~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

February 14, 2012

**H. 3066**

Introduced by Reps. G.R. Smith, Daning, Ballentine, Harrison, Allison, Hamilton, G.M. Smith, Bingham, Long, Henderson, Erickson, Horne, Willis, Weeks, McLeod, Pope, Simrill, Lucas, Norman, D.C. Moss, Clemmons, Harrell, Atwater, Bedingfield, Funderburk and Edge

S. Printed 2/14/12--S.

Read the first time March 3, 2011.

**A** **BILL**

TO ENACT THE “SOUTH CAROLINA RESTRUCTURING ACT OF 2011” INCLUDING PROVISIONS TO AMEND SECTION 1‑30‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AGENCIES OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT BY ADDING THE DEPARTMENT OF ADMINISTRATION; BY ADDING SECTION 1‑30‑125 SO AS TO ESTABLISH THE DEPARTMENT OF ADMINISTRATION AS AN AGENCY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO BE HEADED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, AND TO TRANSFER TO THIS NEWLY CREATED DEPARTMENT CERTAIN OFFICES AND DIVISIONS OF THE STATE BUDGET AND CONTROL BOARD, OFFICE OF THE GOVERNOR, AND OTHER AGENCIES, AND TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO ACCOMPLISH THE ABOVE; BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO PROVIDE FOR LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS AND THE PROCESSES AND PROCEDURES TO BE FOLLOWED IN CONNECTION WITH THIS OVERSIGHT; TO AMEND SECTIONS 1‑11‑20, AS AMENDED, 1‑11‑22, 1‑11‑55, 1‑11‑56, 1‑11‑58, 1‑11‑65, 1‑11‑67, 1‑11‑70, 1‑11‑80, 1‑11‑90, 1‑11‑100, 1‑11‑110, 1‑11‑180, 1‑11‑220, 1‑11‑225, 1‑11‑250, 1‑11‑260, 1‑11‑270, 1‑11‑280, 1‑11‑290, 1‑11‑300, 1‑11‑310, AS AMENDED, 1‑11‑315, 1‑11‑320, 1‑11‑335, 1‑11‑340, 1‑11‑435, 2‑13‑240, CHAPTER 9, TITLE 3; 10‑1‑10, 10‑1‑30, AS AMENDED, 10‑1‑40, 10‑1‑130, 10‑1‑190, CHAPTER 9, TITLE 10, 10‑11‑50, AS AMENDED, 10‑11‑90, 10‑11‑110, 10‑11‑140, 10‑11‑330; 11‑9‑610, 11‑9‑620, 11‑9‑630, 11‑35‑3810, AS AMENDED, 11‑35‑3820, AS AMENDED, 11‑35‑3830, AS AMENDED, 11‑35‑3840, AS AMENDED, 13‑7‑30, AS AMENDED, 13‑7‑830, AS AMENDED, 44‑53‑530, AS AMENDED, AND 44‑96‑140; 48‑46‑30, 48‑46‑40, 48‑46‑50, 48‑46‑60, 48‑46‑90, 48‑52‑410, 48‑52‑440, AND 48‑52‑460; AND BY ADDING SECTION 1‑11‑185 RELATING TO VARIOUS AGENCY OR DEPARTMENT PROVISIONS SO AS TO CONFORM THEM TO THE ABOVE PROVISIONS PERTAINING TO THE NEW DEPARTMENT OF ADMINISTRATION OR TO SUPPLEMENT SUCH PROVISIONS.

Amend Title To Conform

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

Part I

Citation

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

Part II

Establishing the Department of Administration

and the Bond Review Authority

SECTION 2. A. Section 1‑11‑10 of the 1976 Code is amended to read:

“Section 1‑11‑10. ~~The State Budget and Control Board shall be comprised of the Governor, ex officio, who shall be chairman, the State Treasurer, ex officio, the Comptroller General, ex officio, and the chairman of the Senate Finance Committee, ex officio, and the chairman of the Ways and Means Committee of the House of Representatives, ex officio.~~ (A) Effective January 1, 2013, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, the Department of Administration:

(1) Division of General Services including Business Operations, Facilities Management, State Building and Property Services, and Agency Services including surplus property, intra state mail, parking, state fleet management, except that this division shall not be transferred to the Department of Administration until the director of the Department of Administration enters into a memorandum of agreement with appropriate officials of applicable legislative and judicial agencies or departments as provided in Section 1‑11‑20;

(2) the Office of Human Resources;

(3) the Insurance Reserve Fund; and

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

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

(1) State Educational Assistance Authority;

(2) Educational Facilities Authority for Private, Non‑Profit Institutions of Higher Learning; and

(3) South Carolina Resources Authority.

(C) Effective January 1, 2013, the offices, divisions, or components of the State Budget and Control Board named in this subsection are transferred to, and incorporated into, the South Carolina Rural Infrastructure Authority as established in Section 11-50-30. All functions, powers, duties, responsibilities, and authority vested the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the South Carolina Rural Infrastructure Authority and the authority shall constitute the agencies and authorities, including their governing boards, if any, named in this subsection.

(1) South Carolina Infrastructure Facilities Authority;

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

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

(4) Tobacco Settlement Revenue Management Authority Board.

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

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

(F) Effective November 1, 2012, the Board of Economic Advisors shall be an independent agency, which shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of Act \_\_\_ of 2012, R. \_\_\_, H. 3066.

(G) Effective November 1, 2012, the Office of Research and Statistics is transferred to, and incorporated into, the Legislative Fiscal Office.

(H) Effective January 1, 2013, there is devolved upon the Bond Review Authority all functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of A. \_\_\_ of 2012, R. \_\_\_, H. 3066 related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law. The authority shall establish criteria, upon consultation with the Joint Bond Review Committee, to apply to the review and approval process.

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

of Regulatory Staff.

(J) Effective January 1, 2013, the Division of State Information Technology including the Data Center, Telecommunications and Information Technology Services, and South Carolina Enterprise Information System, but not including support of the Joint Strategic Technology Committee, the Materials Management Office, and the Office of State Engineer are transferred to and incorporated into the Procurement Oversight Board from the Budget and Control Board.

(K) Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Authority:

(1) the Employee Insurance Program;

(2) the Retirement Division.

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

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

(A) Effective January 1, 2013, the offices, divisions, or components of the State Budget and Control Board, Office of the Governor, or other agencies named in this subsection are transferred to, and incorporated into, the Department of Administration, a department of the executive branch of state government headed by a director appointed by the Governor with the advice and consent of the Senate as provided in Section 1‑30‑10(B)(1)(i). The director shall have the authority to act on behalf of and administer the department:

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

(a) The memorandum of agreement shall provide for:

(i) continued use of existing office space;

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

(iii) adequate parking;

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

(v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board;

(vi) the provision of water, electricity, steam and chill water to the offices, areas, and facilities occupied by the applicable agencies;

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

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

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

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

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

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

(3) the Insurance Reserve Fund;

(4) the Office of Human Resources;

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

(6) the Guardian ad Litem program as established in Section 63‑11‑500;

(7) the Office of Economic Opportunity;

(8) the Developmental Disabilities Council;

(9) the Continuum of Care for Emotionally Disturbed Children Division as established by Section 63‑11‑1310;

(10) the Division for Review of the Foster Care of Children as established by Section 63‑11‑700;

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

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

(13) the South Carolina Victim’s Advisory Board, as established pursuant to Article 13, Chapter 13 of Title 16;

(14) the Small and Minority Business Assistance Office, as established pursuant to Section 11‑35‑5270;

(15) the State Educational Assistance Authority;

(16) the Educational Facilities Authority for Private, Non‑Profit Institutions of Higher Learning; and

(17) the South Carolina Resources Authority.

(B) The Office of State Budget shall support the Governor’s budget writing duties, as contained in Section 11‑11‑70.

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

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

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

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

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

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

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

(3) To change the organizational structure of the department the director must promulgate the reorganized structure as a regulation and submit it to the General Assembly for approval.

(F) No later than December 31, 2013, the Office of Human Resources, in coordination with the Department of Archives and History, shall develop policies and procedures related to providing agency public records officers with annual training concerning records retention laws, regulations, and guidelines.

(G)(1) Where the provisions of Act \_\_\_ of 2012, R. \_\_\_, H. 3066 transfer offices, or portions of offices, of the Budget and Control Board, Office of the Governor, or other agencies to the Department of Administration or the Office of Inspector General, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration. All classified or unclassified personnel employed by these offices on the effective date of this section, either by contract or by employment at will, shall be transferred to the Department of Administration or the Office of Inspector General, as appropriate, with the same compensation, classification, grade level, and contract or at will status as applicable on the effective date of this section. The Executive Director of the Budget and Control Board and the Inspector General shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

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

(H) Regulations promulgated by these transferred offices as they formerly existed under the Budget and Control Board, Office of the Governor, or other agencies are continued and are considered to be promulgated by these offices under the Department of Administration.

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

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

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

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

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

(2) Bonded indebtedness issued by the South Carolina Jobs ‑ Economic Development Authority and political subdivisions do not require approval by the Bond Review Authority. The authority and political subdivisions shall submit a report to the Bond Review Authority of any bonds the entity issues. Bonded indebtedness issued pursuant to this item does not constitute nor give rise to a pecuniary liability to the State or a charge against the credit or taxing powers of the State.

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

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

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

“Section 1- 11-40. (A) For the purposes of this section:

(1) “Economic interest” has the same meaning as provided in Section 8-13-100(11);

(2) “Family member” has the same meaning as provided in Section 8-13-100(15);

(3) “Procurement” has the same meaning as provided in Section 11-35-310(24);

(4) “Public employee” has the same meaning as provided in Section 8-13-100(25);

(5) “Public member” has the same meaning as provided in Section 8-13-100(26).and

(6) “Public official” has the same meaning as provided in Section 8-13-100(27).

(B) It is unlawful for a public official, public officer, or public employee who is not directly associated with procurement as provided by law or regulation to attempt to influence a public official, public officer, or public employee who is directly associated with procurement as provided by law or regulation in the exercise of his duties or responsibilities.

(C) A person who violates this section is guilty of a felony and, upon conviction, must be fined no more than ten thousand dollars or imprisoned for not more than ten years, or both.”

E. Section 1‑11‑440 of the 1976 Code is amended to read:

“Section 1‑11‑440. ~~(A)~~ The State must defend the members of the ~~State Budget and Control Board~~ Bond Review Authority, the Public Employee Benefit Authority, and the director of the Department of Administration against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the ~~board~~ either authority or the department and must indemnify ~~these members~~ them for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State must defend officers and management employees of ~~the board~~ either authority, ~~and~~ legislative employees performing duties for ~~board~~ either authority’s members, and management employees of the department against a claim or suit that arises out of or by virtue of the performance of official duties unless the officer, management employee, or legislative employee was acting in bad faith and must indemnify these officers, management employees, and legislative employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers, the director and management employees of the department, and legislative employees after they have left their employment with ~~the board~~ either authority, ~~or~~ the General Assembly, ~~as applicable,~~ or the department, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of ~~the board~~ either authority or the department.

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

Part III

Board of Economic Advisors

SECTION 3. Section 11-9-820(A), (B), and (C) of the 1976 Code are amended to read:

“(A)(1)There is created the Board of Economic Advisors, an independent agency of state government, as follows:

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

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

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

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

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

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

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

SECTION 4. Sections 11-9-825 and 11-9-830 of the 1976 Code are amended to read:

Section 11-9-825. The staff of the Board of Economic Advisors must be supplemented by the following officials who each shall designate one professional from their individual staffs to assist the BEA staff on a regular basis: the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, the State Department of Revenue Chairman~~, and the Director of the Budget Division of the Budget and Control Board~~. The BEA staff shall meet monthly with these designees in order to solicit their input. /

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

(1) compile and maintain in a unified, concise, and orderly form information about total revenues and expenditures which involve the funding of state government operations, revenues received by the state which comprise general revenue sources of all receipts to include amounts borrowed, federal grants, earnings, and the various activities accounted for in other funds;

(2) continuously review and evaluate total revenues and expenditures to determine the extent to which they meet fiscal plan forecasts/projections;

(3) evaluate federal revenues in terms of impact on state programs;

(4) compile economic, social, and demographic data for use in the publishing of economic scenarios for incorporation into the development of the state budget;

(5) bring to the attention of the Governor and the General Assembly the effectiveness, or lack thereof, of the economic trends and the impact on statewide policies and priorities;

(6) establish liaison with the Congressional Budget Office and the Office of Management and Budget at the national level.”

SECTION 5. Section 1-9-880(C) of the 1976 Code is amended to read:

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

SECTION 6. Section 11-9-890(B) of the 1976 Code is amended to read:

(B) If at the end of the first, second, or third quarter of any fiscal year quarterly revenue collections are two percent or more below the amount projected for that quarter by the Board of Economic Advisors, the ~~State Budget and Control Board~~ General Assembly, within ~~seven~~ twenty days of that determination, shall take action to avoid a year‑end deficit. If the quarterly revenue projections at the end of the first and second quarter are two percent or less below the amount projected, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may call each respective house into session to take action to avoid a year-end deficit. If revenue projections are more than two percent below the amount projected, each house of the General Assembly shall convene in statewide session at twelve noon on the first Tuesday following the announcement of the deficit to take action to avoid a year-end deficit, if not called into session earlier by the President Pro Tempore and the Speaker of the House. ~~Notwithstanding Section 1‑11‑495, if the State Budget and Control Board~~ If the General Assembly does not take ~~unanimous~~ action within ~~seven~~ fifteen days, the Director of the Office of State Budget must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Office of State Budget immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Office of State Budget. A reduction of rate of expenditure by the Director of the Office of State Budget, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.

Part IV

Department of Administration

SECTION 7. Section 1‑30‑10(A) of the 1976 Code is amended to read:

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

1. Department of Administration

2. Department of Agriculture

~~2.~~3. Department of Alcohol and Other Drug Abuse Services

~~3.~~4. Department of Commerce

~~4.~~5. Department of Corrections

~~5~~.6. Department of Disabilities and Special Needs

~~6.~~7. Department of Education

~~7.~~8. Department of Health and Environmental Control

~~8.~~9. Department of Health and Human Services

~~9.~~10. Department of Insurance

~~10.~~11. Department of Juvenile Justice

~~11.~~12. Department of Labor, Licensing and Regulation

~~12.~~13. Department of Mental Health

14. Department of Motor Vehicles

~~13.~~15. Department of Natural Resources

~~14.~~16. Department of Parks, Recreation and Tourism

~~15.~~17. Department of Probation, Parole and Pardon Services

~~16.~~18. Department of Public Safety

~~17.~~19. Department of Revenue

~~18.~~20. Department of Social Services

~~19.~~21. Department of Transportation

~~20.~~22. Department of Employment and Workforce.”

SECTION 8. Chapter 3, Title 2 of the 1976 Code is amended by adding:

“Section 2‑3‑250. Effective November 1, 2012, the Office of Precinct Demographics is established under the joint direction and management of the Clerk of the Senate and the Clerk of the House of Representatives as a division of the Legislative Services Agency. The Clerk of the Senate, the Clerk of the House of Representatives, and the executive director of the Budget and Control Board, in consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, shall determine the employees, authorized appropriations, and assets and liabilities to be transferred to the Office of Precinct Demographics. The Office Precinct Demographics shall:

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

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

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

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

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

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

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

Part V

Legislative Fiscal Office

SECTION 9. Chapter 3, Title 2 of the 1976 Code is amended by adding:

“Section 2‑3‑240. (A) Effective November 1, 2012, the Legislative Fiscal Office is established under the joint direction and management of the Clerk of the Senate and the Clerk of the House of Representatives as a division of the Legislative Services Agency. The following personnel of the State Budget and Control Board are transferred to the Legislative Fiscal Office, organized as recommended by the Clerk of the Senate and the Clerk of the House of Representatives:

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

(2) the employees of the Office of Research and Statistics.

(B) The Legislative Fiscal Office must support the work of the General Assembly through the provision of data, fiscal impact statements and revenue impact statements, as appropriate, on proposed legislation, forecast of economic conditions pursuant to Section 11-9-880, and support the General Assembly’s budget writing duties without regard to political or other considerations beyond technical accuracy and professionalism required to perform the duties of the office.

(C) The Clerk of the Senate, the Clerk of the House of Representatives, and the executive director of the Budget and Control Board, in consultation with the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, shall determine the employees, authorized appropriations, and assets and liabilities to be transferred pursuant to items (1), (2), and (3) of subsection (A).”

SECTION 10. Section 2‑7‑71 of the 1976 Code is amended to read:

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

SECTION 11. Section 2‑7‑72 of the 1976 Code is amended to read:

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

SECTION 12. Section 2‑7‑73 of the 1976 Code is amended to read:

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

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

(1) to what extent does the coverage increase or decrease the cost of treatment or services;

(2) to what extent does the coverage increase or decrease the use of treatment or service;

(3) to what extent does the mandated treatment or service substitute for more expensive treatment or service;

(4) to what extent does the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and

(5) what is the impact of this coverage on the total cost of health care.”

SECTION 13. Section 2‑7‑74 of the 1976 Code is amended to read:

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

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

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

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

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

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

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

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

SECTION 14. Section 2‑7‑76 of the 1976 Code is amended to read:

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

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

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

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

(4) relates to taxes imposed by political subdivisions.

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

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

Part VI

Conforming and Miscellaneous Amendments for the Department of Administration

SECTION 15. A. Section 63‑11‑1310 of the 1976 Code is amended to read:

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

B. Section 63‑11‑1510 of the 1976 Code is amended to read:

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

C. Section 1‑30‑110 of the 1976 Code is repealed.

SECTION 16. A. Sections 1‑11‑55, 1‑11‑56, and 1‑11‑58 of the 1976 Code are amended to read:

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

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

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

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

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

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

(1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;

(2) establishing standards for the quality and quantity of space to be leased by a requesting agency;

(3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state’s prerogatives including, but not limited to, a right of cancellation in the event of:

(a) a nonappropriation for the renting agency;

(b) a dissolution of the agency; and

(c) the availability of public space in substitution for private space being leased by the agency;

(4) rejecting an agency’s request for additional space or space at a specific location, or both;

(5) directing agencies to be located in public space, when available, before private space can be leased;

(6) requiring the agency to submit a multi‑year financial plan for review by the ~~board’s budget office~~ department with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and requiring prior review by the Joint Bond Review Committee and the requirement of ~~Budget and Control Board~~ departmental approval before the adoption of any new lease that commits more than one million dollars in a five‑year period; and

(7) requiring prior review by the Joint Bond Review Committee and the requirement of ~~Budget and Control Board~~ departmental approval before the adoption of any new lease that commits more than one million dollars in a five‑year period.

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

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

(3) Upon receipt of a request by an agency to acquire additional property, the ~~Office~~ Division of General Services shall review the surplus property list to determine if the agency’s needs ~~can~~ may be met from existing state‑owned property. If such property is identified, the ~~Office~~ division ~~of General Services~~ shall act as broker in transferring the property to the requesting agency under terms and conditions that are mutually agreeable to the agencies involved.

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

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

“Section 1‑11‑65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the ~~State Budget and Control Board~~ Department of Administration. Upon approval of the transaction ~~by the Budget and Control Board~~, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the ~~board’s~~ department’s approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The ~~board~~ department may exempt a governmental body from the provisions of this subsection.

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

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

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

Any rent charged to the legislative and judicial agencies must be in compliance with the memorandum of understanding required in Section 1‑11‑20.

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

Section 1‑11‑80. The ~~State Budget and Control Board~~ Department of Administration is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

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

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

Section 1‑11‑110. (1) The ~~State Budget and Control Board~~ Department of Administration is authorized to acquire real property, including any estate or interest therein, for, and in the name of, the State of South Carolina by gift, purchase, condemnation or otherwise. An acquisition exceeding one million dollars in value shall instead require the approval of the State Financial Affairs Authority.

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

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

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

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

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

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

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

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

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

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

“Section 1‑11‑185. (A) In addition to the powers granted the Department of Administration pursuant to this chapter or another provision of law, the department may require submission and approval of plans and specifications for permanent improvements by a state department, agency, or institution before a contract is awarded for the permanent improvement.

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

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

E. (1) Section 1‑11‑220 of the 1976 Code, as last amended by Act 203 of 2008, is further amended to read:

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

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

(a) ~~to~~ achieve maximum cost‑effectiveness management of state‑owned motor vehicles in support of the established missions and objectives of the agencies, boards, and commissions~~.~~;

(b) ~~to~~ eliminate unofficial and unauthorized use of state vehicles~~.~~;

(c) ~~to~~ minimize individual assignment of state vehicles~~.~~;

(d) ~~to~~ eliminate the reimbursable use of personal vehicles for accomplishment of official travel when this use is more costly than use of state vehicles~~.~~;

(e) ~~to~~ acquire motor vehicles offering optimum energy efficiency for the tasks to be performed~~.~~;

(f) ~~to~~ insure motor vehicles are operated in a safe manner in accordance with a statewide Fleet Safety Program; and

(g) ~~to~~ improve environmental quality in this State by decreasing the discharge of pollutants.”

(2) Section 1‑11‑225 of the 1976 Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

The State Vehicle Maintenance program shall include:

(a) central purchasing of supplies and parts;

(b) an effective inventory control system;

(c) a uniform work order and record‑keeping system assigning actual maintenance cost to each vehicle; and

(d) preventive maintenance programs for all types of vehicles.

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

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

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

(1) from state‑owned facilities and paid for by the use of Universal State Credit Cards except where agencies purchase these products in bulk;

(2) from any fuel outlet where gasoline and oil are sold regardless of whether the outlet accepts a credit or charge card when the purchase is necessary or in the best interest of the State; and

(3) from a fuel outlet where gasoline and oil are sold when that outlet agrees to accept the Universal State Credit Card.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Section 1‑11‑435 of the 1976 Code is amended to read:

“Section 1‑11‑435. To protect the state’s critical information technology infrastructure and associated data systems in the event of a major disaster, whether natural or otherwise, and to allow the services to the citizens of this State to continue in such an event, the ~~Office~~ Division of ~~the~~ State ~~Chief~~ Information ~~Officer~~ Technology in the Department of Administration ~~(CIO)~~ should develop a Critical Information Technology Infrastructure Protection Plan devising policies and procedures to provide for the confidentiality, integrity, and availability of, and to allow for alternative and immediate online access to critical data and information systems including, but not limited to, health and human services, law enforcement, and related agency data necessary to provide critical information to citizens and ensure the protection of state employees as they carry out their disaster‑related duties. All state agencies and political subdivisions of this State are directed to assist the ~~Office of the State CIO~~ division in the collection of data required for this plan.”

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

“(89) Department of Administration, six.”

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

“CHAPTER 9

Acquisition and Distribution of Federal Surplus Property

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

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

(2) to warehouse such property; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The Clerk of the Senate and the Clerk of the House of Representatives must provide joint approval for access to or the use of the second and third floors of the State House. The ~~director shall obtain the approval of the~~ Clerk of the Senate ~~before~~ ~~authorizing~~ must provide prior authorization for any access to or use of the Gressette Building and ~~shall obtain the approval of~~ the Clerk of the House of Representatives ~~before authorizing~~ must provide prior authorization for any access to or use of the Blatt Building.

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

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

J. Section 10‑1‑130 of the 1976 Code is amended to read:

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

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

“Section 10‑1‑190. As part of the approval process relating to trades of state property for nonstate property, the ~~Budget and Control Board~~ Department of Administration is authorized to approve the application of any net proceeds resulting from such a transaction to the improvement of the property held by the ~~board~~ department.”

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

“CHAPTER 9

Minerals and Mineral Interests in Public Lands

Article 1

General Provisions

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

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

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

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

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

(1) to retire the bonded indebtedness incurred by South Carolina;

(2) for capital improvement expenditures.

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

Article 3

Phosphate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 10‑9‑250. Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters, or streams, including the Coosaw River phosphate territory, by and with any boat, vessel, marine dredge, or other appliances for such mining or removal, without the leave or license of the ~~Board~~ department thereto first had and obtained, all such boats, vessels, marine dredges, and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges, or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.

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

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

Article 5

Geothermal Resources

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

(1) The energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat.

(2) The material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium.

(3) All dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.

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

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

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

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

N. Section 10‑11‑90 of the 1976 Code is amended to read:

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

O. Section 10‑11‑110 of the 1976 Code is amended to read:

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

P. Section 10‑11‑140 of the 1976 Code is amended to read:

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

Q. Section 10‑11‑330 of the 1976 Code is amended to read:

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

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

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

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

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

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

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

(1) the sale, lease, or disposal of surplus supplies by public auction, competitive sealed bidding, or other appropriate methods designated by such regulations;

(2) the transfer of excess supplies between agencies and departments.

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

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

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

(a) the subject personal property shall be traded in and the value applied to the purchase of new like items; or

(b) the property shall be classified as surplus and sold in accordance with the provisions of Section 11‑35‑3820. The ~~board~~ departmental determination shall be in writing and be subject to the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

V. Section 44‑96‑140 of the 1976 Code is amended to read:

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

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

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

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

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

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

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

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

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

(1) are not available within a reasonable period of time;

(2) fail to meet the performance standards set forth in the applicable specifications; or

(3) are only available at a price that exceeds by more than seven and one‑ half percent the price of alternative items.

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

(1) compost as a substitute for regular soil amendment products in all highway projects;

(2) solid waste including, but not limited to, ground rubber from tires and fly ash or mixtures of them from coal‑fired electrical facilities in road surfacing of subbase materials;

(3) solid waste including, but not limited to, glass aggregate, plastic, and fly ash in asphalt or concrete; and

(4) recycled mixed‑plastic materials for guardrail posts, right‑of‑way fence posts, and sign supports.”

W. Section 15‑78‑140 of the 1976 Code is amended to read:

“Section 15‑78‑140. (a) (Reserved)

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

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

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

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

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

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

SECTION 17. Section 1-11-140(B) of the 1976 Code is amended to read:

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

Part VII

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

Governor’s Nuclear Advisory Council

SECTION 18. Section 13‑7‑810 of the 1976 Code is amended to read:

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

SECTION 19. Section 13‑7‑830 of the 1976 Code is amended to read:

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

SECTION 20. Section 13‑7‑860 of the 1976 Code is amended to read:

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

SECTION 21. Section 48‑46‑30(4) and (5) of the 1976 Code are amended to read:

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

~~(5)~~ ‘Decommissioning trust fund’ means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem‑Nuclear Systems, Inc. (grantor), the ~~South Carolina Budget and Control Board~~ Department of Administration (beneficiary), and the South Carolina State Treasurer (trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose.

(5) ‘Department’ means Department of Administration.”

SECTION 22. Section 48‑46‑40 of the 1976 Code is amended to read:

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

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

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

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

(5) In consultation with the site operator, the ~~board~~ department or its designee, on a case‑by‑case basis, may approve special disposal rates for regional waste that differ from the disposal rate schedule for regional generators set by the ~~board~~ department pursuant to subsections (2) and (3). Requests by the site operator for such approval shall be in writing to the ~~board~~ department. In approving such special rates, the ~~board~~ department or its designee, shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, or other relevant factors; provided, however, that the ~~board~~ department shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the ~~board~~ department under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or the request for proposal containing the special rate is accepted by the regional generator; provided, however, that such special rates when accepted by a regional generator shall be disclosed to the compact commission and to all other regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing this special rate is accepted by the regional generator. Within one business day of a special disposal rate’s acceptance, the site operator shall notify the ~~board~~ department, the compact commission, and the regional generators of each special rate that has been accepted by a regional generator, and the ~~board~~ department, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the ~~board~~ department for a regional generator is lower than a disposal rate approved by the ~~board~~ department for regional generators pursuant to subsections (2) and (3) for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the regional generator. Regional generators may enter into contracts for waste disposal at such special rates and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the ~~board~~ department and the compact commission each month that no regional generator’s disposal rate exceeds any other regional generator’s special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the ~~board~~ department and the compact commission.

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

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

(i) 160,000 cubic feet in fiscal year 2001;

(ii) 80,000 cubic feet in fiscal year 2002;

(iii) 70,000 cubic feet in fiscal year 2003;

(iv) 60,000 cubic feet in fiscal year 2004;

(v) 50,000 cubic feet in fiscal year 2005;

(vi) 45,000 cubic feet in fiscal year 2006;

(vii) 40,000 cubic feet in fiscal year 2007;

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

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

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

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

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

(e) In consultation with the site operator, the ~~board~~ department or its designee, on a case‑by‑case basis, may approve special disposal rates for nonregional waste that differ from the disposal rate schedule for nonregional generators set by the ~~board~~ department. Requests by the site operator for such approval shall be in writing to the ~~board~~ department. In approving such special rates, the ~~board~~ department or its designee shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors; provided, however, that the ~~board~~ department shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the ~~board~~ department under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator; provided, however, that such special rates when accepted by a nonregional generator shall be disclosed to the compact commission and to all regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator. Within one business day of a special disposal rate’s acceptance, the site operator shall notify the ~~board~~ department, the compact commission, and the regional generators in writing of each special rate that has been accepted by a nonregional generator, and the ~~board~~ department, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the ~~board~~ department for a nonregional generator is lower than a disposal rate approved by the ~~board~~ department for regional generators for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the nonregional generator. Regional generators may enter into contracts for waste disposal at such special rate and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the ~~board~~ department and the compact commission each month that no regional generator disposal rate exceeds any nonregional generator’s special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the ~~board~~ department and the compact commission.

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

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

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

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

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

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

(a) the receipt of waste;

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

(c) construction and maintenance of necessary physical facilities;

(d) the purchase or amortization of necessary equipment;

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

(f) accounting and billing for waste disposal;

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

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

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

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

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

(l) taxes other than income taxes;

(m) licensing and permitting fees; and

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

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

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

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

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

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

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

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

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

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

(9) In all proceedings held pursuant to this section, the ~~board~~ department shall participate as a party representing the interests of the State of South Carolina, and the compact commission may participate as a party representing the interests of the compact states. The Executive Director of the Office of Regulatory Staff and the Attorney General of the State of South Carolina shall be parties to any such proceeding. Representatives from the Department of Health and Environmental Control shall participate in proceedings where necessary to determine or define the activities that a site operator must conduct in order to comply with the regulations and license conditions imposed by the department. Other parties may participate in the PSC’s proceedings upon satisfaction of standing requirements and compliance with the PSC’s procedures. Any site operator submitting records and information to the PSC may request that the PSC treat such records and information as confidential and not subject to disclosure in accordance with the PSC’s procedures.

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

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

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

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

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

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

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

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

(2) All revenues in excess of two million dollars received from waste disposed during the previous fiscal year must be deposited in a fund called the ‘Nuclear Waste Disposal Receipts Distribution Fund’. Any South Carolina waste generator whose disposal fees contributed to the fund during the previous fiscal year may submit a request for a rebate of 33.33 percent of the funds paid by the generator during the previous fiscal year for disposal of waste at a regional disposal facility. These requests along with invoices or other supporting material must be submitted in writing to the State Treasurer within fifteen days of the end of the fiscal year. For this purpose disposal fees paid by the generator must exclude any fees paid pursuant to Section 48‑46‑60(C) for compact administration and fees paid pursuant to Section 48‑46‑60(B) for reimbursement of the PSC, the Office of Regulatory Staff, the State Treasurer, and the ~~board~~ department for administrative expenses under this chapter. Upon validation of the request and supporting documentation by the State Treasurer, the State Treasurer shall issue a rebate of the applicable funds to qualified waste generators within sixty days of the receipt of the request. If funds in the Nuclear Waste Disposal Receipts Distribution Fund are insufficient to provide a rebate of 33.33 percent to each generator, then each generator’s rebate must be reduced in proportion to the amount of funds in the account for the applicable fiscal year.

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

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

SECTION 23. Section 48‑46‑50 of the 1976 Code is amended to read:

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

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

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

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

(1) 160,000 cubic feet in fiscal year 2001;

(2) 80,000 cubic feet in fiscal year 2002;

(3) 70,000 cubic feet in fiscal year 2003;

(4) 60,000 cubic feet in fiscal year 2004;

(5) 50,000 cubic feet in fiscal year 2005;

(6) 45,000 cubic feet in fiscal year 2006;

(7) 40,000 cubic feet in fiscal year 2007;

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

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

SECTION 24. Section 48‑46‑90 of the 1976 Code is amended to read:

“Section 48‑46‑90. (A) In accordance with Section 13‑7‑30, the ~~board~~ department, or its designee, is responsible for extended custody and maintenance of the Barnwell site following closure and license transfer from the facility operator. The Department of Health and Environmental Control is responsible for continued site monitoring.

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

SECTION 25. Section 48‑52‑410 of the 1976 Code is amended to read:

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

SECTION 26. Section 48‑52‑440 of the 1976 Code is amended to read:

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

~~(1)~~ ~~two representatives of investor‑owned electricity companies;~~

~~(2)~~ ~~two representatives of electric cooperatives~~;

~~(3)~~ ~~one representative of the South Carolina Public Service Authority, who shall serve ex officio;~~

~~(4)~~ ~~one representative of municipally‑owned electric utilities;~~

~~(5)~~ ~~one representative of publicly‑owned natural gas companies;~~

~~(6)~~ ~~one representative of investor‑owned gas companies;~~

~~(7)~~ ~~one representative of oil suppliers or dealers;~~

~~(8)~~ ~~one representative of propane suppliers or dealers;~~

~~(9)~~ ~~one representative of nonprofit public transportation providers;~~

~~(10)~~ ~~two representatives of industrial consumers;~~

~~(11)~~ ~~two representatives of commercial consumers;~~

~~(12)~~ ~~two representatives of individual consumers; one must be the Executive Director of the Office of Regulatory Staff or his designee, who shall serve ex officio;~~

~~(13)~~ ~~two representatives of environmental groups; and~~

~~(14)~~ ~~one at‑large member appointed by the Governor.~~

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

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

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

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

Nothing in this section changes the exclusive administration of the Low Income Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the Department of Administration’s Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

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

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

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

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

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

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

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

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

(1) the development of energy efficiency and conservation;

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

(3) nuclear energy; and

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

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

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

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

SECTION 27. Section 48‑52‑460 of the 1976 Code is amended to read:

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

SECTION 28. Section 48‑52‑635 of the 1976 Code is amended to read:

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

SECTION 29. Section 48‑52‑680 of the 1976 Code is amended to read:

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

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

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

Part VIII

Joint Strategic Technology Committee

SECTION 30. Title 2 of the 1976 Code is amended by adding:

“Chapter 9

Joint Strategic Technology Committee

Section 2‑9‑10. (A) There is created a joint committee of the General Assembly to be known as the Joint Strategic Technology Committee consisting of eight members. The chairman of the Senate Finance Committee shall appoint four members, at least two of whom must be appointed from the Senate Finance Committee. The chairman of the House Ways and Means Committee shall appoint four members, at least two of whom must be appointed from the House Ways and Means Committee.

(B) The Joint Strategic Technology Committee shall have the following purposes and responsibilities:

(1) The joint committee shall review the Statewide Strategic Information Technology Plan prepared by the Department of Administration and the Agency Directors Technology Advisory Committee and, as needed, make recommendations to the Senate Finance Committee and the House Ways and Means Committee regarding the plan by January 29 of the current fiscal year. Any expenditure or procurement under the jurisdiction of the Department of Administration, either directly or indirectly, which exceeds one million dollars must be presented to the joint committee for review and comment. The joint committee shall also recommend priorities for state government enterprise information technology projects and resource requirements as it determines appropriate;

(2) The joint committee shall review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating state agency information technology. State agencies must consult with hardware maintenance manager vendors under state contract to determine whether the agency may achieve cost savings by utilizing these contracts for information technology. The joint committee shall recommend to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, for referral to the appropriate standing committees, any statutory changes appropriate for the successful implementation of the Statewide Strategic Information Technology Plan and the efficient and effective management and use of information technology by state government.

(C) The Department of Administration and all state agencies shall cooperate with and provide assistance to the Joint Strategic Technology Committee as requested by the committee.

(D) The Director of the Department of Administration shall appoint an Agency Directors Technology Advisory Committee. The director shall determine the number and composition of this committee, which shall represent a cross‑section of state government agencies. This committee shall provide input and advice regarding the Statewide Strategic Information Technology Plan developed by the State through the Department of Administration. The committee shall also assist and advise the Joint Strategic Technology Committee at its request.”

Part IX

Naval Base Museum Authority

SECTION 31. (A) Notwithstanding any other provision of law, in addition to the present members of the Charleston Naval Complex Redevelopment Authority, as created by gubernatorial executive order pursuant to Section 31‑12‑40 of the 1976 Code, there shall be four additional members, two appointed by the Speaker of the House of Representatives and two appointed by the President Pro Tempore of the Senate. These four additional members shall each serve for terms of four years and until their successors are appointed and qualify. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner of original appointment.

(B) These four additional members shall serve as members of the Charleston Naval Complex Redevelopment Authority with the same powers, duties, and responsibilities of other such members as provided by law. In addition, these four members, together with the gubernatorial appointees to the Charleston Naval Complex Redevelopment Authority, shall also constitute the Charleston Navy Base Museum Authority as a division of the Charleston Naval Redevelopment Authority. Service as a member of the Navy Base Museum Authority is considered an additional and supplemental function and duty of those specified members of the Naval Complex Redevelopment Authority and is not considered another office of honor or profit of this State. The Navy Base Museum Authority shall select from among its members a chairman and such other officers as they consider necessary.

(C) The Naval Base Museum Authority shall become operative upon the signing of a Memorandum Of Understanding between the RDA and the Hunley Commission. With respect to the Hunley project, the MOU must provide for the Naval Base Museum Authority division of the RDA to undertake and comply with the duties, responsibilities, powers, and functions of the Hunley Commission as specified in Sections 54-7-100 and 54-7-110 of the 1976 Code, and as otherwise provided by law. The Navy Base Museum Authority shall possess and may exercise all powers and authority granted to the Hunley Commission by specific statutory reference in Sections 54‑7‑100 and 54‑7‑110.

Part X

South Carolina Rural Infrastructure Authority

SECTION 32. Section 11‑50‑50 of the 1976 Code is amended to read:

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

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

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

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

(C) The board of directors also constitute the governing board of the Tobacco Settlement Revenue Management Authority.”

SECTION 33. Section 11‑50‑60(A)(15) of the 1976 Code is amended to read:

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

SECTION 34. Chapter 10 of Title 12 of the 1976 Code is amended by adding:

“Section 12‑10‑86. Notwithstanding Section 12‑10‑85, the Department of Revenue is authorized to deposit revenues from the Rural Infrastructure Fund in excess of twelve million dollars to the South Carolina Rural Infrastructure Fund under the South Carolina Rural Infrastructure Authority. Any revenues in excess of seventeen million dollars shall be deposited in the Rural Infrastructure Fund under the Department of Commerce, Coordinating Council.”

SECTION 35. The State Budget and Control Board shall transfer all the funds in the South Carolina Rural Infrastructure Bank Trust Fund, created by Act 115 of 2005, to the South Carolina Rural Infrastructure Fund, authorized by Act 171 of 2010.

SECTION 36. Section 1‑11‑25 of the 1976 Code, relating to the Local Government Division of the State Budget and Control Board, and Section 1‑11‑26 of the 1976 Code, relating to the use of funds from the Local Government Division, are repealed.

Part XI

Legislative Oversight of Executive Departments

SECTION 37. Subsections (B) through (H) of Section 1‑30‑10 of the 1976 Code are amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

~~(i)~~ ~~Department of Corrections, created pursuant to Section 1‑30‑30, by the director of the former Department of Corrections;~~

~~(ii)~~ ~~Department of Juvenile Justice created pursuant to Section 1‑30‑60, by the interim director of the former Department of Youth Services;~~

~~(iii)~~ ~~Department of Probation, Parole, and Pardon Services created pursuant to Section 1‑30‑85 by the director of the former Department of Probation, Pardon and Parole;~~

~~(iv)~~ ~~Department of Social Services created pursuant to Section 1‑30‑100, by the director of the former Department of Social Services;~~

~~(v)~~ ~~Department of Parks, Recreation and Tourism created pursuant to Section 1‑30‑80, by the director of the former Department of Parks, Recreation and Tourism;~~

~~(vi)~~ ~~Department of Commerce created pursuant to Section 1‑30‑25, by the Executive Director of the former State Development Board;~~

~~(vii)~~ ~~Department of Alcohol and Other Drug Abuse Services created pursuant to Section 1‑30‑20, by the director of the former South Carolina Commission on Alcohol and Drug Abuse.~~

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

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

(G)(1) Department and agency governing authorities must, no later than the first day of the ~~1994~~ 2012 Legislative Session and every twelve months thereafter ~~for the following three years~~, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House and Senate may provide by rule for the referral of these reports. ~~Thereafter,~~ The Governor ~~shall~~ must periodically consult with the governing authorities of the various departments and upon such consultation, the Governor ~~shall~~ must submit a report of any restructuring recommendations to the General Assembly for its review and consideration.

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

~~(i)~~ ~~Office of Executive Policy and Programs;~~

~~(ii)~~ ~~Office of Energy Programs;~~

~~(iii)~~ ~~Office of Personnel and Program Services;~~

~~(iv)~~ ~~Office of Research;~~

~~(v)~~ ~~Division of Health;~~

~~(vi)~~ ~~Division of Economic Opportunity;~~

~~(vii)~~ ~~Division of Economic of Development;~~

~~(viii)~~ ~~Division of Ombudsman and Citizens’ Services;~~

~~(ix)~~ ~~Division of Education;~~

~~(x)~~ ~~Division of Natural Resources;~~

~~(xi)~~ ~~Division of Human Services.~~

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

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

SECTION 38. Section 8‑27‑10(4) of the 1976 Code is amended to read:

“(4) ‘Report’ means:

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

(~~a~~i) the date of disclosure;

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

(~~c~~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 ~~sixty days~~ one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing~~.~~; or

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

SECTION 39. Chapter 27 of Title 8 of the 1976 Code is amended by adding:

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

SECTION 40. Title 2 of the 1976 Code is amended by adding:

“Chapter 2

Legislative Oversight of Executive Departments

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

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

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

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

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

(a) the legislative department of state government; or

(b) a political subdivision.

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

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

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

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

Section 2‑2‑20. (A) Beginning January 1, 2012, each standing committee must conduct oversight studies and investigations on all agencies within the standing committee’s subject matter jurisdiction at least once every four years in accordance with a schedule adopted as provided in this chapter.

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

(1) are being implemented and carried out in accordance with the intent of the General Assembly; and

(2) should be continued, curtailed, or eliminated.

(C) The oversight studies and investigations must consider:

(1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction;

(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction; and

(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee’s subject matter jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

Section 2‑2‑40. (A) In addition to the scheduled four‑year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

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

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

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

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

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

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

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

(1) the agency program or operations that it intends to investigate;

(2) the information that must be included in the report; and

(3) the date that the report must be submitted to the committee.

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

(1) enabling or authorizing law or other relevant mandate, including any federal mandates;

(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:

(a) established priorities, including goals and objectives in meeting each priority;

(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;

(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;

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

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

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

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

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

(8) identification of emerging issues for the agency;

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

(10) agency policies for collecting, managing, and using personal information over the Internet and non‑electronically, information on the agency’s implementation of information technologies;

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

(a) the statutory authority for each filing requirement;

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

(c) the frequency that filing is required;

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

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

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

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

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

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

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

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

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

SECTION 41. This Part takes effect July 1, 2012.

Part XII

Miscellaneous

SECTION 42. A. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 79

State Agency Deficit Prevention and Recognition

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

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

Section 2‑79‑30. If at the end of each quarterly deficit monitoring review by the Office of State Budget, it is determined by either the Office of State Budget or a state agency, department, or institution that the likelihood of a deficit for the current fiscal year exists, the state agency shall submit to the Office of State Budget and the General Assembly within fourteen days, a plan to eliminate the projected deficit. After submission of the plan, if it is determined that the deficit cannot be eliminated by the state agency, department, or institution on its own, the state agency is required to officially notify the General Assembly within fifteen days of the determination that the state agency is requesting that a deficit be recognized.

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

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

Section 2‑79‑50. Once a deficit has been recognized by the General Assembly, the state agency, department, or institution shall limit travel and conference attendance to the minimum required to perform its core mission. In addition, the General Assembly, when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles must be approved by the Office of State Budget.

Section 2‑79‑60. Section 2‑79‑60. (A)(1) An officer or employee of this State may not:

(a) except following the enactment of a joint resolution pursuant to Section 2‑79‑40, make or authorize an expenditure or obligation exceeding the amount available in an existing state appropriation or existing state fund for the expenditure or obligation; or

(b) unless otherwise authorized by law, involve the state government in a contract or obligation for the payment of money before an appropriation to fund the contract or obligation is made.

(B)(1) An officer or employee of this State may not employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.

(2) As used in this subsection, ‘emergencies involving the safety of human life or the protection of property’ do not include ongoing, regular functions of state government the suspension of which would not imminently threaten the safety of human life or the protection of property.

(C)(1) If an employee of this State covered by the State Employee Grievance Protection Act is determined by his employing authority knowingly and wilfully to have violated a provision of this section, the officer may be suspended with or without pay, as appropriate, and, pending final action pursuant to that act, dismissed, demoted, or otherwise disciplined.

(2) If an ‘at will’ employee or an officer of this State is determined by his employing or appointing authority knowingly and wilfully to have violated a provision of this section, the officer or employee may be dismissed, demoted, or otherwise disciplined. An ‘at will’ employee subject to a personnel action pursuant to this section is nevertheless entitled to appeal that action to his employing or appointing authority at a hearing at which the officer or employee may be represented by a person of his choosing. The decision of the hearing body or officer is final with respect to the disposition of this personnel action.

(D) The provisions of Subsection (C) of this section are in addition to and not in lieu of any other administrative or criminal penalties provided by law for violating similar provisions of law, including, specifically, the criminal penalties provided for violations pursuant to Section 11‑1‑40.”

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

SECTION 43. Chapter 47 of Title 2 of the 1976 Code is amended to read:

“Chapter 47

Joint Bond Review Committee

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

Section 2‑47‑15. (A) Subject to the conditions and limitations set forth in Article X, Section 13 of the South Carolina Constitution, the General Assembly shall establish annually in a joint resolution monetary limitations for the issuance of State general obligation and institutional bonds for specific categories of bonded indebtedness based on the capability of the State to fulfill such obligations considering current and projected revenues. The State Treasurer shall not initiate incurring of State general obligation and institutional bonds above the limitations established annually by the General Assembly. Unless otherwise specifically accounted for in A. \_\_\_ of 2012, R. \_\_\_, H. 3066, there is devolved upon the Bond Review Authority all functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this A. \_\_\_ of 2012, R. \_\_\_, H. 3066 related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law. The authority shall establish criteria, upon consultation with the Joint Bond Review Committee, to apply to the review and approval process.

(B) Bonded indebtedness issued by the South Carolina Jobs ‑ Economic Development Authority and political subdivisions do not require approval by the Bond Review Authority. The South Carolina Jobs ‑ Economic Development Authority and political subdivisions shall submit a report to the Bond Review Authority of any bonds the entity issues. Bonded indebtedness issued pursuant to this subsection does not constitute nor give rise to a pecuniary liability to the State or a charge against the credit or taxing powers of the State.

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

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

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

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

(1) To review, prior to approval by the ~~Budget and Control Board~~ Bond Review Authority, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly.

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

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

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

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

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

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

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

Section 2‑47‑40. (A) To assist the ~~State Budget and Control Board (the Board)~~ Bond Review Authority and the Joint Bond Review Committee ~~(the Committee)~~ in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the ~~Board~~ authority, in such form and at such times as the ~~Board~~ authority, after review by the Committee, may prescribe:

~~(a)~~(1) a complete description of the proposed project;

~~(b)~~(2) a statement of justification for the proposed project;

~~(c)~~(3) a statement of the purposes and intended uses of the proposed project;

~~(d)~~(4) the estimated total cost of the proposed project;

~~(e)~~(5) an estimate of the additional future annual operating costs associated with the proposed project; (f) a statement of the expected impact of the proposed project on the five‑year operating plan of the agency or institution proposing the project;

~~(g)~~(6) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and

~~(h)~~(7) the specification of the priority of each project among those proposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2-47-80. (A) To ensure the integrity and the effectiveness of the Insurance Reserve Fund, the Joint Bond Review Committee shall receive a monthly report from the Department of Administration. The department’s monthly reports must provide information concerning each policy issued, the premiums collected, each claim paid, attorney fees, and financial management data during the period concluding one month prior to the date on which the report is transmitted to the Joint Bond Review Committee.

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

SECTION 44. Section 2‑15‑50(b)(2) of the 1976 Code is amended to read:

“(2) the effectiveness of organizations, programs, activities or functions; and whether these organization, programs, activities, or functions should be continued, revised, or eliminated;”

SECTION 45. Chapter 17, Title 60 of the 1976 Code is amended by adding:

“CHAPTER 17.

SOUTH CAROLINA CONFEDERATE RELIC ROOM AND MILITARY MUSEUM COMMISSION

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

(1) three members appointed by the Governor;

(2) two members appointed by the President Pro Tempore of the Senate;

(3) one member appointed by the President Pro Tempore of the Senate upon the recommendation of the South Carolina Division Commander of the Sons of Confederate Veterans;

(4) two members appointed by the Speaker of the House of Representatives; and

(5) one member appointed by the Speaker of the House of Representatives upon the recommendation of the President of the South Carolina Division of the United Daughters of the Confederacy.

(B) Initially, in order to stagger terms:

(1) one member appointed by the Governor shall serve a term of one year;

(2) one member appointed by the Governor shall serve a term of two years;

(3) one member appointed by the Governor shall serve for three years;

(4) one member appointed by the President Pro Tempore of the Senate shall serve for one year’

(5) one member appointed by the President Pro Tempore of the Senate shall serve for two years;

(6) one member appointed by the President Pro Tempore of the Senate shall serve for three years;

(7) one member appointed by the Speaker of the House of Representatives shall serve for one year;

(8) one member appointed by the Speaker of the House of Representatives shall serve for two years; and

(9) one member appointed by the Speaker of the House of Representatives shall serve for three years.

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

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

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

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

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

B. Article 7, Chapter 11, Title 1 is repealed.

SECTION 46. A. Section 1-6-20(B) of the 1976 Code, as added by A. \_\_ of 2012, R. 112, S. 258, is amended to read:

“(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies and must conduct annual audits of state agencies pursuant to Section 1‑6‑110.”

B. Section 1-6-20(D)(3) of the 1976 Code, as added by A. \_\_ of 2012, R. 112, S. 258, is amended to read:

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

C. Chapter 6, Title 1 of the 1976 Code, as added by A. \_\_ of 2012, R. 112, S. 258, is amended by adding:

“Section 1‑6‑110. (A)(1) All agencies are subject to audit supported partially or entirely by public funds are subject to audit by or under the oversight of the State Inspector General, except as otherwise specifically provided by law. The State Inspector General, to the extent practicable and consistent with his overall responsibility, shall audit or cause to be audited each State agency and entity annually.

(2) Annually the State Auditor shall audit or cause to be audited the State’s basic financial statements prepared by the Comptroller General of South Carolina.

(3) Annually the State Auditor shall audit or cause to be audited the compliance of the State of South Carolina with the U. S. Office of Management and Budget (OMB) Circular A‑133 Compliance Supplement as applicable to major Federal programs.

(4) Audits must be conducted in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A‑133, Audits of States, Local Governments, and Nonprofit Organizations.

(B) To the extent practicable and consistent with his overall responsibility, the State Inspector General periodically shall audit or cause to be audited the financial records of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report if fines and assessments imposed pursuant to Sections 14‑1‑205 through 14‑1‑208 are collected properly and remitted to the State Treasurer. Upon the issuance of an audit report, the State Inspector General immediately shall notify the State Treasurer, Division of Court Administration, and the chief administrator of the affected agency, department, county, or municipality.

(C) Reports of audit findings must be available to the Governor, the Department of Administration, General Assembly, and the general public. The State Inspector General shall notify the Governor, the Department of Administration, and the General Assembly immediately upon the issuance of an audit report.

(D) In order to carry out his duties, the State Inspector General and his assistants or designees must have access to all records and facilities of every state agency during normal operating hours. The State Inspector General and his assistants or designees shall have access to all relevant records and facilities of a private organization receiving appropriated state monies, relating to the management and expenditures of these state monies, during the organization’s normal operating hours. In the performance of his official duties, the State Inspector General and his assistants or designees are subject to the statutory provisions and penalties regarding the confidentiality of records of the agency or organization under review. All audit working papers and memoranda of the State Inspector General, except final audit reports, are confidential and not subject to public disclosure.

(E) The State Inspector General shall bill the South Carolina Department of Health and Human Services monthly for fifty percent of the costs incurred by the State Inspector General in conducting the medical assistance audit. The amount billed by the State Inspector General must include those appropriated salary adjustments and employer contributions allowable under the Medicaid program. The Department of Health and Human Services shall remit the amount billed to the credit of the general fund of the State.

(F) As required by professional auditing standards, the State Inspector General shall maintain independence in the performance of his authorized duties. Neither the Governor nor an agency or entity of the executive or judicial branches of State government has the authority to limit the scope, direction, or report content of an audit undertaken by the State Inspector General.

(G)(1) To preserve the independence and objectivity of the audit function, the State Inspector General or his employees may not serve in any capacity on an administrative board, commission, or other organization that they have the responsibility or authority to audit, and they may not have a material, direct or indirect, financial or other economic interest in the transactions of a state agency.

(2) The State Inspector General or a member of his staff may not conduct an audit of a program, activity, or agency for which he had management responsibility or by which he has been employed during the last two years.

(H) The State Inspector General may obtain the services of independent public accountants as he considers necessary to carry out his duties and responsibilities. The State Inspector General may use funds appropriated for personal services to contract with private firms, using a request for proposals, to perform audits.

(I) The Office of State Inspector General must receive funding for audits conducted by that office through a specific line item in the annual general appropriations act.”

D. This SECTION takes effect on July 1, 2012.

SECTION 47. A. Section 11‑35‑310(2) of the 1976 Code is amended to read:

“(2) “Board” means ~~Budget and Control Board~~ the Procurement Oversight Board established in Section 11‑35‑315.”

B. Subarticle 5, Article 1, Chapter 35, Title 11 of the 1976 Code is amended by adding:

“Section 11‑35‑310. (A) There is hereby established the Procurement Oversight Board to be comprised of five members appointed to four‑year terms with one member each appointed by the Governor, the Comptroller General, the State Treasurer, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. A board member may only be removed by his appointing official for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity and the removal must: (1) be done in writing stating the specific reasons for the member’s removal, (2) contain the concurring signatures of at least two of the other appointing authorities; and (3) be published in a conspicuous location on the Department of Administration’s internet website. The board shall elect one member to serve as chairman and must meet at least quarterly to carry out the duties and responsibilities provided by this chapter. The members of the board may receive the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual expenses in connection with and as a result of their membership and service on the board.

(B) A board member or his immediate family must not have an economic interest that would cause the member to recuse himself from participating in the deliberations or voting on any matter before the board pursuant to Section 8‑13‑700.

C. Upon the effective date of the creation of the Procurement Oversight Board, all offices established by Chapter 35 of Title 11 and corresponding staff and equipment are transferred to the Procurement Oversight Board. The Department of Administration, at its own expense, must provide appropriate office space, building, and facility service including janitorial, utility and telephone services, computer and technology services, and related supplies to the board and the transferred offices pursuant to a Memorandum of Understanding executed by the Director of the Department of Administration and the Chairmen of the Procurement Oversight Board.

SECTION 48. Section 2-59-10(1) of the 1976 Code is amended to read:

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

Part XIII

Subpart 1

South Carolina Public Employee Benefit Authority

SECTION 49. A. Title 9 of the 1976 Code is amended by adding:

“CHAPTER 4

South Carolina Public Employee Benefit Authority

Article 1

General Provisions

Section 9‑4‑10. (A) Effective, July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The authority is comprised of the employee insurance division and the retirement systems division. The governing body of the authority is a board of directors consisting of nine members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective, efficient, operation of the authority, including the hiring of an executive director of the authority. The executive director must be employed by the authority and compensation of the executive director may be fixed by the board in its judgment and as appropriated by the General Assembly.

(B) The board is composed of:

(1) three members appointed by the Governor;

(2) two representative members, appointed by the President Pro Tempore of the Senate, one who is either an active or retired member of the Police Officers Retirement System and one who is a retired member of the South Carolina Retirement System;

(3) one member appointed by the Chairman of the Senate Finance Committee;

(4) two representative members appointed by the Speaker of the House of Representatives, one of whom must be a state employee who is an active contributing member of the South Carolina Retirement System and an employee of a public school district in South Carolina who is an active member of the South Carolina Retirement System;

(5) one member appointed by the Chairman of the House Ways and Means Committee.

(C)(1) A nonrepresentative member may not be appointed to the board unless the person possesses at least one of the following qualifications:

(a) at least twelve years of professional experience in the financial management of pensions or insurance plans;

(b) at least twelve years academic experience and holds a bachelor’s or higher degree from a college or university as classified by the Carnegie Foundation;

(c) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise;

(d) at least twelve years as a Certified Financial Planner credential of the Certified Financial Planner Board of Standards; or

(e) at least twelve years membership in the South Carolina Bar and:

(i) wide experience in federal and state tax matters; or

(ii) an advanced legal degree in taxation; or

(iii) a specialization in tax law.

(2) In addition to the requirements of subsections (B)(2) and (4) of this section, a representative member may not be appointed to the board unless the person:

(a) possesses one of the qualifications set forth in item (1); or

(b) has at least twelve years of public employment experience and holds a bachelor’s degree from a college or university as classified by the Carnegie Foundation.

(D) Representative members must be appointed from three nominations jointly made to the appointing official by membership organizations representative of the interests to be represented. The appointing official may request three additional nominations if the official elects not to appoint any of those nominated.

(E) Members of the board shall serve for terms of two years and until their successors are appointed and qualify. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Terms commence on July first of even numbered years. Upon a member’s appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (B) and (C). No person appointed may qualify unless he first certifies that he meets or exceeds the qualifications applicable for their appointment. A member may be removed before the expiration of his term by the applicable appointing official only for the reasons specified in Section 1‑3‑240(C).

(F) The members shall select a nonrepresentative member to serve as chairman and shall select those other officers they determine necessary. Subject to the qualifications for chairman provided in this section, members may set their own policy related to the rotation of the selection of a chairman of the board.

(G)(1) Each member must receive an annual salary of twelve thousand dollars. This compensation must be paid from approved accounts of general funds and retirement system funds based on the proportionate amount of time the board devotes to its various functions. Members may receive the mileage and subsistence authorized by law for members of state boards, commissions, and committees paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

(2) Notwithstanding any other provision of law, membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid on account of the member’s service on the board is not considered earnable compensation for purposes of any state retirement system.

(H) Minimally, the board shall meet monthly. If the chairman considers it more effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.

Section 9‑4‑20. (A) The South Carolina Public Employee Benefit Authority shall operate an employee insurance program division to administer insurance programs pursuant to Article 5, Chapter 11, Title 1.

(B) The board of directors of the authority shall appoint a State Health Plan Advisory Committee (committee) to review and make recommendations to the board on proposed changes to the State Health Plan. Representation on the committee must be equal among health care professionals, the insurance industry, and consumers. The board, by resolution, shall establish the committee, provide for its membership, and provide for its operations. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions to be paid from approved accounts of the authority.

Section 9‑4‑30. (A)(1) The South Carolina Public Employee Benefit Authority shall operate a retirement division to administer the various retirement system and retirement programs pursuant to Title 9 and, effective after December 31, 2013, to administer the deferred compensation program pursuant to Chapter 23, Title 8.

(2) Expenses incurred by the retirement division in administering, after December 31, 2013, the deferred compensation plans must be reimbursed to the retirement division from funds generated by the deferred compensation plans available to pay for administrative expenses.

(B)(1)(a) Notwithstanding the provisions of Sections 9‑1‑1020 and 9‑1‑1050, or any other provision of Chapter 1 of this title relating to the setting of employee and employer contributions required for the South Carolina Retirement System either established by statute or administratively, the employer and employee contribution rates for this system for fiscal years 2012‑2013 through 2015‑2016 expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee

Contribution

2012‑2013 9.38 6.64

2013‑2014 10.45 7.14

2014‑2015 10.45 7.64

2015‑2016 and after 10.45 7.71

(b) If the scheduled employer and employee contributions provided in subitem (a) of this item are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of this system, then the board of directors shall increase the contributions as provided in the schedule provided in subitem (a) of this item in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one half percent of earnable compensation provided pursuant to subitem (c) of this item, but the differentials in the employer and employee contribution rates provided in subitem (a) of this item must be maintained at the rate provided in the schedule for the applicable fiscal year.

(c) After June 30, 2016, and in addition to any increase imposed pursuant to subitem (b) of this item, the board of directors, when it determines it necessary, may impose an increase in the percentage rate in employer and employee contributions for that system, but any such increase may not result in a differential between the employee and employer contribution rate for that system that exceeds 2.74 percent of earnable compensation. An increase in the contribution rate imposed by the board of directors pursuant to this item may not be imposed in an amount of more than one‑half of one percent of earnable compensation in any one year.

(2)(a) Notwithstanding the provisions of Sections 9‑11‑75, 9‑11‑210(1), 9‑11‑220, or any other provision of Chapter 11 of this title relating to the setting of employee and employer contributions required for the South Carolina Police Officer Retirement System established either by statute or administratively, the employer and employee contribution rates for this system for fiscal years 2012‑2013 through 2015‑2016 expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee

Contribution

2012‑2013 11.36 6.73

2013‑2014 11.90 7.23

2014‑2015 and after 11.90 7.27

(b) If the scheduled employer and employee contributions provided in subitem (a) of this item are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of this system, then the board of directors shall increase the contributions as provided in the schedule provided in subitem (a) of this item in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one half percent of earnable compensation provided pursuant to subitem (c) of this item, but the differentials in the employer and employee contribution rates provided in subitem (a) of this item must be maintained at the rate provided in the schedule for the applicable fiscal year.

(c) After June 30, 2015, and in addition to any increase imposed pursuant to subitem (b) of this item, the board of directors, when it determines it necessary, may impose an increase in the percentage rate of employer and employee contributions for that system, but any such increase may not result in a differential between the employee and employer contribution rate for that system that exceeds 4.63 percent of compensation. An increase in contributions imposed by the board of directors pursuant to this item may not be imposed in an amount more than one‑half percent of compensation in any one year.

(3) Increases in employer and employee contribution rates above those allowed pursuant to items (1) and (2) of this subsection may be imposed only by an act of the General Assembly.

(C) The South Carolina Public Employee Benefits Authority shall provide copies of annual actuarial valuations of all retirement systems requiring such annual valuations to the General Assembly by the second Tuesday in January of every year.

Section 9‑4‑40. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the South Carolina Public Employee Benefit Authority. The audit firm must be selected by the State Inspector General. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

Section 9‑4‑50. (A) The South Carolina Public Employee Benefit Authority shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the authority’s Internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

(i) the transaction amount;

(ii) the name of the payee;

(iii) the identification number of the transaction; and

(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

(b) The register must include all reimbursements for expenses, but must not include an entry for:

(i) salary, wages, or other compensation paid to individual employees; and

(ii) retirement benefits, deferred compensation plan distributions, insurance reimbursements, or other payments paid to individual employees, members, or participants, as applicable, pursuant to programs administered by the board.

(c) The register must not include a social security number.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(e) The register may exclude any information that can be used to identify an individual employee or student.

(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

(B) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

(C) If the authority has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Comptroller General’s Office, which may provide guidance to the authority.

B. This SECTION takes effect July 1, 2012.

Subpart 2

Conforming Amendments for the South Carolina Public Employee Benefit Authority

SECTION 50. Section 1‑11‑703(9) and (10) of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority.

(10) ‘Employee insurance program’ or ‘EIP’ means the office of the ~~board~~ South Carolina Public Employee Benefit Authority designated by the board to operate insurance programs pursuant to this article.”

SECTION 51. RESERVED

SECTION 52. RESERVED

SECTION 53. Section 1‑11‑710(A) of the 1976 Code, as last amended by Act 195 of 2008, before the first item, is amended to read:

“(A) The ~~State Budget and Control Board~~ board shall:”

SECTION 54. Section 1‑11‑720(B) of the 1976 Code is amended to read:

“(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the ~~State Budget and Control Board~~ board, and the benefits provided must be the same benefits provided to state and school district employees. These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.”

SECTION 55. Section 1‑11‑725 of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“Section 1‑11‑725. The ~~State Budget and Control Board’s~~ board’s experience rating of all local disabilities and special needs providers pursuant to Section 1‑11‑720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.”

SECTION 56. Section 1‑11‑730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is amended to read:

“(2) A member of the General Assembly who leaves office or retires with at least eight years’ credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the ~~State Budget and Control Board~~ board.”

SECTION 57. Sections 1‑11‑740 and 1‑11‑750 of the 1976 Code are amended to read:

“Section 1‑11‑740. The Division of Insurance Services of the ~~State Budget and Control Board~~ board may develop an optional long‑term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.

Section 1‑11‑750. The ~~Budget and Control Board~~ board shall devise a method of withholding long‑term care insurance premiums offered under Section 1‑11‑740 for retirees if sufficient enrollment is obtained to make the deductions feasible.”

SECTION 58. Section 1‑11‑770(A) of the 1976 Code, before the first item, is amended to read:

“(A) Subject to appropriations, the General Assembly authorizes the ~~State Budget and Control Board~~ board to plan, develop, and implement a statewide South Carolina 211 Network, which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:”

SECTION 59. A. Sections 8‑23‑20 and 8‑23‑30 of the 1976 Code, as last amended by Act 305 of 2008, are amended to read:

“Section 8‑23‑20. ~~A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.~~

The ~~commission~~ board of directors of the South Carolina Public Employee Benefit Authority shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The ~~commission~~ board shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program an individual account shall be maintained in the name of each employee.

The ~~commission~~ board shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the ~~commission~~ board may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

Section 8‑23‑30. The State or any political subdivision of the State, by contract, may agree with an employee to defer, a portion of his compensation in an amount as provided for in a plan approved by the ~~commission~~ board of directors of the South Carolina Public Employee Benefit Authority and subsequently with the consent of the employee may contract for purchase or otherwise procure fixed or variable annuities, savings, mutual funds, insurance, or such other investments as the ~~commission~~ board may approve for the purpose of carrying out the objectives of the program with the advice and approval of the State Treasurer. The investments shall be underwritten and offered in compliance with applicable federal and state laws and regulations by persons who are authorized by the ~~commission~~ board in accordance with the provisions of this chapter.”

B. Section 8‑23‑70 of the 1976 Code is amended to read:

“Section 8‑23‑70. The Deferred Compensation Program established pursuant to this chapter shall be in addition to retirement, pension, or benefit systems established by the State, federal government, or political subdivision and no deferral of income under the Deferred Compensation Program shall affect a reduction of any retirement, pension, social security, or other benefit provided by law. Any sum deferred under the Deferred Compensation Program shall not be subject to taxation until distribution is actually made to the employee.

Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the ~~State Deferred Compensation Commission~~ board of directors of the South Carolina Public Employee Benefit Authority by building and loan or savings and loan associations, banks, trust companies, and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation; provided, however, that (a) such deferred compensation plans or programs shall comply with applicable federal income tax law in providing income deferral, (b) all deferred amounts shall be held in accounts, certificates of deposit, or other forms of savings vehicles which are insured by the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations, the Federal Deposit Insurance Corporation in the case of commercial banks, and the National Credit Union Administration in the case of credit unions.”

C. Section 8‑23‑110 of the 1976 Code, as added by Act 387 of 2000, is amended to read:

“Section 8‑23‑110. (A) The ~~commission~~ board of directors of the South Carolina Public Employee Benefit Authority shall ensure that plan documents governing deferred compensation plans administered by the ~~commission~~ board permit employer contributions to the extent allowed under the Internal Revenue Code.

(B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the ~~commission~~ board or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.

(C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the ~~commission~~ board or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the ~~State Budget and Control Board~~ board.”

D. The amendments to Sections 8‑23‑20, 8‑23‑30, 8‑23‑70, and 8‑23‑110 of the 1976 Code contained in this SECTION take effect January 1, 2014.

SECTION 60. Section 9‑1‑10(6) of the 1976 Code is amended to read:

“(6) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority which shall act under the provisions of this chapter through its Division of Retirement Systems.”

SECTION 61. Section 9‑1‑20 of the 1976 Code is amended to read:

“Section 9‑1‑20. A retirement system is hereby established and placed under the management of the ~~State Budget and Control Board~~ board for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The system so created shall have the power and privileges of a corporation and shall be known as the ‘South Carolina Retirement System’, and by such name all of its business shall be transacted, all of its funds invested and all of its cash, securities, and other property held.”

SECTION 62. Section 9‑1‑210 of the 1976 Code is amended to read:

“Section 9‑1‑210. The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 63. Section 9‑1‑310 of the 1976 Code, as last amended by Act 155 of 2005, is amended to read:

“Section 9‑1‑310. The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the ~~State Budget and Control Board~~ board and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”

SECTION 64. Section 9‑1‑1515(D)(2) of the 1976 Code is amended to read:

“(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the ~~State Budget and Control Board~~ board.”

SECTION 65. Section 9‑1‑1830 of the 1976 Code, as last amended by Act 309 of 1986, is amended to read:

“Section 9‑1‑1830. Starting July 1, 1981, there must be paid to the system, and credited to the post‑retirement increase special fund, contributions by the employers in an amount equal to two‑tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the ~~State Budget and Control Board shall~~ board, on the recommendation of the actuary, shall transfer a portion of the monies as are received pursuant to Section 9‑1‑1050 that are available due to actuarial gains in the system if the transfers do not adversely affect the funding status of the system. Starting July 1, 1986, all contributions previously credited to the post‑retirement increase special fund must be diverted and credited to the employer annuity accumulation fund.”

SECTION 66. Chapter 2, Title 9 of the 1976 Code, as last amended by Act 170 of 1991, is further amended to read:

“CHAPTER 2

Retirement and Pre‑Retirement Advisory ~~Board~~ Panel

Section 9‑2‑10. There is ~~hereby~~ created the South Carolina Retirement and Pre‑Retirement Advisory ~~Board~~ Panel for the purpose of advising the director of the South Carolina Retirement System and the director of the State Personnel Division on matters relating to retirement and pre‑retirement programs and policies.

Section 9‑2‑20. (a) The ~~board~~ panel shall consist of eight members appointed by the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority and must be constituted as follows:

(1) one member representing municipal employees;

(2) one member representing county employees;

(3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;

(4) two members representing public school teachers, one of whom must be retired;

(5) one member representing the higher education teachers. The ~~Budget and Control Board~~ board of directors shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the ~~board~~ panel.

(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again four years after the expiration of his second term. Provided, that of those first appointed four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.

(c) A chairman, vice chairman, and secretary shall be elected from among the membership to serve for terms of two years.

Section 9‑2‑30. The ~~board~~ panel shall meet once a year with the director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the ~~State Budget and Control Board~~ executive director of the South Carolina Public Employee Benefit Authority. The chairman may call additional meetings of the ~~board~~ panel at such other times as ~~deemed~~ considered necessary and shall give timely notice of such meetings.

Section 9‑2‑40. The ~~board~~ panel shall review retirement and pre‑retirement programs and policies, propose recommendations, and identify major issues for consideration.

Section 9‑2‑50. The ~~board~~ panel is authorized to seek reasonable staff assistance from the South Carolina Retirement System, the State Personnel Division, and other state agencies which may be concerned with a particular area of study. The ~~board~~ panel is also encouraged to use such resources as faculty and students at public universities, colleges, and technical education schools in South Carolina.”

SECTION 67. Section 9‑8‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority.”

SECTION 68. Section 9‑8‑30(1) of the 1976 Code is amended to read:

“(1) The administration and responsibility for the operation of the system and for making effective the provisions of this chapter are vested in the ~~State Budget and Control Board~~ board.”

SECTION 69. The last undesignated paragraph of Section 9‑8‑60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

“A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly and ~~must~~ also must be a member of the General Assembly Retirement System unless the person files a statement with the ~~State Budget and Control Board~~ board on a form prescribed by the board electing not to participate in the General Assembly Retirement System while a member of the General Assembly. A person making this election shall not make contributions to the General Assembly Retirement System nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the General Assembly Retirement System after ceasing to be a member of the General Assembly.”

SECTION 70. Section 9‑9‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ ~~shall mean~~ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority.”

SECTION 71. Section 9‑9‑30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 72. Section 9‑10‑10(1) of the 1976 Code, as added by Act 155 of 2006, is amended to read:

“(1) ‘Board’ ~~or ‘board’~~ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority, acting pursuant to the provisions of this chapter through its Division of Retirement Systems.”

SECTION 73. Section 9‑10‑60(D) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the ~~State Budget and Control Board~~ board.”

SECTION 74. Section 9‑11‑10(9) of the 1976 Code is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority acting through its Division of Retirement Systems.”

SECTION 75. Section 9‑11‑30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 76. Section 9‑11‑75 of the 1976 Code, as added by Act 424 of 1988, is amended to read:

“Section 9‑11‑75. The ~~State Budget and Control Board~~ board shall adjust the employer contribution paid by employers under the South Carolina Police Officers Retirement System in an amount sufficient to offset the actuarial cost of the provisions of Sections 9‑11‑60 and 9‑11‑70, not to exceed three percent of payroll. If the employer contribution adjustment provided in this section is insufficient to offset the actuarial cost of the provisions of Sections 9‑11‑60, 9‑11‑70, 9‑11‑210, and 9‑11‑300, the board shall adjust employee contributions of the members of the South Carolina Police Officers Retirement System in an amount sufficient to offset the additional actuarial cost. If the contribution rates as set pursuant to Sections 9‑11‑60, 9‑11‑70, 9‑11‑210, and 9‑11‑300 exceed the actuarial cost of the provisions of Sections 9‑11‑60, 9‑11‑70, 9‑11‑120, and 9‑11‑300, the board shall decrease the contribution rate for both employers and employees on a proportional basis.”

SECTION 77. Section 9‑12‑10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“(1) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement systems and acting through its Division of Retirement Systems.”

SECTION 78. Section 9‑18‑10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority.”

SECTION 79. Section 9‑20‑30 of the 1976 Code, as last amended by Act 54 of 2001, is further amended to read:

“Section 9‑20‑30. (A) The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The director ~~acting on behalf~~ of the South Carolina Retirement System acting on behalf of the board of directors of the South Carolina Public Employee Benefit Authority shall designate no fewer than ~~four companies~~ two entities to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:

(1) the nature and extent of the rights and benefits to be provided by the contracts or accounts, or both, of participants and their beneficiaries;

(2) the relation of the rights and benefits to the amount of contributions to be made;

(3) the suitability of these rights and benefits to the needs of the participants;

(4) the ability and experience of the designated companies in providing suitable rights and benefits under the contracts or accounts, or both;

(5) the ability and experience of the designated companies to provide suitable education and investment options.

(B) If the board deselects a provider, vendor, plan administrator, or other entity, it shall ensure that the deselection and related transition are accomplished with minimal disruption to participants.

(C) Companies participating in the optional retirement program for publicly‑supported four‑year and postgraduate institutions of higher education as of July 1, 2002, or the optional retirement program for teachers and school administrators as of July 1, 2001, may continue to participate in this program and this participation is governed by their existing contracts.”

SECTION 80. Section 9‑21‑20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

“(2) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Authority.”

SECTION 81. Section 59‑1‑470 of the 1976 Code is amended to read:

“Section 59‑1‑470. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpose of providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina Deferred Compensation Commission or, after December 31, 2013, the South Carolina Public Employee Benefit Authority, or other approved and qualified plans of other providers. These funds must be distributed in a manner consistent with the provisions of Section 8‑23‑110. The employer matching contribution by the school district may not exceed three hundred dollars for each eligible employee a year. ~~Individuals eligible for the matching contribution must be classified as required in Section 9‑20‑20, the Optional Retirement Program for Teachers and School Administrators.~~”

SECTION 82. This subpart takes effect July 1, 2012.

Subpart 3

Transfer and Dissolution

SECTION 83. Effective July 1, 2012, Section 9‑16‑310 of the 1976 Code, relating to the State Retirement Systems Investment Panel, is repealed. Effective after December 31, 2013, the Deferred Compensation Commission is abolished. All of the functions and duties of the Deferred Compensation Commission are devolved upon the board of directors of the South Carolina Public Employee Benefit Authority as of January 1, 2014.

SECTION 84. (A) Where the provisions of this act transfer portions of the Budget and Control Board to the South Carolina Public Employee Benefit Authority, the employees, authorized appropriations, and assets and liabilities of the transferred portions of the Budget and Control Board are also transferred to and become part of the South Carolina Public Employee Benefit Authority. All classified or unclassified personnel employed by the transferred portions of the Budget and Control Board either by contract or by employment at will, shall become on July 1, 2012, employees of the South Carolina Public Employee Benefit Authority, with the same compensation, classification, and grade level, as applicable. Prior to its abolition, the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations. Notwithstanding the provisions of Section 9‑4‑10(A) of the 1976 Code as added by this act, on the effective date of this SECTION, the Governor and the Chairmen of the House Ways and Means Committee and the Senate Finance Committee jointly shall appoint the initial and any necessary succeeding executive director of the South Carolina Public Employee Benefit Authority to serve through December 31, 2013, after which the position must be filled by the appointment of the authority board. Notwithstanding the provisions of Section 9‑4‑10(F) of the 1976 Code as added by this act, the Governor shall name a member of the board of directors of the South Carolina Public Employee Benefit Authority to serve as chairman of that board through December 31, 2013.

(B) Regulations promulgated by the transferred portions of the Budget and Control Board are continued and are considered to be promulgated by the South Carolina Public Employee Benefit Authority. Contracts entered into by the Budget and Control Board and the Deferred Compensation Commission are continued and are considered to be devolved upon the South Carolina Public Employee Benefit Authority at the time of the transfer.

(C) The Code Commissioner is directed to change or correct all references to the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission to reflect its transfer to the South Carolina Public Employee Benefit Authority. References to the name of the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

Subpart 4

Effective Date of this Part

SECTION 85 Except where otherwise provided, this Part takes effect upon approval by the Governor.

Part XIV

Performance Audit and Effective Date

SECTION 86. (A) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board, including board officials and board programs, prior to the effective date of this act that are not otherwise specifically accounted for in this act are devolved upon the Department of Administration along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities or authority. As provided in SECTION 48 of this act, on or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes in the South Carolina Code to reflect this devolution.

(B) All functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act relating to the Employee Insurance Program and the Retirement Division that are not otherwise specifically accounted for in this act are devolved upon the Public Employee Benefits Agency along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities, or authority. As provided in SECTION 48 of this act, on or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes in the South Carolina Code to reflect this devolution.

(C) The name of the Office Legislative Printing, Information and Technology Systems is changed to the Legislative Services Agency. References in the 1976 Code to the “Office of Legislative Printing, Information and Technology Systems” or “LPITS” mean the “Legislative Services Agency” or “LSA”, as appropriate. The Code Commissioner is directed to change references in the 1976 Code to conform to this name change, and such changes must be included in the next printing of replacement volumes of or cumulative supplements to the 1976 Code. As provided in SECTION 48 of this act, on or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that includes information concerning the conforming name changes made pursuant to this section.

(D) All functions, powers, duties, responsibilities, and authority related to the preparation of estimated revenue impact statements, fiscal impact statements, financial impact statements, or other similar impact statements required by law to be produced in conjunction with certain legislation that are vested in the Board of Economic Advisors, the State Budget Division of the State Budget and Control Board, the Division of Research and Statistical Services, the Office of State Budget, or any other agency, division, office, board, or other instrumentality of state government that are not otherwise specifically accounted for in this act are devolved upon the Legislative Fiscal Office along with funding, staff, facilities, and other items necessary to carry out the devolved functions, powers, duties, responsibilities, or authority. The code commission is directed to make appropriate conforming changes in the South Carolina Code to reflect this devolution.

SECTION 87. The State Budget and Control Board, as constituted in Chapter 11, Title 1 of the 1976 Code, is abolished (1) upon the completion of the Executive Director of the Budget and Control Board completing all necessary actions to accomplish the transfers of functions, powers, duties, responsibilities, and authority in accordance with this act, state laws, and regulations, (2) after the Memorandum of Agreement required by SECTION 4 of this act is executed, and (3) upon the transfer of the Employee Insurance Program and the Retirement Division to the Public Employee Benefit Agency. The employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the agency, department, or institution to which the transfer was made. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the agency, department or institution to which the transfer was made, with the same compensation, classification, and grade level, as applicable.

SECTION 88. References in the 1976 Code to the “Budget and Control Board”, or the “board”, that refer to functions, powers, duties, responsibilities, and authority vested in the Budget and Control Board prior to the effective date of this act related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law, mean the “Bond Review Authority” or “authority”, as appropriate. As provided in SECTION 48 of this act, on or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes in the South Carolina Code to reflect this devolution.

SECTION 89. Section 11‑35‑4410, Section 11‑35‑4420, Section 1-11-90, and Section 11-49-40(A) of the 1976 Code are repealed.

SECTION 90. Chapter 7, Title 11 of the 1976 Code is repealed.

SECTION 91. During the year 2018, the Legislative Audit Council shall conduct a performance review of the provisions of this act to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies provided for herein and the cost savings and benefits to the State.

SECTION 92. On or before September 1, 2012, the Code Commissioner shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of all code references and cross‑references which he considers in need of correction or modification insofar as the 1976 Code has been affected by this act.

SECTION 93. Unless otherwise provided, this act takes effect July 1, 2012. The General Assembly shall undertake a joint oversight review investigation of the Department of Administration during the department’s fifth year of operation.

‑‑‑‑XX‑‑‑‑