

Economic Development, Transportation, and Natural Resources
Subcommittee
Thursday, October 26, 2023

Contents

AGENDA

MINUTES

AGENCY SNAPSHOT

STUDY FINDINGS AND RECOMMENDATIONS



AGENDA



South Carolina
House of Representatives
Legislative Oversight Committee

ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE

Chairman Travis A. Moore

The Honorable Gary S. Brewer, Jr.
The Honorable William M. "Bill" Hixon
The Honorable Russell L. Ott
The Honorable Marvin R. Pendarvis

AGENDA

Thursday, October 26, 2023

10:30 a.m.

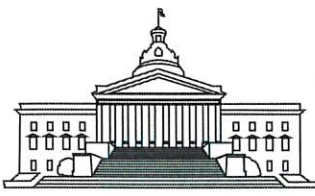
Room 110 - Blatt Building

- I. Approval of minutes
- II. Discussion of the study of the Jobs-Economic Development Authority
- III. Adjournment

Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.



MINUTES



South Carolina House of Representatives Legislative Oversight Committee

Chair Jeffrey E. "Jeff" Johnson

First Vice-Chair Chris Wooten

William H. Bailey
Gary S. Brewer
April Cromer
Kambrell H. Garvin
Leon Douglas "Doug" Gilliam
Thomas Duval "Val" Guest, Jr.

William M. "Bill" Hixon
Joseph H. "Joe" Jefferson, Jr.
Wendell Keith Jones
Roger K. Kirby
Josiah Magnuson
John R. McCravy, III

Timothy A. "Tim" McGinnis
Adam M. Morgan
Travis A. Moore
Russell L. Ott
Marvin R. Pendarvis
Marvin "Mark" Smith

Lewis Carter
Director

Cathy A. Greer
Administration Coordinator

Roland Franklin
Legal Counsel

Riley E. McCullough
Research Analyst

Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building

MEETING MINUTES

Tuesday, August 29, 2023
10:30 a.m. Blatt Room 521 and 110

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on Committee Postings and Reports, then under House Standing Committees click on Legislative Oversight. Then, click on Video Archives for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chairman Travis A. Moore on Tuesday, August 29, 2023, in Room 521 of the Blatt Building. Chairman Travis Moore, Representative Gary S. Brewer, Jr., Representative Russell L. Ott, and Representative Marvin R. Pendarvis were present for all or a portion of the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.

Approval of Minutes

Approval of Minutes

- I. Representative Pendarvis makes a motion to approve the meeting minutes from the May 23, 2023 meeting. A roll call vote is held and the motion passes.

Rep. Brewer's motion to approve meeting minutes.	Yea	Nay	Not Voting
Rep. Brewer	✓		
Rep. Hixon			✓
Rep. Pendarvis	✓		
Rep. Ott	✓		
Rep. Moore	✓		

Discussion of the Jobs Economic Development Authority ("JEDA")

- I. Prior to beginning his testimony, Chair Moore reminds JEDA's Executive Director, Harry A. Huntley, that he was sworn in at the Tuesday, May 23, 2023 subcommittee meeting, and that he remains under oath. Chair Moore notes that JEDA's soon-to-be new Executive Director, Jesse Smith, is present. Chair Moore invites Mr. Smith to the podium to be sworn in and to introduce himself to the subcommittee. After a brief introduction, Director Huntley begins his presentation to the subcommittee and discusses the following topics:
1. A review of volume cap allocation;
 2. A review of the small issuer exception;
 3. JEDA's financial statement audits;
 4. The challenge presented by national conduit debt issuers;
 5. JEDA's role in making loans and investments;
 6. InvestSC, Inc.; and
 7. The State Small Business Credit Initiative: Program 1.0 and Program 2.0.

Throughout the presentation, members ask Director Huntley questions and Director Huntley responds.

Adjournment

- I. There being no further business, the meeting is adjourned.



AGENCY SNAPSHOT



South Carolina House of Representatives Legislative Oversight Committee

SUMMARY OF JEDA PRESENTATION: 3/28/2023

MISSION

The mission of JEDA is to promote and develop the business and economic welfare of South Carolina by assisting in the financing of public and private projects throughout the state. JEDA does this through the issuance of private activity bonds at favorable tax-exempt interest rates.

BOND VS. LOAN

BOND



- A debt instrument for the government or a company to raise money by selling, in effect, IOUs for a certain amount of time.

LOAN

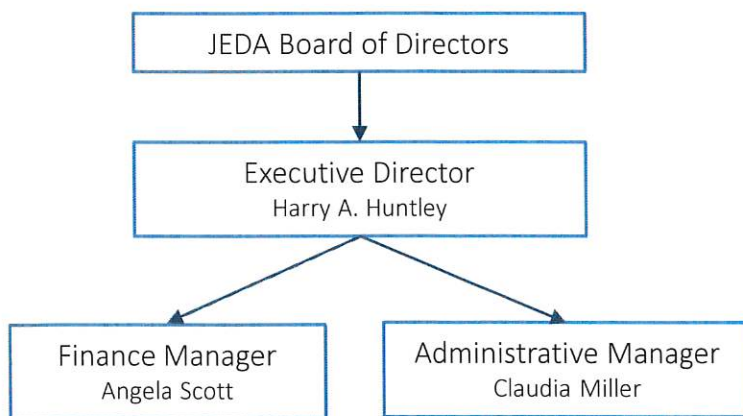


- A debt instrument provided by a bank or financial institution that allows recipient a fixed amount of money at time of transaction.

CRITICAL DIFFERENCES

- The main difference is that a bond is highly tradeable. If you purchase a bond, there is usually a marketplace where you can trade it.
- Interest rates on government bonds are generally lower. Loans are likely to have higher interest rates.
- Government bonds are treated as low-risk.

ORGANIZATIONAL CHART



- Executive Director appointed by Board of Directors
- Executive Director selects and controls all other personnel
- JEDA personnel are not state employees (41-43-90), but do
 - Participate in S.C. Retirement System;
 - Participate in State Health Insurance Group; and are
 - Protected by S.C. Tort Claims Act

SELF-FUNDED AGENCY

- JEDA operates at no cost to S.C. taxpayers nor from tax dollars appropriated by the S.C. General Assembly.
- JEDA is a completely self-funded authority and an enterprise agency that is not part of the State SCEIS or payroll system.
- JEDA offsets its costs mainly through bond issuance fees, annual bond fees, and bond application fees.
- In 2022, the JEDA regulations were amended and the current fee schedule, adopted in 2009, are now included in the Regulation (68-30).

BUDGET SUBMISSIONS

- 1992 Act 404, Section 11, amended JEDA statute 41-43-280 to read:

Notwithstanding any provision of law or regulation to the contrary, the authority shall continue to be an "agency" for purposes of Chapter 78 of Title 15, but the authority is not considered an "agency" or "state agency" or any other form of state institution for purposes of Sections 2-7-65 and 2-57-60.

- JEDA submits a budget to the Budget Office each year. Based on statutory language above, JEDA does not believe this should be required.
- In 2005 and 2013, the Budget Office requested that JEDA be removed from the budget process, but no further action has been taken.

PRIVATE ACTIVITY BONDS

"The term "conduit issuer" refers to an issuer of tax-exempt bonds in a conduit financing. A conduit financing is generally a situation where tax-exempt bonds are issued by a state or local government and the proceeds are used for a defined qualified purpose by an entity other than the government issuing the bonds (the conduit borrower)."

-IRS, [Your Responsibilities as a Conduit Issuer of Tax-Exempt Bonds](#), Page. 1

- Prior to the creation of JEDA, private activity bonds were issued by the counties, which were limited in their scope and lacked transparency.
- JEDA serves as conduit issuer of bonds on behalf of a borrowing entity. Under the Internal Revenue Code, certain for-profit entities and Section 501(c)(3) organizations can finance their projects with tax-exempt bonds, but these entities cannot do so directly.
- They must borrow through a "conduit" issuer of bonds in order to receive the tax-exempt financing.
- Entities do not borrow from JEDA, but rather through JEDA, using JEDA as access to the capital markets at tax-exempt rates.
- The marketplace determines if a bond is marketable, not JEDA.
- JEDA and its counsel analyze each project's eligibility for tax-exempt bond financing, as specified by Federal law.
- JEDA has become the largest conduit issuer of private activity bonds in the State.





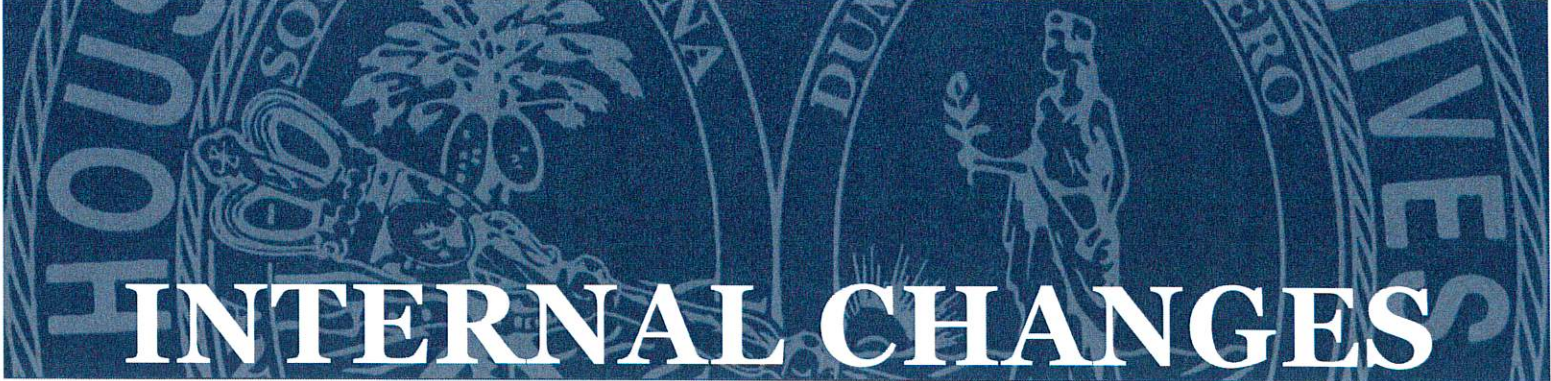
STUDY FINDINGS AND RECOMMENDATIONS



South Carolina
House of Representatives
Legislative Oversight Committee

JOBS ECONOMIC DEVELOPMENT AUTHORITY

Internal Changes, Findings, and Recommendations

The background of the top section is a dark blue banner featuring a repeating pattern of the Seal of the State of South Carolina. The seal includes a palmetto tree, a figure holding a bow and arrow, and the word 'SOUTH' on the left and 'CAROLINA' on the right.

INTERNAL CHANGES

Regulations

1. In accordance with S.C. Code Ann. § 1-23-120(J), JEDA has reviewed and updated its regulations. JEDA eliminated all outdated regulations and added its current fee schedule to the regulations.

Human Resources

2. Due to the doubling of conduit bond issuances since 2017 and the increased requirements of the SSBCI program, on November 7, 2022, JEDA hired a fulltime CPA.

FINDINGS

Purpose

1. Despite being in existence for four decades, JEDA's function and purpose are not well known by the public at large.

Function

2. Under IRS rules, JEDA is the state's "constituted authority" authorized to issue private activity bonds on behalf of borrowing entities at favorable tax-exempt interest rates.

Programs

3. JEDA administers three main programs: (a) the Industrial Revenue Bond Program; (b) the Taxable Bond Program; and (3) the State Small Business Credit Initiative.

Milestones

4. Since its inception in 1983, JEDA has issued 620 bonds for a total of \$14.5 billion.

Nonprofit Affordable Housing

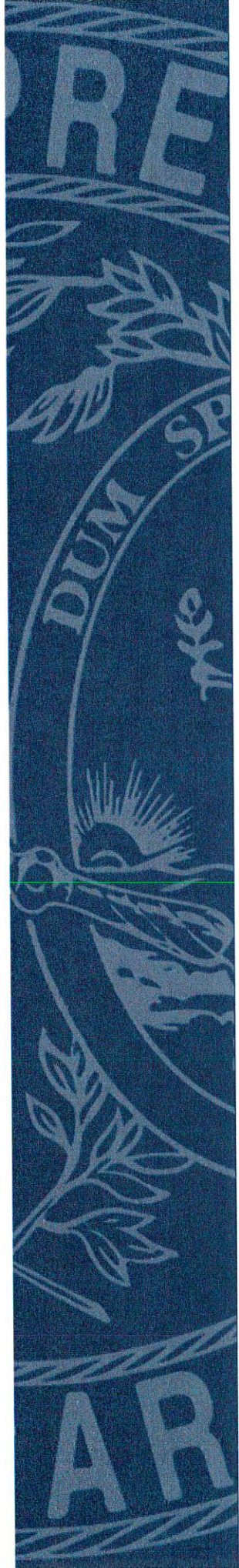
5. During the last three years, JEDA has issued bonds for 27 affordable housing complexes for over \$741 million.

Efficient and Effective Bond Issuance

6. JEDA's streamlined bond issuing process is cheaper and faster than other bond issuers.

Public Funds

7. JEDA's bond issuance activity does not place public funds at risk.



Budget

8. Because JEDA is a self-funded, quasi-public agency that operates at no cost to taxpayers, JEDA is not included in the state budget.

Transparency

9. The State is accountable for JEDA for purposes of financial transparency; therefore, JEDA is statutorily required to prepare and submit a myriad of annual financial reports.

Legal Status

10. JEDA is an agency of the state, but its employees are not state employees.

Board Composition

11. Currently, two vacancies exist on JEDA's Board of Directors, and of the remaining eight directors, four are serving as holdover directors.

Duality of Roles

12. JEDA's Executive Director is also the Executive Director of InvestSC and receives a salary from both JEDA and InvestSC.

Nonprofit Corporation

13. JEDA has created two nonprofit corporations, neither of which are corporate subsidiaries of JEDA.

Venture Capital Investment

14. The Venture Capital Investment Act authorizes designated investor groups to borrow funds from lenders and invest those funds using state tax credits as collateral.



RECOMMENDATIONS

Modernization of Laws

1. The Committee recommends the General Assembly consider striking S.C. Code Ann. § 41-43-180 (2021) as proposed by JEDA.
2. The Committee recommends the General Assembly consider striking S.C. Code Ann. § 41-43-200 (2021) as proposed by JEDA.
3. The Committee recommends the General Assembly consider amending S.C. Code Ann. § 41-43-40 (2021) to update the parties who serve ex officio on JEDA's Board of Directors by adding the Secretary of the South Carolina Department of Commerce and removing the Chairman of the State Development Board.
4. The Committee recommends the General Assembly consider amending S.C. Code Ann. § 41-43-70 (2021) to remove functions and duties JEDA no longer performs.
5. The Committee recommends the General Assembly consider striking S.C. Code Ann. § 41-43-170 (2021) as recommended by JEDA, which authorizes JEDA to create guaranty funds that may be used to guarantee or insure or purchase insurance for loans.
6. The Committee Recommends the General Assembly consider amending S.C. Code Ann. §§ 11-35-10 et seq. (2011 & Supp. 2022) striking those parts of the Venture Capital Investment Act that allow designated investor groups to borrow funds from lenders and invest those funds using state tax credits as collateral.
7. The Committee recommends the General Assembly consider amending S.C. Code Ann. § 41-43-280 (2021) to strike reference to section 2-57-60, which has been repealed.
8. The Committee recommends the General Assembly consider amending S.C. Code Ann. § 2-7-65 by striking reference to the Budget and Control Board and the Joint Legislative Appropriations Review Committee, agencies that no longer exist, and inserting reference to the Executive Budget Office.

LAW CHANGE #1			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 41-43-70 (2021).	Current Law: Section 41-43-70 sets forth JEDA's functions and duties. Recommendation: Strike those functions no longer performed by JEDA.	Basis: JEDA testified that it no longer promotes the economic welfare of the state through research, studies, data compilation and dissemination, or through the promotion of the export of goods, services, commodities, and capital equipment produced un the State. According to JEDA, these functions are now performed by the Department of Commerce.	
LAW CHANGE #2			
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 41-43-70. Functions and duties of the authority generally. The authority shall promote and develop the business and economic welfare of this State, encourage and assist through loans, investments, research, technical and managerial advice, studies, data compilation and dissemination, and similar means, in the location of new business enterprises in this State and in rehabilitation and assistance of existing business enterprises and in the promotion of the export of goods, services, commodities, and capital equipment produced within the State, so as to provide maximum opportunities for creation and retention of jobs and improvement of the standard of living of the citizens of the State, and act in conjunction with other persons and organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational development in this State. In the promotion, development, and advancement of these programs, the authority must give consideration to the development of and assistance to small businesses in this State as may be defined by regulation of the authority.		SECTION 41-43-70. Functions and duties of the authority generally. The authority shall promote and develop the business and economic welfare of this State, encourage and assist through loans, investments, research, technical and managerial advice, studies, data compilation and dissemination, and similar means, in the location of new business enterprises in this State and in rehabilitation and assistance of existing business enterprises and in the promotion of the export of goods, services, commodities, and capital equipment produced within the State, so as to provide maximum opportunities for creation and retention of jobs and improvement of the standard of living of the citizens of the State, and act in conjunction with other persons and organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational development in this State. In the promotion, development, and advancement of these programs, the authority must give consideration to the development of and assistance to small businesses in this State as may be defined by regulation of the authority.	

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 41-43-180 (2021).	<u>Current Law:</u> Section 41-43-180 obligates JEDA to maintain a list of the most economically distressed areas of the State. <u>Recommendation:</u> Strike section 41-43-180.	<u>Basis:</u> JEDA no longer maintains a list of the most economically distressed areas of the State. According to JEDA, that function is now provided by the South Carolina Department of Commerce.	
Current Law Wording SECTION 41-43-180. Determination of economically distressed areas; criteria. The authority must maintain a list of the most economically distressed areas of the State. Each area must be within or coexist with the boundaries of one of the forty-six counties. The list must be determined in accordance with the criteria set forth in the regulations of the authority. In forming criteria, the authority must consider, but not be limited to, the following factors: rate of unemployment, per capita income, average wage rate, and chronic nature of economic problems.		Proposed Revisions to Law Wording	

LAW CHANGE #3			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 41-43-200 (2021).	<u>Current Law:</u> Section 41-43-200 obligates JEDA to collect and disseminate data useful to business enterprises in the State. <u>Recommendation:</u> Strike section 41-43-200.	<u>Basis</u> According to JEDA, that function is now provided by the South Carolina Department of Commerce.	
Current Law Wording SECTION 41-43-200. Collection and dissemination of information and data. The authority is authorized to implement such programs as may be consistent with its purposes for the collection and dissemination of information and data useful to business enterprises in this State. The authority may collect and maintain information and undertake such studies and research programs as it deems necessary to facilitate the economic development and creation of jobs in this State. In connection with these programs, the authority must consult and		Proposed Revisions to Law Wording	

coordinate its programs with those existing federal and state agencies and private economic development organizations.	
--	--

LAW CHANGE #4			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 41-43-170 (2021).	<u>Current Law</u>: Section 41-43-170 authorizes JEDA to create a guaranty fund. <u>Recommendation</u>: Strike section 41-43-170.	<u>Basis</u>: According to JEDA, it does not currently have guaranty funds, nor does it intend to create any guaranty funds.	
Current Law Wording		Proposed Revisions to Law Wording	
SECTION 41-43-170. Guaranty fund authorized; purposes. The authority is authorized to create a guaranty fund, consisting solely of program funds, which may be used to guarantee or insure or purchase insurance for loans of financial institutions to business enterprises which meet the eligibility requirements of Section 41-43-150. Such funds shall be held in the custody of the State Treasurer, or with his approval may be held in the custody of one or more commercial banks or trust companies having a principal place of business in this State. Loans which qualify for a guaranty or insurance under this section must consist of: (1) Loans to eligible business enterprises located in distressed areas as defined in Section 41-43-180 for any purpose for which a loan may be made pursuant to Section 41-43-160, including the provision of working capital; (2) Loans used to finance export sales or production for export by eligible business enterprises as provided in Section 41-43-190.			

Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. §§ 11-45-30 (2021); 11-45-55 (2021 & Supp. 2022); 11-45-95 (2021)	<u>Current Law:</u> The South Carolina Venture Capital Investment Act is designed to increase the availability of funding to emerging, expanding, relocating, and restructuring enterprises within South Carolina. Several provisions allow designated investor groups to borrow funds from lenders secured by State tax credits and invest those funds <u>Recommendation:</u> AMEND section 11-45-30; STRIKE section 11-45-55; AMEND section 11-45-95.	<u>Basis:</u> JEDA, The Treasurer's Office and the Department of Commerce all agree that a designated investor group should not be allowed to borrow and invest funds secured by State tax credits.	
<u>Current Law Wording</u> SECTION 11-45-30. Definitions. For purposes of this chapter: (1) "Authority" means the South Carolina Venture Capital Authority created pursuant to this chapter. (2) "Certificate" means a document executed by the authority pursuant to which a tax credit is available to a person pursuant to this chapter. (3) "Equity, near equity, or seed capital" means capital invested in common or preferred stock, debt with equity conversion rights, royalty rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private business. (4) "Investor" means any corporation, limited liability company, community development corporation, or unincorporated business entity, including a general or limited partnership, that is selected by a designated investor group to receive investments from the designated investor group and then make venture capital investments with these funds that meet the requirements of this chapter. An investor, a senior member of its management team, or a qualified investment professional working closely with the investor's senior management team must be a legal resident of this State and have a minimum of five years experience in venture capital investing. In addition, substantially all of an investor's business activity must be venture capital investing. (5) "Innovation fund" means the South Carolina Technology Innovation Fund. (6) "Person" means any individual, corporation, partnership, or other lawfully organized entity. (7) "Research and development" means laboratory, scientific, or experimental testing and development related to new products, new uses for existing products, or improvements to existing products. Research and development also includes intellectual property, information technology, or technology transfer endeavors. The term does not include efficiency surveys,		<u>Proposed Revisions to Law Wording</u> For purposes of this chapter: (1) "Authority" means the South Carolina Venture Capital Authority created pursuant to this chapter. (2) "Certificate" means a document executed by the authority pursuant to which a tax credit is available to a person pursuant to this chapter. (3) "Equity, near equity, or seed capital" means capital invested in common or preferred stock, debt with equity conversion rights, royalty rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private business. (4) "Investor" means any corporation, limited liability company, community development corporation, or unincorporated business entity, including a general or limited partnership, that is selected by a designated investor group to receive investments from the designated investor group and then make venture capital investments with these funds that meet the requirements of this chapter. An investor, a senior member of its management team, or a qualified investment professional working closely with the investor's senior management team must be a legal resident of this State and have a minimum of five years experience in venture capital investing. In addition, substantially all of an investor's business activity must be venture capital investing. (5) "Innovation fund" means the South Carolina Technology Innovation Fund. (6) "Person" means any individual, corporation, partnership, or other lawfully organized entity. (7) "Research and development" means laboratory, scientific, or experimental testing and development related to new products, new uses for existing products, or improvements to existing products. Research and development also includes intellectual property, information technology, or technology transfer endeavors. The term does not include efficiency surveys, management studies,	

management studies, consumer surveys, economic surveys, advertising, or promotion, or research in connection with literary, historical, or similar projects.

(8) "Tax credit" means a credit against a person's income tax liability pursuant to Chapter 6, Title 12; bank tax liability pursuant to Chapter 11, Title 12; net income tax liability pursuant to Chapter 13, Title 12; liability for license fees and taxes pursuant to Chapters 20 and 23 of Title 12; or insurance premium tax liability pursuant to Chapter 7, Title 38; or other tax liability under Title 38, as the case may be, or in the case of a repeal or reduction by the State of the tax liability imposed by these sections, any other tax imposed upon the person by this State.

(9) "Venture capital" means equity, near equity, and seed capital financing including, without limitation, early stage research and development capital for startup enterprises, and other equity, near equity, or seed capital for growth and expansion of entrepreneurial enterprises.

(10) "Lender" means a banking institution subject to the income tax on banks under Chapter 11, Title 12, an insurance company subject to a state premium tax liability pursuant to Chapter 7, Title 38, a captive insurance company regulated pursuant to Chapter 90, Title 38, a utility regulated pursuant to Title 58, or a financial institution with proven experience in state-based venture capital transactions, pursuant to Title 58, or a financial institution with proven experience in state-based venture capital transactions, pursuant to guidelines established by the authority. Both the guidelines and the lender must be approved by the State Fiscal Accountability Authority.

(11) "Capital commitment" means the amount of money committed by a designated investor group to an investor for a term of up to ten years, which term may be extended to provide for an orderly liquidation of the investor's portfolio investments.

(12) "Community development corporation" is as defined in Section 34 43 20(2).

(13) "Revolving fund" means a bank account:

(a) created by a designated investor group with a financial institution with an office or branch in this State; and
(b) used solely as provided in this chapter or any applicable designated investor contract.

(14) "Designated investor contract" means an agreement entered into between the authority and any person selected as a designated investor group pursuant to Section 11 45 50.

(15) "Designated investor group" means a person who enters into a designated investor contract with the authority pursuant to Section 11 45 50.

(16) "Interest" means interest on the outstanding balance owed or owing to a lender by a designated investor group under such calculations, terms, or conditions as determined by the authority, provided that the method of calculating interest may be included in the tax credit certificates to the extent that the authority considers the information necessary or appropriate.

SECTION 11-45-55. Tax Credit Certificates.

consumer surveys, economic surveys, advertising, or promotion, or research in connection with literary, historical, or similar projects.

(8) "Tax credit" means a credit against a person's income tax liability pursuant to Chapter 6, Title 12; bank tax liability pursuant to Chapter 11, Title 12; net income tax liability pursuant to Chapter 13, Title 12; liability for license fees and taxes pursuant to Chapters 20 and 23 of Title 12; or insurance premium tax liability pursuant to Chapter 7, Title 38; or other tax liability under Title 38, as the case may be, or in the case of a repeal or reduction by the State of the tax liability imposed by these sections, any other tax imposed upon the person by this State.

(9) "Venture capital" means equity, near equity, and seed capital financing including, without limitation, early stage research and development capital for startup enterprises, and other equity, near equity, or seed capital for growth and expansion of entrepreneurial enterprises.

(10) "Lender" means a banking institution subject to the income tax on banks under Chapter 11, Title 12, an insurance company subject to a state premium tax liability pursuant to Chapter 7, Title 38, a captive insurance company regulated pursuant to Chapter 90, Title 38, a utility regulated pursuant to Title 58, or a financial institution with proven experience in state-based venture capital transactions, pursuant to Title 58, or a financial institution with proven experience in state-based venture capital transactions, pursuant to guidelines established by the authority. Both the guidelines and the lender must be approved by the State Fiscal Accountability Authority.

(11) "Capital commitment" means the amount of money committed by a designated investor group to an investor for a term of up to ten years, which term may be extended to provide for an orderly liquidation of the investor's portfolio investments.

(12) "Community development corporation" is as defined in Section 34 43 20(2).

(13) "Revolving fund" means a bank account:

(a) created by a designated investor group with a financial institution with an office or branch in this State; and
(b) used solely as provided in this chapter or any applicable designated investor contract.

(14) "Designated investor contract" means an agreement entered into between the authority and any person selected as a designated investor group pursuant to Section 11 45 50.

(15) "Designated investor group" means a person who enters into a designated investor contract with the authority pursuant to Section 11 45 50.

(16) "Interest" means interest on the outstanding balance owed or owing to a lender by a designated investor group under such calculations, terms, or conditions as determined by the authority, provided that the method of calculating interest may be included in the tax credit certificates to the extent that the authority considers the information necessary or appropriate.

(A) Each designated investor group shall have the power and authority to borrow funds from lenders and invest those funds in accordance with the provisions of this chapter and its designated investor contract.

(B) The authority shall issue tax credit certificates to each lender contemporaneously with each loan made pursuant to this chapter in accordance with any guidelines established by the authority pursuant to Section 11-45-100. The tax credit certificates must describe procedures for the issuance, transfer and redemption of the certificates, and related tax credits. These certificates also must describe the amounts, year, and conditions for redemption of the tax credits reflected on the certificates. Once a loan is made by a lender, the certificate issued to the lender shall be binding on the authority and this State and may not be modified, terminated, or rescinded. The form of the tax credit certificate must be approved by the State Fiscal Accountability Authority.

(C) Tax credits represented by the certificates issued pursuant to this section may be used to offset any of the tax liabilities of a person as set forth in Section 11-45-30(8), subject to compliance with the conditions set forth on the certificates representing the tax credits. The amount of the tax credits issued to any lender shall be limited to an amount equal to the lender's principal loan amount together with required interest. These tax credits may be carried forward without limitation but are not refundable. These tax credits are hereby established and authorized in the amounts required by this section.

(D) Use of tax credits by an insurance company shall not affect the application of retaliatory taxes or other fees pursuant to Chapter 7, Title 38 or any payments due under that chapter.

(E) The tax credits may also be transferred by any lender or transferee of the tax credits to a person able to utilize the tax credits as set forth in Section 11-45-30(8).

(F) An individual may claim the tax credit of a partnership, limited liability company, "S" corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, "S" corporation, estate, or trust.

(G) The authority shall ensure that the principal amount authorized to be borrowed by all designated investor groups is no more than fifty million dollars at any one time and no more than twenty million dollars in tax credit certificates are redeemable for any one year. Any tax credit certificates issued in one year but carried forward and redeemed in a subsequent year do not count against the twenty million dollar limitation on the total amount of tax credit certificates which may be redeemed in that subsequent year.

SECTION 11-45-55. Tax Credit Certificates.

(A) Each designated investor group shall have the power and authority to borrow funds from lenders and invest those funds in accordance with the provisions of this chapter and its designated investor contract.

(B) The authority shall issue tax credit certificates to each lender contemporaneously with each loan made pursuant to this chapter in accordance with any guidelines established by the authority pursuant to Section 11-45-100. The tax credit certificates must describe procedures for the issuance, transfer and redemption of the certificates, and related tax credits. These certificates also must describe the amounts, year, and conditions for redemption of the tax credits reflected on the certificates. Once a loan is made by a lender, the certificate issued to the lender shall be binding on the authority and this State and may not be modified, terminated, or rescinded. The form of the tax credit certificate must be approved by the State Fiscal Accountability Authority.

(C) Tax credits represented by the certificates issued pursuant to this section may be used to offset any of the tax liabilities of a person as set forth in Section 11-45-30(8), subject to compliance with the conditions set forth on the certificates representing the tax credits. The amount of the tax credits issued to any lender shall be limited to an amount equal to the lender's principal loan amount together with required interest. These tax credits may be carried forward without limitation but are not refundable. These tax credits are hereby established and authorized in the amounts required by this section.

(D) Use of tax credits by an insurance company shall not affect the application of retaliatory taxes or other fees pursuant to Chapter 7, Title 38 or any payments due under that chapter.

(E) The tax credits may also be transferred by any lender or transferee of the tax credits to a person able to utilize the tax credits as set forth in Section 11-45-30(8).

(F) An individual may claim the tax credit of a partnership, limited liability company, "S" corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, "S" corporation, estate, or trust.

(G) The authority shall ensure that the principal amount authorized to be borrowed by all designated investor groups is no more than fifty million dollars at any one time and no more than twenty million dollars in tax credit certificates are redeemable for any one year. Any tax credit certificates issued in one year but carried forward and redeemed in a subsequent year do not count against the twenty

(H) No certificate or tax credit issued or transferred pursuant to this chapter shall be considered a security pursuant to Title 35.

(I)(1) The authority, in conjunction with the South Carolina Department of Revenue, shall develop a system for registration of all tax credits claimed under this chapter.

(2) The system shall verify that any:

(a) tax credit claimed upon a tax return is valid and properly taken in the year of claim; and

(b) transfer of the tax credit is made in accordance with the requirements of this chapter and any guidelines or regulations under this chapter.

(3) Notwithstanding Section 12-54-240(A), the authority, the Department of Commerce, the Department of Revenue, and the Department of Insurance may exchange information for the purpose of registering and verifying the existence, possession, transfer, and use of tax credits pursuant to this chapter.

(J) No part of the fund held by the authority pursuant to Section 11-45-40(C) or the capital in any revolving fund of a designated investor group may inure to the benefit of or be distributed to the authority's employees, officers, or board of directors, or to members of their immediate families as this term is defined in Section 2-17-10(7), except that the authority is authorized to pay reasonable compensation for services provided by employees of the authority or the Department of Commerce, as the case may be, and out-of-pocket expenses incurred by these employees, officers, or board members, as long as the compensation does not create a conflict of interest pursuant to Section 11-45-40. The provisions of this subsection are supplemental to and not in lieu of the provisions of Chapter 17, Title 2 and Chapter 13, Title 8.

SECTION 11-45-95. Reports by authority; contents.

(A) The authority shall provide an annual report to the Governor, the General Assembly, and other appropriate officials and entities containing at a minimum the following information:

(1) monies placed in venture capital investments with approved investors and South Carolina based companies cumulatively and during that fiscal year;

(2) an audit of the activities conducted by the authority during that fiscal year;

(3) the progress of the designated investor groups in implementing their respective investment plans;

million-dollar limitation on the total amount of tax credit certificates which may be redeemed in that subsequent year.

(H) No certificate or tax credit issued or transferred pursuant to this chapter shall be considered a security pursuant to Title 35.

(I)(1) The authority, in conjunction with the South Carolina Department of Revenue, shall develop a system for registration of all tax credits claimed under this chapter.

(2) The system shall verify that any:

(a) tax credit claimed upon a tax return is valid and properly taken in the year of claim; and

(b) transfer of the tax credit is made in accordance with the requirements of this chapter and any guidelines or regulations under this chapter.

(3) Notwithstanding Section 12-54-240(A), the authority, the Department of Commerce, the Department of Revenue, and the Department of Insurance may exchange information for the purpose of registering and verifying the existence, possession, transfer, and use of tax credits pursuant to this chapter.

(J) No part of the fund held by the authority pursuant to Section 11-45-40(C) or the capital in any revolving fund of a designated investor group may inure to the benefit of or be distributed to the authority's employees, officers, or board of directors, or to members of their immediate families as this term is defined in Section 2-17-10(7), except that the authority is authorized to pay reasonable compensation for services provided by employees of the authority or the Department of Commerce, as the case may be, and out-of-pocket expenses incurred by these employees, officers, or board members, as long as the compensation does not create a conflict of interest pursuant to Section 11-45-40. The provisions of this subsection are supplemental to and not in lieu of the provisions of Chapter 17, Title 2 and Chapter 13, Title 8.

SECTION 11-45-95. Reports by authority; contents.

(A) The authority shall provide an annual report to the Governor, the General Assembly, and other appropriate officials and entities containing at a minimum the following information:

(1) monies placed in venture capital investments with approved investors and South Carolina based companies cumulatively and during that fiscal year;

(2) an audit of the activities conducted by the authority during that fiscal year;

(3) the progress of the designated investor groups in implementing their respective investment plans;

(4) the amount and time lines of tax credit certificates issued both cumulatively and during that fiscal year, and any use, redemption, or transfer of tax credits during that fiscal year; (5) a description of a material interest held by a director, officer, or employee of the authority with respect to the investments or assets of the designated investor groups; (6) a schedule of the aggregate rate of return, net of total investment expense, on assets of the designated investor groups held pursuant to this chapter over the most recent one year, three year, five year, and ten year periods, to the extent available; and (7) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year incurred and expressed as a percentage of the fair value of assets of the designated investor groups held pursuant to this chapter on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years, if applicable. (B) These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law. (C) Notwithstanding any other provision of law, private investment and other proprietary financial data provided to the authority by a designated investor group or an investor is not subject to public disclosure under Title 30, Chapter 4.	(4) the amount and time lines of tax credit certificates issued both cumulatively and during that fiscal year, and any use, redemption, or transfer of tax credits during that fiscal year; (5) a description of a material interest held by a director, officer, or employee of the authority with respect to the investments or assets of the designated investor groups; (6) a schedule of the aggregate rate of return, net of total investment expense, on assets of the designated investor groups held pursuant to this chapter over the most recent one year, three year, five year, and ten year periods, to the extent available; and (7) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year incurred and expressed as a percentage of the fair value of assets of the designated investor groups held pursuant to this chapter on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years, if applicable. (B) These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law. (C) Notwithstanding any other provision of law, private investment and other proprietary financial data provided to the authority by a designated investor group or an investor is not subject to public disclosure under Title 30, Chapter 4.
--	--

LAW CHANGE #6		
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation
S.C. Code Ann. § 41-43-40 (2021).	Current Law: Section 41-43-40 sets forth the appointment, qualifications, and terms of members of JEDA's Board of Directors. Recommendation: Amend section 41-43-40 striking "Chairman of the State Development board" and inserting "Secretary of the South Carolina Department of Commerce."	Basis: The Governor along with the Secretary of the South Carolina Department of Commerce serve ex officio.
Current Law Wording	Proposed Revisions to Law Wording	Approval and Others Impacted
SECTION 41-43-40. Appointment and qualifications of directors; ex officio members; terms. The Governor shall appoint, upon the advice and consent of the Senate, one director from each congressional district and one from the State at large, who serves as chairman. Directors must have experience in the fields of business, commerce, finance, banking, real estate, or foreign trade. At least two directors must have direct	SECTION 41-43-40. Appointment and qualifications of directors; ex officio members; terms. The Governor shall appoint, upon the advice and consent of the Senate, one director from each congressional district and one from the State at large, who serves as chairman. Directors must have experience in the fields of business, commerce, finance, banking, real estate, or foreign trade. At least two directors must have direct	

commercial lending experience. The Governor and the Chairman of the State Development Board shall serve ex officio and may designate persons to represent them at meetings of the authority.	commercial lending experience. The Governor and the Chairman of the State Development Board Secretary of the South Carolina Department of Commerce shall serve ex officio and may designate persons to represent them at meetings of the authority.
--	---

LAW CHANGE #7			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 41-43-280 (2021).	<u>Current Law</u>: Section 41-43-280 provides that JEDA is not a state agency for purposes of justifying budget requests. <u>Recommendation</u>: Amend section 41-43-280 striking reference to section 2-57-60, which has been repealed.	Basis: Section 2-57-60 has been repealed.	
Current Law Wording			
SECTION 41-43-280. Chapter not to affect other provisions as to authority; when authority considered "agency," "state agency", or other form of state institution. Neither this chapter nor anything contained in this chapter is construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this State, but is construed as cumulative. Notwithstanding any provision of law or regulation to the contrary, the authority shall continue to be an "agency" for purposes of Chapter 78 of Title 15, but the authority is not considered an "agency" or "state agency" or any other form of state institution for purposes of Sections 2-7-65 and 2-57-60.		SECTION 41-43-280. Chapter not to affect other provisions as to authority; when authority considered "agency," "state agency", or other form of state institution. Neither this chapter nor anything contained in this chapter is construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this State, but is construed as cumulative. Notwithstanding any provision of law or regulation to the contrary, the authority shall continue to be an "agency" for purposes of Chapter 78 of Title 15, but the authority is not considered an "agency" or "state agency" or any other form of state institution for purposes of Sections 2-7-65 and 2-57-60.	

--	--

LAW CHANGE #8			
Law	Summary of Current Law(s) and Recommended Change(s)	Basis for Recommendation	Approval and Others Impacted
S.C. Code Ann. § 2-7-65 (2021).	<u>Current Law:</u> Section 2-7-65 provides that state agencies justify budget requests and further provides that the Budget and Control Board must require each state agency to submit the purposes and objectives for services provided. <u>Recommendation:</u> Amend section 2-7-65 striking reference to the Joint Legislative Appropriations Review Committee and the Budget and Control Board, which no longer exists, and inserting reference to the Executive Budget Office.	<u>Basis:</u> The Budget and Control Board and the Joint Legislative Appropriations Review Committee no longer exist.	
<u>Current Law Wording</u> SECTION 2-7-65. Agencies, departments and institutions to justify amount of requested appropriations.	<u>Proposed Revisions to Law Wording</u> SECTION 2-7-65. Agencies, departments and institutions to justify amount of requested appropriations. The Governor shall, prior to making annual recommendations to the General Assembly of the amounts to be appropriated to the various state agencies, departments and institutions, as required by Section 2-7-60 of the 1976 Code, require them to justify the entire amount of money they are requesting. It is the intent of this section that each state agency, department or institution shall be required to justify its recurring expenses, as well as any new or additional expenses. For the purpose of justification as set forth in this provision, the Budget and Control Board Executive Budget Office shall require each state agency, department and institution to submit for each program the purposes,		

objectives and such quantitative measurements regarding services provided as the Budget and Control Board in consultation with the Joint Legislative Appropriations Review Committee might deem as it considers necessary for program evaluation.

objectives and such quantitative measurements regarding services provided as the Budget and Control Board in consultation with the Joint Legislative Appropriations Review Committee might deem as it considers necessary for program evaluation.