

EXECUTIVE ORDER NO.

2025-24

WHEREAS, article IV, section 21 of the South Carolina Constitution provides, in relevant part, that “[b]ills appropriating money out of the Treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections”; *see also Amisub of S.C., Inc. v. S.C. Dep’t of Health & Env’t Control*, 407 S.C. 583, 595, 757 S.E.2d 408, 414 (2014); and

WHEREAS, since 2017, the undersigned has issued 100 line-item vetoes of earmarked appropriations in the annual Appropriations Acts passed by the General Assembly, collectively representing \$272,305,028 in taxpayer funds; and

WHEREAS, although many of the aforementioned line-item vetoes of legislative earmarks were overridden, the General Assembly is to be commended for sustaining 44 such vetoes, which resulted in a savings of \$66,764,015 for South Carolina taxpayers; and

WHEREAS, members of the General Assembly must also be commended for their remarkable evolution and significant improvements to the process of disclosing earmarked appropriations, which were previously shielded from public scrutiny or debate; and

WHEREAS, after decades of overriding vetoes issued by successive Governors of innocuous sounding appropriation titles or items that contained undisclosed earmarks, within the last three years, the leadership of the Senate and House of Representatives began disclosing—at the undersigned’s request—more information about each earmark, including the sponsors, proposed recipients, and the intended activity, function, or purpose associated with each earmark, and such information was released to the media in real time for the public’s review; and

WHEREAS, as a result of these improvements and enhanced disclosures, the undersigned has not been compelled to issue as many line-item vetoes as his predecessors and has instead worked collaboratively with legislative leadership both to identify meritorious appropriations and to rectify earmarks that did not serve a legitimate public purpose; and

WHEREAS, although these efforts have been productive, the undersigned has continued to encourage the General Assembly to abandon its regular reliance on earmarks and to instead establish a public, merit-based competitive grants process for these types of appropriations, especially for nongovernmental organizations, with all applications for funding and award criteria made available online to facilitate public review and ensure total transparency; and

WHEREAS, this year, the General Assembly chose to forgo the inclusion of earmarks in the 2025–2026 Appropriations Act, and this development was the subject of extensive discussion among members of both legislative bodies and received significant media coverage; and

WHEREAS, notwithstanding the aforementioned improvements and ongoing progress, the undersigned continues to identify items in the annual Appropriations Act that lack sufficient information to allow for meaningful scrutiny, including any appropriations which were not requested by a state agency or department through the budgeting process and are not accompanied by specific language directing, instructing, or defining how or for what purpose the agency or department shall utilize the funds, *see* S.C. Const. art. IV, § 21; and

WHEREAS, to maintain public confidence in the appropriations process, and to provide additional accountability and transparency associated with the same, the undersigned has determined that it is necessary and appropriate to ensure that individual members of the General Assembly do not attempt to circumvent the omission of earmarks by demanding, requesting, or encouraging state agencies or departments to distribute in a particular manner or to a particular entity any authorized or appropriated funds, or portions thereof, for which the Appropriations Act does not provide specific language directing, instructing, or defining how or for what purpose the agency or department shall utilize the funds; and

WHEREAS, it is axiomatic that the appropriation of public funds is a distinctly legislative function entrusted to the General Assembly, *see* S.C. Const. art. III, § 1; *Gilstrap v. S.C. Budget & Control Bd.*, 310 S.C. 210, 216, 423 S.E.2d 101, 105 (1992), and that the General Assembly “has the right to specify the conditions under which the appropriated monies shall be spent,” *State ex rel. Condon v. Hodges*, 349 S.C. 232, 244, 562 S.E.2d 623, 630 (2002); and

WHEREAS, although the Governor “has the ability, after the General Assembly has passed a budget, to veto items or sections contained within the budget,” *Edwards v. State*, 383 S.C. 82, 91, 678 S.E.2d 412, 417 (2009); *see* S.C. Const. art. IV, § 21, “[o]nce the legislature enacts a law, all that remains is the efficient enforcement and execution of that law,” *Knotts v. S.C. Dep’t of Nat. Res.*, 348 S.C. 1, 7, 558 S.E.2d 511, 514 (2002); and

WHEREAS, while “[e]xecutive agencies are required to comply with the General Assembly’s enactment of a law until it has been otherwise declared invalid,” *Edwards*, 383 S.C. at 91, 678 S.E.2d at 417, “[t]he administration of appropriations is a function of the executive department,” *id.*; and

WHEREAS, “[t]he power to execute a law is not incidental to the power to appropriate, but is a separate executive power,” *Knotts*, 348 S.C. at 7, 558 S.E.2d at 514, and the undersigned

is charged with exercising the “supreme executive authority of this State,” S.C. Const. art. IV, § 1, to “take care that the laws be faithfully executed,” *id.* art. IV, § 15; and

WHEREAS, the South Carolina Constitution imposes limitations relating to the expenditure of public funds and requires certain reporting regarding the same, to include mandating that “[m]oney shall be drawn from the treasury of the State . . . only in pursuance of appropriations made by law,” *id.* art. X, § 10, dictating that “[a]n accurate statement of the receipts and expenditures of the public money shall be published annually in such a manner as may be prescribed by law,” *id.* art. X, § 9, and providing that “[b]ills appropriating money out of the Treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections,” *id.* art. IV, § 21; and

WHEREAS, section 11-9-10 of the South Carolina Code of Laws, as amended, similarly provides that “[i]t shall be unlawful for any moneys to be expended for any purpose or activity except for which it is specifically appropriated”; and

WHEREAS, in addition to requiring the disclosure of additional information regarding earmarked appropriations, the General Assembly has also strengthened the requirements in Proviso 117.21 of the Appropriations Act, specifying that “[e]ach state agency receiving funds that are a direct appropriation to a non-profit organization, prior to disbursing the funds, shall require from each recipient organization a plan of how the state funds will be spent and how the expenditures will provide a public benefit”; providing that “[a]fter receiving the funds, non-profit organizations shall provide quarterly spending updates to the respective state agency”; requiring that “[a]fter all state funds have been expended, each organization shall provide an accounting of how the funds were spent, including an accounting of funds provided to subgrantees and affiliated non-profits”; and directing that the state agencies receiving such information shall report the same to the Executive Budget Office, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee by June 30; and

WHEREAS, article IV, section 17 of the South Carolina Constitution provides that “[a]ll State officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices, agencies, and institutions, including itemized accounts of receipts and disbursements”; and

WHEREAS, section 1-1-840 of the South Carolina Code of Laws, as amended, similarly authorizes the Governor to “call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare”; and

WHEREAS, section 1-3-10 of the South Carolina Code of Laws, as amended, also requires that “[t]he departments, bureaus, divisions, officers, boards, commissions, institutions and other agencies or undertakings of the State, upon request, shall immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities”; and

WHEREAS, despite the General Assembly’s laudable decision not to include earmarked appropriations in the 2025–2026 Appropriations Act, Executive Branch agencies and departments must ensure that appropriated or authorized funds are administered in a transparent and accountable manner, and there is no guarantee that future Appropriations Acts will not include earmarked appropriations; and

WHEREAS, at present, although South Carolinians are already better positioned than ever to hold members of the General Assembly to account for discharging their duty to be good stewards of public funds, the undersigned has determined that it is appropriate to take further action to place South Carolinians in an even better position to do so and is hereby imposing additional safeguards in the administration of appropriations to facilitate transparency and accountability, to enhance the public’s trust and confidence in government, and to ensure that the public is aware of the manner in which public funds are appropriated and expended and can hold the appropriate individuals, entities, and officials accountable.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

**Section 1. Establishing Methods to Identify and Maintain Accountability
Regarding Unrequested or Pass-Through Appropriations**

A. I hereby order and direct that any Executive Branch agency or department, as further defined herein, that receives appropriations in the annual Appropriations Act shall, within forty-eight (48) hours of the General Assembly’s ratification of the annual Appropriations Act, notify the undersigned of any appropriations allocated or provided to—or designated for administration or distribution by—the agency or department, or any other appropriations contained in the agency or department’s portion of the budget allocation that were not requested by the agency or department in its immediately preceding budget request, so as to facilitate the undersigned’s timely evaluation of the annual Appropriations Act. For purposes of the 2025–2026 Appropriations Act, any Executive Branch agency or department that receives such funding shall report the same to the undersigned, in writing, by July 11, 2025, or within forty-eight (48) hours of the agency or department receiving communication from the State Treasurer or other state official or employee that such funds have been or will be disbursed to the agency or department.

B. I hereby order and direct that any Executive Branch agency or department that is contacted by any member of the General Assembly or staff thereof, whether orally, in writing, or by any other method, purporting to demand, instruct, request, suggest, or encourage said agency or department to utilize, administer, distribute, or disburse any funds authorized or appropriated by the Appropriations Act in a particular manner, the corresponding Agency Head shall report the communication to the Office of the Governor, including the name of the person who contacted the agency or department, the person at the agency or department who was contacted, the date and time of the contact, the method of the contact, and a summary of what was conveyed by the member of the General Assembly or staff thereof. The Agency Head shall make the report required herein to the Office of the Governor in writing within forty-eight (48) hours.

C. I hereby prohibit any Executive Branch agency or department, through its Agency Head, from administering or distributing funding provided in the annual Appropriations Act in response to any such communication from a member of the General Assembly, or staff thereof, unless such request is reduced to writing, accompanied by any documentation required by Proviso 117.21 of the Appropriations Act, and identifies, at a minimum, the following:

1. the sponsor of the appropriation or member of the General Assembly requesting the administration, distribution, or expenditure of appropriated funds, as applicable;
2. the proposed recipient's identification and verification of the entity's existence and good standing;
3. the proposed activity or function for which the appropriated funds would be utilized;
4. the public purpose that would be served by the use of the appropriated funds in the requested manner;
5. the project budget;
6. demonstrated local community involvement and support;
7. any contribution to the project by others; and
8. any state funds previously appropriated or provided to the entity for the same or a similar purpose.

I further prohibit any Executive Branch agency or department, through its Agency Head, from acting on any such request without prior notification to, and consultation with, the Office of the Governor regarding the same.

D. I hereby authorize and direct that any Executive Branch agency or department shall, within forty-eight (48) hours of receiving any such information from members of the General Assembly or staff thereof, promptly make any such records available in response to a request submitted pursuant to the Freedom of Information Act, codified as amended in Chapter 4 of Title 30 of the South Carolina Code of Laws.

E. In the event that an Executive Branch agency or department receives any funds pursuant to an appropriation in the annual Appropriations Act that fails to "specify the objects and purposes for which the [earmarked appropriations] are made," S.C. Const. art. IV, § 21, such that the funds cannot be administered or distributed without further information or instructions, the Agency Head shall promptly report the same, in writing, to the undersigned. In the event that the Agency Head determines that such funds are not necessary to achieving the agency or department's objectives during that fiscal year, the agency or department shall return those funds to the General Fund at the conclusion of the fiscal year or, if authorized, carry forward such funding to offset future requests for appropriations.

Section 2. Enhancing and Consolidating Prior Safeguards to Provide Additional Transparency and Accountability Regarding Any Potential Earmarked Appropriations

A. I hereby order and direct that any and all earmarked appropriations, as further defined herein, provided to, or through, any Executive Branch agency or department, as further defined herein, shall be expended and administered in strict compliance with the purposes specified in the annual Appropriations Act and may only be expended or administered in a manner that serves a public purpose and is consistent with the agency or department's authorizing or enabling legislation or other applicable law.

B. I hereby order and direct that any Executive Branch agency or department, as further defined herein, that receives earmarked appropriations, as further defined herein, in the annual Appropriations Act shall ensure strict and timely compliance with the terms of, and requirements set forth in, Proviso 117.21 of the 2025–2026 Appropriations Act, R-92, H. 4025, and any subsequent version thereof appearing in any annual Appropriations Act, as applicable.

C. I hereby order and direct, pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, that any Executive Branch agency or department, as further defined herein, that receives earmarked appropriations, as further defined herein, in the annual Appropriations Act shall promptly make available for public review and inspection on the agency or department's website any and all reports, accountings, forms, updates, communications, or other materials required by Proviso 117.21.

D. I hereby order and direct that any Executive Branch agency or department, as further defined herein, that receives earmarked appropriations, as further defined herein, in the annual Appropriations Act shall deliver, tender, disburse, or transmit any resulting funds or payments directly to any entity designated in the Appropriations Act and shall be prohibited from providing any such funds to any intermediary for presentment. Any such Executive Branch agency or department that receives earmarked appropriations shall not deliver, tender, disburse, or transmit any resulting funds or payments to the identified or intended recipient until the recipient and the agency or department have demonstrated compliance with the directives set forth in this Section and other applicable law.

E. I hereby order and direct that any Executive Branch agency or department, as further defined herein, that receives earmarked appropriations, as further defined herein, in the annual Appropriations Act shall certify to the undersigned and the Executive Budget Office, in writing, compliance with the foregoing directives, as applicable, on an annual basis prior to the conclusion of the corresponding fiscal year.

Section 3. Definitions

A. For purposes of this Order, "Executive Branch agency or department" is defined as any agency, department, or official within the undersigned's Executive Cabinet, as designated by

Executive Order No. 2025-23, or any other agency, department, or official within the Executive Branch, as defined by section 1-30-10(A) of the South Carolina Code of Laws, as amended, including any boards or commissions that are part of, comprised within, or under the jurisdiction of such agency or department, as well as any and all other departments, bureaus, divisions, officers, boards, commissions, institutions, and other agencies or undertakings of the State, to the maximum extent provided by law.

B. For the purposes of this Order, “earmarked appropriations” are defined as any nonrecurring appropriation to an Executive Branch agency or department that is not requested by the agency or department to which it is allocated or appropriated to and received by or any nonrecurring appropriation that is specifically identified in an annual Appropriations Act as a direct appropriation to, or is otherwise intended to be distributed or dispersed directly to, a nonprofit organization, private entity, political subdivision of the State, or other external organization, without regard to whether any such earmarked appropriation was vetoed by the Governor.

Section 4. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor and the Executive Budget Office to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to alter or conflict with provisions of the Appropriations Act or any other applicable law, to include the Consolidated Procurement Code or the Administrative Procedures Act.

F. I hereby supersede, rescind, and replace Executive Order No. 2022-19, with any modified or remaining provisions thereof incorporated, in whole or in part, herein.

G. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 25th DAY OF
JUNE, 2025.**

HENRY DARGAN MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State