

# LEGISLATIVE OVERSIGHT COMMITTEE

# Standard Practices



**Approved Pursuant to Legislative Oversight Committee Rule 8.1  
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## **PART I – General Practices**

### ***Authority, Modification and General Information Relating to Standard Practices***

- 1.1 Legislative Oversight Committee (Committee) Rule 8.1 authorizes the committee to develop and adhere to standard practices.
- 1.2 Committee standard practices may be modified pursuant to Committee Rule 8.1.
- 1.3 Whenever the pronoun ‘he’ appears in any standard practice, it shall be deemed to designate either the masculine or feminine.

### ***Definitions***

- 2.1 “*Ad hoc Committee*” means an ad hoc committee appointed by the Full Committee Chair.
- 2.2 “*Chair*” means the Chair of the House Legislative Oversight Committee.
- 2.3 “*Committee*” means the House Legislative Oversight Committee.
- 2.4 “*Committee staff*” means the South Carolina House of Representatives staff hired to work for the House Legislative Oversight Committee.
- 2.5 “*House*” means the South Carolina House of Representatives.
- 2.6 “*Legislature*” means the South Carolina House of Representatives, Senate, and associated legislative entities.
- 2.7 “*may*” means something may, but is not required to, occur
- 2.8 “*Member*” means a Member of the South Carolina House of Representatives.
- 2.9 “*Public*” means individuals, associations, groups, organizations, etc., who are not members of the Legislature, or acting as a representative of a government entity.
- 2.10 “*RFP*” means a request for information as outlined in S.C. Code Section 2-2-50(A) in Appendix A.
- 2.11 “*Subcommittee*” includes a subcommittee or ad hoc committee appointed by the Full Committee Chair.

### ***Committee Staff***

- 3.1 Committee staff work for the House.
- 3.2 Committee staff shall assist any Member with matters relating to legislative oversight, and any Member may request that Committee staff hold these matters in confidence.
- 3.3 Committee staff are prohibited from providing legal advice to any non-Member.

## **Part II - Timeframe and Liaison**

### ***Selection and Time Frame of Agency Investigations*** *(See S.C. Code Section 2-2-30(C) in Appendix A)*

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

- 4.2 The Committee recognizes there is no requirement in statute that an agency oversight study and investigation be completed within a certain timeframe, except the overall seven-year cycle. However, the Committee may establish a time frame for the legislative oversight study and investigation of an agency. Additionally, the Committee may, for reasons it determines as good cause, change the time frame for a legislative oversight study and investigation of an agency.
- 4.3 The approval of a Committee Study Report does not conclude the study of an agency. The agency remains under study, should additional issues arise, until the end of the seven-year cycle.

### ***Agency Liaison***

- 5.1 The Committee expects each agency to appoint a liaison to assist the Committee with oversight activities, including but not limited to, sharing Committee correspondence with agency staff.

## **PART III - Information Committee Obtains**

The standard practices below apply to information a subcommittee, ad hoc committee, or the Committee requests or obtains.

### ***Expectations for information the Committee obtains***

- 6.1 The Committee expects agencies and other government entities to whom it makes requests, in writing or in person, to:
  - 6.1.1 Respond in a concise, complete, and timely manner.
  - 6.1.2 Be candid and promptly discuss with the Committee any concerns or questions the agency may have related to a request, including, but not limited to, any concerns the agency may have that (a) the Committee has drawn an incorrect conclusion; or (b) time or resources required to respond to a Committee request.
  - 6.1.3 Understand all testimony given to the Committee is under oath, as required by S.C. Code Section 2-2-70. Anyone knowingly furnishing false information will be subject to the penalties provided by law. Testimony may be corrected via written correspondence pursuant to Committee Rule 7.6.
  - 6.1.4 Realize formal written responses provided to the Committee are considered sworn testimony.
  - 6.1.5 Inform the Committee, prior to responding, of any information requested by the Committee that cannot be published online due to provisions in contract or law.
- 7.1 The Committee expects the public to understand:
  - 7.1.1 Public comments, other than testimony during Committee and subcommittee meetings, shall not be considered testimony and offered for the truth of the matter asserted but

nevertheless may serve the purpose of directing the Committee to potential issues with an agency.

7.1.2 Committee staff shall inform the Committee Chair, when requested by the Chair, about the concerns received from the public, which relate to agencies.

7.1.3 Upon approval by the Chair or subcommittee chair, committee staff may not forward redundant communication from individuals if staff has previously transmitted the same or similar information from the individual to the Committee.

8.1 Agencies, other government entities, and the public may expect the Committee to:

8.1.1 Obtain evidence or information by any lawful means as permitted by S.C. Code Section 2-2-50. Examples of means through which the Committee has, or may obtain information are included in these Standard Practices, and below.

8.1.2 Testimony during meetings with a subcommittee, ad hoc committee, or full committee;

8.1.3 Written correspondence;

8.1.4 On-site tours;

8.1.5 Deposing witnesses pursuant to Section 2-2-50(B) and Committee Rule 8.2; and

8.1.6 Issuing subpoenas and subpoenas duces tecum (production of documents) pursuant to Section 2-2-50(C) and Committee Rule 8.2;

8.2 Dissuade agencies and others from providing comments and information that contains the following:

8.2.1 references to matters considered confidential in contract or federal or state law (e.g., names of minors, names of vulnerable adults, ethics investigations, etc.). The Committee will make reasonable efforts, as determined by the Chair, to redact, delete, or return such information.

8.2.2 profanity. The Committee will make reasonable efforts to replace all letters, after the first letter, of the profane word with asterisks.

8.3 Instruct Committee staff to interact with agency staff for the purposes of discussing procedural matters, including review of draft submissions of Accountability Reports, RFIs, and/or answering agency staff questions at any time.

8.4 Instruct Committee staff to meet with agency staff for the purposes of asking substantive questions, reviewing, and/or auditing agency files on behalf of the Committee, upon approval by the Committee Chair or applicable Subcommittee or Ad hoc Committee Chair. If such action is taken by Committee staff, the information obtained during the meeting between committee staff and agency staff may be memorialized in a letter from committee staff to agency staff, which may be incorporated into the meeting minutes of the next meeting.

## ***Agency Information***

### **Annual Restructuring Report (ARR)**

(See S.C. Code Section 1-30-10(G)(1) in Appendix A)

- 9.1 The Committee has collaborated with the Department of Administration's Executive Budget Office to integrate and combine aspects of the ARR into the Annual Accountability Report submitted pursuant to S.C. Code Section 1-1-810, so that completion of the Annual Accountability Report by the stated deadline in the report fulfills the requirements to complete an ARR. The Committee shall continue efforts to integrate in the future, to the extent necessary.
- 9.2 If the Annual Accountability Report serves as the ARR, or if there is an ARR separate from the Annual Accountability Report, the following shall occur:
- 9.2.1 The documents serving as the ARR shall include a section which allows an agency to indicate it does or does not have restructuring recommendations.
- 9.2.2 The Committee shall indicate online, via a list or other means, the agencies that did and did not indicate they had a restructuring recommendation(s).
- 9.3 Means of publication and transmission of report and/or information contained in the report may be as follows:

Online Publication: Committee website

Other Transmission: None

### **Seven-Year Plan for Cost Savings and Efficiencies**

(See S.C. Code Section 1-30-10(G)(2) in Appendix A)

- 10.1 Every seven years, agencies are required by statute to create a seven-year plan. The Committee requests agencies make these plans available to any member that requests a copy. The Committee may post a format for the seven-year plan online.
- 10.2 Means of publication and transmission of information contained in an agency's seven-year plan may be as follows:

Online Publication: None (Note: First seven-year plans are posted on Committee's website)

Other Transmission: Email from agency to members that request a copy

### **Request for Information (RFI)**

(See S.C. Code Section 2-2-50(A) in Appendix A)

- 11.1 The Committee may request the agency respond to an Initial RFI, prior to a round of meetings with the Committee, subcommittee, or ad hoc committee. The agency must respond to the RFI as required in statute.
- 11.2 The Committee may request the agency respond to an Implementation RFI(s) to provide the Committee information on the status of, and outcomes from, implementation of recommendations in a Committee study report.

- 11.3 The Committee may request the agency respond to additional RFIs pursuant to statute.
- 11.4 Means of publication and transmission of information contained in RFIs may be as follows:
- Online Publication: Committee website
  - Other Transmission: Email to Committee members or others

**Correspondence and Other Documents**  
(See S.C. Code Section 2-2-50 in Appendix A)

- 12.1 The Committee may obtain information through correspondence with the agency as statute permits it to obtain evidence or information by any lawful means.
- 12.2 Means of publication and transmission of information contained in correspondence may be as follows:
- Online Publication: Committee website  
Note: Committee correspondence, agency correspondence, and documents obtained from an agency, and Committee staff compilations of information obtained from agencies may be posted online. However, emails between Committee staff regarding clarifications, scheduling, or other administrative matters will not be posted online.
  - Other Transmission: Email to Committee members or others

**Tours**  
(See S.C. Code Section 2-2-50 in Appendix A)

- 13.1 Committee members may take physical, or virtual, tours of agency facilities as statute permits the Committee to obtain evidence or information by any lawful means. If a quorum is present for a tour, the tour must be scheduled as a committee or subcommittee meeting.
- 13.2 Means of publication and transmission of information contained in correspondence may be as follows:
- Online Publication: None
  - Other Transmission: None

**Post Subcommittee Review Feedback**

- 14.1 The Committee shall develop post review assessments in order to receive feedback from agency representatives on ways to improve the legislative oversight round of meetings.
- 14.2 Means of publication and transmission of information contained in assessments may be as follows:
- Online Publication: Committee website
  - Other Transmission: Email to Committee members or others

### ***Public and Other Government Entity Information***

- 15.1 Committee members and Committee staff, at the discretion of and in a manner approved by the Chair, may make efforts to solicit, consult, collect, and review information from the public, legislature, and other government entities, including, but not limited to, reports from various legislative entities. Information from the “public” includes information from individuals, associations, groups, organizations, etc., who are not members of the House of Representatives or submitted on behalf of a state entity.

### **Comments submitted via the Committee website**

- 16.1 Concerns and comments provided via **online surveys on the Committee website**, will be provided verbatim to the Committee Chair or Vice-Chair, who will identify any profanity and replace all letters, after the first letter, of the profane word with asterisks. Also, the Committee will make reasonable efforts, as determined by the Chair, to redact references to matters considered confidential in contract or federal or state law (e.g., names of minors, names of vulnerable adults, ethics investigations, etc.).
- 16.2 Means of publication and transmission of information contained in comments submitted via the Committee website may be as follows:

#### Online Publication: Committee website

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

When an agency is not currently under study, concerns and comments constituents provide via online surveys on the Committee website, generally will not be provided to all House Members and the public until such time as the agency is under study. Once the agency is under study, the provisions of 10.4.6 shall apply.

#### Other Transmission: Email to Committee members or others

### **Comments submitted via email or other correspondence**

- 17.1 Concerns and comments may be provided by the public, House Members and staff, or other state entities via email, letter or other written form (“correspondence”). The Committee will make efforts to direct the remitter to the Constituent Guide on the Committee’s webpage. This Guide may include information that communicates to the remitter (1) the agency, about which the comments relate, may request copies of the correspondence; (2) the Committee cannot control how the agency utilizes the information; and (3) the remitter has the option to: submit revised correspondence (e.g., remove references to any confidential matters or make any other revisions desired) or request to withdraw the correspondence. Unless specifically requested by the remitter, correspondence will be considered to come from an anonymous constituent. The Committee will consider any correspondence, for which it does not receive a reply from the remitter within ten business days, to be approved by the remitter for submission to the Committee and agency with the remitter’s name and contact information redacted, should the agency request any correspondence the Committee has received relating to it.

- 17.2 Means of publication and transmission of comments submitted via email or other correspondence may be as follows:

Online Publication: None

Other Transmission: Email to Committee members; email to agency that submits request for correspondence the Committee has received from the public, House Members and staff, or other state entities. The Committee Chair, at his discretion, may determine the form in which the agency must submit the request Chair and may also determine when and to whom at the agency the correspondence is published.

### **Comments obtained in person or over the phone**

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

- 18.2 Means of publication and transmission of comments obtained in person or over the phone may be as follows:

Online Publication: None

Other Transmission: Email to Committee members; email to agency that submits request for correspondence the Committee has received from the public, House Members and staff, or other state entities. The Committee Chair, at his discretion, may determine the form in which the agency must submit the request and may also determine when and to whom at the agency the correspondence is published.

### **Governor's Restructuring Report**

(See S.C. Code Section 1-30-10(G)(1) in Appendix A)

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

- 19.2 Means of publication and transmission of Governor's Restructuring Report may be as follows:

Online Publication: Committee website

Other Transmission: Email to Committee members

### **Committee Staff Research**

(See S.C. Code Section 2-2-50 in Appendix A)

- 20.1 Committee members may instruct Committee staff to perform research, or tour (physical or virtual) agency facilities as statute permits the Committee to obtain evidence or information by any lawful means.

- 20.2 Means of publication and transmission of information from Committee staff research may be as follows:

Online Publication: Committee website  
Other Transmission: Email to Committee members

***Legislative Audit Council (LAC) Information***

(See S.C. Code Section 2-2-60(D) in Appendix A)

21.1 The Committee Chair may request the LAC perform its own audit of the agency or a program, at his own initiative or upon request of the Committee. Additionally, the Committee Chair may request the LAC perform any other work permitted by statute.

21.2 Means of publication and transmission of information contained in LAC audits may be as follows:

Online Publication: Committee website  
Other Transmission: Email to Committee members or others; Testimony during committee meeting by LAC staff

***State Inspector General Information***

22.1 The Committee Chair may refer allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an executive branch agency to the State Inspector General and/or appropriate law enforcement agenc(ies).

22.2 Means of publication and transmission of information from State Inspector General and/or appropriate law enforcement agenc(ies) may be as follows:

Online Publication: Committee website  
Other Transmission: Email to Committee members or others; Testimony during committee meeting by Office of the Inspector General staff

## **Part IV – Subcommittee Review**

### ***Priority/Order of Agencies Scheduled for Subcommittee Review***

- 23.1 The Committee may establish the priority or order of current agencies scheduled for a Subcommittee review during a given year. In establishing a priority or order of current agencies scheduled for subcommittee review during a given year, the Committee may consider the length of time the agency director has been in office.
- 23.2 The Committee may, for reasons it determines as good cause, change the priority or order of agencies scheduled for subcommittee review during a given year, including placing a current subcommittee review on hold and moving forward with the round of meetings for another agency.

### ***Notice of Selection for Round of Meetings***

- 24.1 The Committee shall provide written notification to an agency that it is scheduled for subcommittee review prior to the start of the review.
- 24.2 The written notification to the agency shall include the following:
  - 24.2.1 purpose of the review;
  - 24.2.2 what may be considered in the review;
  - 24.2.3 information about the Committee’s expectations of the agency during the review;
  - 24.2.4 direction to encourage employees and other stakeholders (e.g., partners, customers, and vendors) to provide testimony and respond to the public survey; and
  - 24.2.5 methods by which employees and other stakeholders (e.g., partners, customers, and vendors) may communicate, including the option to communicate anonymously, with the Committee.
- 24.3 The Committee expects an agency to forward to agency staff the written notification from the Committee that the agency is scheduled for subcommittee review. This is to inform its staff that the agency is undergoing subcommittee review as well as the purpose of the review and how to access the Committee’s website for information.

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

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

## **PART V - Study Report Issuance, Approval, and Implementation**

### ***Subcommittee Approval, Written Statements & Referral of Study Report to Full Committee***

- 26.1. A subcommittee shall approve an oversight study report for the Committee.
- 26.1.1 The study report may include recommendations and/or findings made by the Members of the subcommittee in a prior General Assembly.
- 26.2 Any member of the subcommittee assigned to the subcommittee review of the agency may provide a written statement for inclusion with the oversight study report for the full committee.
- 26.3 The subcommittee chair shall notify the Committee Chair in writing that an oversight study report is available for consideration by the Committee.
- 26.4 Means of publication and transmission of subcommittee study report may be as follows:
- Online Publication: Committee website  
Other Transmission: Email to Committee members; email to agency.

### ***Full Committee Review & Referral, Approval or Further Investigation***

- 27.1 The Committee Chair shall schedule a Committee meeting for the purpose of receiving an oversight study report of an agency from a subcommittee.
- 27.2 The full Committee may:
- 27.2.1 Refer a legislative oversight study report back to a subcommittee for further evaluation;
- 27.2.2 Approve the subcommittee's report; or
- 27.2.3 As the Committee, choose to further evaluate an agency (i.e., ask questions of the agency during full Committee meetings and/or amend the report) utilizing any of the available tools of legislative oversight discussed in the Standard Practices, Committee Rules, or statute.
- 27.2.4
- 27.3 Any member of the Committee may provide a written statement for inclusion with the Committee study report.
- 27.4 Means of publication and transmission of Committee study report may be as follows:
- Online Publication: Committee website  
Other Transmission: Email to Committee members

### ***Implementation***

- 28.1 The Committee recognizes that any Member of the House may file legislation to implement any recommendation in an oversight study report.

## **PART VI - Miscellaneous**

### ***Extensions and Amendments***

- 29.1 The Chair may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit an RFI (“New Deadline”).
- 29.2 Before the Chair will consider granting an extension, the Chair may require the agency provide written information, explaining the reason the agency is requesting the extension and the number of days it is requesting.
- 29.3 Until the agency receives a response, it should continue to complete the request to the best of its ability as if it is due on the original deadline.
- 29.4 The Chair may, for reasons he determines as good cause, allow an agency to provide an amended version of an RFI.

### ***Failure to Respond***

- 30.1 The Chair may require any agency that has submitted an RFI which does not include responses to all questions to amend its submission so as to provide responses to all questions. The Chair may provide the agency with a list of questions that do not have responses. The agency will determine the response it would like to make, but the agency will need to provide some type of response to all questions.
- 30.2 If an agency fails to submit responses to all questions in an RFI by the original deadline, or New Deadline applicable to the agency, the Committee may request the agency head and, if applicable board chair, appear at a Committee meeting to explain, under oath, why the agency has failed to provide the information requested and when it will be provided. S.C. Code Section 2-2-100, which addresses contempt of the General Assembly, applies to all testimony.

### ***False or Misleading Information and Contempt***

(See S.C. Code Section 2-2-100 and 2-2-120 in Appendix A)

- 31.1 During a subcommittee meeting, a subcommittee member may make a motion alleging an individual may have violated S.C. Code Section 2-2-100 (contempt of the General Assembly) or Section 2-2-120 (criminal contempt of the General Assembly) and request the Committee undertake an inquiry to determine whether to refer the matter to the Attorney General.
- 31.1.1 If this motion passes, the subcommittee or ad hoc committee chair shall provide written notification of the request to the Chair. The study continues, unless the subcommittee or ad hoc committee approves a motion to the contrary.

- 31.1.2 If a motion fails, the study continues
- 31.2 If, based on actions during a subcommittee meeting, the Chair receives a request for the Committee to address allegation(s) of violation(s) of contempt or criminal contempt of the General Assembly, the Chair shall schedule a meeting to address the allegation(s).
- 31.3 During a Committee meeting, a Committee member may make a motion alleging an individual may have violated S.C. Code Section 2-2-100 (contempt of the General Assembly) or Section 2-2-120 (criminal contempt of the General Assembly).
- 31.4 When the Committee takes up the requested inquiry from a subcommittee or full committee meeting, it may decide whether or not it will refer the matter to the Attorney General to address in an appropriate manner as determined by the Attorney General.

### ***Investigations Outside Schedule***

- 31.1 In addition to the seven-year oversight studies and investigations, a standing committee of the House may initiate an oversight study and investigation of an agency within its subject matter jurisdiction pursuant to Section 2-2-40(A)<sup>1</sup>; and the Speaker of the House or chairmen of standing committees may authorize and conduct legislative investigations into agencies functions, duties and activities pursuant to Section 2-2-40(B)<sup>2</sup>.

### ***Constituents - When Committee is not meeting with agency***

- 32.1 Constituents may request to be notified as to when a particular agency is scheduled for subcommittee review.
- 32.2 Committee staff shall make reasonable efforts, as determined by the Committee Chair, to contact any constituent requesting notification as to when a particular agency is scheduled for subcommittee review.
- 32.3 If a constituent, including, but not limited to, members of the press and agency staff, has concerns about an agency, the constituent may be directed to the constituent guide on the Committee's webpage. This packet may include information about the following:
- 32.3.1 the process, including the Committee's prohibition on intervening in any constituent's ongoing matter with an agency,
- 32.3.2 any opportunities to participate in the process,
- 32.3.3 all testimony provided to the committee must be under oath pursuant to Section 2-2-70, and anyone knowingly furnishing false information will be subject to the penalties provided by law, and

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

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

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

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

- 33.1 Committee staff may direct the press to applicable Committee and agency information online.
- 33.2 Committee staff shall direct questions they receive from the press to the Committee Chair. The Committee Chair, at his discretion, may authorize Committee staff to answer specific questions from the press.
- 33.3 If the Committee Chair is unavailable to answer questions from the press and has not authorized Committee staff to respond to the specific questions, Committee staff shall direct the questions from the press to the First Vice-Chair or to the appropriate subcommittee or ad hoc committee chair.

## **Appendix A – Flow Charts**

# House Legislative Oversight Committee's Study and Investigative Process

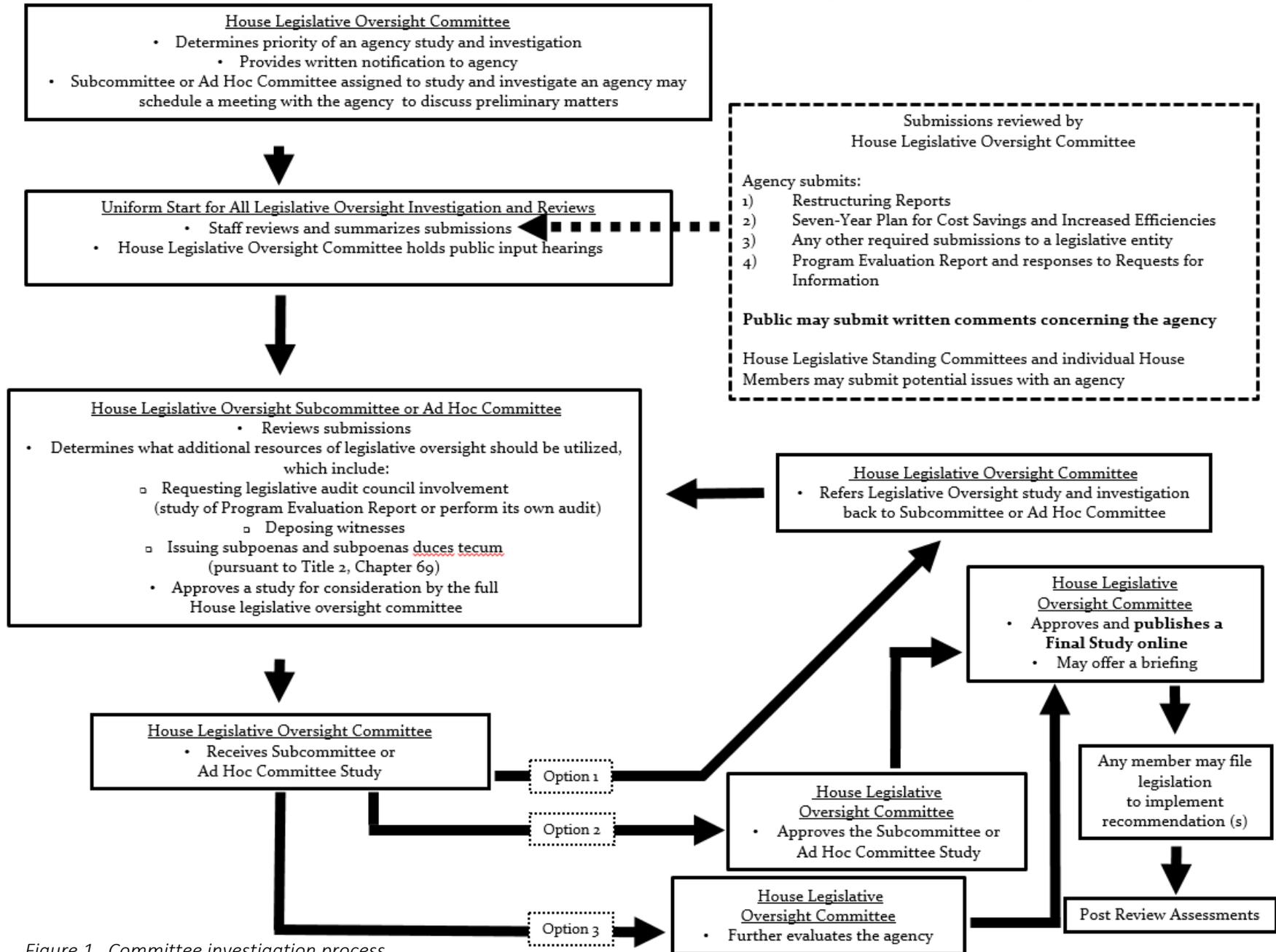


Figure 1. Committee investigation process.

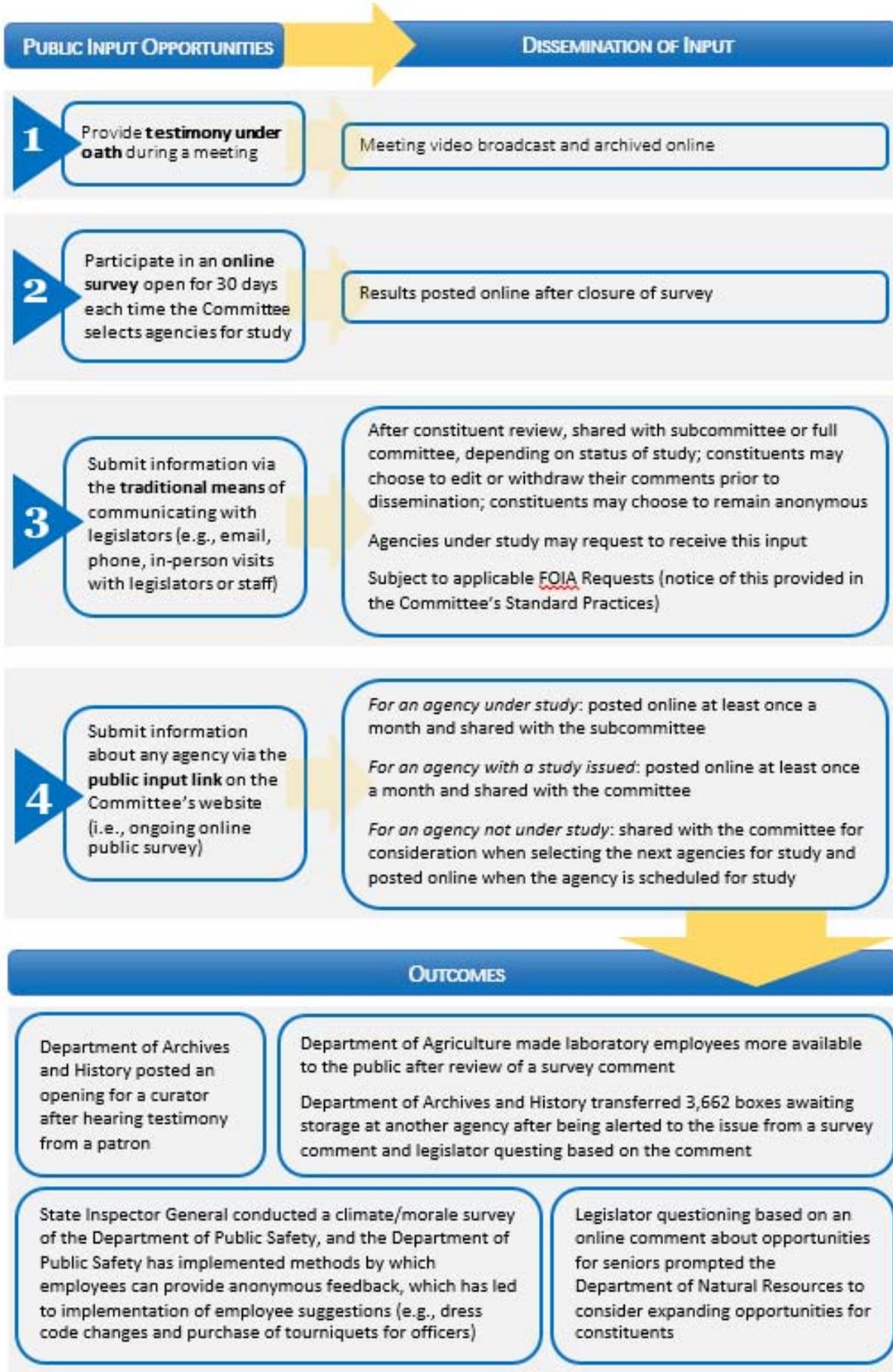


Figure 2. Public input opportunities and how input is disseminated.

# Appendix B – Statutes Applicable to the Committee

## Title 1

S.C. Code 1-30-10(G)(1) Department and agency governing authorities must, no later than the first day of the 2015 Legislative Session and every twelve months thereafter, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House and Senate may provide by rule for the referral of these reports. The Governor periodically must consult with the governing authorities of the various departments and upon such consultation, the Governor must submit a report of any restructuring recommendations to the General Assembly for its review and consideration.

## Title 2

### SECTION 2-2-5. Declaration of public policy.

The General Assembly finds and declares the following to be the public policy of the State of South Carolina:

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

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

### SECTION 2-2-10. Definitions.

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.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-20.** Scheduled seven-year oversight studies and investigations.

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

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

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

(C) The oversight studies and investigations must consider:

- (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee's subject matter jurisdiction;
- (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; and
- (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee's subject matter jurisdiction.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-30.** Procedure for conducting oversight studies and investigations.

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

(B)(1) The President of the Senate, upon consulting with the chairmen of the standing committees in the Senate and the Clerk of the Senate, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed 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 must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

- (a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and
- (b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

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

(C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed 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 must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

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

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

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

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015; 2019 Act No. 1 (S.2), Section 12, eff January 31, 2019.

#### Effect of Amendment

2019 Act No. 1, Section 12, in (B)(1), in the first sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate".

#### **SECTION 2-2-40.** Unscheduled oversight studies and investigations.

(A) In addition to the scheduled seven-year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

(B) Nothing in the provisions of this chapter prohibits or restricts the President 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.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015; 2019 Act No. 1 (S.2), Section 13, eff January 31, 2019.

#### Effect of Amendment

2019 Act No. 1, Section 13, in (B), substituted "President of the Senate" for "President Pro Tempore of the Senate".

#### **SECTION 2-2-50.** Acquisition of evidence or information.

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

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

(B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee 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, Title 2; and

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-60.** Program evaluation reports.

(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 seven years and the number of anticipated filings for the next four years;

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

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

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

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

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-70.** Testimony under oath.

All testimony given to the investigating committee must be under oath.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-80.** Witnesses; right to counsel; legal privilege; ruling on objections; review.

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-90.** Witnesses; privilege at law.

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

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-100.** Contempt; penalty.

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.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-110.** Notification to Attorney General of violations of Section 2-2-100; filing of charges.

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.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-2-120.** Criminal contempt; penalty.

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.

HISTORY: 2014 Act No. 121 (S.22), Pt IV, Section 6.D, eff January 1, 2015.

**SECTION 2-69-10.** Authority of standing committees to issue subpoenas and subpoenas duces tecum.

Every standing committee of the Senate and of the House of Representatives, in the discharge of its duties, including, but not limited to, the conducting of studies or investigations, is by majority vote of the committee authorized to issue subpoenas and subpoenas duces tecum to any agency, department, board, or commission of this State or of any political subdivision of this State or to any representative of any agency, department, board, or commission of this State or of any political subdivision of this State to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to its work, investigation, or study. Every standing committee of the Senate and of the House of Representatives is also authorized to issue subpoenas and subpoenas duces tecum on behalf of any of its subcommittees. The committee shall have the right to issue such subpoenas and/or receive the subpoenaed evidence in executive session.

HISTORY: 1986 Act No. 352, Section 1.

**SECTION 2-69-20.** Requests by joint study committees that subpoenas and subpoenas duces tecum be issued.

Every joint study committee created by act or resolution of the General Assembly, in the discharge of its duties, including, but not limited to, the conducting of studies or investigations, is, by majority vote of the committee, authorized to request a standing committee of the Senate or House of Representatives to issue subpoenas and subpoenas duces tecum on behalf of the joint study committee to any agency, department, board, or commission of this State or of any political subdivision of this State or to any representative of any agency, department, board, or commission of this State or of any political subdivision of this State to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to its work, investigation, or study. The committee shall have the right to receive the subpoenaed evidence in executive session. The committee must seek instructions from the President of the Senate and the Speaker of the House of Representatives as to which standing committee shall issue the subpoena. The standing committee that issues a subpoena on behalf of a joint study committee must comply with the procedures prescribed Section 2-69-40.

HISTORY: 1986 Act No. 352, Section 2; 2019 Act No. 1 (S.2), Section 25, eff January 31, 2019.

#### Effect of Amendment

2019 Act No. 1, Section 25, in the third sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate"; and made nonsubstantive changes.

**SECTION 2-69-30.** Authority of committee to administer oaths and affirmations, take depositions, and receive testimony and evidence.

The committee, in the discharge of its duties, may administer oaths and affirmations, take depositions, and receive testimony and evidence as necessary in connection with its work, study, or investigation.

HISTORY: 1986 Act No. 352, Section 3.

**SECTION 2-69-40.** Conditions upon issuance of subpoenas; signatures of President Pro Tempore of Senate and Speaker of House of Representatives.

Subpoenas and subpoenas duces tecum may only be issued upon a majority vote of the members of the committee, must be issued in the name of the committee, and must be signed by the committee chairman or the presiding officer who may administer oaths to witnesses. Subpoenas and subpoenas duces tecum which are issued for a joint study committee of the General Assembly must be co-signed by both the President of the Senate and the Speaker of the House of Representatives. Subpoenas and subpoenas duces tecum which are issued by a standing committee of the Senate must be co-signed by the President of the Senate. Subpoenas and subpoenas duces tecum which are issued by the House of Representatives must be co-signed by the Speaker of the House of Representatives. If the President of the Senate refuses to co-sign the subpoena or subpoena duces tecum, the requirement that the subpoena or subpoena duces tecum must be co-signed by the President of the Senate may be suspended as to that particular subpoena or subpoena duces tecum by a majority vote of the members of the Senate present and voting. If the Speaker of the House of Representatives refuses to co-sign the subpoena or subpoena duces tecum, the requirement that the subpoena or subpoena duces tecum must be co-signed by the Speaker of the House of Representatives may be suspended as to that particular subpoena or subpoena duces tecum by a majority vote of the members of the House of Representatives present and voting. In determining whether or not to co-sign the subpoena or subpoena duces tecum, the President of the Senate or the Speaker of the House of Representatives must conclude that:

- (1) the information sought by the subpoena is within the scope of the committee's jurisdiction;
- (2) the information is relevant to a legitimate legislative purpose;
- (3) the nature of the information sought is as clearly described as possible in the subpoena or the authorizing resolution;
- (4) the subpoena does not intrude impermissibly upon civil liberties;
- (5) the revelation of the information subpoenaed would not unduly intrude into the decision-making processes of other branches of government; and
- (6) a subpoena issued to a local government does not violate the provisions of Articles VII and VIII of the Constitution of South Carolina, 1895, and Title 4 of the Code of Laws of South Carolina, 1976.

HISTORY: 1986 Act No. 352, Section 4; 2019 Act No. 1 (S.2), Section 26, eff January 31, 2019.

#### Effect of Amendment

2019 Act No. 1, Section 26, in the introductory paragraph, substituted "President of the Senate" for "President Pro Tempore of the Senate" in five places.

**SECTION 2-69-50.** Requests for protective order; receipt of evidence in executive session.

Any person served with a subpoena or subpoena duces tecum may request that the committee issue a protective order, which revokes, limits, or otherwise modifies the subpoena or subpoena duces tecum in order to protect the legal rights of any person or entity. The committee may for good cause shown elect to receive certain testimony and evidence in executive session.

HISTORY: 1986 Act No. 352, Section 5.

**SECTION 2-69-60.** Issuance by court of common pleas of order requiring obedience to subpoena; punishment of disobedience as contempt.

In case of contumacy by any person or refusal to obey a subpoena, or to testify as directed by the committee, the court of common pleas, upon application of the General Assembly in the case of a joint study committee, or upon application of the Senate in the case of a standing committee of the Senate, or upon application of the House of Representatives in the case of a standing committee of the House of Representatives, may issue to the person an order requiring him or it to appear before the committee to produce evidence or give testimony touching upon the matter under inquiry, study, or investigation. The court may take appropriate action to ensure compliance with its order and any failure to obey an order may be punished as a contempt thereof.

HISTORY: 1986 Act No. 352, Section 6.

**SECTION 2-69-70.** Good faith reliance by party subject to subpoena duces tecum as defense to action.

A good faith reliance by the party subject to the subpoena duces tecum, issued pursuant to this chapter is a defense to any action, civil or criminal, arising from the production of records, documents, or other tangible materials in response to the subpoena.

HISTORY: 1986 Act No. 352, Section 7.

## **Title 8**

(4) "Report" means:

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

(i) the date of disclosure;

(ii) the name of the employee making the report; and

(iii) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made within one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing; or

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

## **Appendix C – Prior Committee Discussion about Anonymous Public Input**

Committee meetings are archived on the General Assembly's website.

November 9, 2015, Committee meeting archived video at 29:29 – 51:36

- Topics include: online survey comments and profanity redaction

October 16, 2016 Committee meeting archived video at 17:33 – 34:55

- Topics include: agency complaints about anonymous surveys

June 26, 2018 Committee meeting archived video at part 1, 1:02:44

- Topics include: agency complaints about anonymous surveys (e.g., due process)