

Legislative Oversight Committee

Staff Study of the
South Carolina Transportation Infrastructure Bank
March 11, 2016



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Transportation Infrastructure Bank

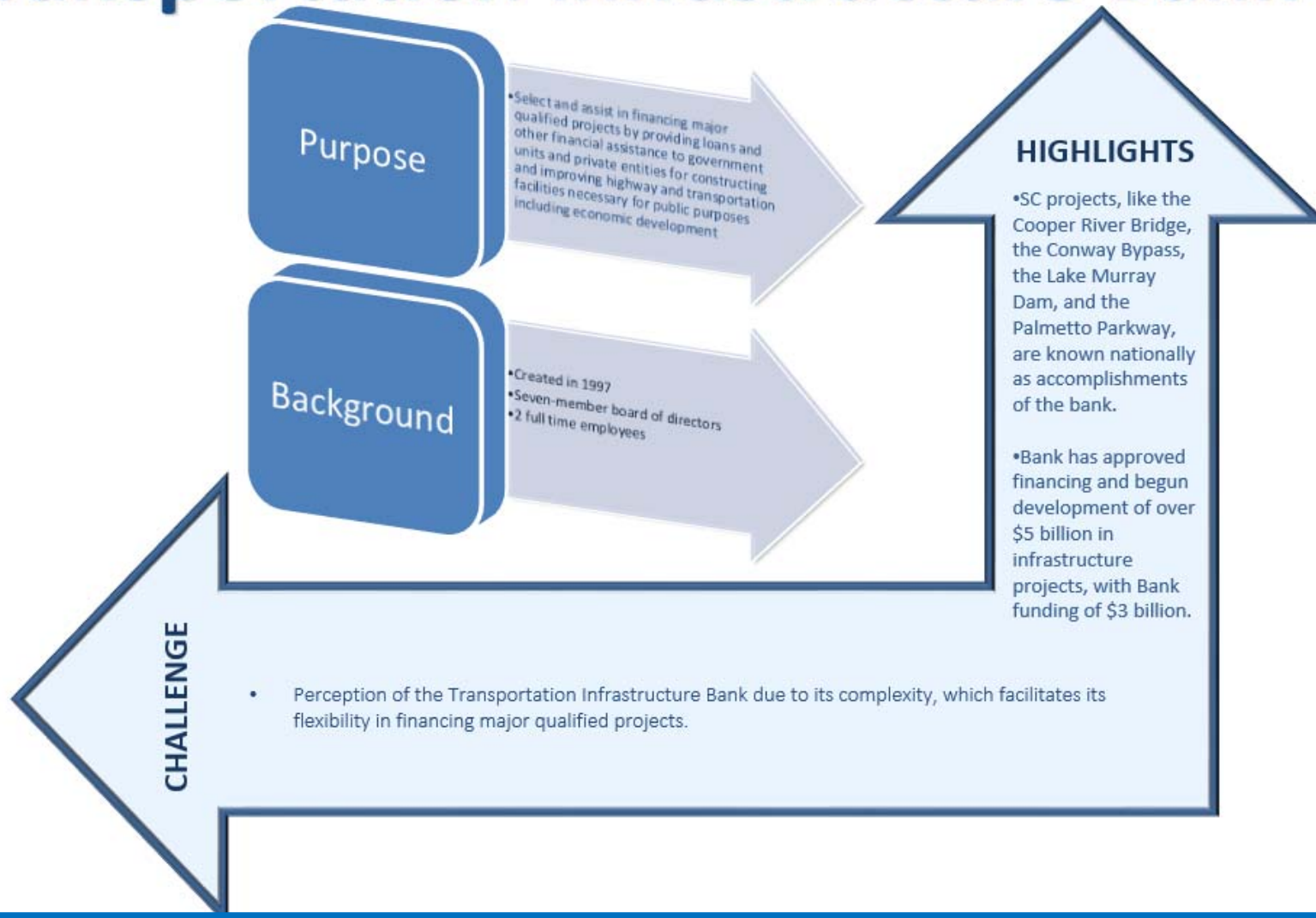


Figure 1. Snapshot of the agency's purpose, background, highlights, and challenge.¹

LEGISLATIVE OVERSIGHT - OVERVIEW

Foundation

The **South Carolina State Constitution** requires the General Assembly to provide for appropriate agencies in the areas of health, welfare, and safety and to determine their activities, powers, and duties.² Stated **public policy** provides that this “continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and their responsiveness to the needs of the state's citizens. . . .”³ The periodic reviews are accomplished through the legislative oversight process.⁴ Specific statutes relating to legislative oversight are included in South Carolina Code of Laws Section 2-2-5 *et seq.*

Purpose and Schedule

The stated **purpose of legislative oversight** is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the South Carolina General Assembly and whether or not they should be continued, curtailed, or even eliminated.⁵ The South Carolina House of Representatives’ Legislative Oversight Committee (“House Oversight Committee” or “Committee”) recognizes that a legislative oversight study informs the public about an agency.⁶ To accomplish legislative oversight, the specific task of the Committee is to conduct a study on each agency at least once every seven years.⁷ To guide the work of the Committee in completing its task, a **seven-year study schedule** is published in the House Journal the first day of each legislative session.⁸

Information Considered

Oversight **studies must consider**: (1) the application, administration, execution, and effectiveness of **laws and programs**; (2) the **organization and operation of agencies**; and (3) any conditions or circumstances that may indicate the **necessity or desirability of enacting new or additional legislation**.⁹ **Evidence or information relating to a study may be acquired by any lawful means**, including: serving a request for information on an agency; deposing witnesses; issuing subpoenas that require the production of documents; and, with certain exceptions, requiring the agency to prepare and submit a program evaluation report by a specified date.¹⁰ Testimony given to the investigating committee must be under oath.¹¹ All witnesses are entitled to counsel, and they shall be given the benefit of any privilege which they may claim in court as a party to a civil action.¹² Certain criminal provisions are applicable during the legislative oversight process, including contempt of the General Assembly.¹³ Joint investigations with the South Carolina Senate (“Senate”) or with other committees in the South Carolina House of Representatives (“House”) are authorized.¹⁴

AGENCY STUDY - ACTIONS

House Oversight Committee's Actions

On April 14, 2015, the House Oversight Committee **approved additional agencies for study in 2015 and 2016**. The South Carolina Transportation Infrastructure Bank (“agency” or “SCTIB” or “Bank”) was one of the additional agencies. While not an agency in the traditional sense, the Committee has determined SCTIB is an agency for purposes of legislative oversight.¹⁵

The **Committee notified the agency** about the study in April 2015. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and the Governor were also notified about the agency study.

Subcommittee's Actions

The **Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee** (“Subcommittee”) of the House Oversight Committee is studying the agency. The Chair of the Subcommittee is the Honorable Phyllis J. Henderson.¹⁶ Other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway III, and the Honorable Samuel Rivers Jr.¹⁷ Thus far, the Subcommittee had an entry meeting with the agency on April 28, 2015.

Information from the Public

During the month of September, 2015, the Committee posted an **online survey to solicit comments from the public about the Bank** and other agencies. These comments are not considered testimony.¹⁸ As noted in the survey, “input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies.”¹⁹ The **public may continue to submit written comments about agencies online**.²⁰

Information from the Agency

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a restructuring report, seven-year plan for cost savings and increased efficiencies, and program evaluation report. The agency submitted its restructuring report and seven-year plan on March 31, 2015. The agency submitted its program evaluation report on July 27, 2015. Both reports are available online.²¹

Committee Staff's Actions

In the staff study, committee staff obtain, review, and provide highlights of relevant information based upon the direction of the Committee and Subcommittee.²² Relevant information may include: an agency restructuring report; an agency seven-year plan for cost savings and increased efficiencies; an agency program evaluation report; another submission to a legislative or executive entity, such as an agency accountability report; comments from the public concerning the agency; any information submitted by a legislative standing committee in the House of Representatives; and any information submitted by individual Members of the House.

The staff study is intended for the internal use and benefit of Members of the House, and it does not reflect the views of the House, House Oversight Committee, or any subcommittees.²³ The staff study is shared with the agency.²⁴ The agency has the option to provide a written response within ten business days for inclusion in the study.²⁵

Next Steps

This staff study, and any agency response, will be shared with the Subcommittee and legislative standing committees in the House of Representatives that share subject matter jurisdiction.²⁶

The Subcommittee may review the staff study and, if one has been submitted, the agency's written response, in order to determine what other tools of legislative oversight should be used to evaluate (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²⁷

AGENCY HIGHLIGHTS

History

In 1995, the United States Congress passed, and President William Jefferson “Bill” Clinton signed, the National Highway System Designation Act of 1995 (“NHS Act”), which authorized the United States Department of Transportation to establish the State Infrastructure Bank Pilot Program.²⁸ In that enabling legislation, Congress provided the Banks would “[make] loans and [provide] other assistance to public and private entities [who were] carrying out or proposing to carry out projects eligible for assistance,” and defined eligible projects under the Act.²⁹ The NHS Act allowed the United States Secretary of Transportation to enter into cooperative agreements for the establishment of state infrastructure banks with ten or fewer states.³⁰

The United States Department of Transportation published a notice in the Federal Register in December of 1995 that requested applications from states interested in entering the pilot program.³¹ South Carolina applied to participate in 1996, and it became one of the ten states originally selected by the United States Department of Transportation.³² The United States Department of Transportation (“USDOT”) reported to Congress in February of 1997 that South Carolina had encountered limitations in its infrastructure bank enabling legislation, but later the USDOT acknowledged that South Carolina had passed new legislation addressing the limitations.³³

The South Carolina General Assembly passed the South Carolina Transportation Infrastructure Bank (“SCTIB”) Act, and Governor David M. Beasley signed it into law on June 26, 1997.³⁴ The legislation created the SCTIB and provided its purpose was “to select and assist in financing major qualified projects by providing loans and other financial assistance to government units and private entities for constructing and improving highway and transportation facilities necessary for public purposes including economic development.”³⁵ The SCTIB was authorized to issue two kinds of bonds, revenue and general obligation.³⁶

Since its creation in 1997, statutes relating to the SCTIB have been amended by the General Assembly on four separate occasions. SCTIB statutes were amended in 1999 so as to:³⁷

- Include mass transit projects in the definition “eligible transportation project”;
- Make the Bank subject to certain sections of the Administrative Procedures Act (codified at Title 1 Chapter 23 Article 1);
- Revise the Department of Transportation’s maximum annual contribution to the Bank from a percentage of funds appropriated for state highway maintenance to a percentage of funds collected from the gasoline tax; and
- Delete the requirements that the funds acquired through the gasoline tax be used to match federal capitalization grants to the Bank and provide capital for the Bank’s state accounts.

SCTIB provisions were amended in 2004 so as to:³⁸

- Prohibit the issuance of transportation infrastructure bonds unless the board has a source of revenues sufficient to pay both the principal and interest on the bonds, whereas the Act previously had only prohibited the issuance of such bonds unless the board had a source of revenues to reimburse the general fund for the principal and interest of the bonds;
- Authorize the annual allocation of tax revenues sufficient to provide for the timely payment of the principal and interest on the transportation infrastructure bonds, in accordance with Section 13(4), Article X of the Constitution, which directs the State Comptroller General to levy, and the State Treasurer to collect, a statewide ad valorem tax sufficient to pay the principal and interest obligations; and
- Direct the State Treasurer to set aside from the general tax revenues received in the fiscal year as much of the revenues as are needed if the revenues already available to the board are insufficient to meet the payments of the interest and principal of the bonds, and to use the additional revenues to timely pay the interest and principal of the bonds as they become due.

SCTIB provisions were amended in 2013 so as to create a new method of funding, which includes the South Carolina Department of Transportation transferring fifty million dollars from nontax sources to the SCTIB each fiscal year.³⁹ “The transferred funds must be used solely by the bank to finance bridge replacement, rehabilitation projects, and expansion and improvements to existing mainline interstates. The department [Department of Transportation] shall submit a list of bridge and road projects to the bank for its consideration.”⁴⁰ Notably, projects submitted to SCTIB for its consideration by the Department of Transportation were for improvements to existing mainline interstates (e.g., widening projects).⁴¹

Also, SCTIB provisions were amended by the South Carolina Restructuring Act of 2014 so as to define “state board” as the “governing board of the State Fiscal Accountability Authority,” rather than the State Budget and Control Board.⁴²

The Bank has been a “revolving infrastructure investment fund” that was established and is administered by South Carolina for the state’s surface transportation needs.⁴³ Since the Bank was created in 1997, it has “approved financing and begun development” for more than \$5.3 billion in infrastructure projects, with Bank funding of \$3 billion.⁴⁴

Act 92 of 2015, a 2015-16 Supplemental Appropriations Act, provides as follows:

The State Treasurer shall transfer \$50,000,000 from general fund non-tax sources to the South Carolina Transportation Infrastructure Bank to be utilized solely to leverage bonds to finance bridge replacement, resurfacing, and rehabilitation projects, and expansion and improvements to existing mainline

interstates. The Department of Transportation shall develop and submit a list of bridge and road projects to the bank for its consideration. Transferred funds may not be used for projects approved by the Bank prior to July 1, 2015. The Bank shall submit all projects proposed to be financed through this provision to the Joint Bond Review Committee for approval prior to financing any proposed project.

However, as this is not a recurring appropriation, SCTIB is unable to utilize these funds to leverage bonds.⁴⁵

Board of Directors

SCTIB has a **seven-member board of directors**, which meets as needed. South Carolina Code of Laws Section 11-43-140 provides as follows for the appointment of members, officers, terms, and filling of any vacancies:⁴⁶

The board of directors is the governing board of the bank. The board consists of seven voting directors as follows: the Chairman of the Department of Transportation Commission, ex officio; one director appointed by the Governor who shall serve as chairman; one director appointed by the Governor; one director appointed by the Speaker of the House of Representatives; one member of the House of Representatives appointed by the Speaker, ex officio; one director appointed by the President Pro Tempore of the Senate; and one member of the Senate appointed by the President Pro Tempore of the Senate, ex officio. Directors appointed by the Governor, the Speaker, and the President Pro Tempore shall serve terms coterminous with those of their appointing authority. The terms for the legislative members are coterminous with their terms of office. The vice chairman must be elected by the board. Any person appointed to fill a vacancy must be appointed in the same manner as the original appointee for the remainder of the unexpired term.

Current individual members of the board of directors⁴⁷ include:

- Mr. Vincent G. Graham, Chairman Mount Pleasant, SC
- Mr. Bo Aughtry Greenville, SC
- Mr. Ernest Duncan Aiken, SC
- Senator Hugh Leatherman Florence, SC
- Representative H.B. "Chip" Limehouse Charleston, SC
- Mr. Joe Taylor Columbia, SC
- Mr. Mike Wooten Myrtle Beach, SC

Notably, the agency's third board chair in its history was appointed in the fall of 2015. Board Chairman Graham was appointed by the Governor on September 8, 2015.⁴⁸ He followed "Mr. Donald Leonard who stepped down after serving twelve years on the board" of directors.⁴⁹ The agency's first board chair was Mr. Howard Wall "Champ" Covington, Jr. The director of the agency since its creation, Ms. Debra Rountree, recently retired. Ms. Tami Reed is currently serving as the acting agency director.

Purpose, Mission, and Vision

The basis for the SCTIB's purpose, mission, and vision can be found in SC Code of Laws Section 11-43-120.

Purpose

"The corporate purpose of the bank is to select and assist in financing major qualified projects by providing loans and other financial assistance to government units and private entities for constructing and improving highway and transportation facilities necessary for public purposes including economic development."⁵⁰

Mission

The mission of the SCTIB is to "utilize available funding sources to effectively provide financial assistance through authorized means to major qualified transportation projects while ensuring the financial integrity of the Bank."⁵¹

Vision

The vision of the SCTIB is to "provide financial assistance for projects that provide public benefit by enhancing mobility and safety, promoting economic development, and enhancing the quality of life of the citizens of South Carolina."⁵²

Legal Responsibilities

In its 2016 Annual Restructuring Report submitted to the House Legislative Oversight Committee, the Bank provided an overview of the agency’s legal responsibilities and authority as set forth in law.⁵³ The agency’s legal responsibilities arise from state law.

Table 1. Legal responsibilities of the agency and general summary of those responsibilities.

Statutes	Summary of Requirement and/or Authority Granted
<p>Title 11, Chapter 43* As enacted by Act 148 of 1997</p> <p>(*See Appendix for table and brief summary of these statutes)</p>	<p>Chapter 43 is referred to as the "South Carolina Transportation Infrastructure Bank Act". This chapter creates the South Carolina Transportation Infrastructure Bank; board of directors; corporate purpose; accounts. <i>Amended by 1999 Act No. 100</i> <i>Makes SCTIB subject to Administrative Procedures Act (1-23-1); Sends revenue to SCTIB from § 12-28-310 (amount not to exceed revenues produced by one cent a gallon of the tax on gasoline), Sections 56-3-660 and 56-3-670 (registration fees on trucks).</i> <i>Amended by 2004 Act No. 184</i> <i>Limitations on bonds issued and requirement of Joint Bond Review Committee approval of projects and bond issues. Also, requires no bonds be issued without a source of revenue to pay principal and interest on the bonds.</i> <i>Amended by 2013 Act 98</i> <i>Increases the revenues to the SCTIB from nontax sources of the Department of Transportation to finance bridge replacement, rehabilitation projects, and the expansion and improvements to existing mainline interstates.</i></p>
<p>§ 56-3-910 As amended by Act 18 of 2009</p>	<p>Requires the Department of Motor Vehicles to place all of the fees and penalties collected by the Department under the authority of Title 56, Chapter 3 of the SC Code in the state highway account of the Bank except for the fees that are required by law to be credited to another account; the Department of Transportation has to report annually to the Bank pursuant to the statute.</p>
<p>§ 8-13-770 As amended by Act 209 of 2012</p>	<p>Exempts the Bank from the general rule that Members of the General Assembly may not serve on state boards or commissions.</p>
<p>§ 12-28-2915 As enacted by Act 176 of 2005</p>	<p>Requires the Department of Transportation contribute annually fifty percent of the taxes collected pursuant to Title 12, Chapter 23, Article 1 of the SC Code in excess of twenty million dollars to the State Highway Account of the Bank.</p>
<p>§ 54-3-270 As amended by Act 256 of 2002 and Act 356 of 2002</p>	<p>Requires the Bank to explore all potential sources of federal funding for the port expansion at the western side of the Cooper River.</p>
<p>§ 48-52-810 As amended by Act 88 of 2007</p>	<p>Excepts projects funded by the Bank from the definition of "major facility project" for purposes of Title 48, Chapter 52, Article 8.</p>
Appropriations Acts	Summary of Requirement and/or Authority Granted
<p>2015-16 Appropriations Act Part B Proviso - 88.1</p>	<p>The State Ports Authority shall, from other general fund or operating fund surplus available and any funds appropriated to the authority in prior fiscal years and left unexpended as of July 1, 2015, pay to the State Transportation Infrastructure Bank one million dollars before June 30, 2016, to continue the Charleston Cooper River Bridge Project. Payments extend until 2027.</p>
<p>2015-16 Appropriations Act Part B Proviso - 108.1</p>	<p>South Carolina Lottery Commissioners and South Carolina Transportation Infrastructure Bank Board members and their eligible dependents are eligible to participate in the State Health and Dental Insurance Plan, upon paying the full premium costs as determined by the Public Employee Benefit Authority. If a county is participating in the State Health and Dental Insurance Plan, magistrates and their eligible dependents are eligible to participate in the State Health and Dental Insurance Plan, upon the magistrate paying the full premium costs as determined by the Public Employee Benefit Authority.</p>
<p>2015-16 Appropriations Act Part B Proviso - 117.20</p>	<p>Travel Subsistence Expenses & Mileage rules for payments to members of state boards. <i>(Many SCTIB Board Members do not accept these payments.)</i></p>
<p>2015-16 Supplemental Appropriations Act No. 92 of 2015 (H.4230, Rat.130)</p>	<p>The State Treasurer shall transfer \$50,000,000 from general fund non-tax sources to the South Carolina Transportation Infrastructure Bank to be utilized solely to leverage bonds to finance bridge replacement, resurfacing, and rehabilitation projects, and expansion and improvements to existing mainline interstates. The Department of Transportation shall develop and submit a list of bridge and road projects to the bank for its consideration. Transferred funds may not be used for projects approved by the Bank prior to July 1, 2015. The Bank shall submit all projects proposed to be financed through this provision to the Joint Bond Review Committee for approval prior to financing any proposed project. <i>(As this is not a recurring appropriation, SCTIB is unable to utilize these funds to leverage bonds.)</i></p>

Relationships and Public Input

Relationships

In the SCTIB’s reports to the Committee, it has provided information about its partners, customers and stakeholders.⁵⁴ Notably, the agency may have more than one relationship with an entity; for example, SCTIB lists the Department of Transportation as a partner, customer, and stakeholder.

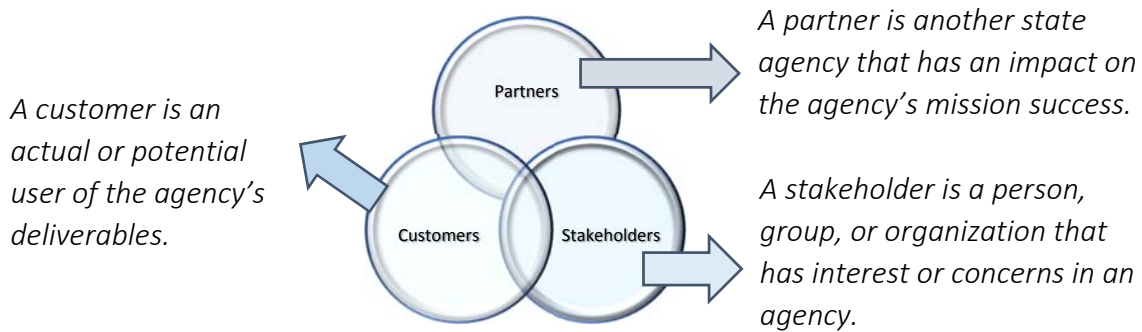


Figure 2. Partners, customers, and stakeholders defined.⁵⁵

Table 2. Agency’s partners, customers, and stakeholders.⁵⁶

Partner	Customer	Stakeholder	Entity
			State and Local Government Entities
✓			SC State Treasurer’s Office
✓			SC Department of Motor Vehicles
✓			SC Comptroller General’s Office
✓			SC General Assembly
✓			Joint Bond Review Committee
	✓	✓	Local Governments
✓	✓	✓	SC Department of Transportation
			Associations, Businesses, and Individuals
	✓		Motorists in South Carolina (citizens and visitors)
✓			Bond Counsel
✓			Legal Counsel
✓			Financial Management Firm

Public Comments about the Agency

In the House Legislative Oversight Committee’s September 2015 public survey, the opinions of 449 participants who chose to provide their opinion about the agency were divided, and a small percentage expressed no opinion (7.8% - 35).⁵⁷ The significant majority (80.4%) of participants had a negative (22.9% - 103) or very negative opinion (57.5% - 258) of the agency.⁵⁸ Only a small number (11.8% - 53) of participants had a positive or very positive opinion of the agency. Notably, many participants answered that they had knowledge of the agency through media coverage (36.7%) or through an Internet source (15.8%).⁵⁹ Additionally, the agency notes a challenge in its perception due to its complexity, which facilitates flexibility in financing major qualified projects.⁶⁰

Written comments about the agency were provided by 257 survey participants; often, those comments addressed more than one topic.⁶¹ Some of the topics addressed in the written comments are listed in Table 3. The complete comments can be found online.⁶² Responses to online surveys posted on the Committee's webpage are provided verbatim as they were received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.⁶³

Table 3. Some topics addressed by survey participants in written comments about the agency.⁶⁴

Topic	Number of Comments
Decisions/Priorities	59
Condition of Roads	29
Governing Board	23
Accountability	18

Resources

Sources of Revenues and Expenses

Note: Background information on the state’s budget process is available in the appendix to this document.

The SCTIB has provided information to the Committee about its sources of revenue and expenses.⁶⁵

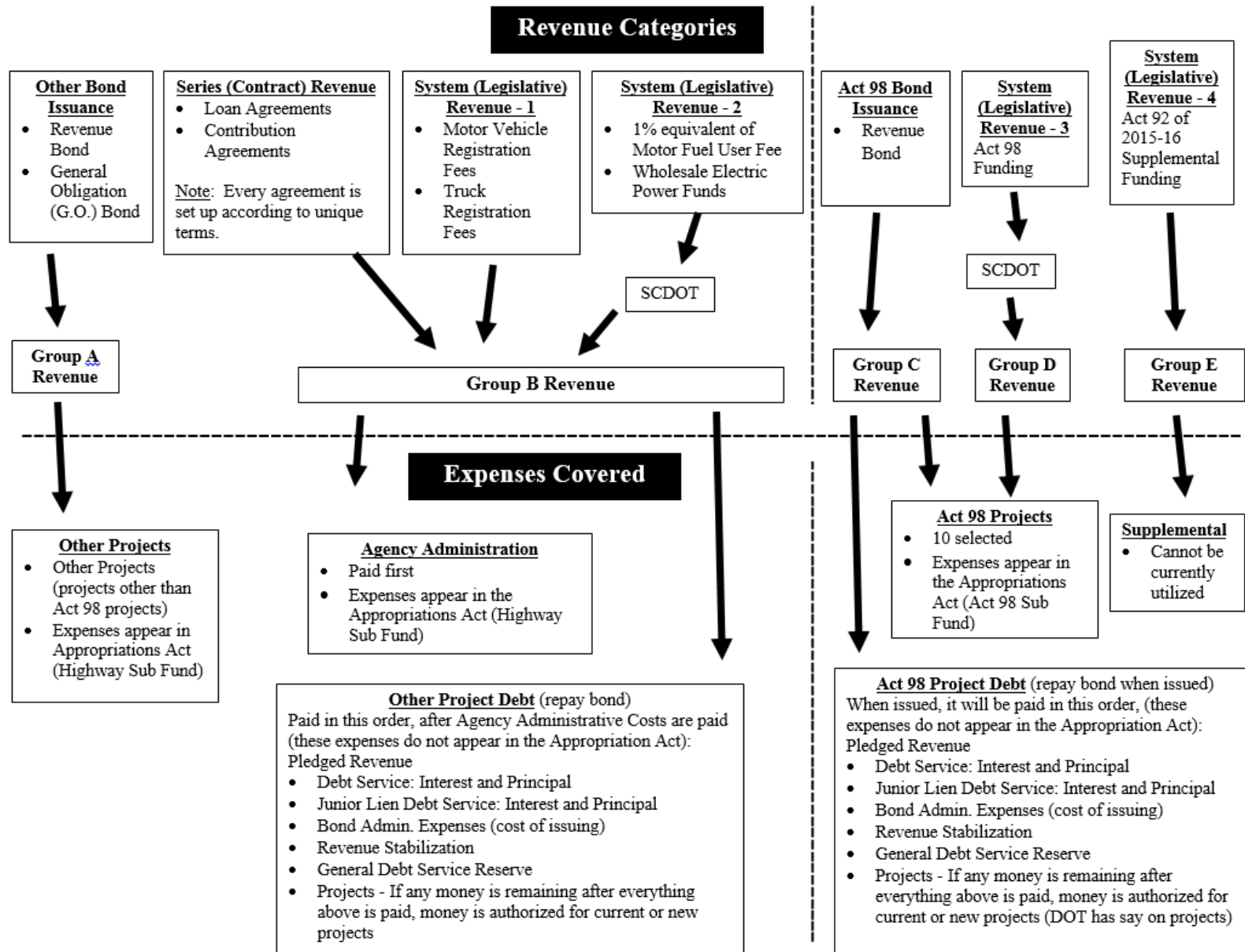


Figure 3. Revenue Categories and Expenses Covered

Expense Category Details

Other Projects

(All projects have already been approved and started)

Project Approval Steps

1) STIB Application Criteria (see below); 2) STIB Approval - STIB has information on all votes taken by its Board 3) JBRC Approval

Criteria in STIB Application

- Project in excess of \$100 million
- Provide a public benefit in one or more of the following areas with evidence to substantiate the public benefit:
 - Enhancement of mobility and safety; Promotion of economic development; Increase in the quality of life and general welfare of the public
- Local match, except for interstate projects
- See copy of full application with further detailed information STIB Board considers.

Paid through

- Option 1 - Appropriation Act Highway Sub fund only
- Option 2 - Appropriation Act Highway Sub fund & Other Revenue Bond or Other G.O. Bond

Act 98 Projects

(10 projects have been selected)

Project Approval Steps

1) Act 98 Criteria (see below) 2) STIB Approval 3) JBRC Approval

Criteria in Act 98

- One or more of the following, which is prioritized by SCDOT:
 - (1) finance bridge replacement, (2) rehabilitation projects; (3) expansion and improvements to existing mainline interstates.
- Projects prioritized by SCDOT for funding by STIB were all Mainline Interstate Projects, in particular, interstate widenings.

Paid through

- Appropriation Act 98 Subfund; and/or Act 98 Revenue Bond (which will be issued when necessary)

Administrative Costs

Salaries for Employees; Office Supplies; Auditors; Consultants, including attorneys and financial consultants

Figure 4. Expense Category Details

Basics of a Bond

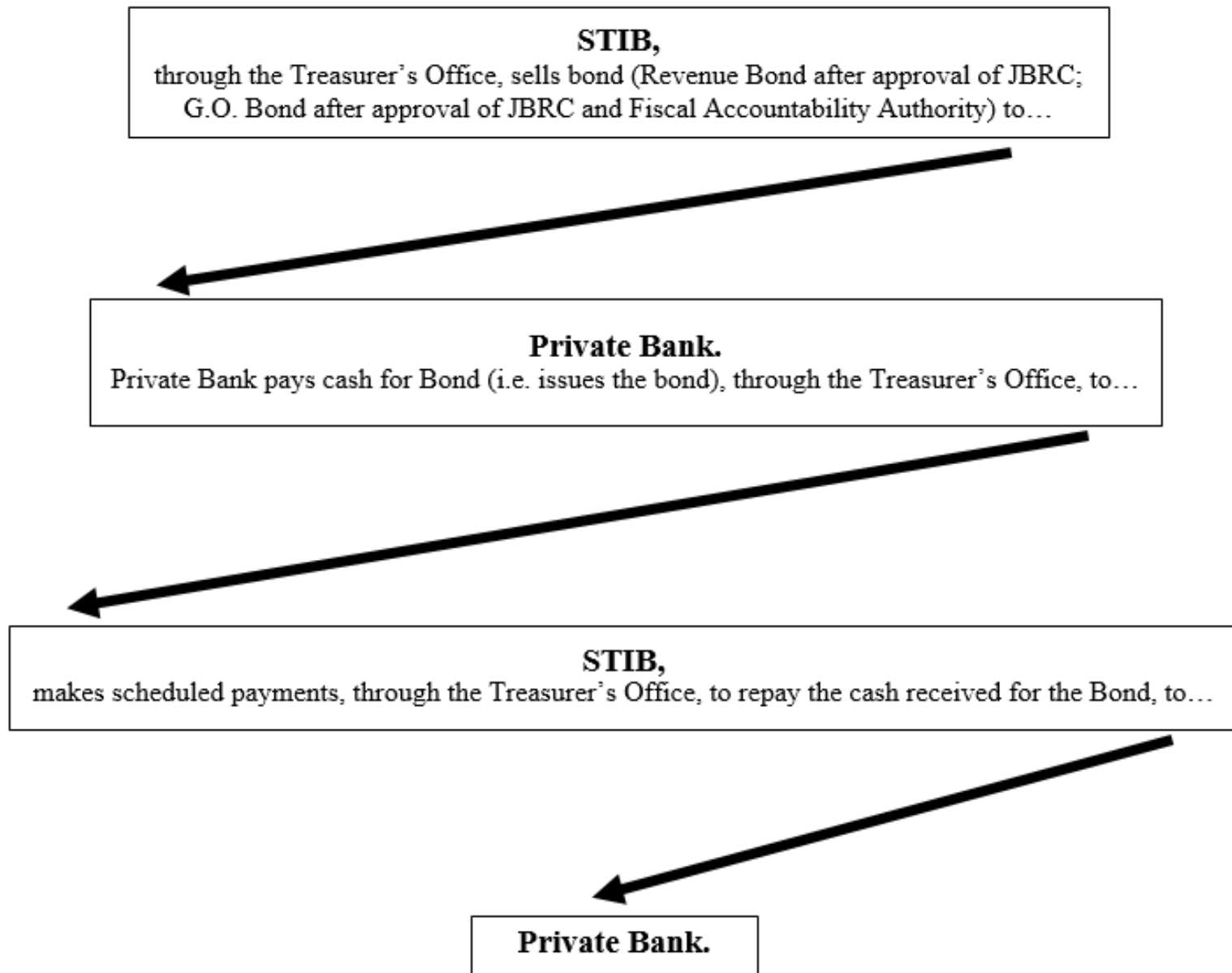


Figure 5. Basics of a bond

Resources

Employees

The **size of the agency, in terms of FTEs, has remained relatively static over its history**, with no more than two FTEs since its inception. Notably, the agency’s previous director was a part-time employee. Additionally, the SCTIB reported to the Committee it “outsources several of its functions, like financial management, information technology, and legal services, in order to remain efficient.”

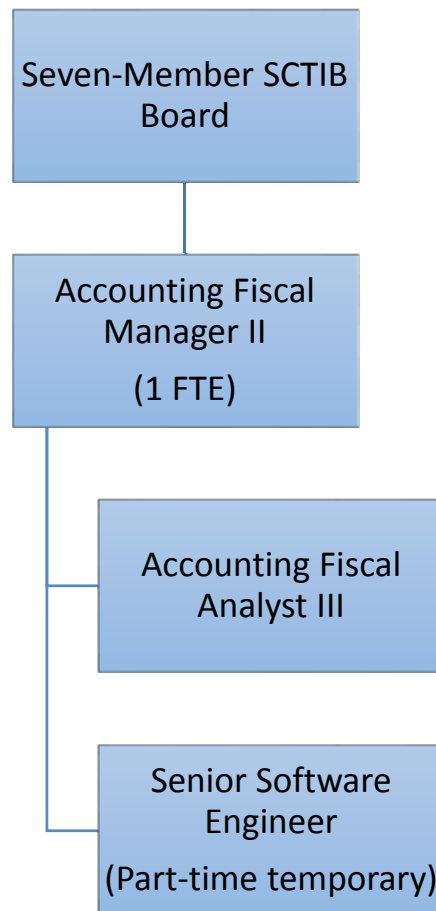


Figure 6. Agency’s current organizational chart.⁶⁶

APPENDIX A. GENERAL APPROPRIATIONS ACT BACKGROUND

State government’s **total budget**, which is found each year in the appropriations act, is **made up of three funds: federal, general, and other**. The annual appropriations act authorizes a maximum amount that agencies may spend for the fiscal year. The General Assembly may adjust the agencies’ authorizations. The state’s general fund, on the other hand, is South Carolina’s bank account; those are the taxes and fees that are available to the General Assembly to appropriate every year.

Table 4. Background on the budget process.

Federal Funds (Fund Code 5000)	<ul style="list-style-type: none"> • Authorization • Examples: Medicaid; Education; Higher Education – Research and financial aid grants; Federal gas tax
Other Funds (State Earmarked = Fund Code 3000) (State Restricted = Fund Code 4000)	<ul style="list-style-type: none"> • Authorization • State Earmarked (a.k.a. Fund Code 3000 or Other Funds) - Special revenues which are to be used for a specific use; typically the revenue is from the agency providing some type of service for which it earns fees and the earmarked funds are those portion of fees that are kept by the agency (i.e. tuition and fees for universities; DNR license fees; etc.) • State Restricted (a.k.a. Fund Code 4000 or Other Funds) - Special deposits, primarily debt service and trust funds; these funds earn interest and the interest goes back into the account (i.e. bonds, trusts, etc.)
General Funds (Fund Code 1000)	<ul style="list-style-type: none"> • Appropriated • South Carolina’s Bank Account

When the funds are authorized or appropriated, it can be **recurring or non-recurring**. Non-recurring dollars are money available to spend on a one-time expense. Examples of funds that are authorized or appropriated on a non-recurring basis include (a) excess money (e.g. projected year end surplus not included in recurring estimate; cash in the bank that exceeded previous year’s estimate; vetoed items sustained by the General Assembly); (b) money from lawsuits where the State is a plaintiff; and (c) capital reserve funds.

The **Annual Appropriations Act** generally consists of three main parts. These parts are provided in Table 5.

Table 5. Main Parts of the Annual Appropriations Act.

Part IA	Part IB	Part II
<ul style="list-style-type: none"> • Establishes funding levels for state agencies • Looks like a “budget” • Also known as the “Dollars” section of the Act 	<ul style="list-style-type: none"> • Temporary laws effective for the fiscal year • Regulates the expenditure of funds appropriated to agencies in Part 1A and may make provisions for the operation of state government • Also known as “provisos” 	<ul style="list-style-type: none"> • Permanent provisions of law • Not included in the annual appropriations act since fiscal year 2000-2001

In previous years, there have also been Part III and even Part IV to the Appropriations Act, which were utilized for various purposes.

The budget process includes three main phases in its **timeline**. These phases are illustrated in Figure 7.

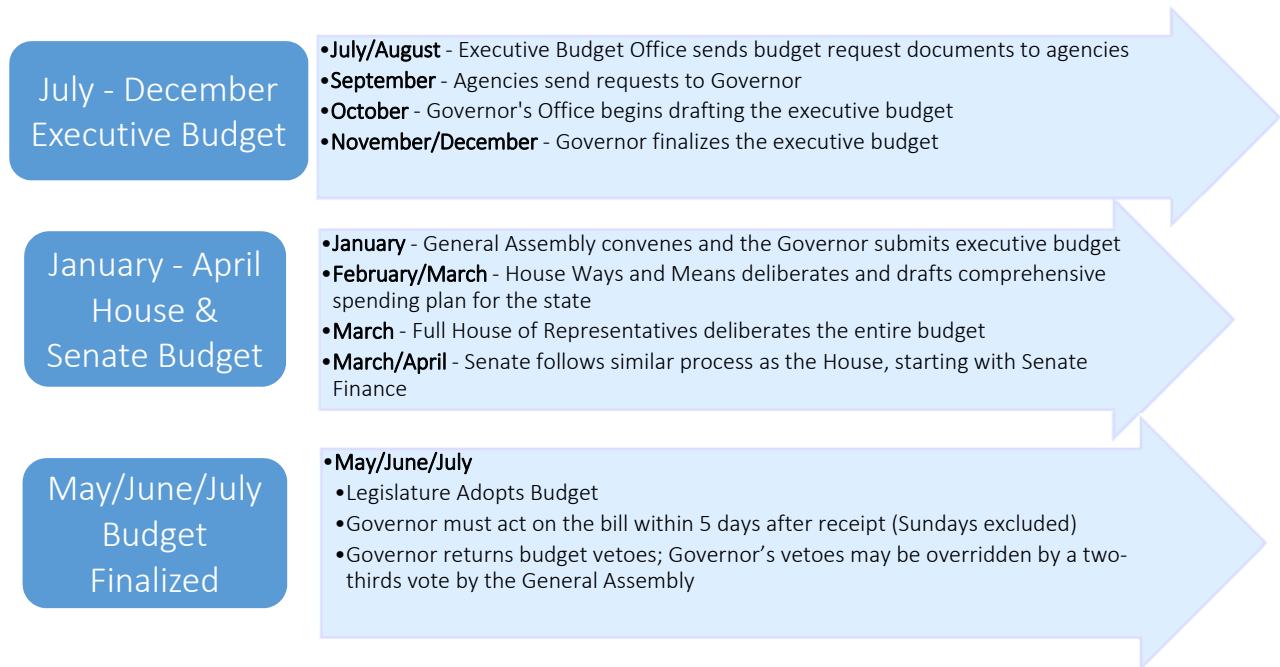


Figure 7. Phases of the budget process.

APPENDIX B. - SCTIB ACT

Table 6. South Carolina Transportation Infrastructure Act - Index to Statutes

Statute	Summary
Article 1	South Carolina Transportation Infrastructure Bank Act
11-43-110	Short Title
11-43-120	Creation of the "South Carolina Transportation Infrastructure Bank"
11-43-130	Definitions
11-43-140	Board of directors; members; terms; vacancies
11-43-150	Powers of bank; limitations
11-43-160	Sources of capitalization and purposes of bank; use of state highway account revenues
11-43-165	South Carolina Transportation Infrastructure Bank
11-43-170	Earnings on federal and state accounts; establishment of accounts and subaccounts; commingling of funds, compliance with federal law
11-43-180	Loans and other financial assistance; approval by Joint Bond Review Committee; term; financing agreement; terms and conditions; selection of projects; preference, considerations
11-43-190	Financing agreements; application of other statutes or provisions; obligations secured by ad valorem taxes; security interest in project revenues; expenditure of proceeds
11-43-200	Exemption from taxes or assessments

11-43-210	Failure of governmental unit to remit amounts due; withholding of funds
11-43-220	Liability
11-43-230	Notice, proceeding, or publication not necessary; bank not subject to referendum
11-43-240	Deposit and investments
11-43-250	Annual report, audit of books and accounts
11-43-260	Liberal construction
11-43-270	Severability of provisions
Article 3	South Carolina Transportation Infrastructure Bank Revenue Bonds
11-43-310	Definitions
11-43-315	Issuance of bonds; review and approval of Joint Bond Review Committee
11-43-320	Pledges of revenue or funds to bond payment; bonds secured by pledge
11-43-330	Bonds not debt or pledge of full faith and credit of State; personal liability; statement
11-43-340	Bonds authorized by resolution; execution; payability; other provisions; interest; public or private sale, price; time of issuance
11-43-350	Trust indenture
11-43-360	Validity of pledge; lien; recording or filing of resolution not necessary; filing of record of issuance proceedings
11-43-370	Purchase of outstanding bonds; price
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CHAPTER 43

South Carolina Transportation Infrastructure Bank Act

ARTICLE 1

South Carolina Transportation Infrastructure Bank

SECTION 11-43-110. Short title.

This chapter may be referred to as the "South Carolina Transportation Infrastructure Bank Act."

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-120. Creation of South Carolina Transportation Infrastructure Bank; board of directors; corporate purpose; accounts.

(A) There is created a body corporate and politic and an instrumentality of the State to be known as the South Carolina Transportation Infrastructure Bank.

(B) The bank is governed by a board of directors as provided in this chapter.

(C) The corporate purpose of the bank is to select and assist in financing major qualified projects by providing loans and other financial assistance to government units and private entities for constructing and improving highway and transportation facilities necessary for public purposes including economic development. The exercise by the bank of a power conferred in this chapter is an essential public function.

(D) The bank shall establish and maintain at least the four following accounts: state highway account, state transit account, federal highway account, and federal transit account.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-130. Definitions.

As used in this chapter unless the context clearly indicates otherwise:

(1) "Bank" means the South Carolina Transportation Infrastructure Bank.

- (2) "Board" means the board of directors of the bank.
 - (3) "Bonds" means bonds, notes, or other evidence of indebtedness except as otherwise provided in Article 3 of this chapter.
 - (4) "Department of Transportation" means the South Carolina Department of Transportation and its successors.
 - (5) "Eligible cost" means as applied to a qualified project to be financed from the federal accounts, the costs that are permitted under applicable federal laws, requirements, procedures, and guidelines in regard to establishing, operating, and providing assistance from the bank. As applied to a qualified project to be financed from the state highway account, these costs include the costs of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, facilities, and other costs necessary for the qualified project. As applied to any qualified project to be financed from the state transit account, eligible project costs are limited to capital expenditures for transit equipment and facilities.
 - (6) "Eligible project" means a highway, including bridges, or transit project which provides public benefits by either enhancing mobility and safety, promoting economic development, or increasing the quality of life and general welfare of the public. "Eligible project" also includes mass transit including, but not limited to, monorail and monobeam mass transit systems.
 - (7) "Federal accounts" means collectively, the separate account for federal highway funds and federal transit funds.
 - (8) "Financing agreement" means any agreement entered into between the bank and a qualified borrower pertaining to a loan or other financial assistance. This agreement may contain, in addition to financial terms, provisions relating to the regulation and supervision of a qualified project, or other provisions as the board may determine. The term "financing agreement" includes, without limitation, a loan agreement, trust indenture, security agreement, reimbursement agreement, guarantee agreement, bond or note, ordinance or resolution, or similar instrument.
 - (9) "Government unit" means a municipal corporation, county, special purpose district, special service district, commissioners of public works, or another public body, instrumentality or agency of the State including combinations of two or more of these entities acting jointly to construct, own, or operate a qualified project, and any other state or local authority, board, commission, agency, department, or other political subdivision created by the General Assembly or pursuant to the Constitution and laws of this State which may construct, own, or operate a qualified project.
 - (10) "Loan" means an obligation subject to repayment which is provided by the bank to a qualified borrower for all or a part of the eligible cost of a qualified project. A loan may be disbursed in anticipation of reimbursement for or direct payment of eligible costs of a qualified project.
 - (11) "Loan obligation" means a bond, note, or other evidence of an obligation issued by a qualified borrower.
 - (12) "Other financial assistance" means, but is not limited to, grants, contributions, credit enhancement, capital or debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, provision of bond or other debt financing instrument security, and other lawful forms of financing and methods of leveraging funds that are approved by the board, and in the case of federal funds, as allowed by federal law.
 - (13) "Private entity" means a private person or entity that has entered into a contract with a government unit to design, finance, construct, and operate a highway, bridge, tunnel, or approach that is within the jurisdiction of the government unit that is responsible for complying with applicable federal requirements.
 - (14) "Project revenues" means all rates, rents, fees, assessments, charges, and other receipts derived or to be derived by a qualified borrower from a qualified project or made available from a special source, and, as provided in the applicable financing agreement, derived from any system of which the qualified project is a part of, from any other revenue producing facility under the ownership or control of the qualified borrower including, without limitation, proceeds of grants, gifts, appropriations and loans, including the proceeds of loans made by the bank, investment earnings, reserves for capital and current expenses, proceeds of insurance or condemnation and proceeds from the sale or other disposition of property and from any other special source as may be provided by the qualified borrower.
 - (15) "Qualified borrower" means any government unit or private entity which is authorized to construct, operate, or own a qualified project.
 - (16) "Qualified project" means an eligible project which has been selected by the bank to receive a loan or other financial assistance from the bank to defray an eligible cost.
 - (17) "Revenues" means, when used with respect to the bank, any receipts, fees, income, or other payments received or to be received by the bank including, without limitation, receipts and other payments deposited in the bank and investment earnings on its funds and accounts.
 - (18) "State accounts" means, collectively, the separate account for state highway funds and state transit funds.
- HISTORY: 1997 Act No. 148, Section 2; 1999 Act No. 100, Part II, Section 22.

SECTION 11-43-140. Board of directors; members; terms; vacancies.

The board of directors is the governing board of the bank. The board consists of seven voting directors as follows: the Chairman of the Department of Transportation Commission, ex officio; one director appointed by the Governor who shall serve as chairman; one director appointed by the Governor; one director appointed by the Speaker of the House of Representatives; one member of the House of Representatives appointed by the Speaker, ex officio; one director appointed by the President Pro Tempore of the Senate; and one member of the Senate appointed by the President Pro Tempore of the Senate, ex officio. Directors appointed by the Governor, the Speaker, and the President Pro Tempore shall serve terms coterminous with those of their appointing authority. The terms for the legislative members are coterminous with their terms of office. The vice chairman must be elected by the board. Any person appointed to fill a vacancy must be appointed in the same manner as the original appointee for the remainder of the unexpired term.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-150. Powers of bank; limitations.

- (A) In addition to the powers contained elsewhere in this chapter, the bank has all power necessary, useful, or appropriate to fund, operate, and administer the bank, and to perform its other functions including, but not limited to, the power to:
- (1) have perpetual succession;
 - (2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the bank's affairs and the implementation of its functions including the right of the board to select qualifying projects and to provide loans and other financial assistance;
 - (3) sue and be sued in its own name;
 - (4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the bank;
 - (5) make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loan obligations at prices and in a manner as the board determines advisable;
 - (6) provide qualified borrowers with other financial assistance necessary to defray eligible costs of a qualified project;
 - (7) enter into contracts, arrangements, and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;
 - (8) enter into agreements with a department, agency, or instrumentality of the United States or of this State or another state for the purpose of planning and providing for the financing of qualified projects;
 - (9) establish:
 - (a) policies and procedures for the making and administering of loans and other financial assistance; and
 - (b) fiscal controls and accounting procedures to ensure proper accounting and reporting by the bank, government units, and private entities;
 - (10) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the bank;
 - (11) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of the United States or this State, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;
 - (12) collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;
 - (13) unless restricted under any agreement with holders of bonds, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;
 - (14) borrow money through the issuance of bonds and other forms of indebtedness as provided in this chapter;
 - (15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the bank;
 - (16) expend funds credited to the bank as the board determines necessary for the costs of administering the operations of the bank;
 - (17) establish advisory committees as the board determines appropriate, which may include individuals from the private sector with banking and financial expertise;
 - (18) procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self-insurer against any and all such losses;
 - (19) collect fees and charges in connection with its loans or other financial assistance;
 - (20) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;
 - (21) enter into contracts or agreements for the servicing and processing of financial agreements; and
 - (22) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.
- (B) The bank is not authorized or empowered to be or to constitute a bank or trust company within the jurisdiction or under the control of the State or an agency of it or the Comptroller of the Currency or the Treasury Department of the United States, or a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers' law of the United States or this State.
- (C) The bank is subject to the provisions of Article 1, Chapter 23 of Title 1, the Administrative Procedures Act.
- HISTORY: 1997 Act No. 148, Section 2; 1999 Act No. 100, Part II, Section 22.

SECTION 11-43-160. Sources for capitalization and purposes of bank; use of state highway account revenues.

- (A) The following sources may be used to capitalize the bank and for the bank to carry out its purposes:
- (1) an annual contribution set by the board of an amount not to exceed revenues produced by one cent a gallon of the tax on gasoline imposed pursuant to Section 12-28-310;
 - (2) federal funds made available to the State;
 - (3) federal funds made available to the State for the bank;
 - (4) contributions and donations from government units, private entities, and any other source as may become available to the bank including, but not limited to, appropriations from the General Assembly;
 - (5) all monies paid or credit to the bank, by contract or otherwise, payments of principal and interest on loans or other financial assistance made from the bank, and interest earnings which may accrue from the investment or reinvestment of the bank's monies;

- (6) proceeds from the issuance of bonds as provided in this chapter;
 - (7) other lawful sources as determined appropriate by the board; and
 - (8) loans from the Department of Transportation to the bank to be repaid from revenues committed to the bank for the following year.
- (B) Beginning in fiscal year 1998-99, the revenues collected pursuant to Sections 56-3-660 and 56-3-670 and placed in the state highway account, as created by this chapter, must be used to provide capital for the bank.

HISTORY: 1997 Act No. 148, Section 2; 1999 Act No. 100, Part II, Section 22.

SECTION 11-43-165. South Carolina Transportation Infrastructure Bank.

Each fiscal year, the South Carolina Department of Transportation shall transfer fifty million dollars from nontax sources to the South Carolina Transportation Infrastructure Bank. The department may transfer the total amount in one lump sum or it may transfer the amount quarterly in four equal installments. The general fund revenue appropriated to the department for "Highway Engineering Permanent Improvements" in the annual general appropriations act is exempt from any across-the-board reductions. The transferred funds must be used solely by the bank to finance bridge replacement, rehabilitation projects, and expansion and improvements to existing mainline interstates. The department shall submit a list of bridge and road projects to the bank for its consideration. Transferred funds may not be used for projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed by this section to the Joint Bond Review Committee as provided in Section 11-43-180, prior to approving a project for financing.

HISTORY: 2013 Act No. 98, Section 4.A, eff July 1, 2013.

SECTION 11-43-170. Earnings on federal and state accounts; establishment of accounts and subaccounts; commingling of funds, compliance with federal law.

- (A) Earnings on balances in the federal accounts must be credited and invested according to federal law. Earnings on state accounts must be credited to the state highway account or state transit account that generates the earnings. The bank may establish accounts and subaccounts within the state accounts and federal accounts as considered desirable to effectuate the purposes of this chapter, or to meet the requirements of any state or federal programs. All accounts must be held in trust by the State Treasurer.
- (B) For necessary and convenient administration of the bank, the board shall direct the State Treasurer to establish federal and state accounts and subaccounts within the bank necessary to meet any applicable federal law requirements or as the bank shall determine necessary or desirable in order to implement the provisions of this chapter.
- (C) The bank shall comply with all applicable federal laws and regulations prohibiting the commingling of certain federal funds deposited in the bank.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-180. Loans and other financial assistance; approval by Joint Bond Review Committee; term; financing agreement; terms and conditions; selection of projects, preference, considerations.

- (A) The bank may provide loans and other financial assistance to a government unit or private entity to pay for all or part of the eligible cost of a qualified project. Prior to providing a loan or other financial assistance to a qualified borrower, the board must obtain the review and approval of the Joint Bond Review Committee. The term of the loan or other financial assistance must not exceed the useful life of the project. The bank may require the government unit or private entity to enter into a financing agreement in connection with its loan obligation or other financial assistance. The board shall determine the form and content of loan applications, financing agreements, and loan obligations including the term and rate or rates of interest on a financing agreement. The terms and conditions of a loan or other financial assistance from federal accounts shall comply with applicable federal requirements.
- (B) The board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive from the bank a loan or other financial assistance. Preference must be given to eligible projects which have local financial support. In selecting qualified projects, the board shall consider the projected feasibility of the project and the amount and degree of risk to be assumed by the bank. The board also may consider, but must not be limited to, the following criteria in making its determination that an eligible project is a qualified project:
 - (1) the local support of the project, expressed by resolutions by the governing bodies in the areas in which the project will be located, and the financial or in-kind contributions to the project;
 - (2) maximum economic benefit, enhancement of mobility, enhancement of public safety, acceleration of project completion, and enhancement of transportation services;
 - (3) the ability of the applicant to repay a loan according to the terms and conditions established pursuant to this chapter, consideration of which may include, at the option of the bank board, the existence of current investment grade rating on existing debt of the applicant secured by the same revenues to be pledged to secure repayment under the loan repayment agreement;
 - (4) the financial or in-kind contributions to the project;
 - (5) greater weighting in recommending priorities for eligible projects to areas of the State experiencing high unemployment; and
 - (6) whether the governing bodies of the county or the incorporated municipality in which the project is to be located provides to the bank a resolution which makes a finding that the project is essential to economic development in the political subdivisions, or the bank receives a resolution or certificate from the Advisory Coordinating Council for Economic Development of the Department of Commerce that the project is essential to economic development in the State, or both, at the option of the board.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-190. Financing agreements; application of other statutes or provisions; obligations secured by ad valorem taxes; security interest in project revenues; expenditure of proceeds.

- (A) Qualified borrowers are authorized to obtain loans or other financial assistance from the bank through financing agreements. Qualified borrowers entering into financing agreements and issuing loan obligations to the bank may perform any acts, take any action, adopt any proceedings, and make and carry out any contracts or agreements with the bank as may be agreed to by the bank and any qualified borrower for the carrying out of the purposes contemplated by this chapter.
- (B) In addition to the authorizations contained in this chapter, all other statutes or provisions permitting government units to borrow money and issue obligations including, but not limited to, the Revenue Bond Act for Utilities and the Revenue Bond Refinancing Act of 1937, may be utilized by any government unit in obtaining a loan or other financial assistance from the bank to the extent determined necessary or useful by the government unit in connection with any financing agreement and the issuance, securing, or sale of loan obligations to the bank. Notwithstanding the foregoing, obligations secured by ad valorem taxes may be issued by a government unit and purchased by the bank without regard to any public bidding requirement.
- (C) A qualified borrower may receive, apply, pledge, assign, and grant security interest in project revenues, and, in the case of a governmental unit, its project revenues, revenues derived from a special source or ad valorem taxes, to secure its obligations as provided in this chapter, and may fix, revise, charge, and collect fees, rates, rents, assessments, and other charges of general or special application for the operation or services of a qualified project, the system of which it is a part, and any other revenue producing facilities from which the qualified borrower derives project revenues, to meet its obligations under a financing agreement or to provide for the construction and improving of a qualified project.
- (D) A qualified borrower must comply with the provisions of Section 12-27-1320 and Section 12-28-2930 in the expenditure of the proceeds of a loan or other financial assistance provided by the bank for a qualified project.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-200. Exemption from taxes or assessments.

The bank is performing an essential governmental function in the exercise of the powers conferred upon it and is not required to pay taxes or assessments upon property or upon its operations or the income from them, or taxes or assessments upon property or loan obligations acquired or used by the bank or upon the income from them.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-210. Failure of governmental unit to remit amounts due; withholding of funds.

- (A) If a government unit fails to collect and remit in full all amounts due to the bank on the date these amounts are due under the terms of any note or other obligation of the government unit, the bank shall notify the State Treasurer who, subject to the withholding of amounts under Section 14, Article X of the Constitution, shall withhold all or a portion of the funds of the State and all funds administered by the State, its agencies, boards, and instrumentalities allotted or appropriated to the government unit and apply an amount necessary to the payment of the amount due.
- (B) Nothing contained in this section mandates the withholding of funds allocated to a government unit or private entity which would violate contracts to which the State is a party, the requirements of federal law imposed on the State, or judgments of a court binding on the State.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-220. Liability.

Neither the board nor any officer, employee, or committee of the bank acting on behalf of it, while acting within the scope of this authority, is subject to any liability resulting from carrying out any of the powers given in this chapter.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-230. Notice, proceeding, or publication not necessary; bank not subject to referendum.

Notice, proceeding, or publication, except those required in this chapter, are not necessary to the performance of any act authorized in this chapter nor is any act of the bank subject to any referendum.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-240. Deposit and investments.

All money of the bank, except as authorized by law or provided in this chapter, must be deposited with and invested by the State Treasurer. Funds of the bank not needed for immediate use or disbursement may be invested by the State Treasurer in obligations or securities which are declared to be legal obligations by the provisions of Section 11-9-660. All federal funds must be invested as required by applicable federal law.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-250. Annual report; audit of books and accounts.

Following the close of each state fiscal year, the bank shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly. The bank also shall submit an annual report to the appropriate federal agency in accordance with requirements of any federal program. An independent certified public accountant shall perform an audit of the books and accounts of the bank at least once in each state fiscal year.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-260. Liberal construction.

This chapter, being for the welfare of this State and its inhabitants, must be liberally construed to effect the purposes specified in this chapter. However, nothing in this chapter must be construed as affecting any proceeding, notice, or approval required by law for the issuance by a government unit or private entity of the loan obligations, instruments, or security for loan obligations.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-270. Severability of provisions.

If any provision of this chapter is held or determined to be unconstitutional, invalid, or otherwise unenforceable by a court of competent jurisdiction, it is the intention of the General Assembly that the provision is severable from the remaining provisions of the chapter and that the holding does not invalidate or render unenforceable another provision of the chapter.

HISTORY: 1997 Act No. 148, Section 2.

ARTICLE 3

South Carolina Transportation Infrastructure Bank Revenue Bonds

SECTION 11-43-310. Definitions.

As used in this article, unless a different meaning clearly appears from the context:

(1) "Bank" means the South Carolina Transportation Infrastructure Bank.

(2) "Bonds" means any bonds, notes, debentures, interim certificates, grant or revenue anticipation notes, or any other evidence of indebtedness of the bank incurred pursuant to this article.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-315. Issuance of bonds; review and approval of Joint Bond Review Committee.

Whenever it shall become necessary that monies be raised for qualified projects, including monies to be used to refund any bonds then outstanding, the bank may issue bonds as provided in this article. The review and approval of the Joint Bond Review Committee must be obtained prior to the issuance of the bonds.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-320. Pledges of revenue or funds to bond payment; bonds secured by pledge.

The bank may pledge any of its revenue or funds to the payment of its bonds, subject only to any prior agreements with the holders of particular bonds which may have pledged specific money or revenue. Bonds may be secured by a pledge of any loan obligation owned by the bank, any grant, contribution, or guaranty from the United States, the State, or any corporation, association, institution, or person, any other property or assets of the bank, or a pledge of any money, income, or revenue of the bank from any source.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-330. Bonds not debt or pledge of full faith and credit of State; personal liability; statement.

Bonds issued by the bank do not constitute a debt or a pledge of the full faith and credit of this State, or any of its political subdivisions other than the bank, but are payable solely from the revenue, money, or property of the bank as provided in this chapter. The bonds issued do not constitute an indebtedness of the State within the meaning of any constitutional or statutory limitation. No member of the bank or any person executing bonds of the bank is liable personally on the bonds by reason of their issuance or execution. Each bond issued under this article must contain on its face a statement to the effect that:

(1) neither the State, nor any of its political subdivisions, nor the bank is obligated to pay the principal of or interest on the bond or other costs incident to the bond except from the revenue, money, or property of the bank pledged;

(2) neither the full faith and credit nor the taxing power of the State, or any of its political subdivisions, is pledged to the payment of the principal of or interest on the bond;

(3) the bank does not have taxing power.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-340. Bonds authorized by resolution; execution; payability; other provisions; interest; public or private sale, price; time of issuance.

The bonds of the bank must be authorized by a resolution of the bank. The bonds must bear the date and mature at the time which the resolution provides, except that no bond may mature more than forty years from its date of issue. The bonds may be in the denominations, be executed in the manner, be payable in the medium of payment, be payable at the place and at the time, and be subject to redemption or repurchase and contain other provisions determined by the bank prior to their issuance. The bonds may bear interest payable at a time and at a rate as determined by the bank, including the determination by agents designated by the bank under guidelines established by it. Bonds may be sold by the bank at public or private sale at the price it determines and approves. The State Treasurer shall issue the bonds of the bank not later than sixty days upon the resolution of the bank authorizing the issuance of the bonds.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-350. Trust indenture.

- (A) Bonds may be secured by a trust indenture between the bank and a corporate trustee, which may be the State Treasurer or any bank having trust powers or any trust company, designated by the State Treasurer doing business in South Carolina. A trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper, including covenants setting forth the duties of the bank in relation to the exercise of its powers and the custody, safekeeping, and application of its money. The bank may provide by the trust indenture for the payment of the proceeds of the bonds and all or any part of the revenues of the bank to the trustee under the trust indenture or to some other depository, and for the method of its disbursement with safeguards and restrictions prescribed by it. All expenses incurred in performing the obligations of the bank under the trust indenture may be treated as part of its operating expenses.
- (B) Any resolution or trust indenture pursuant to which bonds are issued may contain provisions which are part of the contract with the holders of the bonds as to:
- (1) pledging all or any part of the revenue of the bank to secure the payment of the bonds;
 - (2) pledging all or any part of the assets of the bank including loan obligations owned by it to secure the payment of the bonds;
 - (3) the use and disposition of the gross income from, and payment of the principal of, and interest on loan obligations owned by the bank;
 - (4) the establishment of reserves, sinking funds, and other funds and accounts, and their regulation and disposition;
 - (5) limitations on the purposes to which the proceeds from the sale of the bonds may be applied, and limitations on pledging the proceeds to secure the payment of the bonds;
 - (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;
 - (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, if any, the holders of which must consent to, and the manner in which any consent may be given;
 - (8) limitations on the amount of money to be expended by the bank for its operating expenses;
 - (9) vesting in a trustee property, rights, powers, and duties as the bank may determine, limiting or abrogating the right of bondholders to appoint a trustee, and limiting the rights, powers, and duties of the trustee;
 - (10) defining the acts or omissions which constitute a default, the obligations or duties of the bank to the holders of the bonds, and the rights and remedies of the holders of the bonds in the event of default, including as a matter of right the appointment of a receiver, and all other rights generally available to creditors;
 - (11) requiring the bank or the trustee under the trust indenture to take any and all other action to obtain payment of all sums required to eliminate any default as to any principal of and interest on loan obligations owned by the bank or held by a trustee, which may be authorized by the laws of this State; and
 - (12) any other matter relating to the terms of the bonds or the security or protection of the holders of the bonds which may be considered appropriate.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-360. Validity of pledge; lien; recording or filing of resolution not necessary; filing of record of issuance proceedings.

Any pledge made by the bank is valid and binding from the time the pledge is made. The revenue, money, or property pledged and thereafter received by the bank is immediately subject to the lien of the pledge without any physical delivery or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the bank, irrespective of whether the parties have notice of the pledge. No recording or filing of the resolution authorizing the issuance of bonds, the trust indenture securing the bonds, or any other instrument including filings under the Uniform Commercial Code is necessary to create or perfect any pledge or security interest granted by the bank to secure any bonds, but the record of the proceedings relative to the issuance of any bonds must be filed as prescribed by Section 11-15-20.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-370. Purchase of outstanding bonds; price.

The bank, subject to agreements with bondholders as may then exist, may purchase outstanding bonds of the bank with any available funds, at any reasonable price. If the bonds are then redeemable, the price must not exceed the redemption price then applicable plus accrued interest to the next interest payment date.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-380. Form and execution of bonds.

Bonds of the bank must be in a form and must be executed in a manner prescribed by the bank.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-390. Members or officers ceasing to be members before delivery of bonds; validity of signatures.

If any of the members or officers of the bank cease to be members before the delivery of any bonds signed by them, their signatures or authorized facsimile signatures are nevertheless valid and sufficient for all purposes as if they had remained in office until the delivery of the bonds.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-400. Vested rights; application of subsequent amendments to this article.

Subsequent amendments to this article may not limit the rights vested in the bank with respect to any agreements made with, or remedies available to, the holders of bonds issued under this article before the enactment of the amendments until the bonds, with all premiums and interest on them, and all costs and expenses in connection with any proceeding by or on behalf of the holders, are fully met and discharged.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-410. Exemption from taxation and assessment.

Any bonds issued by the bank, the transfer of bonds, and the income from them, are free from taxation and assessment of every kind by the State and by the local governments and other political subdivisions of the State.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-420. Bonds legal investments, securities.

The bonds issued by the bank are legal investments in which all public officers or public bodies of the State, its political subdivisions, all municipalities and political subdivisions, all insurance companies and associations and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings banks, savings associations, including savings and loan association investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are now or may be authorized in the future to invest in bonds or other obligations of the State, may invest funds in their control or belonging to them. The bonds of the bank are also securities which may be deposited with and received by all public officers and bodies of the State or any agency or political subdivision of the State and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be required by law.

HISTORY: 1997 Act No. 148, Section 2.

ARTICLE 5

Transportation Infrastructure Bank General Obligation Bonds

SECTION 11-43-510. Definitions.

As used in this article:

(1) "Board" means the Board of Directors of the South Carolina Transportation Infrastructure Bank.

(2) "State board" means the governing board of the State Fiscal Accountability Authority.

(3) "Transportation infrastructure bonds" means all general obligation bonds of this State designated as transportation infrastructure bonds, which are now outstanding and which may hereafter be issued pursuant to the authorizations of this article.

HISTORY: 1997 Act No. 148, Section 2; 2014 Act No. 121 (S.22), Pt VII, Section 20.I, eff July 1, 2015.

SECTION 11-43-520. Request for issuance of transportation infrastructure bonds; contents.

Whenever it shall become necessary that monies be raised for qualified projects, including monies to be used to refund any transportation infrastructure bonds then outstanding, the board may make a request to the state board for the issuance of transportation infrastructure bonds pursuant to this article. This request may be in the form of a resolution adopted at any regular or special meeting of the board. The request shall set forth on the face thereof or by schedules attached thereto:

(1) the amount then required for qualified projects;

(2) a tentative time schedule setting forth the period of time during which the sum requested will be expended; and

(3) a debt service table showing the annual principal and interest requirements for all the transportation infrastructure bonds then outstanding.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-530. Review of request; approval of bonds or bond anticipation notes.

Following the receipt of any request pursuant to Section 11-43-520, the state board shall review the same and it shall approve such request, by resolution duly adopted, to effect the issuance of transportation infrastructure bonds, or pending the issuance thereof, effect the issuance of bond anticipation notes pursuant to Chapter 17 of Title 11.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-540. Limitations; review by Joint Bond Review Committee; payment of principal and interest.

The issuance of transportation infrastructure bonds is subject to the limitations contained in Section 13(6)(c), Article X of the Constitution of this State. Within such limitations, transportation infrastructure bonds may be issued for qualified projects or to refund transportation infrastructure bonds from time to time under the conditions prescribed by this article. The review and approval of the Joint Bond Review Committee must be obtained prior to the issuance of any transportation infrastructure bonds. No transportation infrastructure bonds may be issued unless the board has a source of revenues to pay the principal and interest on the bonds.

HISTORY: 1997 Act No. 148, Section 2; 2004 Act No. 184, Section 11.

SECTION 11-43-550. Pledge of full faith, credit, taxing power, and other revenue of State for payment of principal and interest; allocation of tax revenues.

For the payment of the principal of and interest on all transportation infrastructure bonds, whether or not outstanding or hereafter issued, as they come due, there is pledged the full faith, credit, and taxing power of this State, and in accordance with the provisions of Section 13(4), Article X of the Constitution of this State, the General Assembly authorizes the allocation on an annual basis of sufficient tax revenues to provide for the punctual payment of the principal and interest on transportation infrastructure bonds. In addition to the full faith, credit, and taxing power, there also is pledged such revenue as may be available to the board, and the State Treasurer is authorized to use such revenue when pledged, without further action of the board, for the payment of the principal and interest on transportation infrastructure bonds as the bonds respectively mature. If the revenues so pledged prove insufficient to meet the payments of the interest on and principal of the transportation infrastructure bonds in the fiscal year, then the State Treasurer shall set aside from the general tax revenues received in the fiscal year so much of the general tax revenues as are needed for the purpose and shall apply these revenues to the punctual payment of the interest on and principal of transportation infrastructure bonds due or to become due in the fiscal year.

HISTORY: 1997 Act No. 148, Section 2; 2004 Act No. 184, Section 12.

SECTION 11-43-560. Request for issuance of transportation infrastructure bonds; resolution, contents.

The board is authorized to request the state board to issue transportation infrastructure bonds. In order to effect the issuance of bonds pursuant to this article, the state board may adopt a resolution providing for the issuance of transportation infrastructure bonds, upon written request by the board, and may transmit a certified copy thereof to the Governor and to the State Treasurer, with the request that they issue and deliver transportation infrastructure bonds in accordance with the terms and conditions of such resolution. This resolution must set forth:

- (1) the amount, denomination, and numbering of transportation infrastructure bonds to be issued;
- (2) the date as of which the same shall be issued;
- (3) the maturity schedule for the retirement of the transportation infrastructure bonds;
- (4) the redemption provisions, if any, applicable to the bonds;
- (5) the maximum rate or rates of interest the bonds shall bear;
- (6) the purposes for which the bonds are to be issued;
- (7) the occasion on which bids shall be received for the sale of the bonds;
- (8) the form of advertisement of sale;
- (9) the form of the bonds of the particular issue; and
- (10) such other matters as may be considered necessary in order to effect the sale, issuance, and delivery thereof.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-570. Issuance of bonds.

Following receipt of a certified copy of the resolution of the state board the Governor and State Treasurer shall issue transportation infrastructure bonds in accordance with the provisions of the resolution of the state board.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-580. Form, denominations, provisions of bonds.

Transportation infrastructure bonds shall be issued in such form, in such denominations, and with such provisions as to time, place, or places and medium of payment as may be determined by the state board, subject to the provisions of this article.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-590. Issuance as fully registered bonds; transfer.

Transportation infrastructure bonds must be issued as fully registered bonds with both principal and interest thereof made payable only to the registered holder. Such fully registered bonds are subject to transfer under such conditions as the state board prescribes.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-600. Interest; redemption.

Transportation infrastructure bonds shall bear interest, payable on such occasions as shall be prescribed not more than thirty years after such date. Such installments or series may be equal or unequal in amount. Transportation infrastructure bonds, in the discretion of the state board, may be made subject to redemption at par and accrued interest, plus such redemption premium as it shall approve and on such occasions as it may prescribe. Transportation infrastructure bonds are not redeemable before maturity unless they contain a statement to that effect.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-610. Exemption from taxes or assessments.

All transportation infrastructure bonds issued under this article, and the interest thereon, are exempt from all state, county, municipal, school district, and other taxes or assessments, direct or indirect, general or special, imposed by this State, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, or transfer taxes.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-620. Sale upon sealed proposals; notice; awarding of bonds; rejection, readvertising.

Transportation infrastructure bonds must be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of such sale one or more times at least seven days before such sale, in a newspaper of general circulation in the State and also in a financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. The bonds must be awarded to the bidder offering to purchase the transportation infrastructure bonds at the lowest net interest cost to the State at a price of not less than ninety-nine percent of par and accrued interest to the date of delivery, but the right is reserved to reject all bids and to readvertise the bonds for sale and to waive technicalities in the bidding.

HISTORY: 1997 Act No. 148, Section 2.

SECTION 11-43-630. Application of proceeds.

The proceeds derived from the sale of transportation infrastructure bonds must be applied only to the purposes set forth in the resolution of the state board pursuant to which the bonds are issued.

HISTORY: 1997 Act No. 148, Section 2.

APPENDIX C. - SCTIB APPLICATION

SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK (“Bank”)

Financial Assistance Application Process

[SC Code Sections 11-43-30(6) and 11-43-180(B)]

Revised 10/8/2013

ELIGIBILITY

Only *major projects* which provide a *public benefit required by the South Carolina Transportation Infrastructure Bank Act, SC Code Sections 11-43-110 et seq., (“Act”)* are eligible for financial assistance from the Bank. There are two requirements for eligibility.

1. **MAJOR PROJECTS** - Construction of or improvements to highways, including bridges, which exceed \$100 million in cost are eligible for financial assistance. This cost includes preliminary engineering, traffic and revenue studies, environmental studies, right of way acquisition, legal and financial services associated with the development of projects, construction, construction management, facilities, and other costs necessary for the project. The cost shall not include financing costs or interest on loans used for the project. While the total cost must exceed \$100 million, the financial assistance requested may be less than \$100 million. Eligible projects may also include transit facilities as defined by the Act. No minimum cost has been established for transit facilities.
2. **PUBLIC BENEFIT** – The proposed project must provide a public benefit in one or more of the following areas: enhancement of mobility and safety; promotion of economic development; or increase in the quality of life and general welfare of the public.

Once the Board of the Bank determines that a project is eligible under the Act and Board policies, it next must determine if the project qualifies for financial assistance and if so, in what form and amount and under what conditions. The Board will refer the application to its Evaluation Committee which will review and evaluate the application and issue a report to the Board on these issues.

APPLICATION FORMAT

The application must be submitted to the Bank using the following format, containing the following contents, and presented in the following order using the numerical section and subsection designations

listed below. A Table of Contents with page numbers and the numerical section and subsection designations listed below is required. In all cases where information or a response is required from SCDOT, the applicant shall include a copy of the request to SCDOT for the information or response and a copy of the response from SCDOT if received prior to the application being submitted. If the SCDOT information or response is not included, the applicant must provide it immediately upon receipt from SCDOT.

DESCRIPTION OF PROJECT:

Describe the project in sufficient detail through a narrative presentation and through data so that the Board may determine the project's scope, intent, benefits, and financing components and its eligibility for financial assistance. Provide a map depicting project location with a scale of sufficient size (at least 1 inch = 2 miles) so all information on the map may be easily read and with traffic volumes and other useful data referenced thereto.

1. PUBLIC BENEFIT

30 POINTS

The proposed project must provide a public benefit in one or more of the following areas: enhancement of mobility and safety; promotion of economic development; or, increase in the quality of life and general welfare of the public. The application must identify each public benefit and explain how each is substantiated by the information in the application and rank the public benefits in the order of importance from the perspective of the applicant. Evidence to substantiate the public benefit(s) shall include but not be limited to:

- 1.1 traffic studies including the current and projected traffic volume, truck volume and accident data and the pavement quality index of existing road or highway to be improved (cite source and date of information and if not SCDOT, state why another source was used);
- 1.2 urgency of project (why accelerating the project is critical);
- 1.3 resolution from the local governing body or bodies which make a finding, with supporting information, that the project is essential to the economic development in the area and consistent with applicable local land use plans;
- 1.4 certificate that the project is essential to the economic development in the state from the Advisory Coordinating Council for Economic Development of the Department of Commerce;
- 1.5 current and five year history of unemployment data for the counties served by the project;
- 1.6 local support of the project from residents through items such as petitions or comments at public hearings;
- 1.7 resolutions from municipalities, county councils, advisory groups, Metropolitan Planning Organizations or Councils of Government and planning documents indicating where project is on all priority lists maintained by or in possession of those entities, SCDOT and the applicant;
- 1.8 if applicable, explain and substantiate why the project is of regional or statewide significance;
- 1.9 review and evaluate the pros and cons of all alternative transportation plans to the project; and
- 1.10 provide an analysis of the environmental impact of the project.

Such evidence should be referenced in the application and included as appendices.

2. FINANCIAL PLAN

50 POINTS

Provide a financial plan that clearly describes the funding for development, implementation, operation and maintenance of the project, including but not limited to:

- 2.1 the total cost of the project, including source(s) used to determine cost (include letter from SCDOT stating the projected cost is accurate and reasonable);
- 2.2 the amount of local contribution and the percentage of contribution to total project cost;
- 2.3 source of local contribution or loan payment (whether from a tax, non-tax or other – preference will be given to long-term non-tax sources)
- 2.4 amount of assistance requested from the Bank;
- 2.5 form of assistance requested (e.g. loan, grant, other)-- preference will be given to projects requesting loans;
- 2.6 other proposed sources of funds, include written commitment of all parties;
- 2.7 the anticipated schedule of when disbursement of funds will be required (cash flow diagram) (include letter from SCDOT indicating disbursement timeframes are accurate and reasonable);
- 2.8 if applicable, a schedule of project revenues for local contributions or loan payments and assumptions of risks of such payments such as taxes, user fees, toll rates, etc. (cite source or method used to determine projected revenues);
- 2.9 the useful life of the project and method of determination (include from SCDOT letter verifying) and the estimated maintenance and repair costs of the project over its expected useful life;
- 2.10 commitment to assume future maintenance requirements (include letter from SCDOT stating projected future maintenance costs); and
- 2.11 if more than one individual component project is included in the application, include a component project priority list and explain other contingency plans should the Board approve less than the requested financial assistance or actual project costs exceed estimated project costs, or if only one project is involved, explain how the scope of the project may be reduced if the Board approves less than the requested financial assistance or actual project costs exceed estimated project costs.
- 2.12 whether the County(s) or other political subdivisions benefited by the project has adopted any impact fee(s) to assist in financing the project (see S.C. Code Ann. § 6-1-930)? If the response is negative, please explain why no impact fee to assist in financing the project has been adopted.
- 2.13 whether the County(s) or other political subdivisions benefited by the project has adopted any local accommodations tax dedicated to the project to assist in its financing (see, e.g., S.C. Code Ann. § 6-1-500 et seq., Local Accommodations Tax Act)? If the response is negative, please explain why no such tax has been adopted.
- 2.14 whether the County(s) or other political subdivisions benefited by the project has adopted any local hospitality tax dedicated to the project to assist in its financing (see, e.g., S.C. Code Ann. § 6-1-700 et seq., Local Hospitality Tax Act)? If the response is negative, please explain why no such tax has been adopted.
- 2.15 whether the County(s) or other political subdivisions benefited by the project has adopted any local sales tax dedicated to the project to assist in its financing (see, e.g., S.C. Code Ann. § 4-10-300 et seq., Capital Project Sales Tax Act)? If the response is negative, please explain why no such tax has been adopted.
- 2.16 whether the County(s) benefited by the proposed project has adopted a sales tax or implemented any tolls dedicated to the project to assist in its financing (see, e.g., S.C. Code

- Ann. § 4-37-10 et seq.*)? If the response is negative, please explain why no such tax has been adopted or no toll has been implemented.
- 2.17 whether the County(s) benefited by the proposed project has adopted any user fee dedicated to the project to assist in its financing or future maintenance (*see, e.g., S.C. Code Ann. § 6-1-300 et seq.*)? If the response is negative, please explain why no such user fee has been adopted.
- 2.18 whether the County(s) benefited by the proposed project has implemented any Tax Increment Financing Districts to assist in financing the proposed project (*see, S.C. Code Ann. §§ 6-33-10 et seq., Tax Increment Financing and §§ 31-7-10 et seq.*). If the response is negative, please explain why no Tax Increment Finance District has been implemented.
- 2.19 whether the county(s) benefited by the proposed project has implemented an assessment program (*see, S.C. Code Ann. § 4-35-10 et seq.*)? to assist in financing the proposed project? If the response is negative, please explain why no such assessment program has been implemented.
- 2.20 whether the applicant (and/or other political subdivisions benefited by the project) has established any development agreement programs with developers or property owners or entered into any development or other agreements to assist in financing the project? If the response is negative, please explain why no development agreement programs have been established or such agreements entered.
- 2.21 what, if any, zoning or other land use controls has the applicant (and/or other political subdivisions benefited by the project) established to foster the use of existing roads to connect developments? If the response is negative, please explain why no such zoning or other land use controls have been established.
- 2.22 discount, to present value, any and all cash flows using a 5% discount rate to include, without limit:
The value of the applicant's future payments or contributions to the proposed project; and
The value of the any non-SIB third-party future payments or contributions to the proposed project; and
The value of future expenditures associated with the proposed project.
- 2.23 for purposes of cost estimates associated with the proposed project, please set forth the inflation rate assumed.
- 2.24 should condemnation be needed to complete the proposed project, is the applicant and/or other political subdivisions benefited by the project willing to serve as the named party in such condemnation proceedings? If the response is negative, please explain why the applicant and/or other political subdivisions benefited by the project are unwilling to serve in such role.
- 2.25 whether the applicant and/or other political subdivisions benefited by the proposed project has utilized or sought sources of funding other than those listed hereinabove? If the answer is affirmative, please explain the status and amount of each other source of funding. If the answer is negative, please explain why such other sources of funding have not been sought or obtained.

The Act requires the Board to give preference to eligible projects which have local financial support. Local financial support may include local fees, grants, tolls, private contributions, donated rights of way, local taxes or similar payments. The Board reserves the right to determine the suitability of the form of the local financial support.

3. PROJECT APPROACH

20 POINTS

Describe the expected schedule for implementing the project, including the time for completion. Identify critical assumptions or milestones for completion of the project. In this section, the application shall provide at a minimum the following:

- 3.1 a time table bar chart of events/milestones to implement phases of project (including when the facility will be open for use); include critical factor necessary for the project success (i.e. environmental approvals, permit approvals, etc.) and the status of each (include letter from SCDOT concurring with time table);
- 3.2 a complete description of the current status of the project;
- 3.3 a description and explanation of potential obstacles (legal issues, lack of local support, public opposition, right of way costs, environmental impact and concerns, etc.) and methods the applicant proposes be used to manage or avoid those obstacles; and
- 3.4 a clear statement of the entity (including contact name, address and telephone number) responsible for each of the following activities:
 - environmental studies, design of project, right of way acquisition, construction, construction management, operation, maintenance, tort liability and ownership, law enforcement, and marketing (include letters from the entities agreeing to the responsibilities).

OTHER

The Board may consider other significant factors not included in the above in determining award of financial assistance to a project.

APPLICATION SUBMITTAL AND EVALUATION

Applications should include an executive summary and list a contact person for the applicant including that person's full name, mailing and street addresses, telephone and facsimile numbers, e-mail address, and relationship to applicant.

Applications will be no longer than 50 pages, excluding appendices. Evidence of local support, studies, and other reports may be attached as appendices.

Applications should include cross-referencing rather than using repetition in explaining the project and assistance requested.

Applications shall be submitted as follows:

Fifteen complete copies on fifteen compact discs in Word software, (or if compact discs are not possible, 15 bound copies) mailed to the address below, **and**

One complete un-bound printed copy mailed to:

**South Carolina State Transportation Infrastructure Bank
P. O. Box 191
Columbia, South Carolina 29202-0191**

Each application submitted to the Board will be reviewed to determine if a project is eligible for financial assistance. Projects that are not eligible for financial assistance will be returned to the applicant with proper notification.

The Board reserves the right to request or obtain additional information about any and all applicants and applications and to return applications that do not comply with the format set forth herein, are not found to be eligible by the Board, or are filed after any deadlines established by the Board.

EVALUATIONS OF ELIGIBLE APPLICATIONS

An Evaluation Committee of the Board will review applications determined to be eligible by the Board. The Evaluation Committee will review each application and rate its strengths and weaknesses based on prescribed evaluation criteria. The Evaluation Committee will issue a report to the Board on each application. The final decision on financial assistance on each application will be determined by the Board. The Board may place conditions on financial assistance it provides.

PRESENTATIONS

By invitation from the Board, an applicant may be given the opportunity to make a presentation to the Board. Presentations usually will occur before the Evaluation Committee reviews the applications. Further presentations may be requested to answer any questions from the Board or Evaluation Committee.

Additional Provisions Applicable to All Applications and Applicants

Projects and financial assistance approved by the Board also must be approved by the Joint Bond Review Committee of the General Assembly under the Act prior to implementation.

The Bank is not responsible for providing any additional financial assistance of any kind to a project beyond what it and the Joint Bond Committee initially approve under any circumstances regardless of the actual cost of the project.

The Board assumes no liability for and will not reimburse any costs or liabilities incurred by applicants or others, whether provided financial assistance by the Bank for the project or not, in developing, submitting or presenting applications.

Revised 10/19/2005
Revised 5/12/2008
Revised 10/08/2013

SELECTED WORKS CITED

SC Transportation Infrastructure Bank. *Annual Restructuring Report*, 2016.

SC Transportation Infrastructure Bank. *Program Evaluation Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>

SC Transportation Infrastructure Bank. *Restructuring and Seven-Year Plan Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>

SC Transportation Infrastructure Bank. "September 2015 Survey Results."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf>

ENDNOTES

¹ Figure 1 is compiled from information in the agency's 2015 Restructuring and Seven-Year Plan Report and the September 2015 Survey Results. SC Transportation Infrastructure Bank, "Restructuring and Seven-Year Plan Report, 2015," under "Citizens' Interest," and under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20State%20Transportation%20Infrastructure%20Bank.pdf> (accessed February 18, 2016). SC House of Representatives, House Legislative Oversight Committee, "September 2015 Survey Results" under "Citizens' Interest," and under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf> (accessed February 18, 2016).

Notably, the survey is closed, and it sought comments from the public about the State Transportation Infrastructure Bank, the School for the Deaf and Blind, the Commission for the Blind, the Department of Public Safety, and the Treasurer's Office. Tami Reed, Accounting Fiscal Manager II, interviewed by Charles Appleby and Jennifer Dobson, February 2016.

² SC Constitution, art. XII, sec. 1. The full text of the SC Constitution is available on the SC General Assembly's website, "SC Constitution," <http://www.scstatehouse.gov/scconstitution/scconst.php> (accessed July 27, 2015).

³ SC Code of Laws, sec. 2-2-5. The full text of the unannotated version of the SC Code of Laws is available on the SC General Assembly's website, "Code of Laws," under "South Carolina Law," <http://www.scstatehouse.gov/code/statmast.php> (accessed July 7, 2015).

⁴ Ibid.

⁵ SC Code of Laws, sec. 2-2-20(B).

⁶ SC House of Representatives, House Legislative Oversight Committee, "Standard Practice 9," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Standard Practices," <http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/SP06252015.pdf> (accessed July 5, 2015).

⁷ SC Code of Laws, sec. 2-2-20(A).

⁸ SC Code of Laws, sec. 2-20-30(C)(1).

⁹ SC Code of Laws, sec. 2-2-20(C).

¹⁰ SC Code of Laws, sec. 2-2-50.

¹¹ SC Code of Laws, sec. 2-2-70.

¹² SC Code of Laws, sec. 2-2-80 and sec. 2-2-90.

¹³ SC Code of Laws, sec. 2-2-100 through 120.

¹⁴ SC Code of Laws, sec. 2-2-30(C)(2).

¹⁵ SC Code of Laws, sec. 2-2-10(1).

¹⁶ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016," under "Citizens' Interest," and under "House Legislative Oversight Committee Postings and Reports," <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (last accessed February 5, 2016).

¹⁷ Ibid.

¹⁸ Standard practice 10.4.

¹⁹ SC House of Representatives, House Legislative Oversight Committee, *September 2015 Public Survey*. As mentioned in endnote number 1, the survey is closed, and it sought comments from the public about the State Transportation Infrastructure Bank, the School for the Deaf and Blind, the Commission for the Blind, the Department of Public Safety, and the Treasurer's Office.

²⁰ SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports."

²¹ SC House of Representatives, House Legislative Oversight Committee, “Restructuring and Seven-Year Plan Report, 2015” under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and under “State Transportation Infrastructure Bank” <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20State%20Transportation%20Infrastructure%20Bank.pdf>, (accessed February 5, 2016).

SC House of Representatives, House Legislative Oversight Committee, “Program Evaluation Report,” under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and under “State Transportation Infrastructure Bank” <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>, (accessed February 5, 2016).

²² Standard practice 11.1.

²³ As a staff study is similar to a bill summary, the disclaimer required by House Rule 4.9 for bill summaries prepared by staff has been modified.

²⁴ Standard practice 11.4.

²⁵ Standard practice 11.5 -11.7.

²⁶ Standard practice 11.8-11.9.

²⁷ *SC Code of Laws*, sec. 2-2-20(C).

²⁸ National Highway System Designation Act of 1995, § 350(a)(1), <https://www.gpo.gov/fdsys/pkg/PLAW-104publ59/html/PLAW-104publ59.htm> (accessed February 12, 2016).

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ United States Department of Transportation, Federal Highway Administration, 1997, “An Evaluation of the U. S. Department of Transportation State Infrastructure Bank Pilot Program – SIB Report to Congress,” http://www.fhwa.dot.gov/ipd/finance/resources/federal_credit/sib_report_congress.aspx#main_content (last accessed February 12, 2016).

³² SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, 1.

³³ United States Department of Transportation, Federal Highway Administration, 1997, “An Evaluation of the U. S. Department of Transportation State Infrastructure Bank Pilot Program – SIB Report to Congress,” http://www.fhwa.dot.gov/ipd/finance/resources/federal_credit/sib_report_congress.aspx#main_content (last accessed February 12, 2016).

³⁴ Act No. 148 of 1997 under “Archives,” under “Act Lists,” under “Acts from 1997,” http://www.scstatehouse.gov/sess112_1997-1998/bills/3665.htm (accessed February 18, 2016).

³⁵ *SC Code of Laws*, sec. 11-43-120(B).

³⁶ *SC Code of Laws*, sec. 11-43-150.

³⁷ Act 100 of 1999, Part II, sec. 22, (General Appropriations Bill) under “Archives,” under “Act Lists,” under “Acts from 1999,” http://www.scstatehouse.gov/sess113_1999-2000/appropriations1999/tap2.htm (accessed February 18, 2016).

³⁸ Act 184 of 2004, § 11, under “Archives,” under “Act Lists,” under “Acts from 2004,” http://www.scstatehouse.gov/sess115_2003-2004/bills/787.htm (accessed February 18, 2016).

³⁹ Act 98 of 2013, § 4.A, under “Archives,” under “Act Lists,” under “Acts from 2013,” http://www.scstatehouse.gov/sess120_2013-2014/bills/3360.htm (accessed February 18, 2016).

⁴⁰ *SC Code of Laws*, sec. 11-43-165.

⁴¹ SC Transportation Infrastructure Bank. Tami Reed, Accounting Fiscal Manager II, interviewed by Charles Appleby and Jennifer Dobson, February 2016.

⁴² Act 121 of 2014, Part VII, § 20.I, under “Archives,” under “Act Lists,” under “Acts from 2014,” http://www.scstatehouse.gov/sess120_2013-2014/bills/22.htm (accessed February 18, 2016). Notably, Act 121 of 2014 also included provisions for legislative oversight of executive agencies.

⁴³ SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, 1.

⁴⁴ SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, 1.

⁴⁵ SC Transportation Infrastructure Bank. Tami Reed, Accounting Fiscal Manager II, interviewed by Charles Appleby and Jennifer Dobson, February 2016.

⁴⁶ *SC Code of Laws*, sec. 11-43-140.

⁴⁷ SC Transportation Infrastructure Bank, “Board Members,” <http://sctib.sc.gov/Board%20Members/Pages/default.aspx> (accessed February 16, 2016).

⁴⁸ SC Transportation Infrastructure Bank, “Board Members,” and under “NEW CHAIRMAN ANNOUNCED****,” <http://sctib.sc.gov/Board%20Members/Documents/Press%20Release.pdf> (accessed February 16, 2016).

⁴⁹ *Ibid.*

⁵⁰ *SC Code of Laws*, Section 11-43-120(B).

⁵¹ SC House of Representatives, House Legislative Oversight Committee, “2015 Restructuring and Seven-Year Plan Report,” under “Purpose/Mission, Vision Chart,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20State%20Transportation%20Infrastructure%20Bank.pdf> (accessed February 16, 2016).

⁵² *Ibid.*

⁵³ The SC Transportation Infrastructure Bank’s 2016 Annual Restructuring Report submitted to the House Legislative Oversight Committee on January 12, 2016, has not been posted online as of February 18, 2016. All 2016 Annual Restructuring Reports will be posted online at the same time. Pursuant to Committee Standard Practices, some agencies have requested and been granted extensions for submission of these reports to the House Legislative Oversight Committee.

⁵⁴ SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, Key Partners Chart, Key Customers Chart, and Key Stakeholders Chart. SC Transportation Infrastructure Bank, “Program Evaluation Report, Strategically Planned Partners and Partner Details Charts,” under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and under “State Transportation Infrastructure Bank,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Tran>

sportation%20Infrastructure%20Program%20Evaluation%20Report.PDF (accessed February 18, 2016). Tami Reed, Accounting Fiscal Manager II, interviewed by Charles Appleby and Jennifer Dobson, February 2016.

⁵⁵ SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, Key Partners Chart, Key Customers Chart, and Key Stakeholders Chart.

⁵⁶ SC Transportation Infrastructure Bank, *Restructuring and Seven-Year Plan Report*, Key Partners Chart, Key Customers Chart, and Key Stakeholders Chart. SC Transportation Infrastructure Bank, *Program Evaluation Report*, Strategically Planned Partners and Partner Details Charts.

⁵⁷ SC House of Representatives, House Legislative Oversight Committee, "September 2015 Survey Results," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank", <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf> (last accessed February 10, 2016).

⁵⁸ SC House of Representatives, House Legislative Oversight Committee, "September 2015 Survey Results," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank", <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf> (last accessed February 10, 2016).

⁵⁹ Ibid.

⁶⁰ Tami Reed, Accounting Fiscal Manager II, interviewed by Charles Appleby and Jennifer Dobson, February 2016.

⁶¹ Ibid.

⁶² Ibid.

⁶³ This disclaimer is posted on the House Legislative Oversight Committee's webpage under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank", <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>. (last accessed February 23, 2016).

⁶⁴ SC House of Representatives, House Legislative Oversight Committee, "September 2015 Survey Results," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "State Transportation Infrastructure Bank", <http://scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf> (last accessed February 10, 2016).

⁶⁵ Figures 3-5 were compiled with the assistance of Tammi Reed, Accounting Fiscal Manger II.

⁶⁶ SC House of Representatives, House Legislative Oversight Committee, "2015 Restructuring and Seven-Year Plan Report," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20State%20Transportation%20Infrastructure%20Bank.pdf> (accessed February 16, 2016).

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