



## THE HONORABLE CURTIS M. LOFTIS, JR.

State Treasurer

March 14, 2024

The Honorable Larry K. Grooms  
Chairman of the Constitutional Budget Subcommittee  
of the Senate Finance Committee  
313 Gressette Building  
Columbia, South Carolina 29201

### **OFFICIAL ELECTRONIC MAIL SENT VIA EMAIL.**

Dear Chairman Grooms:

I am in receipt of your recent letter dated March 7, 2024. The demand that the State Treasurer's Office (STO) "provide this Subcommittee with agency ownership, by agency, by fund regarding fund 30350993 no later than noon on March 14, 2024," is unrealistic in light of the seriousness of this issue. It is also at odds with the Senate's recent introduction of legislation calling for thorough research and resolution of this matter and even conflicts with the Comptroller General's (CG) own the October 31, 2023 request that which contemplates continuing research and reclassify by June 30, 2024.

The STO has devoted considerable staff time to this issue and is fully prepared to continue its contributions to this effort, yet I must emphasize, as I have before, that this is a task beyond our independent capability, especially with an arbitrary deadline.

#### **Defining the Problem and Finding a Solution**

The problem is straightforward, but the solution is complicated. The "ownership" of a \$1.8 billion state fund is not apparent. The funds may be owned by State agencies or entities, or by the State, which may make the dollars eligible for appropriation. Resolution will take the cooperation and collaboration of multiple agencies and experts to research and review the STARS to SCEIS conversion to determine if the funds accounted for in SCEIS Fund 30350993 have agency or entity ownership, other than the state's General Fund. Yesterday I made a formal request to the SCEIS Executive Oversight Committee to establish a working group to include representatives of all agencies involved in the conversion as well as any other state agencies and offices who can lend their expertise to finding the answers. I recognized that both the House and the Senate have proposals that would allow for the research and review of this matter. This working group can serve as a resource for both the House and Senate efforts.

The conversion from STARS to SCEIS was a meticulous, multi-year process spearheaded by the Comptroller General's Office (CGO) and involving numerous agencies. To demand that the STO complete this research alone, under an artificial deadline is completely unreasonable. The Treasury Management legacy system conversions took place between 2014 and 2018 and the \$1.8 billion in Fund 30350993 resulted from a netting of thousands of conversion entries and transactions by the STO, CGO, and SCEIS team.

### **History and Timeline**

- 2005 – South Carolina Enterprise System (SCEIS) legislation adopted. The SCEIS Executive Oversight Committee is established with membership to be appointed by the Comptroller General (S.C. Code § 11-53-20). The General Assembly is invited to and does designate nominees to participate in the work of the SCEIS Executive Oversight Committee.
- 2014 - 2018 – STARS to SCEIS conversion of legacy Treasury Management Systems, a project that involved the CGO, STO, SCEIS, and two outside consultants, Grant Thornton and SAP.
- 2017 – SCEIS Fund 30350993 was used as the conversion account. In consultation by the CGO, STO, and SCEIS. After the conversion, \$1.5 billion is remaining where no agency of record could be identified by the conversion team.
- The cash left in SCEIS Fund 30350993 remain protected and available in the event that a claim was made for them. The STO is unaware of any agency submitting any warrant request for the release of funds held in this SCEIS accounting fund. The cash in SCEIS Fund 30350993 was custodied by the State Treasurer and invested. Investment earnings accrued to the General Fund are appropriated by the General Assembly. All SCEIS funds are pooled and invested to maximize investment earnings as is common practice in most states. This balance is not segregated in any specific bank account—but instead is accounted for in SCEIS Fund 30350993.
- 2018 – CGO added \$324 million to SCEIS Fund 30350993
- 2018 – State Auditor and CLA audited the conversion and SCEIS Fund 30350993 and found no exceptions.
- 2014 to present – SCEIS Fund 30350993 is used for STO transfers between banks. These transfers flow through the account and do not affect the balance.
- The balance in SCEIS Fund 30350993 is reported annually to the CGO as part of the STO's Cash Closing Package.
- December 2022 – the CGO issued the 2022 ACFR including a \$3.5 billion downward restatement of cash in the General Fund.
- December 2022 - the CGO moved the \$1.8 billion in SCEIS Fund 30350993 to the General Fund for ACFR purposes and made a \$517 million DOT transfer to reduce what would have been a \$5.9 billion restatement to a \$3.5 billion restatement without consultation or notification to the STO.
- The CGO did not communicate with the STO prior to making this adjustment.
- October 31, 2023 - the CGO sent a letter to the State Treasurer directing the STO research cash balances of Fund 30350993 by the end of Fiscal Year 2024.
- Chairman Grooms states that the October 31, 2023 letter was the first time he heard of the \$1.8 billion.

The question now facing South Carolina is whether this \$1.8 billion is “available” or “general funds”? The CGO reported the \$1.8 billion in the General Fund for ACFR purposes, and the State Auditor agreed with

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that accounting treatment to a “reasonable degree of certainty.” The STO cannot now opine on that the propriety of these decisions, since work is still on-going to identify the source of the cash represented by SCEIS Fund 30350993. *We can, however, assure you and the taxpayers of this State that we have safeguarded that cash and invested it over these many years. SCEIS fund 30350993 is a separate and distinct fund for accounting purposes. Nevertheless, all investment earnings have accrued to the benefit of the General Fund.*

### Statutory Compliance

In addition to imposing an impractical one-week deadline, the insinuation that my office has failed its statutory requirements is unfounded. The State Treasurer’s Office is in full compliance with both S.C. Code §§ 11-5-180 and 11-5-120, with certain functions now executed by SCEIS, as acknowledged by the Comptroller General in official reports.

The inference that the State Treasurer’s Office is neglecting its statutory duties is baseless. Section 11-5-180 requiring the Treasurer to produce “satisfactory statements of cash in hand” is “performed by SCEIS” according to the CGO’s Annual Accountability Report (Exhibit 1) <https://cg.sc.gov/sites/cg/files/Documents/Publications%20and%20Reports/Annual%20Accountability%20Reports/E120.pdf>

Consistent with the CGO’s invocation of SCEIS to report “cash in hand,” the STO relies on the CGO to comply with its statutory obligation “to maintain an Enterprise Information System for State Government (SCEIS) that will result in proper authorization and control of agency expenditures” (see Budget Proviso 97.2, Exhibit 2) such that the CGO will be able to identify agency ownership of funds within SCEIS once the STO inputs its information regarding cash in hand. It is disingenuous to infer that the STO is not carrying out its statutory duty pursuant to Section 11-5-180 when the CGO has acknowledged for many years that that reporting function is now satisfied through SCEIS.

The reference in your letter to S.C. Code Ann. § 11-5-120 is similarly misguided. The interpretation has not changed over time. The historical roots of this statute go back to the early 1900s (see excerpt below from the 1912 Civil Code Section 794). The word “funds” referred to in 1912 is “money” not SCEIS “fund.” The statutory language has remained consistent for over a century, with only a slight modification in 2008 replacing the requirement of publication “in one daily paper in the city of Columbia” with “by electronic means.” State Treasurers have always interpreted this public disclosure obligation to require quarterly summary statements containing statutorily specified information.

1912 Civil Code Section 794:

§ 794. Treasurer to Publish Quarterly Statement of Money on Hand and Where Deposited. – The State Treasurer shall pubhsh, quarterly, in one daily paper in the City of Columbia, a statement showing the amount of money on hand and in what banks the same is deposited, and the respective funds to which the same belongs.  
1903, XXIV, 21.

The statutory specific information is currently contained in two online reports: The Portfolio Performance Summary (<https://treasurer.sc.gov/media/pnzi0hfb/investment-performance-report-93023.pdf>) (Exhibit 3)

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provides information concerning the funds maintained by the State Treasurer with its primary custodian, the Bank of New York Mellon for investment purposes, while the Statement of the State Treasurer's Bank Deposits identifies other financial institutions wherein monies/"funds" are deposited. (see [quarterly-statement-of-bank-balances.pdf \(sc.gov.\)](#)) (Exhibit 3). The information contained in the current Statement of Bank Deposits is functionally identical to that contained in historical reports published in Columbia newspapers. (See legal advertisement from The State Newspaper from April 29, 2004, (Exhibit 4). The term "fund" as used in this very old statute predates SCEIS and STARS and does not refer to a fund within SCEIS. The Comptroller General has the same ability as the STO to run a report in SCEIS that shows "cash by SCEIS fund." The CGO does not need to request this information from the STO. I have attached an excerpt from cash by SCEIS fund report for your information so you can see the level of detail included, however, please note that this report has thousands of lines of data—certainly not what is required to be published for perusal by the general public under § 11-5-120. (Exhibit 1). Additionally, publishing this much data online would provide a blueprint for mischief by internet scammers and hackers.

As part of our research, we asked outside counsel to review the statutory roles of the Comptroller General and the State Treasurer. I am providing a copy of a PowerPoint overview summarizing these statutory obligations for your information. (Exhibit 5) We note that the General Assembly itself has recognized and codified the separation of powers and responsibilities, including the oft-repeated designation of the Comptroller General as the "State Accounting Officer" in the annual budget provisos for that office. The bottom line is that the Treasurer is the state's bank and responsible for investing funds, whereas the Comptroller General is the state's accountant, responsible for the ACFR, the General Ledger, SCEIS, and compliance with GAAP.

#### **CGO misled Senate and has now Diverted Blame for CGO's ACFR Restatement**

I want to take this opportunity to clear up misunderstandings about SCEIS fund 30350993. The CGO has always been aware of 30350993 and any adjusting fund entries and balances. To believe that somehow this \$1.8 billion was recently "found" by a CGO junior staff member is patently false. The truth is that the CGO used the \$1.8 billion in SCEIS fund 30350993 to reduce or minimize what would have been a \$5.9 billion overstatement and restatement in ACFR cash. According to Note 15 in the 2022 ACFR, the CGO failed to capture cash transfers out from the General Fund to AFS entities causing the overstatement of cash in the General Fund in the ACFR only. The CGO and others did not explain in Note 15, or in any of the sworn testimony to the Senate last year, that it used SCEIS fund 30350993 and a DOT transfer of approximately \$517 million, to reduce the overstatement of cash to \$3.5 billion. The CGO included the \$1.8 billion in the ACFR General Fund without discussion or consultation with the STO. In fact, the STO was not made aware that the \$1.8 billion was used to reduce the overstatement of ACFR cash until over six months after the CGO adjusted the funds for ACFR purposes. Again, we find it disingenuous for the Senate to look towards the STO to validate the CGO's ACFR General Fund classification. If there was any question about where these funds belong, the CGO should never have moved them for ACFR purposes.<sup>1</sup>

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<sup>1</sup> CGO staffer Katherine Kip sent an email to STO staffer on October 6, 2022, asking about Fund 30350993. This email was used to try to demonstrate that the STO had knowledge of the \$1.8 billion in October 2022. There was no indication in that email exchange that CGO staffer was using 30350993 to reduce the overstatement of cash. This misleading document was provided by the CGO to the SFAA.

As the restatement issue developed, there were many instances where the use of the \$1.8 billion could have been, but was not disclosed by the CGO to the General Assembly.

In a December 15, 2022, email from David Starkey to Richard Eckstrom (Exhibit 6), that is included on page 50 of the Constitutional Subcommittee of the Senate Finance Committee's *Report on the Investigation of the FY 2022 Annual Comprehensive Financial Report Restatement*, David Starkey shows the "Restatement by Entities" as \$3.5 billion with no mention of the \$1.8 billion reduction from \$5.9 billion.

At the February 9, 2023, hearing Comptroller General Eckstrom testified that the restatement was a "mapping error" – with no mention of the \$1.8 billion in SCEIS fund 30350993 that the CGO included in the ACFR General Fund to help reduce the amount of the restatement. In fact, the total cash overstatement resulting from the mapping error was \$5.9 billion, not \$3.5 billion.

On February 16, 2023, the Comptroller General again referred to agencies with Audited Financial Statements as the source of the problem. Further, the Senate report acknowledges that there was a \$517 million "cash issue" that was not mentioned in Note 15 or presented by the Comptroller General in his testimony. (Senate Report p. 8). This was presumably the DOT transfer.

There is no question that CGO and others failed to inform the Senate that \$1.8 billion was part of the restatement. I will not speculate as to why the CGO withheld this information from the Senate but cannot but be astonished that the Comptroller General and others testified under oath about the source of the restatement, yet failed to notify the Senate that they reduced the restatement by including \$1.8 billion in the General Fund for ACFR purposes. Now the CGO is trying to shift the problem that it created onto the STO. The CGO's unilateral decision to include those funds in the General Fund created an urgency to retroactively confirm the soundness of that decision. If those funds do not belong in the General Fund, the CGO overstated – yet again – the State's cash in the ACFR. The CGO's actions may have a negative impact on our state's bond credit rating. My staff has dedicated thousands of hours in trying to research fund 30350993. We have asked the CGO for assistance and documentation. Time after time the CGO refused to provide meaningful assistance and refused to meet with my staff.<sup>2</sup> I had to resort to asking for assistance from the SFAA to finally get records from the CGO. The CGO provided a data dump, which my staff has culled through yet still found lacking. I reject any accusation that my staff has not been helpful to the CGO.<sup>3</sup>

In an attempt to conduct the research that the Comptroller General and now the Senate, has requested, the STO asked George Kennedy, State Auditor, for copies of the working papers so that the STO could understand how the CGO made its determination to include the \$1.8 billion from SCEIS fund 30350993 to

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<sup>2</sup> For example, on August 9, 2023, Comptroller General Gaines halted weekly meetings between the STO and the CGO and stated that no further meetings were necessary, and we would communicate by email. (Exhibit 8). One December 28, 2023, STO Chief of Staff Clarissa Adams, emailed Comptroller General Gaines to request meetings with Katherine Kip on January 3 and 5, 2024. The CGO never responded to these meeting requests. (Exhibit 9). On January 8, 2024, Clarissa Adams heard from a partner agency that the CG changed his mind about allowing Kip to meet with the STO.

<sup>3</sup> To the contrary, the STO was told that Kip had researched the \$1.8 billion in fund 30350993 and got it down to 150 lines of information but the CG has not provided the STO with any documents or other information supporting this research.

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off-set the cash overstatement in the 2022 ACFR. The State Auditor informed the STO astonishingly that there are no working papers (Exhibit 7).

### **CGO's Role in Cash Conversion and Access to the Fund**

**Statements by CGO staff that they have no involvement with SCEIS Fund 30350993 or the conversion are patently false. As previously stated, the conversion was a multi-agency effort including the CGO, STO, and SCEIS.** As noted previously, the CGO is the only agency that can approve the creation of SCEIS fund categories or accounts. For example, on October 26, 2018, John Morrison, CPA at CGO sent an email to Martin Taylor of the STO saying "Here is a list of balances that we have identified that need to be washed through the conversion account based on our conversation." (Exhibit 10). The amount of those entries was \$324 million. This also clarifies the misconception that has been stated in Senate hearings about account access. The STO is NOT the only entity that can or has made entries in 30350993. As an example, in Fiscal Year 2017 multiple agencies entered transactions to that fund. The largest number of transactions posted were in batches posted by the STO with the collaboration of the CGO and SCEIS. Period 15 must be opened by the Comptroller General's Office, so all transactions would be posted with the CGO's knowledge. Exhibit 10 contains additional records that show other agencies posted to 30350993.

### **Restricted Access in account**

We are perplexed by the lack of cooperation and finger-pointing by the Comptroller General's Office and others since the restatement error came to light. Statements made about my office have sometimes been so off-base that I initially determined that no response was warranted. Regretfully, I seem to have underestimated the desire by some to avoid their responsibilities and to blame others. I reject much of the information that has previously been asserted by the Comptroller General as being completely false. In his December 12, 2023, letter to me, Comptroller General Gaines incorrectly asserts that the "State Treasurer's Office would have sole and exclusive possession of the State records showing the source and history of the moneys in Fund 30350993." That statement is false. The CGO, SCEIS, and others with SCEIS rights have the access to the records that support the entries in Fund 30350993, since those records are maintained in the SCEIS system and in fact the CGO and SCEIS teams may have additional documents not available to the STO.

He also wrongly implies that the fund is "invisible" to the General Assembly, that the STO is the "only" state entity that can may move the funds. Except for investment purposes, which are fully disclosed, the STO does not release or otherwise "move" funds without the knowledge and approval via statutorily mandated warrants from the CG. Any statements to the contrary are false.

### **Conclusion**

As the elected Treasurer of the State of South Carolina I remain committed to ensuring the funds that I custody are properly managed and invested. The \$1.8 billion has always been reported by the STO in its cash closing package. The STO did not "hide" this fund. The State Auditor or Clifton Larson never had a finding or recommendation regarding the fund or placement of funds since 2017.

The CGO was intimately involved with the conversion and the resulting inclusion of the \$1.8 billion in 30350993. It was only when the CGO finally got around to reconciling cash after not doing so for many years that it needed the \$1.8 billion to reduce the restatement required to correct its own errors. After making this unilateral treatment, the CGO is attempting to shift responsibility to clean up its mess to the Treasurer.

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The CGO and not the Treasurer has the legal obligation to notify the General Assembly of remaining funds. (See S.C. Code § 11-3-90, “The Comptroller General shall report, annually, to the General Assembly his transactions in regard to unappropriated funds in the State Treasury.”). The CG and not the Treasurer has the legal responsibility to “implement appropriate accounting procedures to consolidate accounts, in connection with lump sum agencies, as necessary for proper accounting and for facilitation of financial reporting in accordance with generally accepted accounting principles.” S.C. Code § 11-3-175. the Treasurer has the legal responsibility for the custody and control of the moneys of the State and has “full power to invest and reinvest all funds of the State.” S.C. Code § 11-9-660. My office has always met these responsibilities. The cash in SCEIS Fund 30350993 has always been safeguarded and fully invested.

Senator Grooms, the State finds itself in a precarious position. Because of the deception surrounding the actual amount of the “mapping error” (\$5.9 billion, not \$3.5 billion), and the continuing lack of candor about the method in which the number was reduced, there is discord between agencies and a terrific burden has been placed on the staff of the STO. The events of the last year have postponed any resolution of this issue, and have placed the State’s excellent credit rating in jeopardy. I can only hope and pray that these issues are dealt with and the system can achieve a sense of harmony and cooperation.

Finally, I offer this—had the answer to this question been easy, wouldn’t the conversion team – made up of highly knowledgeable professionals with the CGO, STO, and SCEIS – have handled this during the conversion process? If they didn’t have the answers at the time of the conversion, I don’t know how you expect my team alone to find the answers in one week’s time. As such, I support the effort as proposed by the House via budget proviso to hire an auditing firm to study and make a recommendation as to whether these funds should be moved to a different fund. In addition, I asked the SCEIS Executive Oversight Committee for the establishment of a working group to research SCEIS Fund 30350993. (Exhibit 11). My office remains committed to the resolution of this important issue and stands ready to cooperate with all legitimate inquiries.

Sincerely,



Curtis M. Loftis, Jr.  
State Treasurer

Enclosures

cc: The Honorable Henry McMaster, Governor  
The Honorable Thomas Alexander, President of the South Carolina Senate  
The Honorable Harvey Peeler, Senate Finance Chairman  
The Honorable Murrell Smith, Speaker of the South Carolina House of Representatives  
The Honorable Bruce Bannister, House Ways & Means Chairman  
The Honorable Thomas McElveen  
The Honorable Mike Fanning  
The Honorable Stephen Goldfinch  
The Honorable Tom Young

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The Honorable Margie Bright Matthews  
The Honorable Brian J. Gaines, Comptroller General  
Marcia S. Adams, Executive Director of the SC Department of Administration  
George Kennedy, SC State Auditor