

Legislative Oversight Committee

Full Committee Study of the Department of Transportation

June 1, 2016



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation;		
(2) Approve the subcommittee's study; or	Full Committee Received Notification that Subcommittee's Study is Available for Consideration	May 3, 2016
(3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available	Full Committee Discussion of Subcommittee's Study	May 4, 2016
	Full Committee Discussion and Approval of Subcommittee's Study	June 1, 2016

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Table 1. Key Dates and Actions of the Study Process, 2015-2016.

House Legislative Oversight Committee's Actions

- January 7, 2015 - Approves seven-year study recommendations for the Speaker
- January 13, 2015 - Speaker approves seven-year study recommendations and recommendations are published in the House Journal
- February 5, 2015 - Approves the priority of the study of the agency
- February 10, 2015 - Provides agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- March 10, 2015 - Requests Legislative Audit Council perform a comprehensive audit of agency
- April 6, 2016 - Receives Legislative Audit Council's comprehensive audit of the agency

Economic Development, Transportation, Natural Resources and Regulatory Subcommittee's Actions

- February 17, 2015 - Holds introductory meeting with the agency and receives overview of the agency from the agency head
- April 28, 2015 - Holds meeting with the agency head to discuss the scope of the oversight study
- June 2, 2015 - Holds meeting with the agency to discuss its budget
- June 30, 2015 - Holds meeting with the agency to discuss the C-Fund Program, county transportation committees, and agency employee information
- August 11, 2015 - Hold meeting with the agency to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP)
- September 1, 2015 - Provides Staff Study to agency
- September 21, 2015 - Notifies House Members about availability of Staff Study online
- November 4, 2015 - Holds meeting with agency to discuss Staff Study and agency's recommendations for revisions to law from its Program Evaluation Report
- December 3, 2015 - Holds meeting with the agency to continue discussion of agency's recommendations for revisions to law from its Program Evaluation Report
- January 13, 2016 - Holds meeting to receive public input about the agency
- April 14, 2016 - Holds meeting receive information about the Legislative Audit Council's comprehensive audit of the agency

Department of Transportation's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- May 22, 2015 - Submits its Program Evaluation Report to the Committee
- September 15, 2015 - Submits response to Staff Study
- April 14, 2016 - Publishes responses to Legislative Audit Council's recommendations online and requests to withdraw three recommendations for law revisions from the Subcommittee

Public's Actions

- May 1, 2015, - May 31, 2015 - Survey about agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- January 13, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

EXECUTIVE SUMMARY

Study Process

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee (“Subcommittee”) of the House Legislative Oversight Committee (“Committee”) is studying the Department of Transportation (“agency” or “DOT”). The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹ The Subcommittee met with DOT nine times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **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.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meeting with the agency can all be found on the Committee’s website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs. The Subcommittee recommends revisions to laws relating to the agency. Specific recommendations for revised language for each are included as part of the full report on page 10. A summary of the recommendations for revisions of laws relating to the agency is listed in Table 2 on the next page.

Table 2. Summary of recommended revisions to laws relating to the agency.

Law	Topic
Section 57-5-820 Section 54-5-830	Municipal approval of projects
Section 57-5-1495	Collection of toll violations from out of state drivers
Section 6-29-770	State roads and rights of way subject to zoning ordinances
Section 28-2-420	Interest rate on condemnation cases
Section 28-11-30	Expediting inverse condemnation cases
Proviso 84.1 Fiscal Year 14-15 Appropriations Bill	Expenditure limitation
Proviso 84.2 Proviso 84.3 Fiscal Year 14-15 Appropriations Bill	Special fund authorization and securing bonds and insurance
Proviso 84.4 Fiscal Year 14-15 Appropriations Bill	Benefits
Proviso 84.5 Fiscal Year 14-15 Appropriations Bill	Document fees
Proviso 84.6 Fiscal Year 14-15 Appropriations Bill	Meals in emergency operations
Proviso 84.7 Fiscal Year 14-15 Appropriations Bill	Rest area water rates
Proviso 117.73 Fiscal Year 14-15 Appropriations Bill	Printed report requirements
Proviso 117.74 Fiscal Year 14-15 Appropriations Bill	Welcome centers
New Provision	Non-federal aid restrictions

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.³ Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.⁴ The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes, including but not limited to, the agency's implementation plan that includes target dates for the Legislative Audit Council's recommendations in which the agency concurs.

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.⁵

General Assembly's Legislative Audit Council

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

Department of Transportation

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation Christy A. Hall; and
- list of audit recommendations and the agency's response to each recommendation.

House Transportation Infrastructure & Management Ad-Hoc Committee

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.⁶

STUDY PROCESS

House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.⁷ The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.⁸ The Department of Transportation is an agency subject to legislative oversight.⁹ The **Committee approved the Department of Transportation as the second agency to be studied** on February 5, 2015.¹⁰

The **Committee notified the agency** about the study on February 10, 2015. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

On March 10, 2016, pursuant to Committee Rule 7.6 and S.C. Code of Laws Section 2-2-60(D), a **request was made for the Legislative Audit Council to perform a comprehensive audit of the agency**; additionally, other members of the General Assembly asked the Legislative Audit Council to conduct an audit of the agency. On April 6, 2016, the General Assembly received the comprehensive audit of the agency.¹¹

Subcommittee Studying the Agency

The **Economic Development, Transportation, Natural Resources and Regulatory Subcommittee of the House Oversight Committee is studying the agency**. The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹²

Meetings with the Agency

The Subcommittee met with the agency on nine occasions.

1. **February 17, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **April 28, 2015**, the Subcommittee held a meeting and discussed the scope of the oversight study with the agency.
3. **June 2, 2015**, the Subcommittee held a meeting and received information about the agency's budget.
4. **June 30, 2015**, the Subcommittee held a meeting and discussed the C-Fund Program, county transportation committees, and agency employee information.
5. **August 11, 2015**, the Subcommittee held a meeting and discussed issues relating to the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP).
6. **November 4, 2015**, the Subcommittee held a meeting and discussed the staff study of the agency and the agency's recommendations for revisions to law.
7. **December 3, 2015**, the Subcommittee held a meeting and continued its discussion of the agency's recommendations for revisions to law.
8. **January 13, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
9. **April 14, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency, and at this meeting the agency withdrew three of its recommendations for revisions to laws.

Information from the Public

From May 1, 2015, until May 31, 2015, the Committee posted an **online survey to solicit comments from the public about the Department of Transportation** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. There were 1,788 responses to the survey, with at least one response coming from each of the 46 South Carolina counties.¹³ These comments are not considered testimony.¹⁴ As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."¹⁵ The **public was informed they could continue to submit written comments about agencies online** after the public survey closed.¹⁶ All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the January 13, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.** Thus, by the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

Information from the Agency

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, 2016 Annual Restructuring Report, and a Program Evaluation Report. The agency submitted its 2015 Restructuring

Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.¹⁷ The agency reported spending 50 hours for two people (100 hours) to complete the process and 35 hours for two people (70 hours) to complete the combined report.¹⁸ The agency submitted its Program Evaluation Report on May 22, 2015.¹⁹ Pursuant to Committee Standard Practices, the agency asked for and received permission to amend its reports, which it did so on August 31, 2016.²⁰ Committee staff provided the agency the committee staff study on September 1, 2015.²¹ The agency had ten business days to provide a response, if it wanted to provide a response.²² The agency provided a response on September 15, 2015, and House Members were notified about the staff study with the agency response on September 21, 2015.²³ The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.²⁴ All of these reports are available online.²⁵

Next Steps

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the **Committee Chair receives written notice from the Subcommittee Chair, the full committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting.** During the full committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available.

When the full committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy.

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

RECOMMENDATIONS

Purpose

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **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.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²⁶

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports submitted to the full Committee, and videos of meeting with the agency can all be found on the Committee’s website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs.

The Subcommittee recommends **revisions to laws relating to the agency**. The laws, and specific revisions recommended, along with the basis for the recommendation provided by the agency, are listed below. The Subcommittee did not receive testimony from any other agency or entity related to these recommendations and notes that these recommendations have been published online during the study process. Discussion of these recommendations for revisions to laws relating to the agency spanned three meetings: November 4, 2015; December 3, 2015; and April 14, 2016.

Table 3. Recommendations for revision of laws relating to the agency - **municipal approval of projects**.

Code Sections	South Carolina Code § 57-5-820 South Carolina Code § 57-5-830
Basis	SCDOT is required to obtain municipal approval of plans and projects being constructed within municipal boundaries. This requirement can frequently delay projects, as municipalities may desire aesthetic improvements to plans at the last minute. SCDOT recommends that the statute be amended to require the municipalities to submit comments during the environmental process and to give approval prior to the project going into the STIP.
Suggested Language	SECTION 57-5-820. Consent of municipality to work on State highways; exception; definitions. As used in this section and Section 57-5-830:

	"Structurally deficient" means not adequate to handle the vehicle weights authorized on roads leading to them. "Functionally obsolete" means narrow clearances or sharp roadway approach angles that make passage difficult or hazardous, or with too few lanes for existing traffic needs. All work to be performed by the Department on state highways within a municipality must be with the consent and approval of the proper municipal authorities, <u>approved by the municipality prior to a project's inclusion in the Statewide Transportation Improvement Program, and subject to the mutually agreed upon design features and typical section found in the final environmental document for the project,</u> except that work performed or to be performed on a bridge and its approaches, certified by the Department as functionally obsolete or structurally deficient, to remove, replace, or improve such bridge and its approaches shall not require prior consent and approval of a municipal authority if the bridge crosses the intracoastal waterway, <u>or the bridge qualifies for federal emergency bridge replacement funds.</u> SECTION 57-5-830. Assent of municipality to plans; exception. In every case of a proposed permanent improvement, construction, reconstruction, or alteration by the Department of any highway or highway facility within a municipality, the municipality may review and approve the plans before the work is started; except that a municipality may not have the right to review and approve plans to remove, replace, or improve a bridge and its approaches within its limits where such bridge and its approaches have been certified by the Department to be functionally obsolete or structurally deficient and if the bridge crosses the intracoastal waterway.
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Table 4. Recommendations for revisions of a law relating to the agency - **collection of toll violations from out of state drivers.**

Code Section	South Carolina Code § 57-5-1495
Basis	The statute governing toll collections does not provide a mechanism for collecting toll violations from out of state drivers. Also, SCDOT is required to go to Magistrate's Court to collect toll violations from in-state violators, which is expensive and time consuming. SCDOT recommends that the department be allowed to enter into reciprocity agreements with other states to collect from out of state violators. SCDOT also recommends that for in-state violators, that vehicle registrations be suspended when violations are over \$300, and that the Magistrate requirement be replaced with an in-house SCDOT appeals process.
Suggested Language	SECTION 57-5-1495. Collection of tolls. (A) As used in this section: (1) "Electronic toll collection system" means a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge.

	(2) "Lessor" means any person, corporation, firm, partnership, agency, association, or organization renting or leasing vehicles to a lessee under a rental agreement, lease, or otherwise wherein the said lessee has the exclusive use of the vehicle for any period of time. (3) "Lessee" means any person, corporation, firm, partnership, agency, association, or organization that rents, leases, or contracts for the use of one or more vehicles and has exclusive use of the vehicles for any period of time. (4) "Owner" means a person or an entity who, at the time of a toll violation and with respect to the vehicle involved in the violation, is the registrant or co-registrant of the vehicle with the Department of Motor Vehicles of this State or another state, territory, district, province, nation, or jurisdiction. (5) "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle at the time it is used or operated in violation of toll collection regulations. (6) "Toll violation" means the passage of a vehicle through a toll collection point without payment of the required toll. (7) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks. (B) Notwithstanding another provision of law, when a vehicle is driven through a turnpike facility without payment of the required toll, the owner and operator of the vehicle is jointly and severally liable to the Department of Transportation to pay the required toll, administrative fees, and civil penalty as provided in this section. The department or its authorized agent may enforce collection of the required toll as provided for in this section. (C) A certificate, sworn to or affirmed by an agent of the department, or a facsimile of it, that a toll violation has occurred, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo-monitoring system, is prima facie evidence of the violation and is admissible in any proceeding charging a toll violation pursuant to this section. A photograph, microphotograph, videotape, or other recorded image evidencing a violation must be available for inspection by the party charged and is admissible into evidence in a proceeding to adjudicate liability for a violation. (D) The department or its authorized agent may assess and collect administrative fees of: (1) not more than ten dollars for the first toll violation within a period of one year; (2) not more than twenty-five dollars for each subsequent toll violation within a period of one year. (E) Upon failure to pay the required toll and administrative fees to the department within thirty days of the notice, the owner or operator may be cited for failure to pay a toll pursuant to this subsection and, upon an adjudication of liability, is subject to a civil penalty not to exceed fifty dollars for each violation as contained in subsection (F). Upon an adjudication of liability, a judgment must be entered against the owner or operator, and the court must mail a copy of the judgment to the owner or operator. Upon failure to satisfy the judgment within thirty days, the court shall notify the Department of Motor Vehicles and the authorized agent, and the department shall suspend the registration of the vehicle that was operated when the toll was not paid
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~~and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent. An owner or operator who has been convicted of a violation of Section 57-5-1490 is not liable for the penalty imposed by this subsection.~~

~~(F) If a magistrate or municipal judge determines that the person or entity charged with liability under this section is liable, the magistrate or municipal judge shall collect the unpaid tolls and administrative fee and forward them to the department or its authorized agent. The magistrate or municipal judge also may impose a civil penalty of up to fifty dollars for each violation, plus court costs and attorney's fees. The civil penalty must be distributed in the same manner as other fines and penalties collected by the magistrate. Notwithstanding another provision of law:~~

~~—— (1) adjudication of liability pursuant to this section must be made by the magistrate's court of the county in which the toll facility is located or the municipal court of the city in which the toll facility is located; and~~

~~—— (2) an imposition of liability pursuant to this section must be based upon a preponderance of evidence submitted and is not a conviction as an operator pursuant to Section 57-5-1490.~~

~~(G)~~ (E) The department or its authorized agent shall send:

(1) a "First Notice to Pay Toll" to the owner or operator of a vehicle which, on one occasion in any twelve-month period, is identified as having been involved in a toll violation. The first notice must require payment to the department of the required toll, plus an administrative fee as provided for in subsection (D), within thirty days of the mailing of the notice;

(2) a "Second Notice to Pay Toll" to the owner or operator of a vehicle which is identified as having been involved in a second toll violation in a twelve-month period, or who has failed to respond to a "First Notice to Pay Toll" within the required time period. The second notice must require payment to the department of the required tolls, plus an administrative fee as provided for in subsection (D) for each violation within thirty days of the mailing of the notice;

(3) a "Failure to Pay a Toll" citation to the owner or operator of a vehicle which is identified as having been involved in a third toll violation in a twelve-month period, or who has failed to respond to the second notice within the required time period. The citation requires payment to the department of the unpaid tolls, plus an administrative fee of not more than twenty-five dollars for each violation, within thirty days; ~~or the recipient's appearance in magistrate's court of the county in which the violation occurred or the municipal court of the city in which the violation has occurred to contest the citation. A "Failure to Pay a Toll" citation constitutes the summons and complaint for an action to recover the toll and all applicable fees allowed pursuant to this section; and~~ Once a recipient has accumulated at least \$300.00 in unpaid citations, the department or its authorized agent may notify the Department of Motor Vehicles to suspend the registration of the vehicle that was operated when the toll was not paid and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent.

(a) The department will offer the recipient a due process opportunity to contest responsibility for the toll violation, without appearing in person, including an

	<u>opportunity to present information in the recipient's favor and an opportunity for a record review by a hearing officer.</u> (4) notwithstanding another provision of law, the notices and citation required by subsection (G) <u>(E)</u> by first-class mail to the owner or operator of the vehicle identified as being involved in the toll violation. If a vehicle is registered in two or more names, the notices or citation must be mailed to the first name listed on the registration records. Notwithstanding another provision of law, personal delivery of the notices and citation is not required. A manual or automatic record of the mailing of the notices or citation prepared in the ordinary course of business is prima facie evidence of the mailing of the notices or citation; (5) the notices and citation required by this subsection must contain the following information: (a) the name and address of the person or entity alleged to be liable for a failure to pay a toll pursuant to this section; (b) the registration number of the vehicle involved in the toll violation; (c) the location where the toll violation took place; (d) the date and time of the toll violation; (e) the identification number of the photo-monitoring system which recorded the violation or other document locator number; (f) information advising of the manner and time in which liability may be contested; (g) warning advising that failure to contest liability in the manner and time provided in this section is an admission of liability; and (h) information advising that failure to pay a toll may result in the suspension of vehicle registration. <u>(F) The department may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the department may collect the tolls and administrative fees properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:</u> <u>(1) The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the department and does, in fact, reciprocate in collecting administrative fees and tolls of the department by employing sanctions that include denial of a person's right to register or reregister a motor vehicle;</u> <u>(2) The penalties, exclusive of tolls, claimed by the away agency against an owner of an automobile registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations;</u> <u>(3) The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner;</u> <u>(4) An owner of an automobile registered in this State may present evidence to the away agency or to the department by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and</u> <u>(5) The reciprocal collection arrangement between the department and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles.</u>
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	(H) <u>(G)</u> If a vehicle owner receives a notice or citation pursuant to this section for a period during which the vehicle involved in the toll violation was: (1) reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a failure to pay a toll is that the vehicle had been reported to a law enforcement division as stolen before the time the violation occurred and had not been recovered by the time of the violation. If an owner receives a notice or citation pursuant to this section for a violation which occurred during a time period in which the vehicle was stolen, but which had not been reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a toll violation pursuant to this section is that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subitem, a certified copy of the police report on the stolen vehicle, sent by first-class mail to the department, its agent, or the magistrate's court or the municipal court having jurisdiction of the citation within thirty days after receipt of the notices or citation, is sufficient; (2) leased to another person or entity, the lessor is not liable for the violation if the lessor sends to the department or to the court having jurisdiction over the citation a copy of the rental, lease, or another contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the notices or citation. Failure to send the information within the thirty-day period renders the lessor liable for the unpaid tolls and any administrative fees or penalties assessed pursuant to this section. If the lessor complies with the provisions of this subitem, the lessee of the vehicle on the date of the violation is subject to liability for the failure to pay the toll if the department or its agent mails a notice of liability to the lessee within thirty days after receipt of a copy of the rental, lease, or other contract document. (H) <u>(H)</u> If a person or entity receives a notice or citation pursuant to this section, it is a valid defense to liability that the person or entity that receives the notice was not the owner of the vehicle at the time of the toll violation. (H) <u>(I)</u> If an owner who pays the required tolls, fees, or penalties, or all of them pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator. (K) <u>(J)</u> An owner of a vehicle is not liable for a penalty imposed pursuant to this section if the operator of the vehicle has been convicted of a violation of Section 57-5-1490 for the same incident. (L) <u>(K)</u> On turnpike facilities where electronic toll collection systems are utilized: (1) a person who wants to make payment of tolls electronically must apply to the department or its authorized agent to become an account holder. The department or its authorized agent, in its discretion, may deny the application of a person. A person whose application is accepted must execute an account holder's agreement. The terms of the account holder's agreement must be established by the department; (2) the department shall ensure that adequate and timely notice is given to all electronic toll collection system account holders to inform them when their accounts are delinquent. The owner of a vehicle who is an account holder under the electronic toll collection system is not liable for a failure to pay a toll pursuant to the provisions of this section unless the department or its authorized agent has first sent a notice of delinquency to the account holder and the account holder was delinquent at the time of the violation;
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	(3) the department shall not sell, distribute, or make available the names and addresses of electronic toll collection system account holders, without the account holder's consent, to any entity that uses the information for commercial purposes. However, this restriction does not preclude the exchange of this information between entities with jurisdiction over or operating a toll highway bridge or tunnel; (4) information or data collected by the department or its authorized agent for the purpose of establishing and monitoring electronic toll collection accounts is not subject to disclosure under the Freedom of Information Act; (5) notwithstanding another provision of law, all information, data, photographs, microphotographs, videotape, or other recorded images prepared pursuant to this section must be for the exclusive use of the department or its authorized agent in the discharge of its duties under this section and must not be open to the public, subject to the disclosure under the Freedom of Information Act, nor used in a court in an action or a proceeding pending unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this section. (M) <u>(L)</u> Notwithstanding any other provision of law, school buses transporting school children for a school event, shall be exempt from the payment of any tolls.
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Table 5. Recommendations for revision to a law relating to the agency - **state roads and rights of way subject to zoning ordinances.**

Code Section	South Carolina Code § 6-29-770
Basis	State agencies, including SCDOT, are subject to local zoning ordinances. This is reasonable for buildings and other types of structures. However, subjecting state roads and rights of way to zoning ordinances can affect safety and efficient operation of the state highway system. An example is that of local tree ordinances. A local zoning ordinance may restrict SCDOT from removing trees of a certain size from the right of way, even though these trees may constitute a safety hazard. SCDOT recommends exempting state roads and rights of way from local zoning ordinances.
Suggested Language	SECTION 6-29-770. Governmental entities subject to zoning ordinances; exceptions. (A) Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances, <u>except for state roads and the adjacent rights of way.</u> (B) A county or agency, department or subdivision of it that uses any real property, as owner or tenant, within the limits of any municipality in this State is subject to the zoning ordinances of the municipality. (C) A municipality or agency, department or subdivision of it, that uses any real property, as owner or tenant, within the limits of any county in this State but not within the limits of the municipality is subject to the zoning ordinances of the county. (D) The provisions of this section do not require a state agency, department, or subdivision to move from facilities occupied on June 18, 1976, regardless of whether or not their location is in violation of municipal or county zoning ordinances. (E) The provisions of this section do not apply to a home serving nine or fewer

	mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification. (F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate. (G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods. (H) The governing body of a county or municipality whose zoning ordinances are violated by the provisions of this section may apply to a court of competent jurisdiction for injunctive and such other relief as the court may consider proper.
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Table 6. Recommendations for revisions of a law relating to the agency - **interest rate on condemnation cases.**

Code Section	South Carolina Code § 28-2-420
Basis	Current law gives 8% interest on the judgment in condemnation cases while the case is contested, which is significantly higher than the current Federal Reserve interest rate.
Suggested Language	SECTION 28-2-420. Interest on amount found to be just compensation; return of excess funds deposited with clerk of court. (A) A condemnor shall pay interest at the <u>rate of eight percent a year current federal reserve prime rate at the time of filing</u> upon sums found to be just compensation by the appraisal panel or judgment of a court to the condemnee. This interest shall

	accrue from the date of filing of the Condemnation Notice through the date of verdict or judgment by the court. Interest accruing on funds on deposit with the clerk of court must be offset against the interest computed pursuant to this section. Interest shall not accrue during the twenty-day period commencing upon the date of verdict or order of judgment. If the judgment is not paid within the twenty-day period, interest at the rate provided by law for interest on judgments must be added to the judgment. Thereafter, the entire judgment shall earn interest at the rate provided by law for interest on judgments. (B) In the event the court determines that just compensation is due the landowner in an amount less than the funds held by the clerk of court, the clerk of court shall refund to the condemnor the balance of the excess deposit with accrued interest.
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Table 7. Recommendations for revisions of a law relating to the agency - **expediting inverse condemnation cases.**

Code Section	South Carolina Code § 28-11-30
Basis	Current law allows for standard condemnation cases, but not inverse condemnation cases, to take precedence over other cases on the civil roster for trial. Condemnation cases can greatly slow down the ability of SCDOT to advance a project to construction. It is therefore important that both types of condemnation cases be quickly resolved. SCDOT recommends that the statute be amended to allow for expediting inverse condemnation cases over other civil cases.
Suggested Language	SECTION 28-11-30. Reimbursement of property owners for certain expenses. To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to federal aid to such states in programs or projects involving the acquisition of real property for public uses, state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in these programs or projects may expend available public funds as provided in this section, whether or not the program or project is federally aided. (1) A person, agency, or other entity acquiring real property for public use in a project or program shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the State deems fair and reasonable, for expenses he necessarily incurred for: (a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State; (b) penalty costs for prepayment for preexisting recorded mortgage entered into in good faith encumbering such real property; and (c) the pro rata portion of real property taxes paid which are allocable to a period

	subsequent to the date of vesting title in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier. (2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use and: (a) the final judgment is that the real property cannot be acquired by condemnation; or (b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of these sums will be paid by the person, agency, or other entity which sought to condemn the property. (3) Where an inverse condemnation proceeding is instituted by the owner of a right, title, or interest in real property because of use of his property in a program or project, the court, rendering a judgment for the plaintiff in the proceeding and awarding compensation for the taking of property, or the attorney effecting a settlement of a proceeding, shall determine and award or allow to the plaintiff, as a part of the judgment or settlement, a sum that will, in the opinion of the court or the agency's attorney, reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding. (4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations. <u>(5) If either party to an inverse condemnation proceeding so demands, the action must be given precedence over other civil cases for trial.</u>
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Table 8. Recommendations for revisions of a law relating to the agency - **expenditure limitation.**

Proviso	Proviso 84.1 in the FY 14-15 Appropriations bill
Basis	Proviso 84.1 allows SCDOT the flexibility needed to deal with cash balances from the previous year. Due to the construction cycle and multiple years across which some projects take, the ability to bridge fiscal years is important to SCDOT. The proviso was established in the 1950's and was amended to current language in 1993. SCDOT recommends codification.
Suggested Language	84.1 The Department of Transportation is hereby authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward

	from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales. <u>Section 57-3-205.</u> Department of Transportation authorized to expend funds from previous fiscal year. <u>The Department of Transportation is authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales.</u>
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Table 9. Recommendations for revisions of a law relating to the agency - **special fund authorization and securing bonds and insurance.**

Provisos	Proviso 84.2 in the FY 14-15 Appropriations bill Proviso 84.3 in the FY 14-15 Appropriations bill
Basis	Proviso 84.2 allows SCDOT to set up special funds with the Treasurer for accounting purposes. The proviso was introduced in 1951 with the current language. Proviso 84.3 allows SCDOT to obtain bonds and insurance to cover SCDOT operations. The Proviso was introduced in 1951 with the current language. SCDOT recommends codification.
Suggested Language	SECTION 57-3-110. Powers and duties of Department of Transportation. The Department of Transportation shall have the following duties and powers: (1) lay out, build, and maintain public highways and bridges, including the exclusive authority to establish design criteria, construction specifications, and standards required to construct and maintain highways and bridges; (2) acquire such lands, road building materials, and rights-of-way as may be needed for roads and bridges by purchase, gift, or condemnation; (3) cause the state highways to be marked with appropriate directions for travel and regulate the travel and traffic along such highways, subject to the laws of the State; (4) number or renumber state highways; (5) initiate and conduct such programs and pilot projects to further research and development efforts, and to promote training of personnel in the fields of planning, construction, maintenance, and operation of the state highway system; (6) cooperate with the federal government in the construction of federal-aid

	highways in the development of improved mass transit service, facilities, equipment, techniques, and methods and in planning and research in connection therewith; and seek and receive such federal aid and assistance as may from time to time become available except for funds designated by statute to be administered by the Chief Executive Officer of the State; (7) instruct, assist, and cooperate with the agencies, departments, and bodies politic and legally constituted agencies of the State in street, highway, traffic, and mass transit matters when requested to do so, and, if requested by such government authorities, supervise or furnish engineering supervision for the construction and improvement of roads and bridges, provided such duties do not impair the attention to be given the highways in the state highway system; (8) promulgate such rules and regulations in accordance with the Administrative Procedures Act for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law; (9) grant churches the right to cross over, under, along, and upon any public roads or highways and rights-of-way related thereto; (10) enter into such contracts as may be necessary for the proper discharge of its functions and duties and may sue and be sued thereon; (11) erect such signs as requested by a local governing body, if the department deems the signs necessary for public safety and welfare, including "Deaf Child" signs and "Crime Watch Area" signs; and <u>(12) to establish special funds with the State Treasurer out of the Department funds as may be deemed advisable for proper accounting purposes, with the approval of the State Treasurer.</u> <u>(13) to secure bonds and insurance covering such activities of the department as may be deemed proper and advisable, due consideration being given to the security offered and the service of the claims.</u> (12) <u>(14)</u> do all other things required or provided by law.
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Table 10. Recommendations for revisions of a law relating to the agency - **benefits**.

Proviso	Proviso 84.4 in the FY 14-15 Appropriations bill
Basis	Proviso 84.4 in the FY 14-15 Appropriations bill provides that SCDOT employees receive equivalent raises, benefits, and bonuses as other state employees, and that such compensation and benefits are funded from SC DOT funding sources. The proviso was introduced in 1996 with the current language. SCDOT recommends codification.
Suggested Language	84.4 (DOT: Benefits) Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses

	provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources. <u>Section 57-3-790. Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources.</u>
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Table 11. Recommendations for revisions of a law relating to the agency - **document fees.**

Proviso	Proviso 84.5 in the FY 14-15 Appropriations bill
Basis	Proviso 84.5 allows SCDOT to recover the costs of producing the many documents that are requested from SCDOT by businesses and the public. The proviso was introduced in 1992 with the current language. SCDOT recommends codification.
Suggested Language	84.5. (DOT: Document Fees) The Department of Transportation is hereby authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, etc. based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, etc. <u>Section 57-3-795. The Department of Transportation is authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, and other documents based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, and other documents.</u>

Table 12. Recommendations for revisions of a law relating to the agency - **meals in emergency operations.**

Proviso	Proviso 84.6 in the FY 14-15 Appropriations bill
Basis	Proviso 84.6 in the FY 14-15 Appropriations Bill allows SCDOT to feed employees who cannot leave their work station during states of emergency or other such operations. The proviso was introduced in 2001 with the current language. SCDOT recommends codification.
Suggested Language	84.6. (DOT: Meals in Emergency Operations) The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency. <u>Section 57-3-800. The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.</u>

Table 13. Recommendations for revisions of a law relating to the agency - **rest area water rates**.

Proviso	Proviso 84.7 in the FY 14-15 Appropriations bill
Basis	Proviso 84.7 in the FY 14-15 Appropriations Bill requires water and sewer providers to charge in-district water rates for SCDOT rest areas. The proviso was introduced in 2005 with the current language. SCDOT recommends codification.
Suggested Language	84.7. (DOT: Rest Area Water Rates) For the current fiscal year, rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates. <u>Section 57-3-805. Rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates.</u>

Table 14. Recommendations for revisions of a law relating to the agency - **printed report requirements**.

Proviso	Proviso 117.73 in the FY 14-15 Appropriations bill
Basis	Proviso 117.73 of the FY 14-15 allows SCDOT to submit several statutorily-required reports electronically rather than in printed format. With the availability of these reports in electronic format and corresponding ability to print, the printed requirement is obsolete. The proviso also allows SCDOT to combine its Annual Report and Mass Transit report with its Annual Accountability Report. SCDOT recommends codification.
Suggested Language	117.77. (GP: Printed Report Requirements) (A) For Fiscal Year 2014-15, state supported institutions of higher learning shall not be required to submit printed reports mandated by Sections 2-47-40, 2-47-50, and 59-103-110 of the 1976 Code, and shall instead only submit the documents electronically. Submission of the plans or reports required by Sections 59-101-350, 59-103-30, 59-103-45(4), and 59-103-160(D) shall be waived for the current fiscal year, except institutions of higher learning must continue to report student pass rates on professional examinations, and data elements otherwise required for the Commission on Higher Education Management Information System. The commission, in consultation with institutions, shall take further action to reduce data reporting burdens as possible. (B) For Fiscal Year 2015-16, the Department of Agriculture shall not be required to submit printed reports mandated by Section 46-49-10 of the 1976 Code. The department shall provide these reports electronically and shall use any monetary savings for K5-12 agricultural education programs. (C) For Fiscal Year 2015-16, the Department of Health and Human Services shall not be required to provide printed copies of the Medicaid Annual Report required pursuant to Section 44-6-80 of the 1976 Code and shall instead only submit the documents electronically.

	(D) For Fiscal Year 2015-16, the Department of Transportation shall not be required to submit printed reports or publications mandated by Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code. The Department of Transportation may combine their Annual Report and Mass Transit Report into their Annual Accountability Report. SECTION 57-3-760. Annual reports. <u>(A)</u> The department, at the beginning of each regular session of the General Assembly, shall make a full, printed, detailed report to the General Assembly showing an analysis of: (1) the department's accomplishments in the past year; (2) a ten-year plan detailing future needs of the State in the fields of planning, construction, maintenance, and operation of the state highway system; (3) a five-year plan detailing the regulation of traffic which includes the administration and enforcement of traffic, driver, and motor vehicle laws and other laws relating to such subjects, the coordination of state and federal programs relating to mass transportation among the departments, agencies, and other bodies politic and legally constituted agencies in the State; and (4) a listing of all firms, companies, or businesses of any type doing business with the department and the amount of such contracts entered into by the department. <u>(B) The Department shall not be required to submit printed reports pursuant to Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code</u>
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Table 15. Recommendations for revisions of a law relating to the agency - **welcome centers**.

Proviso	Proviso 117.74 in the FY 14-15 Appropriations bill
Basis	A proviso in the FY 14-15 Appropriations Bill required SCDOT to transfer ownership of the state Welcome Centers to the Department of Parks, Recreation, and Tourism, along with the amount of funds required to operate the centers from FY13-14 (\$3.16 million). The proviso was amended at the request of SCPRT to up the funding to \$3.23 million in the FY 15-16 budget. SCDOT recommends the deletion of this proviso because SCDOT has already transferred ownership to SCPRT and has a Memorandum of Understanding as to the operation and funding of the centers.
Suggested Language	117.114. (GP: South Carolina Welcome Centers) The Department of Parks, Recreation and Tourism and the Department of Transportation shall maintain a Memorandum of Understanding (MOU) that provides that the Department of Parks, Recreation and Tourism shall control operations of all South Carolina Welcome Centers. The MOU shall include replacement, renovation and maintenance of the facilities, daily operations, and grounds maintenance and upkeep and shall clearly define responsibility for additional portions of Welcome Centers to include paving and

	sidewalks. The Department of Transportation shall transfer to the Department of Parks, Recreation and Tourism the amount of \$3,313,560 less any state funds appropriated by the General Assembly for the same purpose. The Department of Parks, Recreation and Tourism assumes responsibility for this amount and the timing of the transfer of these funds shall be defined as part of the MOU. The funds transferred to the Department of Parks, Recreation and Tourism shall be placed in a separate and distinct fund and these funds shall be carried forward from the prior fiscal year into the current fiscal year and be expended for the same purposes.
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Table 16. Recommendations for revisions of a law relating to the agency - **non-federal aid restrictions.**

Code Section	
Basis	South Carolina's 41,000 centerline mile roadway network is a state-owned, partially federally assisted system. As the owner of the state system, the State of SC is responsible for maintaining and operating all facets of it from the neighborhood streets, to the farm-to-market roads, to the US/SC Routes and to the Interstate System. While the federal-aid program does make available funding for some of these types of roadways, Congress is shifting the focus of the federal program to the National Highway System (NHS). For SC, this means the federal funds for pavement rehabilitation and reconstruction will likely be focused on the 3,603 centerline mile NHS system in the state, which includes the entire Interstate system and less than 30% of the Primary system. That movement at the federal level coupled with the state's current restriction to use the funding only on the "Non-Federal Aid System " (neighborhood streets) will leave the bulk of the Primary system and 10,370 centerline miles of Secondary (farm-to-market) roadways essentially defunded for resurfacing at the state level. These 2 segments of the state system carry nearly 2/3 of the state's traffic and both are in very poor condition with approximately half of their pavements already in poor condition, approximately 30% in fair and approximately 20% in good condition. An investment is critically needed here in order to return this segment of our network to better condition and save repair costs by intercepting the fair condition roadways before they decay to poor condition. SCDOT asks that it be allowed the flexibility to shift funds from the Non-Federal Aid Highway Fund to secondary and primary routes when need is demonstrated by the SCDOT Transportation Asset Management Plan and the projects are ranked according to Act 114.
Suggested Language	<u>Section 57-11-30. Funds from the Non-Federal Aid Highway Fund may be utilized for resurfacing secondary and primary routes when need is sufficiently determined under the Department's Transportation Asset Management Plan, and the projects to receive funds are prioritized according to Section 57-1-370.</u>

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.²⁷

General Assembly's Legislative Audit Council

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

Department of Transportation

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation Christy A. Hall; and
- list of audit recommendations and the agency's response to each recommendation.

House Transportation Infrastructure & Management Ad-Hoc Committee

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.²⁸

Follow Up

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.²⁹ Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.³⁰ The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes, including but not limited to, the agency's implementation plan that includes target dates for the Legislative Audit Council's recommendations in which the agency concurs.

SELECTED AGENCY INFORMATION CITED

SC Department of Transportation. "Annual Restructuring Report, 2016."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20%20DOT.PDF> (accessed April 18, 2016).

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<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DOT/LAC%20Recommendations%20SCDOT%20Response.pdf> (accessed April 18, 2016).

SC Department of Transportation. "Program Evaluation Report, 2015."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/SCDOT%20Program%20Evaluation%20Report.pdf> (accessed April 18, 2016).

SC Department of Transportation. "Restructuring and Seven-Year Plan Report, 2015."

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ENDNOTES

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² *SC Code of Laws*, sec. 2-2-20(C).

³ SC House of Representatives, House Legislative Oversight Committee, Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee, "April 14, 2016, Meeting Minutes. As the minutes have not been approved by the Subcommittee yet for this meeting, they have not been published online at this time. A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁴ *Ibid*.

⁵ SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

⁶ Information about the work of the House Transportation Infrastructure & Management Ad-Hoc Committee is available on the General Assembly's website under "House Transportation Infrastructure & Management Ad-Hoc Committee Postings and Reports."

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- ¹⁷ SC Department of Transportation, *Restructuring and Seven-Year Plan Report*.
- ¹⁸ *Ibid.*, 36.
- ¹⁹ SC Department of Transportation, *Program Evaluation Report*.
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