An aerial photograph of a large dam and reservoir. The dam is a long, low structure with a central spillway. Behind the dam, a power plant is visible with several tall smokestacks. The reservoir is a large body of water extending to the horizon. The foreground shows a mix of green trees and brownish fields.

South Carolina Transportation Infrastructure Bank

**South Carolina House of Representatives Legislative
Oversight Economic Development, Transportation,
Natural Resources and Regulatory Subcommittee
Meeting**

June 28, 2016

Discussion Items

LAC Reponses

- Concur Items (12)

- Non Concur Items(6)

- N/A Items (9)

Agency Strategic Plans

- Strategic Plan

- Resources Available

- Proposed Policy Changes

- Act 275

Path Forward

- Definition of Economic Development

Concur with LAC Recommendations

The South Carolina Transportation Infrastructure Bank should report on its website a comprehensive list of grants, loans, total commitments, and disbursements for all of its projects since the agency's inception in 1997.

The South Carolina Transportation Infrastructure Bank should formally and publicly communicate the availability of funding.

The South Carolina Transportation Infrastructure Bank should adopt an annual timeline for publicly communicating updated criteria regarding the application process.

The South Carolina Transportation Infrastructure Bank should create an annual deadline, that is consistent from year to year, for accepting applications when funding is available and establish a structured timeline for the review and award processes.

The South Carolina Transportation Infrastructure Bank should require a new application for funding requests which differ from the initial application.

The South Carolina Transportation Infrastructure Bank should develop formal policies regarding its practice of awarding financial assistance.

The South Carolina Transportation Infrastructure Bank should adopt a formal scoring sheet for evaluating project applications.

The South Carolina Transportation Infrastructure Bank should consistently apply all its requirements to all applicants.

The South Carolina Transportation Infrastructure Bank should require applicants to demonstrate whether the benefits of the project would exceed the costs.

The South Carolina Transportation Infrastructure Bank should develop a minimum rating to use in the evaluation process to determine which projects qualify for funding.

The S.C. State Infrastructure Bank should institute a policy that requires the source of payment for all travel and related expenses be documented.

The South Carolina Transportation Infrastructure Bank should implement a standard process for the allocation of interest earnings on funds held by it for other entities.

Non-Concur with LAC Recommendations

The General Assembly should amend state law in one of the following ways:

- Discontinue South Carolina Transportation Infrastructure Bank and its Board of Directors and assign the mission of managing the entire state-level, highway and public transportation system to the South Carolina Department of Transportation.
- Make South Carolina Transportation Infrastructure Bank a unit of South Carolina Department of Transportation, while maintaining the South Carolina Transportation Infrastructure Bank Board in an advisory capacity.

When implementing either of the above recommendations, the General Assembly should amend state law to increase the classes of bonds that may be issued to finance South Carolina Department of Transportation's projects or amend the South Carolina Constitution to increase South Carolina Department of Transportation's debt service limit for highway bonds.

If the General Assembly does not discontinue the function of the South Carolina Transportation Infrastructure Bank, it should implement the remaining recommendations in this report.

The South Carolina Transportation Infrastructure Bank should promulgate, in regulation, its criteria and process for awarding financial assistance.

The South Carolina Infrastructure Bank should require an increased recipient match when additional funding is awarded due to cost overruns.

The General Assembly should obtain a formal opinion from the South Carolina Office of Attorney General on the sources of funds used to repay SCTIB revenue bonds to ensure that it is compliance with:

- Article 10, Section 13, Subsection 9 of the S.C. Constitution, which prohibits the use of taxes to repay revenue bonds.
- The legal principle which states and act that is forbidden to be done directly may not be done indirectly.

LAC Recommendations Not Applicable to SCTIB

The South Carolina General Assembly should amend the South Carolina Code of Laws Section 11-43-130(6) by adding clarity as to what constitutes a “project” and what constitutes “major.”

The General Assembly should amend state law to establish the minimum amount of matching funds applicants are required to contribute, for both grants and loans, to be eligible and qualify for financial assistance.

The General Assembly should amend state law to establish the acceptable types of financial and in-kind matches required of entities that receive financial assistance from the South Carolina Transportation Infrastructure Bank.

The General Assembly should amend state law to require the South Carolina Transportation Infrastructure Bank only projects that are included in the South Carolina Department of Transportation’s priority list.

The General Assembly should amend state law to clarify whether Act 98 funds are available to entities other than the South Carolina Department of Transportation.

The General Assembly should amend state law to clarify the award criteria for Act 98 funds.

The South Carolina Transportation Infrastructure Bank should develop a formal written process for evaluating Act 98 applications.

The General Assembly should amend S.C. Section 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions.

The General Assembly should amend state law to clarify whether the Act 92 of 2015 funds are recurring.

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**."

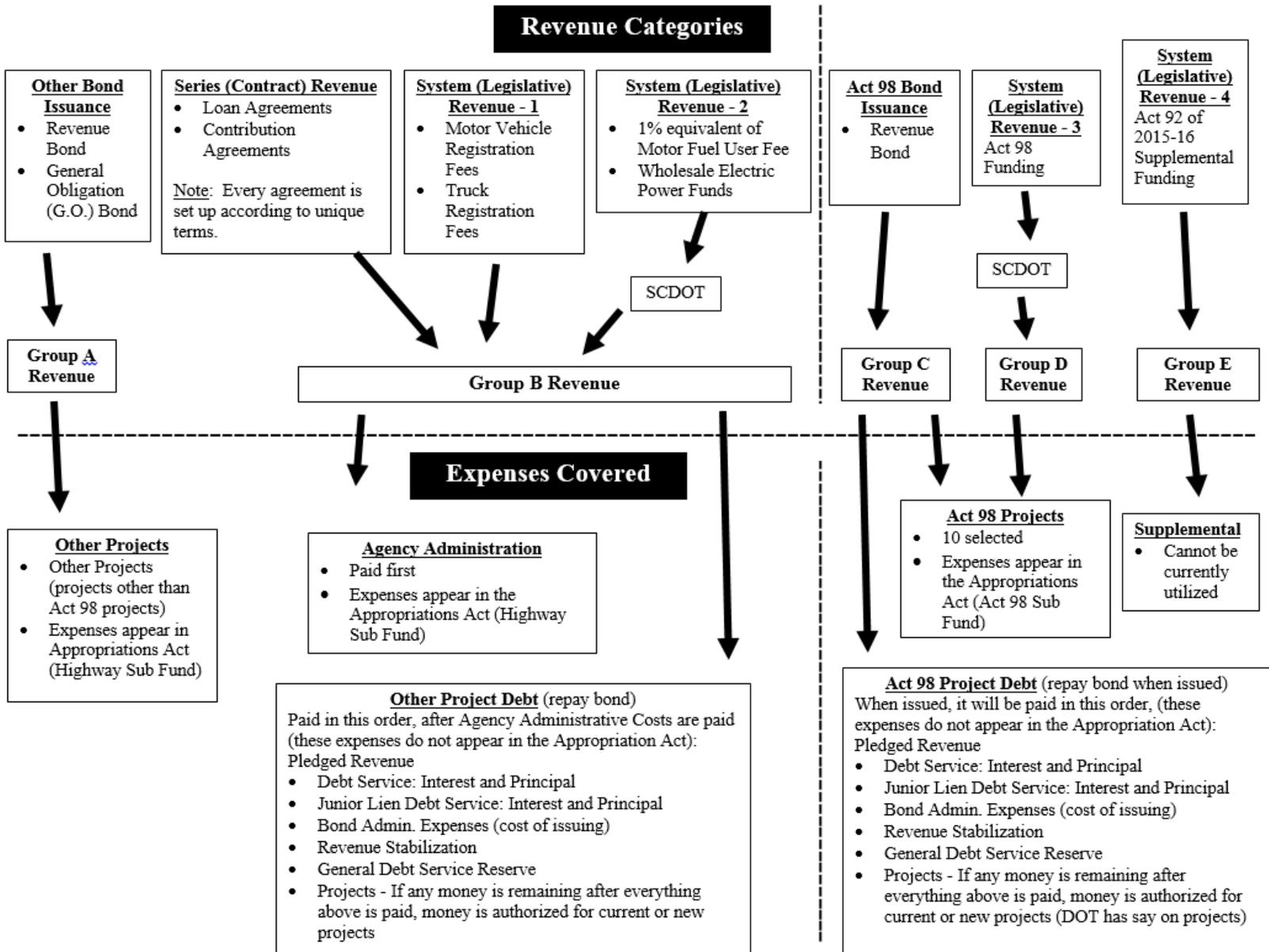
Mission

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."

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."

Resources Available



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**ADDITION TO OPERATING GUIDELINES AND STANDARD CONDITIONS FROM STRATEGIC
REVIEW INITIATIVE**

- 1. The Bank will invite submissions of applications from local governments for financial assistance once per calendar year (if sufficient financial assistance capacity is available) by a date set by the Board. The Bank will evaluate the applications and projects, which are determined to be eligible and qualified, based on the Bank's application criteria and render decisions on those applications by a date set by the Board.**

For the 2016, applications would be requested by June 30 with the Board's decisions issued by September 30, unless the schedule is altered by the Chairman. *[Dates may be changed]*

Thereafter, the submission date will be approximately January 1 and the decision date will be approximately September 1. *Projects are also reviewed by SCDOT and JBRC.*

These schedules would not apply to applications or requests submitted by SCDOT.

2. Upon receipt of an application, the Chairman would submit the application to the Evaluation Committee to determine if the application is complete and to request that the applicant provide any omitted or needed information or documents by a set date.

The Committee first will make an initial decision on each project's eligibility under the SCTIB Act as soon as feasible.

The Board will make a final determination on the project's eligibility if an applicant submits a request to the Board within a time period set by the Board stating the reasons why the initial decision by the Committee was incorrect. The Board reserves the right to make a final decision on a project's eligibility on its own initiative.

The Committee would evaluate each eligible project based on the criteria in the SCTIB Act and the Bank's application criteria and recommend a score or ranking on each project to the Board and the type and form of financial assistance for the project, if any, determined to be qualified for financial assistance. As part of its evaluation, the Committee will request and consider the recommendations or comments of SCDOT on the project.

The Board will review the recommendations of the Committee and render its decisions on whether the project is qualified, the scoring or ranking of the project, and the type and amount of financial assistance to be provided by the Bank, if any.

The Board may decline to provide financial assistance on all projects or any project.

- 3. Local matches or loan payments on a project consisting of payments to the Bank that may be pledged to revenue bonds will be scored higher than other forms of matches or payments. Next in order of scoring will be local matches that consist of payments of project costs or loan payments that may not be pledged to revenue bonds. Local matches that are in kind or consist of the local government improving roads that are collateral to or not part of the project may not be considered.**
- 4. The focus of the Bank will be to provide one-time financial assistance on projects it determines are eligible and qualified.**
- 5. Projects submitted to SCDOT and JBRC for review and approval.***

ACT 275 Considerations

Approval of Transportation Infrastructure Bank loans

SECTION 5. Section [11-43-150](#) of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

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

Minimum project costs for Transportation Infrastructure Bank loans

SECTION 6. Section [11-43-180](#) of the 1976 Code is amended by adding an appropriately lettered subsection to read:

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

Prioritization of Transportation Infrastructure Bank Projects

SECTION 7. Article 1, Chapter 43, Title 11 of the 1976 Code is amended by adding:

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

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

Excerpt from 57-1-370 (B)-

(8) when selecting projects to be undertaken from nontransportation management area metropolitan planning organizations' transportation improvement programs, or selecting the nonmetropolitan area projects to be undertaken that are included in the Statewide Transportation Improvement Program, and when consulting with metropolitan planning organizations designated as transportation management areas, the commission shall establish a priority list of projects to the extent permitted by federal laws or regulations, taking into consideration at least the following criteria:

- (a) financial viability including a life cycle analysis of estimated maintenance and repair\ costs over the expected life of the project;**
- (b) public safety;**
- (c) potential for economic development;**
- (d) traffic volume and congestion;**
- (e) truck traffic;**
- (f) the pavement quality index;**
- (g) environmental impact;**
- (h) alternative transportation solutions; and**
- (i) consistency with local land use plans.**

Fees and fines credited to the State Highway Fund

SECTION 8. Article 8, Chapter 43, Title 11 of the 1976 Code is amended by adding:
"Section [11-43-167](#).

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

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

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

(2) Funds transferred to the bank pursuant to this section may not be used to finance projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section [11-43-180](#), prior to approving a project for financing.

SECTION 8 Cont.

- (3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of non-tax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.**
- (4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer non-tax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.**
- (5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.**
- (D) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs."**

Tax revenue on sales of motor vehicles

SECTION 85. Section [12-36-2647](#) of the 1976 Code, as added by Act 98 of 2013, is amended to read:

"Section [12-36-2647](#). (A) Notwithstanding the provisions of Section [59-21-1010](#), the revenues of sales, use, and casual excise taxes derived pursuant to Sections [12-36-2620\(1\)](#) and [12-36-2640\(1\)](#) on the sale, use, or titling of a motor vehicle required to be licensed and registered by the South Carolina Department of Motor Vehicles, otherwise required to be credited as provided pursuant to Section [59-21-1010](#), instead must be credited to the State Highway Fund as established by Section [57-11-20](#), to be distributed as provided in this section.

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

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

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

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

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

SECTION 85 Cont.

- (2) Funds transferred to the bank pursuant to this section may not be used to finance projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section [11-43-180](#), prior to approving a project for financing.**
- (3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of non-tax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.**
- (4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer non-tax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.**
- (5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.**
- (D) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs."**

An aerial photograph of a large dam structure. The dam is a massive concrete wall with a curved top, extending from the left side of the frame towards the right. To the right of the dam is a wide river or lake. A multi-lane highway runs along the top of the dam, with several cars visible. A large cargo ship is on the water to the right. On the left side of the dam, there are industrial buildings and a tall chimney stack. The foreground shows a grassy area and some trees.

**Path Forward
Definition of Economic Development**