 2010-11 as necessary order to maintain constitutional conditions in its institutional facilities and residential programs. *Use of these funds could alleviate the need to close facilities in the event future budget reductions occur.* Fiscal Impact: OSB states no impact on the General Fund. \$1,500,000 of PIP funds previously allocated to DJJ would be used for operating and personal services. Total remaining balances for 19 projects as of 1/8/10 in appropriated state funds = \$1,684,477. Requested by Department of Juvenile Justice.
HOU: ADOPT new proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

53.15. (DJJ: Emergency Authority to Transfer PIP Funds) The Department of Juvenile Justice is authorized to transfer to its operational and/or personnel accounts up to \$1,500,000 of Permanent Improvement Project (PIP) funds, excluding Capital Improvement Bond funds, that have been previously allocated to the department by the General Assembly/Joint Bond Review Committee and approved by the Budget and Control Board, if those funds are unobligated or not otherwise committed by the department for active permanent improvement projects. The department may utilize these funds in Fiscal Year 2010-11 as necessary in order to maintain constitutional conditions in its institutional facilities and residential programs.

- 53.16** **ADD** (Emergency Release for Community Evaluation) **WMC:** ADD new proviso to authorize DJJ to allow any child adjudicated delinquent for a status offense, for a misdemeanor offense other than Assault and Battery of a High and Aggravated Nature, or Assault with Intent to Kill, or for violation of probation/contempt for any offense and who is temporarily committed to DJJ custody for a residential evaluation, to reside in his home or home community while the evaluation of the child is being conducted, unless the committing judge determines that the child presents an unreasonable flight or security risk. *DJJ currently does not have the authority to conduct a community evaluation resulting in the child being housed in a DJJ facility for evaluation prior to sentencing for up to 45 days.* Fiscal Impact: The department states they would generate approximately \$400 additional federal "Medicaid" funds per evaluation since community evaluations are "Medicaid" eligible and evaluations in DJJ evaluation centers are not. Requested by Department of Juvenile Justice.
HOU: ADOPT new proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

53.16. (DJJ: Emergency Release for Community Evaluation) The Department of Juvenile Justice is authorized to allow any child adjudicated delinquent for a status offense, for a misdemeanor offense other than Assault and Battery of a High and Aggravated Nature or Assault with Intent to Kill, or for violation of probation/contempt for any offense who is temporarily committed to its custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child shall not be conducted because the child presents an unreasonable flight or public safety risk to his home community.

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- 53.17** **AMEND NEW PROVISO** (Earned Compliance Credit) **WMC:** ADD new proviso to authorize DJJ to grant probationers and parolees under their supervision a reduction of their probationary or parole term of up to ten days for each month they are compliant with the terms and conditions of their probation or parole order. State that this authorization is granted in order to avoid unconstitutional levels of overcrowding and prevent other unconstitutional conditions from occurring in residential programs operated for the DJJ, and in order to reduce probation and parole officers caseloads so they can better focus their attention and limited resources on offenders who pose a greater threat to public safety. *Currently children committed to DJJ can earn compliance credit, but children under probation or parole do not have that opportunity.* Fiscal Impact: No impact on the General Fund.
HOU: ADOPT new proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: AMEND new proviso to direct that parolees under the Board of Juvenile Parole's jurisdiction are not eligible to receive the credit. Requested by Department of Juvenile Justice and the Board of Juvenile Parole.

*53.17. (DJJ: Earned Compliance Credit) In order to avoid unconstitutional levels of overcrowding and other unconstitutional conditions from occurring in residential programs operated for the Department of Juvenile Justice, and in order to reduce caseloads of the Department's probation and parole officers so that these officers can better focus their attention and limited resources on those offenders who pose a greater threat to public safety, the Department is authorized to grant up to a ten day reduction of their probationary or parole term to probationers and parolees who are under its supervision for each month they are compliant with the terms and conditions of their probation or parole order. **Parolees under the jurisdiction of the Board of Juvenile Parole are not eligible to receive this credit.***

- 53.18** **ADD** (Early Release Authorization) **WMC:** ADD new proviso to direct that the number of children housed in residential placements (those committed to the custody of DJJ or those under DJJ supervision) may not exceed the number of beds available to the department to house them. Authorize and empower DJJ, if appropriation reductions necessitate that they close any additional facility, program, or housing unit they operate, or be unable to fund additional residential programs operated for their benefit, to release sufficient numbers of children committed to their custody or supervision who are in residential placements so that the number of children in these residential placements does not exceed the number of available housing units/beds. Direct that only children committed to the custody of DJJ or under DJJ supervision for a status offense, a misdemeanor offense or for violation of probation/contempt of a status offense or misdemeanor offense may be released. Prohibit children committed or under supervision for Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill from early release. Prohibit a child adjudicated delinquent for a violent crime as defined in Section 16-1-60 [FELONIES AND MISDEMEANORS; ACCESSORIES: VIOLENT CRIMES DEFINED], a felony offense as defined in Section 16-1-90 [FELONIES AND MISDEMEANORS; ACCESSORIES: CRIMES CLASSIFIED AS FELONIES], or a sexual offense from being released pursuant to this provision.
HOU: ADOPT new proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

53.18. (DJJ: Early Release Authorization) In order to avoid unconstitutional levels of overcrowding and other unconstitutional conditions from occurring in facilities operated by the department and in residential programs operated for the department, the number of children

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housed in residential placements (either committed to the custody of the Department of Juvenile Justice or who are under the department's supervision) shall not exceed the number of beds available to the department to house them. Should appropriation reductions necessitate that the department close any additional facility, program, or housing unit it operates, or to be unable to fund any additional residential program operated for its benefit, the department is authorized and empowered to release from its residential placements sufficient numbers of children committed to its custody or supervision for a status offense, a misdemeanor offense, other than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, or for violation of probation/contempt of a status offense or a misdemeanor offense, other than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, so that the number of children in its custody or under its supervision and placed in these residential placements does not exceed the number of housing units/beds available to properly house those children. No child adjudicated delinquent for a violent crime as defined in Section 16-1-60 of the 1976 Code, a felony offense as defined in Section 16-1-90 of the 1976 Code, or a sexual offense shall be released pursuant to this proviso.

SECTION 81 - R44-DEPARTMENT OF REVENUE

- 81.8** **ADD** (Penalty Relief) **HOU:** ADD new proviso to direct that for qualifying individuals who comply with Section 1212 of federal P.L. 111-5 [SMALL BUSINESS TAX BENEFITS AND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009], the Department of Revenue shall waive interest and penalties for state estimated quarterly individual income tax payments. Direct that for South Carolina penalty waiver qualification purposes, an individual is qualified if they meet the adjusted gross income requirement and the 50% of gross income from a small business requirement contained in Section 1212 for South Carolina or federal purposes. *Federal tax conformity.* Sponsor: Rep. White.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT new proviso.

81.8. (DOR: Penalty Relief) The Department of Revenue will waive interest and penalties for state estimated quarterly individual income tax payments for qualifying individuals who comply with Section 1212 of federal P.L. 111-5. An individual is considered a qualified individual for purposes of South Carolina penalty waiver if the individual meets the adjusted gross income requirement and the 50% of gross income from a small business requirement contained in Section 1212 for South Carolina or federal purposes.

SECTION 89 - X90-GENERAL PROVISIONS

- 89.26** **AMEND** (State Owned Aircraft - Maintenance Logs) Provides flight log and aircraft usage guidelines for agencies that have one or more aircraft.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: AMEND proviso to exempt law enforcement officers when flying on state owned aircraft in pursuit of fugitives, missing persons, or felons or for investigation of gang, drug, or other violent crimes from the requirements of this proviso. *Most of the uses of SLED aircraft by law enforcement personnel are for urgent, dynamic, fast-paced, operations (searches for fugitives, missing persons, fleeing felons, marijuana eradication, etc.), and are often conducted at night and under less than ideal conditions and time is of the essence.* Requested by SLED.

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89.26. (GP: State Owned Aircraft - Maintenance Logs) Each agency having in its custody one or more aircraft shall maintain a continuing log on all flights, which in order to promote accountability and transparency shall be open for public inspection and shall also be posted online. Any and all aircraft owned or operated by agencies of the State Government shall be used only for official business. The Division of Aeronautics and other agencies owning and operating aircraft may furnish transportation to the Governor, Constitutional Officers, members of the General Assembly, members of state boards, commissions, and agencies and their invitees for official business only; no member of the General Assembly, no member of a state board, commission, or committee, and no state official shall use any aircraft of the Division of Aeronautics unless the member or official files within forty-eight hours after the time of departure of the flight with the Division of Aeronautics a sworn statement certifying and describing the official nature of his trip; and no member of the General Assembly, no member of a state board, commission or committee, and no state official shall be furnished air transportation by a state agency other than the Division of Aeronautics unless such agency prepares and maintains in its files a sworn statement from the highest ranking official of the agency certifying that the member's or state official's trip was in conjunction with the official business of the agency. Official business shall not include routine transportation to and from meetings of the General Assembly or committee meetings for which mileage is authorized.

All logs shall be signed by the parties using the flight and the signatures shall be maintained as part of the permanent record of any agency. All passengers shall be listed on the flight log by their legal name; passengers flying with an appropriate official of SLED or the Division of State Development whose confidentiality must, in the opinion of SLED or the division, be protected shall be listed in writing on the flight log as "Confidential Passenger SLED or the Division of State Development (strike one)" and the appropriate official of SLED or the division shall certify to the agency operating the aircraft the necessity for such confidentiality.

Violation of the above provisions of this section is prima facie evidence of a violation of Section 8-13-410(1) of the 1976 Code and shall subject a violating member of the General Assembly to the ethics procedure of his appropriate house and shall subject a violating member of a state board, commission or committee, or a state official to the applicable ethics procedure relating to them as provided by law. The above provisions do not apply to aircraft of the Division of Aeronautics when used by the Medical University of South Carolina, nor to aircraft of the athletic department or the educational foundations of any state-supported institution of higher education, nor to law enforcement officers when flying on state owned aircraft in pursuit of fugitives, missing persons, or felons or for investigation of gang, drug, or other violent crimes.

Aircraft owned by agencies of state government shall not be leased to individuals for their personal use.

- 89.93** **DELETE** (Offset Corrections Budget Reduction) Authorizes the Governor to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from DMV to the Department of Corrections to offset any FY 09-10 budget deficit that has been officially recognized by the Budget and Control Board.
WMC: AMEND proviso to change "2009-10" to "2010-11." Fiscal Impact: No impact on the General Fund.
HOU: ADOPT proviso as amended.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: DELETE proviso.

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~~89.93. (GP: Offset Corrections Budget Reduction) The Governor shall be authorized to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from the Department of Motor Vehicles to the Department of Corrections to offset any Fiscal Year 2009-10 budget deficit that has been officially recognized by the Budget and Control Board.~~

- 89.110 DELETE NEW PROVISO** (Fire Service Vehicles Allowed to Use "Offroad Diesel") **WMC:** ADD new proviso to exempt fire service vehicles operated by political subdivisions from the user fee on diesel fuel imposed by Chapter 28 of Title 12 [MOTOR FUELS SUBJECT TO USER FEES]. Authorize "offroad diesel" to be purchased to operate these vehicles. Fiscal Impact: BEA indicates no impact on the General Fund. Proceeds from diesel/off-road diesel user fees in FY 10-11 would be reduced by \$506,688 as follows: DOT State Highway Fund, \$484,000; DHEC \$15,125; Dept. of Agriculture, \$756; and DOT State Non-Federal Aid Highway Fund, \$6,807. **HOU:** AMEND new proviso to specify "volunteer" fire service vehicles. Sponsor: Rep. Gambrell.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: DELETE new proviso.

~~89.110. (GP: Volunteer Fire Service Vehicles Allowed to Use "Off-Road Diesel") Volunteer fire service vehicles operated by political subdivisions of this State are exempt from the user fee on diesel fuel imposed pursuant to Chapter 28, Title 12 of the 1976 Code for fuel purchased in the current fiscal year. "Off road diesel" may be purchased to operate these vehicles.~~

- 89.119 DELETE** (DJJ & Wil Lou Gray Potential Consolidation Plan) **HOU:** ADD new proviso to direct the DJJ Director and Wil Lou Gray Superintendent to collaborate and develop a plan to potentially consolidate functions. Direct that the plan, including an estimate of cost savings be submitted to the Chairmen of the Senate Finance and House Ways and Means Committees by December 31, 2010. Authorize the director and superintendent to immediately implement any functions they identify to enable the agencies to operate more efficiently. Sponsors: Rep. Cooper and Wylie.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: DELETE new proviso.

~~89.119. (GP: DJJ & Wil Lou Gray Potential Consolidation Plan) The Director of the Department of Juvenile Justice and the Superintendent of the Wil Lou Gray Opportunity School are directed to collaborate and develop a plan to potentially consolidate the functions of the two entities. This plan, including an estimate of the cost savings, must be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee no later than December 31, 2010. In the event the Director and Superintendent identify functions which could be immediately implemented to enable the two agencies to operate more efficiently they shall have the authorization to implement such actions.~~

- 89.ric ADD** (Reduction in Compensation) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to prohibit a state agency or political subdivision from decreasing an employee's compensation, including dismissal, suspension, or demotion solely because the employee gave sworn testimony to a Senate or House of Representatives standing committee or subcommittee, or study committee regarding alleged wrongdoing. Direct that this proviso applies regardless of when the alleged wrongdoing occurred. *Similar to*

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S.1177. Requested by Special Subcommittee to Review the LAC's Report on the Department of Corrections.

89.ric. (GP: Reduction in Compensation) For the current fiscal year, no state agency or political subdivision of this state may decrease the compensation of an employee, including dismissal, suspension, or demotion, solely because the employee gave sworn testimony regarding alleged wrongdoing to a standing committee, subcommittee of a standing committee, or study committee of the Senate or the House of Representatives. This proviso shall apply regardless of when the alleged wrongdoing occurred.

89.dc **ADD** (Defense Costs) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that for the current fiscal year and for any claim that has not reached a judgment, if a current or former state or local government employee is sued for civil conspiracy based in part on a personnel or employment action or decision, the court is required to make a final determination prior to trial, on whether the action or decision was made by the employee within the scope of their official duty. Direct that the state or local government shall not spend any funds to defend the claim if the court finds that the employee was acting outside the scope of their official duties. Direct that the employee is immune from suit, liability, and damages with respect to the civil conspiracy claim if the court finds they were acting within the scope of their official duties. Direct that the state or local government may only spend funds to defend the claim if it is determined that the employee was acting within the scope of their official duties. Direct that nothing in this provision prevents an insurance provider from defending and paying, respectively, claims that the provider has contractually agreed to defend and pay, nor does it limit any claim available by law which challenges a governmental entity's personnel or employment actions other than civil conspiracy. *Similar to S.1210.* Requested by Special Subcommittee to Review the LAC's Report on the Department of Corrections. Inclusion of local government requested by Association of Counties and inclusion of insurance provider qualifier requested by Budget and Control Board.

89.dc. (GP: Defense Costs) For the current fiscal year, and for any claim that has not reached a judgment, if a state or local government employee or former state or local government employee ("government employee") is personally sued for civil conspiracy based in part upon a personnel or employment action or decision regarding an employee, the court must, prior to trial, make a final determination whether the action or decision giving rise to the suit was made by the government employee within the scope of official duty. If the court finds that the government employee was acting outside the scope of the employee's official duties, the government shall not thereafter expend any funds to pay or defend the claim. If the court finds the government employee was acting within the scope of employee's official duties, the employee is immune from suit, liability, and damages with respect to the civil conspiracy claim. The government may only expend funds to defend the claim if the determination is that the employee was acting within the scope of official duties. Nothing in this proviso prevents an insurance provider from defending and paying, respectively, any claims that the provider has contractually agreed to defend and pay, nor does it limit any claim available by law which challenges personnel or employment actions of a governmental entity other than civil conspiracy.

89.dm **ADD** (Deficit Monitoring) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that after each quarterly deficit monitoring review by the Office of State Budget (OSB), if it is determined by either OSB or an agency that it is likely that a deficit will exist for the current fiscal year, the agency must submit

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a plan to OSB within 14 days, to minimize or eliminate the projected deficit. Direct that after the plan is submitted, if it is determined that the deficit cannot be eliminated by the agency on its own, the agency must officially notify the State Budget and Control Board within 30 days of such determination, that they are requesting that a deficit be recognized. Require the agency to limit travel and conference attendance to the minimum required to perform the core mission of the agency once the B&C Board has recognized the deficit. Allow the B&C Board, when recognizing a deficit, to direct the Office of State Budget to approve any pay increases and purchases of equipment and vehicles. Requested by Special Subcommittee to Review the LAC's Report on the Department of Corrections.

89.dm. (GP: Deficit Monitoring) If at the end of each quarterly deficit monitoring review by the Office of State Budget, it is determined by either the Office of State Budget or an agency that the likelihood of a deficit for the current fiscal year exists, the agency shall submit to the Office of State Budget within fourteen days, a plan to minimize or eliminate the projected deficit. After submission of the plan, if it is determined that the deficit cannot be eliminated by the agency on its own, the agency is required to officially notify the State Budget and Control Board within thirty days of such determination that the agency is requesting that a deficit be recognized. Once a deficit has been recognized by the State Budget and Control Board, the agency shall limit travel and conference attendance to the minimum required to perform the core mission of the agency. In addition, the board when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles shall be approved by the Office of State Budget.

89.cc **ADD** (Commuting Costs) **PROVISO REVIEW SUBCOMMITTEE**
RECOMMENDATION: ADD new proviso to require state government employees who use a permanently assigned agency or state-owned vehicle to commute from their permanently assigned work location to and from home, to either reimburse their agency for the cost of fuel or the Comptroller General must report the personal use of the vehicle to the IRS. Require these permanently assigned vehicles to be clearly marked as a state or agency vehicle through the use of state-government license plates and either state or agency seal decals unless the vehicle is primarily used in undercover operations. Exclude vehicles used for special travel assignment purposes, vehicles used by active certified law enforcement officers authorized to carry firearms, execute warrants, and make arrests, Constitutional Officers, agency heads and DOT employees on call for emergency maintenance. Requested by Special Subcommittee to Review the LAC's Report on the Department of Corrections.

89.cc. (GP: Commuting Costs) State government employees who use a permanently assigned agency or state owned vehicle to commute from their permanently assigned work location to and from the employee's home must either reimburse the agency in which they are employed for the cost of fuel or the personal use of the vehicle must be considered income and as such reported by the Comptroller General in accordance with IRS regulations. These permanently assigned vehicles must be clearly marked as a state or agency vehicle through the use of permanent state-government license plates and either state or agency seal decals unless the vehicle is used primarily in undercover operations. This requirement does not apply to a vehicle used by an employee for the purpose of a special travel assignment, for active certified law enforcement officers authorized to carry firearms, execute warrants, and make arrests, for Constitutional Officers, for agency heads, or for Department of Transportation employees on call for emergency maintenance.

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89.vc **ADD** (Video Conferencing) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Department of Corrections, in consultation with Court Administration, to determine if using video conferencing technology would be cost effective for certain court proceedings. Direct the department to report their findings to the House Ways and Means and 3M Committees and the Senate Finance and Corrections and Penology Committees by December 1, 2010. Require the report include an analysis of which court proceedings would be most appropriate for video conferencing, court locations that would be most cost effective, a general description and estimated cost of the equipment needed, and the estimated savings that may be realized. Requested by Special Subcommittee to Review the LAC's Report on the Department of Corrections.

89.vc. (GP: Video Conferencing) The Department of Corrections, in consultation with Court Administration, shall determine if the use of video conferencing technology would be cost effective for certain court proceedings. The Department shall report their findings to the Ways and Means Committee and the Medical, Military, Public and Municipal Affairs Committee of the House of Representatives and the Finance Committee and Corrections and Penology Committee of the Senate by December 1, 2010. The report shall include an analysis of which court proceedings would be most appropriate for video conferencing, the court locations that would be most cost effective, a general description and estimated cost of the equipment needed, and the estimated savings that may be realized by the use of video conferencing.

89.bata **ADD** (Bank Account Transparency and Accountability) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to require each agency that has composite reservoir bank accounts or any other accounts that contain public funds not included in the Statewide Accounting and Reporting System or the SCEI System to prepare a report for each account that discloses every transaction in the prior fiscal year. Direct that the report be submitted to the Governor, Chairmen of the Senate Finance and House Ways and Means Committees, State Treasurer, and Comptroller General by October 1 of each fiscal year. Direct what information must be included in the report and require that a link to the report be posted on the Comptroller General's website and on the agency's homepage. Authorize an agency to petition the B&C Board to grant an exemption from the reporting requirement if the agency determines that the release of the information would be detrimental to the state or the agency. Direct that the meeting to determine whether an exemption should be granted shall be closed, but require the exemption to be granted upon a majority vote of the B&C Board in a public meeting.

89.bata. (GP: Bank Account Transparency and Accountability) Each agency which has composite reservoir bank accounts or any other accounts containing public funds which are not included in the Comptroller General's Statewide Accounting and Reporting System or the South Carolina Enterprise Information System shall prepare a report for each account disclosing every transaction of the account in the prior fiscal year. The report shall be submitted to the Governor, the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the State Treasurer, and the Comptroller General by October 1 of each fiscal year. The report shall include the name(s) and title(s) of each person authorized to sign checks or make withdrawals from each account, the name and title of each person responsible for reconciling each account, the year-end balance of funds in each account, and data related to both deposits and expenditures of each account. The report shall include, but not be limited to, the date, amount, and source of each deposit transaction and the date, name of the payee, the transaction amount, and a description of the goods or services purchased for each expenditure transaction. In order to promote accountability and

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transparency, a link to the report shall be posted on the Comptroller General's website as well as the agency's homepage.

If an agency determines that the release of the information required in this provision would be detrimental to the state or the agency, the agency may petition the Budget and Control Board to grant the agency an exemption from the reporting requirements for the detrimental portion. The meeting to determine whether an exemption should be granted shall be closed. However, the exemption may only be granted upon a majority vote of the Budget and Control Board in a public meeting.

- 89.dpc** **ADD** (DOC & PPP Potential Consolidation Plan) **PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Directors of the Department of Corrections and the Department of Probation, Parole, and Pardon Services to collaborate and develop a plan to potentially consolidate functions. Direct that the plan, including an estimate of cost savings be submitted to the Chairmen of the Senate Finance, House Ways and Means, Senate Corrections and Penology, and House 3M Committees by December 31, 2010. Authorize the directors, upon the Governor's approval, to immediately implement any functions they identify to enable the agencies to operate more efficiently.

89.dpc. (GP: DOC & PPP Potential Consolidation Plan) The Director of the Department of Corrections and the Director of the Department of Probation, Parole and Pardon Services are directed to collaborate and develop a plan to potentially consolidate the functions of the two agencies. This plan, including an estimate of cost savings, must be submitted to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Corrections and Penology Committee and the Chairman of the House Medical, Military, Public and Municipal Affairs Committee no later than December 31, 2010. In the event the respective directors identify functions which could be immediately implemented to enable the two agencies to operate more efficiently, they shall have the authorization, upon approval of the Governor, to implement such actions.

- 89.pssc** **CARRIED OVER** (Public Safety Service Charge) **CORRECTIONS AND PUBLIC SAFETY SUBCOMMITTEE CHAIRMAN'S RECOMMENDATION:** ADD new proviso to require DMV, at the time a motor vehicle registration fee is collected, to collect a \$4 annual public safety service charge on all vehicles required to be registered in addition to the registration fees required by law. Direct that \$2 of the funds collected for property carrying vehicles (commercial motor vehicles) be deposited into a DOT special restricted account for commercial motor vehicle rest areas operating expenses. Direct that the remaining funds collected for property carrying vehicles and all service charges collected for other motor vehicles required to be registered be deposited into a DPS special restricted account for Highway Patrol and State Transport Police personnel and operating expenses. Authorize the funds to be retained and carried forward by the respective agencies and be used for the same purposes.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: CARRIED OVER

89.pssc. (GP: Public Safety Service Charge) At the time of collection of the registration fee for a motor vehicle, the Department of Motor Vehicles shall collect a four dollar annual public safety service charge on all vehicles required to be registered in this state, in addition to the registration fees prescribed by law. Of the funds collected pursuant to this provision for property carrying vehicles, two dollars shall be deposited into a special restricted account of the Department of Transportation to be used for operating expenses of commercial motor

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vehicle rest areas. The remaining funds collected pursuant to this provision for property carrying vehicles and all service charges collected for other motor vehicles required to be registered shall be deposited into a special restricted account for the Department of Public Safety to be used for personnel and operating expenses of the South Carolina Highway Patrol and State Transport Police. All unexpended funds collected under this provision may be retained and carried forward by the Department of Transportation or the Department of Public Safety and used for the same purposes.

SECTION 90 - X91 - STATEWIDE REVENUE

90.12 DELETE (DMV Cash Transfer) Directs DMV to transfer \$8,000,000 from any department earmarked or restricted “special revenue funds” account to the following agencies and lifts any restrictions concerning use of these funds for the current fiscal year: \$1,000,000 to SLED, \$4,000,000 to DPS, \$1,000,000 to DPPP, and \$2,000,000 to DJJ. Directs that for FY 09-10 the license plate replacement interval is suspended until funds transferred to other agencies are repaid to the department pursuant to proviso 90.13 or by any other source of funds or until the Plate Replacement Fee Fund has enough monies to reinstitute the license plate replacement.
WMC: DELETE proviso. Fiscal Impact: No impact on the general fund.
HOU: ADOPT deletion of proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT deletion of proviso.

~~90.12. (SR: DMV Cash Transfer) The Department of Motor Vehicles shall transfer \$8,000,000 from any department earmarked or restricted account designated as “special revenue funds” as defined by the Comptroller General’s records to the specified agencies in order to offset budget reductions and any restrictions concerning specific utilization of these funds are lifted for the current fiscal year:~~

- ~~(1) D10 State Law Enforcement Division.....\$ 1,000,000;~~
- ~~(2) K05 Department of Public Safety.....\$ 4,000,000;~~
- ~~(3) N08 Department of Probation, Parole, and Pardon Services.....\$ 1,000,000; and~~
- ~~(4) N12 Department of Juvenile Justice.....\$ 2,000,000.~~

~~For the Fiscal Year 2009-10, the license plate replacement interval is suspended until the funds transferred to other agencies within this provision are repaid to the department pursuant to proviso 90.13 or by any other source of funds or until such time as the Plate Replacement Fee Fund has a sufficient balance to reinstitute license plate replacement.~~

90.13 DELETE (Personnel for Increased Enforcement Collections) Directs the Department of Revenue, for FY 09-10, to use \$2,200,000 exclusively to hire and provide operations for specifically identified additional enforcement personnel (agents, auditors and support), to enhance audit and collection activity and provides guidelines and directives for the funds collected. Directs the State Treasurer to disburse the funds collected pursuant to this provision quarterly on a pro rata basis to certain agencies for specified purposes. Prohibits an agency from expending funds appropriated in this provision until they are received. Authorizes these funds to be carried forward to succeeding fiscal years and be expended for the same purpose. Directs that if revenues collected are less than the amounts appropriated, these appropriations shall be reduced on a pro rata basis. Directs that excess revenue above the amounts identified in this provision shall be transferred to the General Fund. Requires the Department of Revenue to report quarterly to the finance committees of the General Assembly and to the BEA on collections received.

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WMC: DELETE proviso. Fiscal Impact: No impact on the General Fund.
HOU: ADOPT deletion of proviso.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: ADOPT deletion of proviso.

~~90.13. (SR: Personnel for Increased Enforcement Collections) For Fiscal Year 2009-10, in order to increase enforced collections, two million two hundred thousand dollars allocated to the Department of Revenue in this act shall be used exclusively to hire and provide operations for specifically identified additional enforcement personnel (agents, auditors and support) to enhance audit and collection activity.~~

~~The department may collect revenues from any source within its jurisdiction, which may include but is not limited to corporate, individual or sales tax collections but especially shall focus on enforced collections and outstanding liabilities.~~

~~These funds shall be deposited in a fund separate and distinct from the general fund as established within the Office of the State Treasurer, except that any motor fuel funds collected as a result of the enforced collection efforts shall be distributed in the same manner as other motor fuel tax revenues are currently distributed.~~

~~For the fiscal year beginning July 1, 2009 and ending June 30, 2010, the State Treasurer shall disburse quarterly the following funds on a pro rata basis:~~

- ~~(1) A01—The Senate
Reapportionment \$ 1,000,000;~~
- ~~(2) F30—Employee Benefits Other
Post Employee Benefits \$ 3,245,659;~~
- ~~(3) X44—Aid to Subdivisions—Department of Revenue
Homestead Exemption Shortfall..... \$ 43,504,341; and~~
- ~~(4) H03—Commission on Higher Education
Need Based Grants..... \$ 500,000.~~

~~Once sufficient revenue has been collected to fully fund the above items, the first \$8,000,000 of excess revenue shall be transferred to the Department of Motor Vehicles to reimburse the department for the funds transferred to other agencies by proviso 90.12 of this act. The next \$500,000 of excess revenue shall be transferred to the Forestry Commission. The next \$285,000 of excess revenue shall be transferred to Clemson University PSA for the South Carolina Biotechnology Incubation Facility. The next \$500,000 of excess revenue shall be transferred to the Commission on Higher Education—University Center of Greenville. The next \$30,000 of excess revenue shall be transferred to the Department of Agriculture for Agri-Business Development. The next \$10,000,000 of excess revenue shall be transferred to Aid to Subdivisions—State Treasurer for the Local Government Fund.~~

~~The Department of Revenue shall develop internal mechanisms to insure the integrity of customary and usual enforced collections. When the department determines that the quarterly customary and usual enforced collections have been exceeded, the department shall deposit the excess funds into the separate and distinct fund not to exceed the totals as provided in this provision.~~

~~The funds in this account shall be appropriated for the purposes herein and disbursed quarterly on a pro rata basis unless otherwise stated. However no agency shall expend funds appropriated in this provision until they are received by that agency. Unexpended funds appropriated pursuant to this provision may be carried forward to succeeding fiscal years and expended for the same purpose.~~

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~~If revenues collected and deposited into the new account are less than the amounts appropriated, agencies receiving appropriations shall have their appropriations reduced on a pro rata basis.~~

~~Any excess revenue above the amounts identified in this provision shall be transferred to the General Fund of the State.~~

~~The Department of Revenue shall report on a quarterly basis to the finance committees of the General Assembly and to the Board of Economic Advisors on the collections received in this fund.~~

- 90.16 CONFORM TO FUNDING** (Nonrecurring Revenue - Increased Enforcement Collections)
WMC: ADD new proviso to direct the Department of Revenue to continue in increased enforcement collections efforts as established in FY 09-10. Authorize the department to collect revenues from any source within its jurisdiction, including, but not limited to, corporate, individual or sales tax collections, but direct the department to especially focus on enforced collections and outstanding liabilities. Direct that these funds are to be deposited into a fund separate and distinct from the general fund within the State Treasurer's Office, except direct that motor fuel funds collected as a result of the enforced collection efforts be distributed in the same manner as other motor fuel tax revenues are currently distributed. Direct the department to develop internal mechanisms to insure the integrity of customary and usual enforced collections. Direct the department, when it determines quarterly customary and usual enforced collections have been exceeded, to deposit the excess funds into the separate and distinct fund not to exceed the totals as provided in this provision. Direct the State Treasurer, for FY 10-11, to disburse \$3,625,000 to the Election Commission for the 2010 General Election, \$1,000,000 to the Governor's Office of Executive Control of State for transition costs, and \$250,000 to the Lieutenant Governor's Office for transition costs, and to then disburse quarterly the following funds on a pro rata basis: \$25,051,500 to Part IA State General Fund; \$2,841,716 to B&C Board for SCEIS; \$413,929 to CHE for SREB Dues; \$7,000,000 to St Bd for Tec & Comp Ed for CATT Program; \$5,000,000 to Department of Commerce for Deal Closing Fund; \$1,000,000 to Senate for Reapportionment; \$1,000,000 to House of Representatives for Reapportionment; \$20,000 to B&C Board for Reapportionment; \$1,297,855 to B&C Board for Operating Expenses; and \$1,000,000 to PRT for Operating Expenses. Direct that excess revenue above the amounts identified in this provision shall be transferred to the General Fund. Direct that to insure that customary and usual enforced collections are unaffected by this proviso, the State Treasurer's Office may not disburse funds from this account until the following schedule of General Fund enforced collections are deposited by the Department of Revenue by the end of each quarter and direct that if quarterly collections do not reach the required level, distributions are suspended for that quarter. July to September 2010 = \$90,000,000; October to December 2010 = \$180,000,000; January to March 2011 = \$270,000,000; and April to June 2011 = \$360,000,000. Require the Department of Revenue to report quarterly to the finance committees of the General Assembly and to the BEA on the amount of customary and usual enforced collections and the excess collections generated from the enhanced collection activities. Require the Department of Revenue to provide data to the finance committees and the BEA on prior years enforced collections to assist in monitoring the seasonal flows of revenue collection that impact funding of state government programs. Direct that these funds are deemed to have occurred by and are available for appropriation by this provision. Fiscal Impact: Increases revenue collection \$49,500,000.
HOU: AMEND new proviso to change the amounts provided for transition costs to the Governor's Office, ECOS from "\$1,000,000" to "\$250,000" and to the Lieutenant Governor's Office from "\$250,000" to "\$100,000." Sponsor: Rep. Simrill.

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AMEND FURTHER to change item (2) SCEIS from \$2,841,716” to “\$2,179,716” and provide \$662,000 to SDE for Career and Technology Education (CATE) textbooks and resource materials. Sponsors: Reps. Loftis and Cooper.

AMEND FURTHER to provide \$900,000 to SDE for transportation. Sponsors: Reps. Cooper, Ott, and Cobb-Hunter.

AMEND FURTHER to direct that once sufficient revenue has been collected to fully fund the items listed above, the first \$1,000,000 of excess revenue shall be transferred to the Forestry Commission for expenses associated with firefighting activities and the next \$1,000,000 shall be transferred to the National Guard. Sponsors: Reps. Vick and Lucas.

PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: CONFORM TO FUNDING.

90.16. (SR: Nonrecurring Revenue – Increased Enforcement Collections) For Fiscal Year 2010-11, the Department of Revenue shall continue its efforts pertaining to increased enforcement collections as established in Fiscal Year 2009-10.

The department may collect revenues from any source within its jurisdiction, which may include but is not limited to corporate, individual or sales tax collections but especially shall focus on enforced collections and outstanding liabilities.

These funds shall be deposited in a fund separate and distinct from the general fund as established within the Office of the State Treasurer, except that any motor fuel funds collected as a result of the enforced collection efforts shall be distributed in the same manner as other motor fuel tax revenues are currently distributed.

The Department of Revenue shall develop internal mechanisms to insure the integrity of customary and usual enforced collections. When the department determines that the quarterly customary and usual enforced collections have been exceeded, the department shall deposit the excess funds into the separate and distinct fund not to exceed the totals as provided in this provision.

For the fiscal year beginning July 1, 2010 and ending June 30, 2011, the State Treasurer shall disburse \$3,625,000 to E28 - Election Commission for the 2010 General Election, \$250,000 to D05 - Governor’s Office of Executive Control of State for transition costs, and \$100,000 to E04 - Lieutenant Governor’s Office for transition costs, and shall then disburse quarterly the following funds on a pro rata basis:

(1) Part IA State General Fund.....	\$ 25,051,500;
(2) F03 - Budget and Control Board	
SCEIS.....	\$ 2,179,716;
(3) H03 - Commission on Higher Education	
SREB Dues.....	\$ 413,929;
(4) H59 - State Board for Technical and Comprehensive Education	
CATT Program.....	\$ 7,000,000;
(5) P32 - Department of Commerce	
Deal Closing Fund.....	\$ 5,000,000;
(6) A01 - The Senate	
Reapportionment.....	\$ 1,000,000;
(7) A05 - House of Representatives	
Reapportionment.....	\$ 1,000,000;
(8) F03 - Budget and Control Board	
Reapportionment.....	\$ 20,000;
(9) F03 - Budget and Control Board	
Operating Expenses.....	\$ 1,297,855;

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(10) P28 - Department of Parks, Recreation and Tourism

Operating Expenses \$ 1,000,000

(11) H63 - Department of Education

Career and Technology Education (CATE) Textbooks and
Resource Materials \$ 662,000; and

(12) H63 - Department of Education

Transportation \$ 900,000.

Once sufficient revenue has been collected to fully fund the above items the first \$1,000,000 of excess revenue shall be transferred to the Forestry Commission for expenses associated with firefighting activities. The next \$1,000,000 shall be transferred to the National Guard. Any excess increased tax enforcement collections revenue above the amounts identified in this provision shall be transferred to the General Fund of the State.

To insure that customary and usual enforced collections are unaffected by this provision, the Office of the State Treasurer may not disburse funds from this account until the following schedule of General Fund enforced collections are deposited by the Department of Revenue by the end of each quarter in the fiscal year. If quarterly General Fund enforced collections do not reach the required levels, distributions from this account are suspended for that quarter. The required deposits of quarterly General Fund enforced collections by the end of each quarter are:

<u>July to September 2010</u>	<u>\$ 90,000,000</u>
<u>October to December 2010</u>	<u>\$180,000,000</u>
<u>January to March 2011</u>	<u>\$270,000,000</u>
<u>April to June 2011</u>	<u>\$360,000,000</u>

The Department of Revenue shall report on a quarterly basis to the finance committees of the General Assembly and to the Board of Economic Advisors on the amount of customary and usual enforced collections and the excess collections from the enhanced collection activities. The Department of Revenue shall provide data to the finance committees of the General Assembly and the Board of Economic Advisors on prior years enforced collections to assist in monitoring revenue collection seasonal flows that impact the funding of state government programs.

By this provision these funds are deemed to have been received and are available for appropriation.

90.17 CONFORM TO FUNDING (Non-Recurring Revenue Transfers) **WMC:** ADD new proviso to require DMV to transfer \$8,000,000 from any department “special revenue” earmarked or restricted account as follows: \$7,000,000 to Clemson University for the Drive Train Test Facility and \$1,000,000 to B&C Board for the SCEIS program. Direct the B&C Board to transfer \$1,158,284 of Educational Broadband Spectrum Lease funds to the SCEIS program. Direct DOT to transfer \$10,000,000 from Subfund 4862, Non-Federal Aid Highway Funds to the General Fund of the State. Direct the Department of Health and Human Services to remit to the General Fund from the Medicaid Reserve Fund created by proviso 90.14, any loss of general fund revenue as certified by the BEA as a result of the cigarette surtax enacted by proviso 90.14. Direct that restrictions concerning specific use of the funds are lifted for the fiscal year.

HOU: AMEND new proviso to suspend, for FY 10-11, the license plate replacement interval until the funds transferred to other agencies within this provision are repaid to the department pursuant to Part IV of this act or by any other source of funds, or until the Plate Replacement Fee Fund has enough of a balance to reinstitute license plate replacement. Sponsor: Rep. Cooper.

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PROVISO REVIEW SUBCOMMITTEE RECOMMENDATION: CONFORM TO FUNDING. AMEND FURTHER to direct DMV, if the funds transferred from the department by proviso 90.20 of the FY 09-10 appropriation act have been repaid per proviso 90.21 of the same act, to transfer these funds to the specified entities.

90.17. (SR: Non-Recurring Revenue Transfers) ~~The~~ **If the funds transferred from the Department of Motor Vehicles by proviso 90.20 of Act 23 of 2009 have been repaid pursuant to proviso 90.21 of Act 23 of 2009, the Department of Motor Vehicles shall transfer, from ~~any~~ department earmarked or restricted account designated as "special revenue funds" as defined by the Comptroller General's records these funds, \$7,000,000 to H12 - Clemson University for the Drive Train Test Facility and \$1,000,000 to F03 - Budget and Control Board for the SCEIS program.**

The Budget and Control Board shall transfer \$1,158,284 of the funds derived from the Educational Broadband Spectrum Lease to the SCEIS program within the Budget and Control Board.

The Department of Transportation shall transfer \$10,000,000 from Subfund 4862, Non-Federal Aid Highway Funds to the General Fund of the State.

The Department of Health and Human Services shall remit to the General Fund of the State from the Medicaid Reserve Fund created pursuant to proviso 90.14, any loss of general fund revenue as certified by the Board of Economic Advisors as a result of the cigarette surtax enacted by provision 90.14 of this act.

For Fiscal Year 2010-11, the license plate replacement interval is suspended until the funds transferred to other agencies within this provision are repaid to the department pursuant to Part IV of this act or by any other source of funds, or until such time as the Plate Replacement Fee Fund has a sufficient balance to reinstitute license plate replacement.

Any restrictions concerning specific utilization of these funds are lifted for the specified fiscal year.