~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 24, 2016

**S. 1258**

Introduced by Finance Committee

S. Printed 5/24/16--H.

Read the first time April 28, 2016.

**A** **BILL**

TO AMEND CHAPTER 43, TITLE 11 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK, TO PROVIDE FOR THE DISTRIBUTION BY THE DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK OF CERTAIN FEES AND FINES COLLECTED BY THE DEPARTMENT OF MOTOR VEHICLES TRANSFERRED TO THE STATE HIGHWAY FUND; TO AMEND SECTIONS 12‑37‑2740(D), 38‑73‑470, 56‑1‑170(B)(3), 56‑1‑200, 56‑1‑286(K)(1), 56‑1‑390(2), 56‑1‑400(A), 56‑1‑460(A)(1)(e)(iii), 56‑1‑550, 56‑1‑740(B)(3), 56‑1‑746(D)(3), 56‑1‑2080, 56‑3‑355, 56-3-1335, 56‑5‑750(G)(3), 56‑5‑2951(B)(1), 56‑5‑2951(H)(3), 56‑9‑330, 56‑10‑240(C), 56‑10‑245, 56‑10‑552, 56‑19‑420(C), AND 56‑19‑520(A)(4), ALL OF THE 1976 CODE, ALL RELATING TO FEES OR FINES COLLECTED BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT ALL OR A PORTION OF THE FEES SHALL BE CREDITED TO THE STATE HIGHWAY FUND, AND TO PROVIDE FOR THE DISTRIBUTION OF THOSE FUNDS BY THE DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK; TO AMEND SECTION 12‑36‑2647 OF THE 1976 CODE, AS ENACTED IN ACT 98 OF 2013 AND RELATED TO SOURCES OF REVENUE USED FOR HIGHWAY CONSTRUCTION AND MAINTENANCE, TO PROVIDE THAT THE REVENUES OF SALES, USE, AND CASUAL EXCISE TAXES DERIVED PURSUANT TO SECTIONS 12‑36‑2620(1) AND 12‑36‑2640(1) ON THE SALE, USE, OR TITLING OF A MOTOR VEHICLE MUST BE CREDITED TO THE STATE HIGHWAY FUND, AND TO PROVIDE FOR THE DISTRIBUTION OF THOSE FUNDS BY THE DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK.

Amend Title To Conform

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

SECTION 1. Chapter 43, Title 11 of the 1976 Code is amended by adding:

“Section 11-43-167. (A) The fees and fines collected pursuant to Sections 12‑37‑2740(D), 38‑73‑470, 56‑1‑170(B)(3), 56‑1‑200, 56‑1‑286(K)(1), 56‑1‑390(2), 56‑1‑400(A), 56‑1‑460(A)(1)(E)(III), 56‑1‑550, 56‑1‑740(B)(3), 56‑1‑746(D)(3), 56‑1‑2080, 56‑3‑355, 56-3-1335, 56‑5‑750(G)(3), 56‑5‑2951(B)(1), 56‑5‑2951(H)(3), 56‑9‑330, 56‑10‑240(C), 56‑10‑245, 56‑10‑552, 56‑19‑420(C), and 56‑19‑520(A)(4) must be credited to the State Highway Fund as established by Section 57-11-20, to be distributed as provided in this section.

(B)(1) The Department of Transportation shall allocate the funds credited to the State Highway Fund pursuant to subsection (A) to the state funded resurfacing program. The Department of Transportation shall develop and implement a needs-based methodology to distribute revenue within the state funded resurfacing program, which shall include consideration on a county-by-county basis, to ensure that each county in the State is guaranteed funding for resurfacing.

(2) The Department of Transportation shall reduce the allocation to the state funded resurfacing program required in item (1) in proportion to the amounts transferred to the South Carolina Transportation Infrastructure Bank pursuant to subsection (C).

(C)(1) The Department of Transportation shall identify bridge and road projects to be financed utilizing non-tax revenue transferred to the bank by the Department of Transportation in an amount equal to the financing requirements related to projects selected pursuant to this section.

(2) The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section 11‑43‑180, prior to approving a project for financing.

(3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of non-tax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.

(4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer non-tax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.

(5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.

(D) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs.”

SECTION 2. Section 12‑37‑2740(D) of the 1976 Code is amended to read:

“(D) Before the reinstatement of a driver’s license or vehicle registration suspended pursuant to this section, a fee of fifty dollars must be paid to the Department of Motor Vehicles. ~~The Department of Motor Vehicles may retain revenues generated by payment of the reinstatement fees pursuant to this section for use in defraying costs associated with suspension and reinstatement actions pursuant to this section.~~ An amount equal to the actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. Fees collected in excess of actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be deposited to the credit of the general fund of the State at the end of each fiscal year.”

SECTION 3. Section 38‑73‑470 of the 1976 Code is amended to read:

“Section 38‑73‑470. Two dollars of the yearly premium for uninsured motorist coverage is directed to be paid to the South Carolina Department of Motor Vehicles to be allocated in the manner provided in Section 56‑10‑552 ~~placed on deposit with the State Treasurer in the ‘Uninsured Enforcement Fund’, payable~~ on a quarterly basis~~, to provide for the costs of enforcing and administering the provisions of Article 3, Chapter 10, Title 56. Of the two dollars collected, eighty cents must be distributed to the South Carolina Highway Patrol and one dollar twenty cents must be retained by the Department of Motor Vehicles~~. Interest earned by the ‘Uninsured Fund’ must be retained by that fund. There is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits.”

SECTION 4. Section 56‑1‑170(B)(3) of the 1976 Code is amended to read:

“(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 5. Section 56‑1‑200 of the 1976 Code is amended to read:

“Section 56‑1‑200. (A) If a driver’s license is lost or destroyed, the person to whom the license was issued, upon payment of a fee of ten dollars, may obtain a duplicate or substitution of it upon furnishing proof satisfactory to the Department of Motor Vehicles that the license has been lost or destroyed.

(B) Three dollars of the revenue from each fee collected pursuant to this section must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund based on the actual date of receipt by the Department of Motor Vehicles.

(C) The balance of the revenue from each fee must be ~~deposited into a special earmarked account by the State Treasurer for the use of the Department of Motor Vehicles~~ placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 6. Section 56‑1‑286(K)(1) of the 1976 Code is amended to read:

“(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee collected by the Department of Motor Vehicles must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicle’s expenses~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter; and”

SECTION 7. Section 56‑1‑390(2) of the 1976 Code is amended to read:

“(2) The fees collected by the Department of Motor Vehicles under this provision must be distributed as follows: seventy dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 and one dollar must be credited to the ‘Keep South Carolina Beautiful Fund’ established pursuant to Section 56‑3‑3950. From the ‘Keep South Carolina Beautiful Fund’, the Department of Transportation shall expend funds necessary to employ, within the Department of Transportation, a person with training in horticulture to administer a program for beautifying the rights‑of‑way along state highways and roads. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund ~~as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:~~

~~Fees and Penalties~~ ~~General Fund~~ ~~Department of~~

~~Collected After~~ ~~of the State~~ ~~Transportation~~

~~State Non‑Federal~~

~~Aid Highway Fund~~

~~June 30, 2005~~ ~~60 percent~~ ~~40 percent~~

~~June 30, 2006~~ ~~20 percent~~ ~~80 percent~~

~~June 30, 2007~~ ~~0 percent~~ ~~100 percent~~.”

SECTION 8. Section 56‑1‑400(A) of the 1976 Code is amended to read:

“Section 56‑1‑400. (A) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person. If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person’s driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department’s discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license issued to the person, showing the grounds of the suspension. If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56‑5‑2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Sections 56‑1‑286, 56‑5‑2945, and 56‑5‑2947 except if the conviction was for Sections 56‑5‑750, 56‑5‑2951, or 56‑5‑2990. For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed by the Comptroller General into ~~a special restricted account~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 ~~by the Comptroller General to be used by the Department of Motor Vehicles to defray the department’s expenses~~. Unless the person establishes that the person is entitled to the exemption set forth in subsection (B), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order. If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in Sections 56‑1‑286, 56‑5‑2945, and 56‑5‑2947 except if the conviction was for Section 56‑5‑750, 56‑5‑2951, or 56‑5‑2990. This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.”

SECTION 9. Section 56‑1‑460(A)(1)(e)(iii) of the 1976 Code is amended to read:

“(iii) The fee for a route restricted driver’s license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles’ expenses~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund.”

SECTION 10. Section 56‑1‑550 of the 1976 Code is amended to read:

“Section 56‑1‑550. The Department of Motor Vehicles may collect a fee not to exceed twenty dollars per document to expedite a request for copies of documents and records it maintains. This fee is in addition to the normal fees associated with the request. Expedited requests must be available within seventy‑two hours of receipt of the request and standard requests within thirty days. Nothing in this section may be construed as circumventing the requirements of Section 30‑4‑30 of the Freedom of Information Act. The funds collected pursuant to this section must be placed by the Comptroller General into ~~a special restricted account~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 ~~by the Comptroller General to be used by the Department of Motor Vehicles to defray expenses~~.”

SECTION 11. Section 56‑1‑740(B)(3) of the 1976 Code is amended to read:

“(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the department~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund. ~~as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:~~

~~Fees and Penalties~~ ~~General Fund~~ ~~Department of~~

~~Collected After~~ ~~of the State~~ ~~Transportation~~

~~State Non‑Federal~~

~~Aid Highway~~

~~Fund~~

~~June 30, 2005~~ ~~60 Percent~~ ~~40 Percent~~

~~June 30, 2006~~  ~~20 Percent~~ ~~80 Percent~~

~~June 30, 2007~~ ~~0 Percent~~ ~~100 Percent~~”

SECTION 12. Section 56‑1‑746(D)(3) of the 1976 Code is amended to read:

“(3) The fee for a special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 13. Section 56‑1‑2080 of the 1976 Code is amended to read:

“Section 56‑1‑2080. (A)(1) A person may not be issued a commercial driver’s license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with the minimum federal standards established by 49 C.F.R. Part 383, subparts F, G, and H and has satisfied all other requirements of the CMVSA as well as any other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. The first commercial driver’s license skills test administered by the department to an individual is free of charge; thereafter, the Department of Motor Vehicles is authorized to charge a fee of twenty‑five dollars for each subsequent commercial driver’s license skills test administered to that individual. State agency and school district employees who are required to possess a commercial driver’s license in the course of their normal job duties are exempt from this requirement. This fee must be placed into ~~a special restricted account~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General ~~to be used by the Department of Motor Vehicles to defray its expenses~~.”

SECTION 14. Section 56‑3‑355 of the 1976 Code is amended to read:

“Section 56‑3‑355. The Department of Motor Vehicles must suspend, revoke, or not issue a registration card and license plate to a person for a commercial motor vehicle greater than twenty‑six thousand pounds which operates with an apportioned license plate if the commercial motor carrier who is responsible for the safety of the vehicle has been prohibited from operating by a federal agency. The registrant must promptly surrender to the department any item suspended or revoked under this section. If the registrant unlawfully refuses to surrender the suspended or revoked items as required under this section, the department, through its designated agents or by request to a county or municipal law enforcement agency, shall take possession of the suspended or revoked license plate and registration card. A registration card or license plate may not be reissued for that vehicle until the motor carrier has been allowed to operate by a federal agency or the vehicle is properly transferred to a motor carrier that is not prohibited from operating by a federal agency. Before a suspended vehicle registration card can be reinstated, a fee of fifty dollars for each registration card suspension must be paid to the department. The fifty dollar fee must be placed in ~~a special restricted account~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General ~~to be used by the department to offset the expenses of administering the Performance and Registration Information Systems Management Program~~.”

SECTION 15. Section 56‑3‑1335 of the 1976 Code is amended to read:

“Section 56‑3‑1335. The Department of Motor Vehicles shall suspend a motor vehicle’s current registration and shall not register or reregister a motor vehicle that was operated when its driver failed to pay a toll and whose owner has an outstanding judgment for failure to pay a toll pursuant to Section 57‑5‑1495(E) entered against him. The suspension or denial of registration or reregistration shall remain in effect until the judgment is satisfied, evidence of the satisfaction has been provided to the Department of Motor Vehicles, and a reinstatement fee of fifty dollars has been paid. The reinstatement fee collected must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the costs associated with this section~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 16. Section 56‑5‑750(G)(3) of the 1976 Code is amended to read:

“(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 17. Section 56‑5‑2951(B)(1) of the 1976 Code is amended to read:

“(B) Within thirty days of the issuance of the notice of suspension, the person may:

(1) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles’ expenses~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer’s decision and the Department of Motor Vehicles sends notice to the person that the person is eligible to receive a restricted license pursuant to subsection (H); and”

SECTION 18. Section 56‑5‑2951(H)(3) of the 1976 Code is amended to read:

“(3) The fee for a restricted license is one hundred dollars, but no additional fee may be charged because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state’s general fund, and eighty dollars must be placed by the Comptroller General into ~~a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles’ expenses~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 19. A. Section 56‑9‑330 of the 1976 Code is amended to read:

“Section 56‑9‑330. (1) The Department of Motor Vehicles, upon request~~,~~ and the payment of a fee, shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract must also fully designate the motor vehicles, if any, registered in the name of that person, and, if there is no record of any conviction of that person for violating any laws relating to the operation of a motor vehicle or of any injury or damage caused by that person, the department shall so certify. The department, upon request and the payment of a reasonable fee, shall furnish a monthly listing by magnetic or other electronic media of all driver’s license numbers that had driving violations posted on their records during the previous month. These abstracts are not admissible as evidence in any action for damages or criminal proceedings arising out of motor vehicle accidents.

(2) The department shall, upon request, and the payment of a fee furnish any person a copy of a vehicle accident report. Revenue generated by the fee imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

B. If the provisions regarding distribution of the fee authorized in this SECTION conflict with the provisions for distribution contained in Proviso 82.4 included in the Fiscal Year 2016‑2017 General Appropriations Act, the provisions contained in this act shall control.

SECTION 20. Section 56‑10‑240(C) of the 1976 Code is amended to read:

“(C) If the vehicle owner unlawfully refuses to surrender the suspended items as required in this article, the department through its designated agents or by request to a county or municipal law enforcement agency shall take possession of the suspended license plates and registration certificates and may not reissue the registration until proper proof of liability insurance coverage is provided and until the owner has paid a reinstatement fee of two hundred dollars. A person who voluntarily surrenders his license plates and registration certificates before their suspension shall not be charged a reinstatement fee. Revenue generated by the fee imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 21. Section 56‑10‑245 of the 1976 Code is amended to read:

“Section 56‑10‑245. Whenever a person furnishes proof of liability insurance, or surrenders or has his registration or license tags confiscated for failure to produce proof of insurance, after the Department of Motor Vehicles receives notice of the lapse or termination of the required liability insurance, the department shall compare the effective date of the lapse or termination with the date of the proof of insurance or the date of the confiscation or surrender. If the department determines there was a lapse in the required coverage, the department shall assess, in addition to other fines or penalties imposed by the law, a per diem fine in the amount of five dollars. ~~The department shall collect and keep this fine to defer the costs of the financial responsibility program.~~ The fine provided for in this section and the two hundred dollar reinstatement fee pursuant to Section 56‑10‑240 of the 1976 Code must not be assessed if the person furnishes proof, as documented by his sworn statement, that the motor vehicle upon which the coverage has lapsed or been terminated has not been operated upon the roads, streets, or highways of this State during the lapse or termination, and the lapse or termination is due to military service or illness as documented by a signed physician’s statement. The total amount of the fine provided for in this section may not exceed two hundred dollars for a first offense. Revenue generated by the fine imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.”

SECTION 22. Section 56‑10‑552 of the 1976 Code is amended to read:

“Section 56‑10‑552. (A) ~~All funds collected as provided in~~ For each two dollars of the yearly premium for uninsured motorist coverage paid to the Department of Motor Vehicles pursuant to Section 38‑73‑470, ~~must be directed to the Director of the Department of Motor Vehicles~~ one dollar and twenty cents must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remaining eighty cents must be placed in ~~for the establishment and maintenance of~~ a special fund, to be known as the ‘Uninsured Enforcement Fund’, to be used by ~~the Department of Motor Vehicles and~~ the Department of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56.

(B) Fifty percent of the reinstatement fee as provided by Section 56‑10‑510(1) must be transferred by the Department of Public Safety and recorded to the Uninsured Enforcement Fund to be used by the Department of Public Safety as provided by subsection (A) of this section. The remaining fifty percent of the reinstatement fee as provided by Section 56‑10‑510 must be retained in the Uninsured Motorist Fund to be used as provided in Sections 56‑10‑550, 38‑77‑151, and 38‑77‑154.”

SECTION 23. Section 56‑19‑420(C) of the 1976 Code is amended to read:

“(C) Notwithstanding any other provision of law, five dollars of the fee contained in this section must be placed in ~~a special earmarked account~~ the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General ~~and must be distributed to the Department of Motor Vehicles and used to defray its operational expenses excluding any expense relating to Project Phoenix~~.”

SECTION 24. Section 56‑19‑520(A)(4) of the 1976 Code is amended to read:

“(4) payment of a fee established by the department not to exceed fifty dollars for retirement of the title certificate and, notwithstanding any other provision of law, the fee collected by the department must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 ~~a special restricted account to be used by the department to defray the expenses of the department in administering this article~~.”

SECTION 25. Section 12‑36‑2647 of the 1976 Code is amended to read:

“Section 12‑36‑2647. (A) Notwithstanding the provisions of Section 59‑21‑1010, ~~fifty percent of~~ the revenues of sales, use, and casual excise taxes derived pursuant to Sections 12‑36‑2620(1) and 12‑36‑2640(1) on the sale, use, or titling of a motor vehicle required to be licensed and registered by the South Carolina Department of Motor Vehicles, otherwise required to be credited as provided pursuant to Section 59‑21‑1010, instead must be credited to the State ~~Non‑Federal Aid Highway Fund established pursuant to Section 57‑11‑20. Revenues credited to the State Non‑Federal Aid Highway Fund pursuant to this section must be used exclusively for highway, road, and bridge maintenance, construction, and repair~~ Highway Fund as established by Section 57-11-20, to be distributed as provided in this section.

(B)(1) The Department of Transportation shall allocate the funds credited to the State Highway Fund pursuant to subsection (A) to the state funded resurfacing program. The Department of Transportation shall develop and implement a needs-based methodology to distribute revenue within the state funded resurfacing program, which shall include consideration on a county-by-county basis, to ensure that each county in the State is guaranteed funding for resurfacing.

(2) The Department of Transportation shall reduce the allocation to the state funded resurfacing program required in item (1) in proportion to the amounts transferred to the South Carolina Transportation Infrastructure Bank pursuant to subsection (C).

(C)(1) The Department of Transportation shall identify bridge and road projects to be financed utilizing non-tax revenue transferred to the bank by the Department of Transportation in an amount equal to the financing requirements related to projects selected pursuant to this section, provided that:

(a) Fifty million dollars in revenue utilized by the bank shall be used to finance bridge replacement, rehabilitation projects, and expansion and improvements on existing roads in the State Highway System.

(b) Funds in excess of fifty million dollars utilized by the bank shall be used to finance expansion and improvements to existing mainline interstates.

(2) The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section 11‑43‑180, prior to approving a project for financing.

(3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of non-tax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.

(4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer non-tax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.

(5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.

(D) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs.”

SECTION 26. A. Sections 57‑1‑310 through Section 57‑1‑340 of the 1976 Code, all as last amended by Act 114 of 2007, are further amended to read:

“Section 57‑1‑310. (A) The congressional districts of this State are constituted and created Department of Transportation Districts of the State, designated by numbers corresponding to the numbers of the respective congressional districts. The Commission of the Department of Transportation shall be composed of one member from each transportation district ~~elected by the delegations of the congressional district~~ and one member ~~appointed by the Governor~~ from the State at large, all appointed by the Governor, upon the advice and consent of the General Assembly. ~~Such elections or appointment, as the case may be,~~ In making appointments to the commission, the Governor shall take into account race, ~~and~~ gender, and other demographic factors, such as residence in rural or urban areas, so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment ~~or in an election~~ in no way creates a cause of action or basis for an employee grievance for a person appointed ~~or elected~~ or for a person who fails to be appointed.

(B)~~(1)~~ ~~Candidates for election to the commission must be screened by the Joint Transportation Review Committee, as provided in Article 7 of this chapter, and determined to meet the qualifications contained in subsection (C) in order to be eligible for election~~.

~~(2)~~ ~~The at‑large appointment made by the Governor must be transmitted to the Joint Transportation Review Committee. The Joint Transportation Review Committee must determine whether the at‑large appointee meets the qualifications in subsection (C) and report its findings to the General Assembly and the Governor. Until the Joint Transportation Review Committee finds a gubernatorial appointee qualified, the appointee must not take the oath of office and the full rights and privileges and powers of the office shall not vest.~~

~~(C)~~ The qualifications that each commission member must possess, include, but are not limited to:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; or

(2) a background of at least five years in any combination of the following fields of expertise:

(a) transportation;

(b) construction;

(c) finance;

(d) law;

(e) environmental issues;

(f) management; or

(g) engineering.

~~(D)~~(C) ~~No~~ A member of the General Assembly or member of his immediate family ~~shall~~ may not be ~~elected or~~ appointed to the commission while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be ~~elected or~~ appointed to the commission for a period of four years after the member either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

Section 57‑1‑320. ~~(A)~~ ~~A county that is divided among two or more Department of Transportation districts, for purposes of electing a commission member, is deemed to be considered in the district which contains the largest number of residents from that county.~~

~~(B)~~ ~~No~~ A county within a Department of Transportation district ~~shall~~ may not have a resident commission member for more than ~~one consecutive term~~ twelve consecutive years and in no event shall any two persons from the same county serve as a commission member simultaneously except as provided hereinafter.

~~Section 57‑1‑325.~~ ~~Legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a majority vote of the members of the delegation.~~

~~The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt such rules as they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person, after he has taken the usual oath of office, a certificate of election as commissioner. The Governor shall then issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.~~

Section 57‑1‑330. (A) ~~For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides.~~ All commission members are elected to a term of office of four years which expires on February fifteenth of the appropriate year. However, a commission member may not serve more than two consecutive terms, and may not serve more than twelve years, regardless of when the term was served. Commissioners shall continue to serve until their successors are ~~elected~~ appointed and ~~qualify~~ confirmed, provided that a commissioner ~~may~~ only may serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner shall be filled by ~~election or~~ appointment in the manner provided in this article for the unexpired term only. Except for the at‑large member, ~~no~~ a person is not eligible to serve as a commission member who is not a resident of that district at the time of his appointment. Failure by ~~an elected~~ such commission member to maintain residency in the district for which he is ~~elected~~ appointed shall result in the forfeiture of his office.

(B) ~~The at‑large commission member shall serve at the pleasure of the Governor.~~ The at‑large commission member may be appointed from any county in the State unless another commission member is serving from that county. Failure by the at‑large commission member to maintain residence in the State shall result in a forfeiture of his office.

~~(C)~~ ~~All elected commission members may be removed from office as provided in Section 1‑3‑240(C)(1).~~

Section 57‑1‑340. Each commission member, within thirty days after his ~~election or~~ appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.”

B. Section 57‑1‑410 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑410. The ~~Governor~~ commission shall appoint, with the advice and consent of the ~~Senate~~ General Assembly, a Secretary of Transportation who shall serve at the pleasure of the ~~Governor~~ commission. A person appointed to this position shall possess practical and successful business and executive ability and be knowledgeable in the field of transportation. The Secretary of Transportation shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act.”

C. This SECTION takes effect July 1, 2016, except that the members of the Commission of the Department of Transportation serving on June 30, 2016, shall continue to serve until their current term expires, and until their successor is appointed and confirmed. If a vacancy occurs in the seat of a member serving on June 30, 2016, before the member’s term otherwise expires, the vacancy must be filled in the manner specified in Chapter 1, Title 57 of the 1976 Code, as amended by this act, and the member filling the vacancy shall serve until the term expires. The members serving on June 30, 2016, if otherwise eligible, may be reappointed pursuant to Section 57‑1‑310, as amended by this act.

SECTION 27. A. Section 57‑1‑360 of the 1976 Code, as added by Act 114 of 2007, is amended to read:

“Section 57‑1‑360. (A) The ~~commission must appoint a~~ State Auditor shall employ an individual to serve as the chief internal auditor of the department, and other professional, administrative, technical, and clerical personnel as the ~~commission~~ State Auditor determines to be necessary ~~in the proper discharge of the commission’s duties and responsibilities provided by law~~. The ~~commission~~ State Auditor also must provide professional, administrative, technical, and clerical personnel, as the ~~commission~~ State Auditor determines to be necessary, for the chief internal auditor to properly discharge his duties and responsibilities authorized by the ~~commission~~ State Auditor or provided by law. Except as otherwise provided, any employees hired pursuant to this section shall serve at the pleasure of the ~~commission~~ State Auditor.

(B)(1) ~~The chief internal auditor shall serve for a term of four years and may be removed by the commission only for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity.~~ The chief internal auditor must be a Certified Public Accountant and possess any other experience the ~~commission~~ State Auditor may require. The chief internal auditor must establish, implement, and maintain the exclusive internal audit function of all departmental activities. The ~~commission~~ State Auditor shall set the salary for the chief internal auditor as allowed by statute or applicable law.

(2) The audits performed by the chief internal auditor must comply with recognized governmental auditing standards. The department and any entity contracting with the department must fully cooperate with the chief internal auditor in the discharge of his duties and responsibilities and must timely produce all books, papers, correspondence, memoranda, and other records considered necessary in connection with an internal audit. All final audit reports must be submitted to the commission and the chairman of the Senate Transportation Committee, the chairman of the Senate Finance Committee, the chairman of the House of Representatives Education and Public Works Committee, and the chairman of the House of Representatives Ways and Means Committee before being made public.

(3) The ~~commission~~ State Auditor is vested with the exclusive management and control of the chief internal auditor.

(C) The department, at its own expense, must provide appropriate office space within its headquarters, building, and facility service, including janitorial, utility and telephone services, computer and technology services, and related supplies, for the chief internal auditor and his support staff.”

B. (A) The chief internal auditor of the Department of Transportation and all associated support staff, and all authorized appropriations associated with the chief internal auditor and associated support staff are transferred to and become part of the State Auditor’s Office, State Fiscal Accountability Authority. The chief internal auditor of the Department of Transportation and all associated support staff, whether classified or unclassified personnel, employed by the Department of Transportation on the effective date of this act, either by contract or by employment at will, shall become employees of the State Auditor’s Office, State Fiscal Accountability Authority, with the same compensation, classification, and grade level, as applicable.

(B) The chief internal auditor of the Department of Transportation on June 30, 2016, shall continue to serve until the State Auditor employs a successor. Nothing in this section shall prevent the State Auditor from retaining the chief internal auditor of the Department of Transportation as of June 30, 2016, pursuant to the provisions of this SECTION.

SECTION 28. Section 57‑1‑490 of the 1976 Code, as amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑490. (A) The department shall be audited by a certified public accountant or firm of certified public accountants once each year to be designated by the State Auditor. The designated accountant or firm of accountants shall issue audited financial statements in accordance with generally accepted accounting principles, and such financial statements ~~shall~~ must be made available annually by October fifteenth to the General Assembly. The costs and expenses of the audit must be paid by the department out of its funds.

(B) The Materials Management Office of the ~~Department of Administration~~ State Fiscal Accountability Authority annually must audit the department’s internal procurement operation to ensure that the department has acted properly with regard to the department’s exemptions contained in Section 11‑35‑710. The audit must be performed in accordance with applicable state law, including, but not limited to, administrative penalties for violations found as a result of the audit. The results of the audit must be made available by October fifteenth to the Department of Transportation Commission, the ~~Department of the Transportation’s chief internal auditor~~ State Auditor, the Governor, the chairmen of the Senate Finance and Transportation Committees, and the chairmen of the House of Representatives Ways and Means and Education and Public Works Committees. The costs and expenses of the audit must be paid by the department out of its funds.

(C) The Legislative Audit Council shall contract for an independent performance and compliance audit of the department’s finance and administration division, mass transit division, and construction engineering and planning division. This audit must be completed by January 15, 2010. The Legislative Audit Council may contract for follow‑up audits or conduct follow‑up audits as needed based upon the audit’s initial findings. The costs of these audits, including related administrative and management expenses of the Legislative Audit Council, are an operating expense of the department. The department shall pay directly to the Legislative Audit Council the cost of the audits.

(D) Copies of every audit conducted pursuant to this section must be made available to the Department of Transportation Commission, the ~~Department of Transportation chief internal auditor~~ State Auditor, the Governor, the chairmen of the Senate Finance and Transportation Committees, and the chairmen of the House of Representatives Ways and Means and Education and Public Works Committees.”

SECTION 29. Article 7, Chapter 1, Title 57 of the 1976 Code is repealed.

SECTION 30. Section 11‑43‑150 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Before providing a loan or other financial assistance to a qualified borrower on a qualified project, the board of directors must submit the decision to the Department of Transportation Commission for its consideration. The Department of Transportation Commission can approve or reject the board of directors’ decisions or request additional information from the board of directors. This requirement does not apply to decisions by the board that relate to any payment or contractual obligations that the Department of Transportation has to the bank that are pledged to any bonds issued by the bank.”

SECTION 31. A. Section 11‑43‑180 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) The bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least twenty‑five million dollars.”

B. This SECTION takes effect upon approval by the Governor and only applies to projects selected by the bank thereafter.

SECTION 32. A. Article 1, Chapter 43, Title 11 of the 1976 Code is amended by adding:

“Section 11‑43‑265. (A) Notwithstanding any other provision of law and subject to the provisions of subsection (B), the bank must prioritize all projects in accordance with the prioritization criteria provided in Section 57‑1‑370(B)(8).

(B) The General Assembly may enact a joint resolution allowing the bank to fund a project without using the prioritization criteria provided in subsection (A). The joint resolution must be specific as to the project and the amount authorized to be funded.”

B. This SECTION takes effect upon approval by the Governor and only applies to projects selected by the bank thereafter.

SECTION 33. A. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56-1-560. (A) Notwithstanding any other provision of law, any fee or fine collected by the Department of Motor Vehicles to be used by the department for its operations, except funds attributable to plate replacement, instead must be credited to the State Highway Fund as established by Section 57-11-20. The Department of Motor Vehicles may not expend any of the collections.

(B) The provisions of this section supersede any other provision of law to the contrary. Any Code Reference to the collections described in subsection (A) contained within the 1976 Code or other provisions of law are considered to be and must be construed to be credited to the State Highway Fund instead.”

B. On or before January 15, 2017, 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 to the 1976 Code of Laws reflecting the provisions of Section 56-1-560.

SECTION 34. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act 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 act, the General Assembly hereby declaring that it would have passed this act, 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.

SECTION 35. This act takes effect July 1, 2016.

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