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2 Amt. No. 1A (4408C002.NBD.DG22)
3 May 4, 2022

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H. 4408

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Introduced by Rep. G.M. Smith

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A JOINT RESOLUTION

TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS
DISBURSED TO THE STATE IN THE AMERICAN RESCUE
PLAN ACT OF 2021, AND TO SPECIFY THE MANNER IN
WHICH THE FUNDS MAY BE EXPENDED.

Amend Title To Conform

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

Part I
Authorization to Expend Federal Funds

SECTION 1.(A) The source of revenue authorized for
expenditure in this section is (i) the State Fiscal Recovery Funds and
(ii) the Capital Projects Fund disbursed to the State pursuant to the
federal “American Rescue Plan Act of 2021”, Public Law No. 117-
2, (hereinafter referred to as “ARPA”). The expenditure
authorizations contained in this section are for the maximum
amounts that may be disbursed or expended by the receiving
government entity. All disbursements and expenditures must be made in
compliance with the provisions contained in this act. The receiving
entities are:

- (1) Department of Transportation.....\$453,499,758
Of the amount authorized for expenditure by the Department
of Transportation \$297,462,293 is reimbursement for general fund
and Education Improvement Act revenue not collected and
\$156,037,465 is reimbursement for motor fuel user fee revenue not
collected due to the COVID-19 pandemic as calculated by the
Executive Budget Office.
- (2) Rural Infrastructure Authority.....\$900,000,000
- (3) Office of Regulatory Staff.....\$400,000,000

1 Of the amount authorized for expenditure by the Office of
2 Regulatory Staff \$185,765,655 is from the Capital Projects Fund
3 and the remaining \$214, 234,345 is from the State Fiscal Recovery
4 Funds disbursed to the State pursuant to ARPA.

5 (4) Department of Health and Environmental
6 Control.....\$104,400,000
7 (5) Office of Resilience.....\$100,000,000
8 (6) Department of Administration.....\$8,000,000

9 (B) If any disbursement to any recipient, or subrecipient,
10 resulting from an authorization contained herein is disallowed by
11 federal law, regulation, or order, then the recipient or subrecipient
12 shall promptly return the disbursed funds to the disbursing entity.

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Part II

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Directives to State Agencies Concerning the Authorization to 16 Expend Federal Funds

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Department of Transportation

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20 SECTION 2. There is established in the State Treasury an account
21 to be known as the Transportation Infrastructure Acceleration
22 Account. The account is separate from the general fund of the State
23 and all other funds and accounts. The account shall consist of the
24 federal funds authorized pursuant to SECTION 1(A)(1) of this act.
25 The funds in the Transportation Infrastructure Acceleration Account
26 shall be used by the Department of Transportation to accelerate
27 completion of projects included in the Statewide Transportation
28 Improvement Program. These funds are not intended to satisfy state
29 matching requirements for any other federal grants to the extent that
30 such use is disallowed by ARPA.

31

32 SECTION 3. Funds in the Transportation Infrastructure
33 Acceleration Account may be released to the Department of
34 Transportation upon the direction of the Executive Budget Office.
35 The Executive Budget Office may not direct the release of funds
36 until the Department of Transportation has submitted its plans for
37 the funds to the Joint Bond Review Committee for its review and
38 comment.

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40

Rural Infrastructure Authority

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42 SECTION 4. There is established in the State Treasury an account
43 to be known as the ARPA Water and Sewer Infrastructure Account.

1 The account is separate from the general fund of the State and all
2 other funds and accounts. The account shall consist of federal funds
3 authorized pursuant to SECTION 1(A)(2) of this act. The funds in
4 the ARPA Water and Sewer Infrastructure Account shall be used by
5 the Rural Infrastructure Authority to administer and operate three
6 grant programs designed to provide for improvements in water,
7 wastewater, and storm water infrastructure throughout the State. In
8 each of the three grant programs, units of local government, special
9 purpose districts, commissions of public works, and joint municipal
10 organizations may apply for grants. A unit of local government may
11 apply for a grant on behalf of non-profit water and sewer systems.
12 Grants may be awarded for the completion of water, wastewater,
13 and storm water projects as defined in ARPA.

14
15 SECTION 5. (A) The Rural Infrastructure Authority shall utilize
16 \$800,000,000 of the funds in the ARPA Water and Sewer
17 Infrastructure Account to operate, in cooperation with the
18 Department of Health and Environmental Control, a competitive
19 infrastructure grant program. Of the funds in the account for the
20 competitive infrastructure grant program, the Rural Infrastructure
21 Authority may allocate up to \$6,000,000 of the funds for its
22 administrative costs and shall transfer up to \$6,000,000 to the
23 Department of Health and Environmental Control for related
24 permitting activities. One hundred million dollars shall be available
25 for projects designated by the Secretary of Commerce as being
26 significant to economic development and may be funded at up to
27 fifty million dollars per project with no local match requirement.
28 The Rural Infrastructure Authority shall transfer five hundred
29 thousand dollars to each of the ten South Carolina Councils of
30 Government for planning assistance, development of grant
31 application proposals, and compliance assistance related to
32 improvements in water, wastewater, and stormwater infrastructure
33 for smaller systems.

34 (B) Grants pursuant to this program must be issued equitably
35 based upon established priorities and parameters. Applicants may
36 request up to ten million dollars per project or application. Awards
37 shall be made from the funds authorized for the competitive
38 infrastructure grant program, less any amounts allocated for
39 purposes designated in subsection (A). Large utilities, defined as
40 those serving a population equal to or greater than thirty thousand
41 people, shall be eligible for sixty percent of the funds, and small and
42 medium utilities, defined as those serving a population of less than
43 thirty thousand people or are located in a Tier III or Tier IV county

1 at the time of the grant pursuant to Section 12-6-3360 of the 1976
2 Code, shall be eligible for forty percent of the funds.

3 (C) Local financial support is required for each grant award and
4 must be committed in writing and available prior to project bidding.
5 Design, engineering, and other nonconstruction costs are considered
6 part of the local financial support. For large utilities, the local
7 financial support must be equal to or greater than twenty-five
8 percent of the project cost. For small and medium utilities, the local
9 financial support must be equal to or greater than fifteen percent of
10 the project cost.

11 (D) Priority consideration must be given to applications for
12 projects based upon a comparative analysis in the following relative
13 order of need:

14 (1) regional solutions - projects that implement solutions that
15 impact multiple systems;

16 (2) water quality - projects that address consent orders,
17 violations, or other public health or environmental impacts;

18 (3) resilience and storm protection - projects that help utilities
19 prepare for emergencies;

20 (4) other aging infrastructure - projects that upgrade or
21 replace infrastructure that has exceeded its useful life; and

22 (5) capacity - projects that improve service for existing
23 residents while preparing for future opportunities.

24 (E) To provide for equitable distribution of funds from the
25 account, the following factors must be considered when awarding
26 grants:

27 (1) documented priority needs;

28 (2) the transformational impact of the project on the relevant
29 community;

30 (3) the extent to which additional funds may be leveraged by
31 the grant;

32 (4) the readiness of the applicant to proceed with the project
33 and meet program deadlines;

34 (5) the project's feasibility; and

35 (6) geographic diversity.

36

37 SECTION 6. (A) The Rural Infrastructure Authority shall utilize
38 \$20,000,000 of the funds in the ARPA Water and Sewer
39 Infrastructure Account to operate a planning grant program for very
40 small water systems. This program will assist very small systems
41 that are unable to provide the required local investment for the
42 competitive infrastructure grant program or that cannot identify a
43 competitive project for assistance. Applicants for grants from this

1 program must identify the assistance needed. Grants from this
2 program may be awarded in an amount up to one million dollars per
3 system. For purposes of this section, a very small water system is
4 defined as a water system serving a population equal to or less than
5 three thousand three hundred people.

6 (B) Grant recipients may utilize grant funding pursuant to this
7 program for approved purposes including, but not limited to, capital
8 improvement planning, rate studies and other financial assessments,
9 asset management, smoke testing, mapping, televising of lines and
10 other necessary analyses, as well as preliminary planning and design
11 for capital improvement projects. As a condition for receiving a
12 grant pursuant to this program, recipients must demonstrate the
13 intent to implement the recommendations arising from approved
14 planning assistance.

15

16 SECTION 7. (A) The Rural Infrastructure Authority shall utilize
17 \$80,000,000 of the funds in the ARPA Water and Sewer
18 Infrastructure Account to operate a regional solutions grant
19 program. Applicants may request up to ten million dollars per
20 project or application. The maximum grant request may be waived
21 by the Rural Infrastructure Authority if the proposed project
22 provides a regional solution that will result in consolidation of or for
23 projects located in Tier III or Tier IV counties.

24 (B) Local financial support equal to or greater than fifteen
25 percent of the cost of the project is required for each grant award
26 and must be committed in writing and available prior to project
27 bidding. Design, engineering, and other non-construction costs will
28 be considered part of the local financial support. The local financial
29 support requirement may be waived by the Rural Infrastructure
30 Authority if the proposed project provides a regional solution that
31 will result in consolidation or for projects located in Tier III or Tier
32 IV counties.

33 (C) Priority consideration will be given to applications for
34 projects based upon a comparative analysis in the following relative
35 order of need:

36 (1) the project results in a consolidation or operating
37 agreement with at least one small system with viability concerns;

38 (2) the project results in an expanded partnership agreement
39 with at least one small system with viability concerns; and

40 (3) the project results in a consolidation or operating
41 agreement with other systems.

1 (D) To provide for equitable distribution of funds from the
2 account, the following factors must be considered when awarding
3 grants:

- 4 (1) documented priority needs;
- 5 (2) the transformational impact of the project on the relevant
6 community;
- 7 (3) the extent to which additional funds may be leveraged by
8 the grant;
- 9 (4) the readiness of the applicant to proceed with the project
10 and meet program deadlines;
- 11 (5) the project's feasibility; and
- 12 (6) geographic diversity.

13
14 SECTION 8. The Rural Infrastructure Authority shall be permitted
15 to modify or waive the program parameters contained in
16 SECTIONS 4, 5, 6, and 7 to ensure the timely and equitable
17 distribution of funds in compliance with federal guidelines for these
18 funds. Modifications to funding amounts authorized for specific use
19 by each program must first be submitted with justification to the
20 Joint Bond Review Committee for review and comment. The Rural
21 Infrastructure Authority shall submit a report of all other
22 modifications to the Joint Bond Review Committee.

23
24 Office of Regulatory Staff
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26 SECTION 9. There is established in the State Treasury an account
27 to be known as the ARPA Broadband Account. This account is
28 separate and distinct from the general fund of the State and all other
29 funds and accounts. The account shall consist of federal funds
30 authorized pursuant to SECTION 1(A)(3) of this act. The funds in
31 the ARPA Broadband Account shall be used to expand broadband
32 infrastructure to households, businesses, and communities in the
33 State that are unserved or underserved by broadband services.
34 Unserved areas are defined as households that lack access to a
35 wireline connection capable of reliably delivering at least minimum
36 speeds of 25 Mbps download and 3 Mbps upload. Priority must be
37 given to unserved areas with no current Internet Service Provider,
38 Difficult Development Areas as identified by US Housing and
39 Urban Development, and census blocks that have a high
40 concentration of unserved public K-12 student households as
41 documented by the South Carolina Department of Education.

1 SECTION 10. (A) The Office of Broadband Coordinator, an
2 office within the Office of Regulatory Staff, is authorized to expend
3 funds from the ARPA Broadband Account to:

4 (1) administer a grant program to expand broadband
5 infrastructure to households, businesses, and communities in the
6 State that are unserved or underserved by broadband services;

7 (2) provide technical assistance and coordination;

8 (3) host and participate in stakeholder discussions and
9 advisory groups;

10 (4) support continued mapping efforts including, but not
11 limited to, costs associated with storage, security, and data
12 collection;

13 (5) engage in and undertake such other activities related to or
14 necessary to fulfilling the requirements of expanding broadband
15 infrastructure to households, businesses, and communities in the
16 State that are unserved or underserved by broadband services;

17 (6) expend funds for alternative and enabling technologies
18 including, but not limited to, wireless broadband service, low earth
19 orbit satellite, middle-mile fiber, enhanced cellular service, and
20 carrier neutral broadband infrastructure; and

21 (7) reimburse any state funds as may be allowed by ARPA, or
22 related guidance issued by the United States Department of the
23 Treasury, for reasonable costs associated with administering the
24 grant program and fulfilling the Office of Broadband Coordinator's
25 obligations established by this act.

26 (B) The grant program may include an opportunity to reimburse
27 a portion of construction costs, incurred on or after March 15, 2021,
28 related to the expansion of broadband during the pandemic.

29 (C) All expenditures, reimbursements, and grants awarded by
30 the Office of Broadband Coordinator must be in compliance with
31 ARPA and the methods and guidance issued by the United States
32 Department of Treasury for the allocation and oversight of ARPA
33 funding.

34

35 SECTION 11. (A) The Office of Broadband Coordinator may
36 award grants from the ARPA Broadband Account to broadband
37 service providers and other entities for authorized projects that
38 achieve the purpose of expanding broadband infrastructure to
39 households, businesses, and communities in the State that are
40 unserved or underserved by broadband services. The speed at which
41 an applicant can complete the proposed project shall be considered
42 among significant criteria for awarding grants.

1 (B) Electric Cooperatives that own broadband facilities pursuant
2 to the provisions of S.C. Code Sections 58-9-3000, et seq., the
3 Broadband Accessibility Act of 2020 are eligible to receive grants
4 from the ARPA Broadband Account.

5 (C) Grants may be disbursed to recipients in tranches. The
6 number and amount of funding in each tranche shall be determined
7 by the Office of Broadband Coordinator.

8
9 SECTION 12. (A) Grant recipients and other entities receiving
10 funds pursuant to SECTION 11 shall report to the Office of
11 Broadband Coordinator concerning the progress of the recipient's
12 project. The reports shall provide the most accurate and granular
13 representation of then-currently available broadband infrastructure
14 installed by the recipient, the type of technology installed, the
15 sustainable download and upload speeds available at each
16 serviceable location, and such other information that the Office of
17 Broadband Coordinator requires.

18 (B) The Office of Broadband Coordinator shall maintain as
19 confidential all individual company-designated proprietary
20 information. All such individual proprietary information is exempt
21 from the provisions contained in S.C. Code Sections 30-4-10, et
22 seq., the South Carolina Freedom of Information Act.

23 (C) The Office of Regulatory Staff is authorized to contract with
24 broadband service providers and to procure professional grant
25 management, vendor, consulting, or other services for oversight and
26 compliance of funds designated, granted, and disbursed pursuant to
27 this act and for such other purposes as the Office of Regulatory Staff
28 may deem necessary to implement the purposes of this act.

29 (D) It is vital to the state's interest that grant funds be awarded
30 for the deployment of broadband infrastructure in rural communities
31 in the most expeditious manner possible. Accordingly, contracting
32 with broadband service providers and the procurement of
33 professional grant management, vendor, consulting, or other
34 services and pursuant to this act should be done pursuant to the
35 provisions of S.C. Code Section 11-35-1570 of the 1976 Code. The
36 Executive Director of the Office of Regulatory Staff shall coordinate
37 the process used to contract with broadband service providers and
38 to procure grant management, vendor, or consulting services and
39 shall be responsible for the development of specifications to be
40 included in any contract awarded. The State Fiscal Accountability
41 Authority shall serve as the procuring officer for the procurement
42 process and is responsible for administrative duties related to the
43 process and the contract awarded. The State Fiscal Accountability

1 Authority shall assign such personnel as necessary to assist the
2 Office of Regulatory Staff in carrying out its duties under this act.

3

4 SECTION 13. The Office of Broadband Coordinator is directed
5 to take all necessary action to secure any broadband funding made
6 available to this State pursuant to Section 604 of the Social Security
7 Act, as added by Section 9901 of ARPA and to make appropriate
8 grants from those funds in compliance with the provisions contained
9 in Sections 9 through 12 of this act.

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11 Office of Resilience

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13 SECTION 14. (A) There is established in the State Treasury an
14 account to be known as the ARPA Office of Resilience Account.
15 This account is separate and distinct from the general fund of the
16 State and all other funds and accounts. The account shall consist of
17 federal funds authorized pursuant to subsection (A)(5) of SECTION
18 1 of this act. The funds in the ARPA Resilience Account must be
19 used to complete stormwater infrastructure projects and acquisitions
20 of property in the floodplain throughout the State to lessen the
21 impacts of future flood events.

22 (B) All expenditures, reimbursements, and grants awarded by
23 the Office of Resilience must be in compliance with ARPA and the
24 methods and guidance issued by the United States Department of
25 Treasury for the allocation and oversight of ARPA funding.

26

27 Department of Health and Environmental Control

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29 SECTION 15. The amount authorized for expenditure by the
30 Department of Health and Environmental Control in SECTION
31 (1)(A)(4) shall be utilized by the department for the construction of
32 a public health laboratory. The department shall make quarterly
33 reports to the Joint Bond Review Committee for review and
34 comment.

35

36 Department of Administration

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38 SECTION 16. The Department of Administration shall utilize up
39 to the amount authorized in SECTION(1)(A)(6) for contracting for
40 professional grant management services of ARPA funds and other
41 federal COVID-19 relief funds. The department shall use the
42 contract awarded pursuant to the procurement process established

1 by Section 2(A) of Act 135 of 2020, for professional grant
2 management services.

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4 Part III
5 Miscellaneous Provisions
6

7 SECTION 17. The expenditure authorizations contained in this
8 act are supplemental to the expenditure authorizations for receiving
9 entities as contained in Act 94 of 2021, the General Appropriations
10 Act for Fiscal Year 2021-22, and future expenditure authorizations
11 enacted by the General Assembly through December 31, 2026.
12

13 SECTION 18. Earnings and interest on accounts created pursuant
14 to this act must be credited to the account and any balance at the end
15 of the fiscal year carries forward to the account in the succeeding
16 fiscal year for the same purpose.
17

18 SECTION 19. The General Assembly finds that the sections
19 presented in this act constitute one subject as required by Article III,
20 Section 17 of the South Carolina Constitution, in particular finding
21 that each change and each topic relates directly to or in conjunction
22 with other sections to the subject of authorizing the disbursal and
23 expenditure of federal funds received by the State pursuant to ARPA
24 as clearly enumerated in the title.

25 The General Assembly further finds that a common purpose or
26 relationship exists among the sections, representing a potential
27 plurality but not disunity of topics, notwithstanding that reasonable
28 minds might differ in identifying more than one topic contained in
29 the act.
30

31 SECTION 20. If any section, subsection, paragraph,
32 subparagraph, sentence, clause, phrase, or word of this act is for any
33 reason held to be unconstitutional or invalid, then such holding shall
34 not affect the constitutionality or validity of the remaining portions
35 of this act, the General Assembly hereby declaring that it would
36 have passed this act, and each and every section, subsection,
37 paragraph, subparagraph, sentence, clause, phrase, and word
38 thereof, irrespective of the fact that any one or more other sections,
39 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,
40 or words hereof may be declared to be unconstitutional, invalid, or
41 otherwise ineffective.

1 SECTION 21. This joint resolution shall become law upon
2 approval of the Governor.
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