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April 24, 2009

The Honorable Larry Martin
State Senator
311 Gressette Building
Columbia, South Carolina 29211

Dear Senator Martin:

As I listened to the budget debate yesterday and your comments at adjournment regarding LLR's budget, I felt compelled to set the record straight. LLR does not have 38 million uncommitted dollars.

LLR's revenue comes from license fees, training and course fees, inspection fees and a percentage of fire insurance premium taxes. It costs approximately \$34M to fund LLR each year. Keep in mind we are charged with administering OSHA, Elevators and Amusement Rides, Professional and Occupational Licensing (POL) Division, Fire Marshal, State Fire Academy, Firefighter Mobilization, Manufactured Housing and Building Codes. Administration is also a part of that \$34M (OIS, Legal, HR, Finance, Director, etc.) Here is the breakdown:

OSHA	\$3.4M
POL	\$11.5M
Fire and Life Safety	\$8.2M
Elevators/Building Codes	\$1.7M
Administration	\$4.02M
Employer Contributions	\$5.3M

Twenty percent (20%) of the anticipated carry-forward is designated for the Fire and Life Safety Division, which includes the State Fire Academy, Firefighter Mobilization and the State Fire Marshal's Office. Most of the carry-forward funds are received from the Insurance Reserve Fund in late June. If you want to know why LLR needs these funds, look no further than the event currently taking place in Horry County. These wildfires are being fought with an incident command run by LLR staff utilizing firefighters and regional response teams trained at the Fire Academy using equipment housed at the Academy and maintained by LLR staff. To put these funds in jeopardy would be to put our fire service and public safety in jeopardy.

The majority of the carry-forward funds come from the POL Division. Almost all of our licenses are issued on a biennial basis, meaning the license is for a two year period. Fees collected today are used to operate board programs for the next two years when no renewal fees are collected. For example, of the approximately \$17M collected thus far this year, only 10% is for the FY09.

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Fifty-six percent (56%) will be used in FY10 and 34% will be used in FY11 for day-to-day operations. Additionally, we have strong reason to believe that the number of licensees may drop dramatically given the current state of the economy. We expect this drop to occur mainly in the real estate, building, and contracting industries which represent approximately 40% of the licensee population. This drop will have a negative impact on revenue collections.

For the most part, the license fee structures in place now were in place before LLR was created in 1994. To put this in perspective, doctors, nurses, barbers, cosmetologists, pharmacists and many other professions have not had a license fee increase in over 15 years. Some licensees, i.e., real estate agents, long term care administrators, cemeteries, to name a few, have actually had a license fee reduction. Contrast this to attorney license fees that have been increased numerous times over the past 15 years. We have been able to keep license fees stable for over 15 years because we have been prudent with licensee (taxpayer) money. The carry-forward money just didn't appear. It is the result of 15 years of cost cutting and efficiency strategies. Over the years, this agency has been as efficient as possible; cutting travel, printing and phone costs while reducing staff and leased space. We saw the few state dollars we received from the General Assembly shrinking year by year and knew we would need to have a "rainy day" fund to sustain ourselves in the future. Now it is raining in biblical proportions and the General Assembly is about to take our rainy day fund to support other state agencies including \$4.3M to support cultural agencies. We have been more than forthcoming regarding our willingness and ability to absorb some cuts. However, now it appears that our licensees, who are your doctors, nurses, veterinarians, contractors, home builders, barbers, architects, engineers, psychologists, speech pathologists, audiologists are being asked to shoulder more than their fair share of this financial mess. The law requires that our programs be self sufficient. If our accounts are raided to the extent the Senate is considering, an increase in licensee fees may be required to run this agency. That would truly be a sad commentary for an agency that since its inception has tried to play by the rules.

In addition to normal operations and the purchase of a new five million dollar data system, the agency has been asked by the General Assembly to fund the following items, all of which are new except for proviso 65.3 Remittance to the General Fund out of our carry-forward funds:

<u>Targeted Programs</u>	<u>Amount</u>	<u>Type</u>
Illegal Immigration Act	\$2,000,000	Recurring
OSHA State Plan	\$500,000	Recurring
Proviso 65.3 POL Transfer	\$5,300,000	Recurring
Proviso 65.3 Remittance to the General Fund	\$2,875,000	Recurring
SCEIS Accounting System	\$650,000	Non-Recurring
Conservation Bank	\$206,000	Non-recurring
Proviso 65.14 <u>(to fund cultural agencies)</u>	\$4,362,265	Non-recurring
<u>Total</u>	<u>\$15,893,265</u> *	

* \$10,675,000 of which is recurring

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The Illegal Immigration Act which will become effective July 1 of this year is a program that was given to LLR without funding. We were assured when this legislation was passed last year that this program would be fully funded. Immigration should be funded by state appropriation; however, we are cognizant of the current stresses on state dollars. During the initial stages of the budgeting process this year, LLR was asked to fund the program from our carry-forward funds. The proposal to spend other funds for this program is presented as a stop-gap measure until such time as permanent state dollars can be acquired. It would be fundamentally unfair to permanently burden a small segment of citizens (licensees) with funding this program. We indicated that we could fund this program to the tune of approximately \$2M. However, that was before the General Assembly proposed to take \$10M from the carry-forward funds.

If the General Assembly cannot fully fund implementation of the Illegal Immigration Act in this budget, we will not be prepared to meet the July 1, 2010 date for enforcement of the law statewide. We believe that we can implement the first year start-up of the program for \$750,000 because all employers are not included and statewide implementation does not take effect until July 2010. This \$750,000 would support only a scaled-back start-up and does in no way represent the support and maintenance of a full program.

During this fiscal year, we plan to hire eight temporary full-time employees who will also receive some assistance from our already over-burdened POL investigative staff. Access up to \$2M is needed so that we will be able to hire permanent investigative and support staff (approximately 40 people to cover all 46 counties) and begin training by March 1, 2010, so that we will be ready to enforce the Act on July 1, 2010.

Inspectors will be field employees and would not require an office but will need funds for travel expenditures, computers, office supplies, telephones, etc. There is also an audit component associated with the program. LLR plans to outsource the audits because we believe it will be less expensive than hiring a staff of auditors. LLR estimates 128,000 employers covered by this law will be subject to audit. Even if we audit only 10% of employers annually, that is over 12,000 businesses. The need for additional legal staff to assist with aspects of this program is also anticipated.

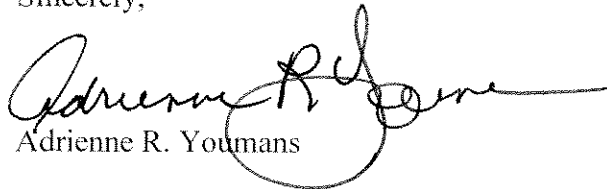
It is our understanding that there has been some discussion in the General Assembly about using fines as a possible funding source for regulatory programs in LLR. Historically, it has been deemed unethical to keep fines from a regulatory program within an agency. It gives the appearance that fines are being issued, not because the law has been broken, but because the agency needs money to operate. All fines received through our Division of Labor are remitted to the general fund. Generally, fines collected are not sufficient to fund programs and are not received in a consistent enough manner to be useful. Fine money received under the Illegal Immigration Act (which would be extremely small based upon estimates) should be treated in the same manner and remitted to the general fund.

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I hope this information will provide further clarification of LLR's funding sources and issues. Any additional cuts will jeopardize the OSHA State Plan, affect services provided by the Division of Fire and Life Safety, and limit the implementation of the Illegal Immigration Act. We will be left with no alternative but to consider increases in licensing fees.

Thank you for any assistance you may be able to provide in assuring that LLR has enough funds available to accomplish our mission.

Sincerely,



Adrienne R. Youmans

Cc: The Honorable Mark Sanford, Governor
Members of the South Carolina Senate
The Honorable Dan Cooper, Chairman, House Ways & Means
The Honorable Kenny Bingham, Subcommittee Chair, House Ways and Means
South Carolina Fire Chiefs
Chairs, Professional and Occupational Licensing Boards