

2015 Regular Session

HOUSE BILL NO. 767

BY REPRESENTATIVES ST. GERMAIN AND ARMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION: Creates the Louisiana State Transportation Infrastructure Bank

1 AN ACT

2 To amend and reenact R.S. 48:77(B)(2) and to enact R.S. 36:769(M) and Subpart B of Part  
3 V of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, to be  
4 comprised of R.S. 48:81 through 90.1, relative to providing funds to certain entities  
5 for transportation related projects; to create the Louisiana State Transportation  
6 Infrastructure Bank; to provide for a board of directors; to provide for membership,  
7 duties, and authority of the board; to provide for the adoption of bylaws, rules, and  
8 regulations by the board; to create the Louisiana State Transportation Infrastructure  
9 Fund; to provide for the receipt, administration, and expenditure of monies allotted  
10 for the fund; to provide for the investment and disposition of the monies of the fund;  
11 to authorize the bank to incur debt and issue bonds, notes, or other evidences of  
12 indebtedness and to guarantee the debt of other entities; to authorize loans from the  
13 fund to certain entities; to provide procedures to enter into such indebtedness; to  
14 exempt evidence of indebtedness from taxation; to exempt any debt of or obligation  
15 entered into by the bank from being used in the calculation of net state tax supported  
16 debt; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 36:769(M) is hereby enacted to read as follows:

19 §769. Transfer of boards, commissions, departments, and agencies to Department  
20 of the Treasury

21 \* \* \*

1            M. The Louisiana State Transportation Infrastructure Bank (R.S. 48:81 et  
2            seq.) is placed within the Department of the Treasury and shall perform and exercise  
3            its powers, duties, functions, and responsibilities in the manner provided by law.

4            Section 2. R.S. 48:77(B)(2) is hereby amended and reenacted and Subpart B of Part  
5            V of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.  
6            48:81 through 90.1 is hereby enacted to read as follows:

7            §77. Transportation Trust Fund; dedication and uses of certain monies for  
8            transportation purposes

9   \*        \*        \*

10           B. The avails of the taxes dedicated pursuant to Subsection A of this Section  
11           shall be deposited for the purposes specified:

12   \*        \*        \*

13           (2) Seven percent to the ~~Transportation Mobility Fund~~ Louisiana State  
14           Transportation Infrastructure Fund, established in R.S. 48:476. Unless otherwise  
15           approved by the Louisiana Transportation Authority, the avails deposited in the  
16           Transportation Mobility Fund pursuant to Subsection A of this Section shall be used  
17           exclusively for final design and construction and shall not be used for studies.

18   \*        \*        \*

19            SUBPART B. LOUISIANA STATE TRANSPORTATION  
20            INFRASTRUCTURE BANK

21            §81. Louisiana State Transportation Infrastructure Bank; purposes; establishment

22            A. There is hereby established within the Department of the Treasury the  
23            Louisiana State Transportation Infrastructure Bank, which shall be allocated to the  
24            Department of the Treasury as an agency of the state.

25            B. The purpose of the Louisiana State Transportation Infrastructure Bank is  
26            to select and assist in financing eligible transportation projects by providing loans  
27            and other financial assistance to municipalities, parishes, and political subdivisions  
28            of the state for planning, constructing, and improving transportation facilities  
29            necessary for public purposes.

1        §82. Definitions

2                The following terms as used in this Subpart shall have the following  
3        meanings:

4                (1) "Bank" means the Louisiana State Transportation Infrastructure Bank.

5                (2) "Board" means the board of directors of the Bank.

6                (3) "Department" means the Department of Transportation and  
7        Development.

8                (4) "Eligible costs" means:

9                (a) For an eligible transportation project to be financed from the federal  
10        roadway account or federal nonroadway account, the costs that are permitted under  
11        applicable federal laws, requirements, procedures, and guidelines in regard to  
12        establishing, operating, and providing assistance from the Bank.

13                (b) For an eligible transportation project to be financed from state and local  
14        roadway account, the costs of preliminary engineering, traffic and revenue studies,  
15        environmental studies, right-of-way acquisition, legal and financial services  
16        associated with development of the eligible transportation project, construction,  
17        construction management, facilities, and other costs necessary for the eligible  
18        transportation project.

19                (c) As applied to an eligible transportation project to be financed from the  
20        state nonroadway account, the costs that include preliminary engineering, traffic and  
21        revenue studies, environmental studies, right-of-way acquisition, legal and financial  
22        services associated with development of the eligible transportation project,  
23        construction, construction management, equipment, facilities, and other nonoperating  
24        costs necessary for the eligible transportation project.

25                (5) "Eligible transportation project" means any transportation facility which  
26        has been approved by the department and selected by the Bank to receive a loan or  
27        other financial assistance from the Bank to defray an eligible cost.

28                (6) "Financing agreement" means any agreement entered into between the  
29        Bank and a qualified borrower pertaining to a loan or other financial assistance. The

1 term "financing agreement" includes, without limitation, a loan agreement, trust  
2 indenture, security agreement, reimbursement agreement, guarantee agreement, bond  
3 or note, ordinance or resolution, or similar instrument.

4 (7) "Governmental unit" means a parish, municipality, or political  
5 subdivision of the state.

6 (8) "Loan" means an obligation subject to repayment which is provided by  
7 the Bank to a qualified borrower for all or part of the eligible costs of an eligible  
8 transportation project. A loan may be disbursed in anticipation of reimbursement for  
9 or direct payment of eligible costs of an eligible transportation project.

10 (9) "Loan obligation" means a bond, note, or other evidence of an obligation  
11 issued by a qualified borrower.

12 (10) "Other financial assistance" means, but is not limited to grants,  
13 contributions, credit enhancement, capital or debt reserves for bonds or debt  
14 instrument financing, interest rate subsidies, provision of letters of credit and credit  
15 instruments, provisions of bond or other debt financing instrument security, and  
16 other lawful forms of financing and methods of leveraging funds that are approved  
17 by the board, and in the case of federal funds, as allowed by federal law or  
18 regulation.

19 (11) "Project revenues" means all rates, rents, fees, assessments, charges, and  
20 other receipts derived or to be derived by a qualified borrower from an eligible  
21 transportation project or made available from a special source, and as provided in an  
22 applicable financing agreement, derived from any system of which the eligible  
23 transportation project is a part or from any other revenues producing facility under  
24 the ownership or control of the qualified borrower, including, without limitation,  
25 proceeds of grants, gifts, appropriations and loans, including the proceeds of loans  
26 made by the Bank, investment earnings, reserves for capital and current expenses,  
27 proceeds of insurance or condemnation, and proceeds from the sale or other  
28 disposition of property and from any other special source as may be provided by the  
29 qualified borrower.

1           (12) "Qualified borrower" means any municipality, parish, or political  
2           subdivision of the state authorized by the board to construct, operate, or own an  
3           eligible transportation project.

4           (13) "Revenues" means, when used with respect to the Bank, any receipts,  
5           fees, income, or other payments received or to be received by the Bank, including,  
6           without limitation, receipts and other payments deposited in the Bank and investment  
7           earnings on its funds and accounts.

8           (14) "Transportation facility" means any public road, highway, bridge,  
9           airport, port, ferry, or transit facility or system that provides access or benefits to the  
10           state highway system and benefits the public by either enhancing mobility or safety,  
11           promoting economic development, or increasing the quality of life and general  
12           welfare of the public. "Transportation facility" also includes mass transit including,  
13           but not limited to, monorail and monobeam mass transit systems.

14           §83. Louisiana State Transportation Infrastructure Bank; board of directors

15           A. The Louisiana State Transportation Infrastructure Bank shall be governed,  
16           administered, and operated by a board of directors composed of the following  
17           members:

18           (1) The secretary of the Department of Transportation and Development, or  
19           his designee.

20           (2) The state treasurer, or his designee.

21           (3) The chairman of the Senate Committee on Transportation, Highways and  
22           Public Works, or his designee.

23           (4) The chairman of the House Committee on Transportation, Highways and  
24           Public Works, or his designee.

25           (5) One member appointed by a majority of the other members enumerated  
26           in this Subsection from among three persons who shall be nominated by the  
27           Louisiana Bankers Association and who shall possess no less than five years'  
28           experience in commercial lending or investment banking practices.

1           (6) One member appointed by the board members of the State Board of  
2           Certified Public Accountants of Louisiana and who shall possess no less than five  
3           years' experience in professional accounting and auditing standards for financial  
4           accounting, management, and reporting.

5           (7) One member appointed by the governor from the board of directors of  
6           the Louisiana Good Roads and Transportation Association and who shall possess no  
7           less than five years' experience in transportation program planning.

8           (8) The members appointed pursuant to Paragraphs 5 through 7 of this  
9           Subsection shall serve three-year terms. Any vacancy in the membership of the  
10          board shall be filled in the manner provided for the original appointment for the  
11          remainder of the three-year term.

12          B. The board shall adopt bylaws for its own internal organization and  
13          government. Such bylaws shall provide for the election of officers and conduct of  
14          meetings in accordance with the Louisiana Open Meetings Law, R.S. 42:11, et seq.

15          C. The state treasurer or his designee shall serve as chairman of the board  
16          and the board may select such other officers as may be required by the board's  
17          bylaws.

18          §84. Louisiana State Transportation Infrastructure Bank; board of directors; powers  
19          and duties

20          A. In addition to the powers contained elsewhere in this Subpart, the board  
21          shall have all the power necessary, useful, or appropriate to fund, operate, and  
22          administer the Bank, and to perform its other functions including, but not limited to  
23          the following:

24                 (1) Have perpetual succession.

25                 (2) To sue and be sued in the name of the Bank.

26                 (3) To adopt an official seal and alter the same at its pleasure, although the  
27          failure to affix the seal does not affect the validity of an instrument executed on  
28          behalf of the Bank.

1           (4) To appoint an executive director to administer the affairs of the Bank,  
2           who shall be an employee of the state treasurer approved by the board.

3           (5) Make loans to qualified borrowers to finance the eligible costs of eligible  
4           transportation projects and to acquire, hold, and sell loan obligations at prices and  
5           in a manner as the board determines advisable.

6           (6) Provide qualified borrowers with other financial assistance necessary to  
7           defray eligible costs of an eligible transportation project.

8           (7) Enter into contracts, arrangements, and agreements with qualified  
9           borrowers and other persons and execute and deliver all financing agreements and  
10          other instruments necessary or convenient to the exercise of the powers granted in  
11          this Subpart.

12          (8) Establish rules and regulations, in accordance with the Administrative  
13          Procedure Act, R.S. 49:950, et. seq., regarding review, consideration, and approval  
14          or rejection of Bank loans or financial assistance. Notwithstanding the provisions  
15          of R.S. 49:968(B)(15)(a), the House Committee on Transportation, Highways and  
16          Public Works and the Senate Committee on Transportation, Highways and Public  
17          Works shall exercise oversight of any rules or regulations to be promulgated  
18          pursuant to this Subpart.

19          (9) Establish fiscal controls and accounting procedures to ensure proper  
20          accounting and reporting by the Bank and qualified borrowers.

21          (10) Enter into agreements with a department, agency, or instrumentality of  
22          the United States, this state, or another state for the purpose of providing financing  
23          for eligible transportation projects.

24          (11) Acquire by purchase, lease, donation, or other lawful means and sell,  
25          convey, pledge, lease, exchange, transfer, and dispose of all or any part of its  
26          properties and assets of every kind and character or any interest in it to further the  
27          public purpose of the Bank.

28          (12) Procure insurance, guarantees, letters of credit, and other forms of  
29          collateral or security or credit support from any public or private entity or

1 instrumentality of the United States for the payment of any bonds issued by it,  
2 including the power to pay premiums or fees on any insurance, guarantees, letters of  
3 credit, and other forms of collateral or security or credit support.

4 (13) Collect or authorize the trustee under any trust indenture securing any  
5 bonds to collect amounts due under any loan obligations owned by it, including  
6 taking the action required to obtain payment of any sums in default.

7 (14) Unless restricted under any agreement with holders of bonds, consent  
8 to any modification with respect to the rate of interest, time, and payment of any  
9 installment of principal or interest, or any other term of any loan obligations owned  
10 by it.

11 (15) Borrow money through the issuance of bonds and other forms of  
12 indebtedness as provided by this Subpart.

13 (16) Expend funds to obtain accounting, management, legal, financial  
14 consulting, and other professional services necessary for the operation of the Bank.

15 (17) Expend funds credited to the Bank as the board determines necessary  
16 for the costs of administering the operations of the Bank.

17 (18) Establish advisory committees as the board determines appropriate,  
18 which may include individuals from the private sector with banking and financial  
19 expertise.

20 (19) Procure insurance against losses in connection with its property, assets,  
21 or activities including insurance against liability for its acts or the acts of its  
22 employees or agents or to establish cash reserves to enable it to act as a self-insurer  
23 against any and all such losses.

24 (20) Collect fees and charges in connection with its loans or other financial  
25 assistance.

26 (21) Apply for, receive, and accept from any source, aid, grants, or  
27 contributions of money, property, labor, or other things of value to be used to carry  
28 out the purposes of this Subpart, subject to the conditions upon which the aid, grants,  
29 or contributions are made.



1           (22) Enter into contracts or agreements for the servicing and processing of  
2           financial agreements.

3           (23) Accept and hold, with or without payment of interest, funds deposited  
4           with the Bank by the state, political subdivisions of the state, or private entities.

5           (24) Do all other things necessary or convenient to exercise the powers  
6           granted or reasonably implied by this Subpart.

7           B. Following the close of each state fiscal year, the board shall submit an  
8           annual report of its activities to the governor and the legislature no later than  
9           September first of each year. The Bank shall submit an annual report to any  
10          appropriate federal agency in accordance with requirements of any federal program.

11          §85. Use of the word "Bank"

12          A. The Bank is not authorized or empowered to be or to constitute a bank or  
13          trust company within the jurisdiction or under the control of the state, or any agency  
14          of it, the Office of the Comptroller of the Currency, the United States Department of  
15          the Treasury, a bank, a banker, or a dealer in securities within the meaning of, or  
16          subject to the provisions of, any securities, securities exchange, or securities dealers'  
17          law of the United States or this state.

18          B. All deposits taken by the Bank shall contain a notice stating that the  
19          deposits are not insured by the Federal Deposit Insurance Corporation.

20          §86. Louisiana State Transportation Infrastructure Fund; creation; sources of  
21          monies; establishment of accounts

22          A.(1) There is hereby created, as a special fund in the state treasury, the  
23          Louisiana State Transportation Infrastructure Fund, hereinafter referred to as the  
24          "fund". The fund shall be maintained and operated by the board of the Bank so  
25          authorized to administer a revolving fund for eligible transportation projects and to  
26          use sums on deposit in, credited to, or otherwise received by the Bank for the  
27          purposes provided for in this Subpart.

1           B. Monies in the fund shall be used exclusively by the Bank to provide  
2           assistance to qualified borrowers for eligible transportation projects as may be  
3           permitted by federal law or regulations and by this Subpart.

4           C.(1) Money needed for the operation of the Bank or otherwise dedicated  
5           shall be invested by the state treasurer as provided by law for the investment of other  
6           state funds, except as may be limited by federal law or the terms and conditions of  
7           any grant, related to money deposited in the revolving loan fund.

8           (2) Provided that such monies shall be deposited in the fund only after  
9           satisfaction of all requirements of R.S. 47:820.2 have been met in the fiscal year,  
10          revenues used to capitalize the fund include, but are not limited to the following:

11          (a) Investments by the state treasurer as provided by law for the investment  
12          of other state funds.

13          (b) Monies deposited into the fund pursuant to R.S. 48:77.

14          (c) Grants, gifts, and donations received by the state for the purposes of this  
15          Subpart.

16          (d) Any other revenues, whether local, state, or federal, as may be provided  
17          by law.

18          (e) Any monies which may be appropriated by the legislature to the fund.

19          D.(1) The Bank shall establish and maintain at least the four following  
20          accounts in the fund:

21          (a) State and local roadway account.

22          (b) State and local nonroadway account.

23          (c) Federal roadway account.

24          (d) Federal nonroadway account.

25          (2) Earnings on balances in the federal roadway account and federal  
26          nonroadway account shall be credited and invested according to applicable federal  
27          law.

28          (3) Earnings on the state and local roadway account and state and local  
29          nonroadway account shall be credited to the account that generates the earnings.

1           (4) Accounts may be established within each account as considered to  
2           effectuate the purposes of this Subpart or to meet the requirements of any state or  
3           federal program.

4           (5) The Bank shall comply with all applicable federal laws and regulations  
5           prohibiting the commingling of certain federal funds deposited in the fund.

6           E. All unexpended and unencumbered monies in the fund and its accounts  
7           shall remain in the fund and its accounts at the end of each fiscal year as authorized  
8           by this Subpart, except as may be limited or required by federal law or the terms and  
9           conditions of any grant, related to money deposited in the fund.

10          F. No monies in the fund may be expended or otherwise used, nor any bonds  
11          or other evidences of indebtedness or other obligations issued or insured for any  
12          eligible transportation project or for any payment, expenditure, commitment, pledge,  
13          loan, letter of credit, guarantee, subsidy, or other activity related to eligible  
14          transportation projects or the financing thereof without the prior written approval of  
15          the State Bond Commission.

16          §87. Applications for funding; project eligibility limitations

17          A. Notwithstanding any provision of the law to the contrary, and in addition  
18          to the authority to lend or borrow money or incur or guarantee indebtedness provided  
19          by any other provisions of the law, the Bank may provide loans and other financial  
20          assistance from sums on deposit in and credited to the fund to a qualified borrower  
21          for all or part of the eligible costs of an eligible transportation project. However, this  
22          Subpart shall not be deemed to be the exclusive authority under which parishes,  
23          municipalities, or political subdivisions may borrow money or incur indebtedness for  
24          eligible transportation projects.

25          B. The board shall determine the form and content of loan applications,  
26          financing agreements, and loan obligations including but not limited to the term and  
27          rate or rates of interest on a financing agreement. A financing agreement may  
28          contain, in addition to financial terms, provisions relating to the regulation and  
29          supervision of an eligible transportation project, or other provisions as the board may

1 determine appropriate. The terms and conditions of a loan or other financial  
2 assistance from federal accounts shall comply with applicable federal requirements.

3 C.(1) The board shall determine which projects are eligible transportation  
4 projects from all applications submitted.

5 (2) In selecting eligible transportation projects, the board shall consider the  
6 projected feasibility of the project, the amount and degree of risk to be assumed by  
7 the Bank, and the level of local financial support for the eligible transportation  
8 project as evidenced by resolutions of the governing bodies in the area the project  
9 will be located.

10 (3) In addition, the board may consider, but not be limited to the following  
11 criteria in making its determination that a proposed project is an eligible  
12 transportation project:

13 (a) In-kind contributions to the project.

14 (b) The maximum economic benefit, enhancement of mobility, enhancement  
15 of public safety, acceleration of project completion, and enhancement of  
16 transportation services.

17 (c) The ability of the governmental unit to repay a loan according to the  
18 terms and conditions established pursuant to this Subpart, consideration of which  
19 may include, at the option of the board, the existence of current investment grade  
20 rating on existing debt of the applicant secured by the same revenues to be pledged  
21 to secure repayment under the loan repayment agreement.

22 §88. Interest rates; payment schedules; terms

23 A. Any loan from the Bank shall bear interest at or below market interest  
24 rates, as determined by the board. Any such rate or rates of interest may be at fixed,  
25 variable, or adjustable rates.

26 B. Repayment of any loan from the Bank shall commence not later than five  
27 years after the eligible transportation project has been completed or, in the case of  
28 a highway project, the facility has opened to traffic, whichever is later.

1           C. The term of a loan shall not exceed thirty years after the date of the first  
2           payment on the loan.

3           D. The Bank may require the government unit to enter into a financing  
4           agreement in connection with its loan obligation or other financial assistance.

5           §89. Submission of resolution authorizing qualified borrower to enter into loan or  
6           financing agreement

7           A. Prior to executing a loan or financing agreement, the board shall require  
8           submission of resolution of the governing body of the qualified borrower authorizing  
9           the borrower to enter into such loan or financing agreement.

10           (1) Such resolution shall prescribe the form and details of the loan or  
11           financing agreement, including the terms, security for, manner of execution,  
12           repayment schedule, and redemption features thereof, and such resolution may  
13           authorize an officer of such governing body to execute contracts relating to a credit  
14           enhancement device, indenture of trust, loan or pledge agreement, or any other  
15           agreement and authorize that officer to approve changes, additions, and deletions to  
16           such documents as, in the sole opinion of the officer, may be appropriate under the  
17           circumstances.

18           (2) Any such resolution shall include a statement as to the maximum  
19           principal amount of any such obligation, the maximum interest rate to be incurred  
20           or borne by said obligation or guaranteed by said obligation, the maximum  
21           redemption premium, if any, and the maximum term in years for such obligation,  
22           guarantee, or pledge.

23           B. Any evidence of indebtedness authorized pursuant to this Subpart shall  
24           bear a rate or rates of interest that shall not exceed the rate or rates set forth in the  
25           resolution authorizing and providing for the issuance thereof.

26           C. Any resolution authorizing an infrastructure bank loan or financing  
27           agreement pursuant to this Section shall be published once in the official journal of  
28           the qualified borrower incurring such loan or seeking to accept financial assistance.

29           It shall not be necessary to publish exhibits to any such resolution, but such exhibits

1        shall be made available for public inspection at the offices of the governing authority  
2        of the qualified borrower at reasonable times, and such fact shall be stated in the  
3        publication within the official journal. For a period of thirty days after the date of  
4        such publication, any person in interest may contest the legality of the resolution  
5        authorizing such evidence of indebtedness or other infrastructure bank loan and any  
6        provision thereof made for the security and payment thereof. After the thirty-day  
7        period, no one shall have any cause or right of action to contest the regularity,  
8        formality, legality, or effectiveness of the resolution and the provisions thereof or of  
9        the bonds, notes, or other evidence of indebtedness or other infrastructure bank loan  
10       or financing agreement, or the legality thereof, and all of the provisions of the  
11       resolutions and such evidence of indebtedness shall be conclusively presumed to be  
12       executed in accordance with applicable law or regulation, and no court shall have  
13       authority or jurisdiction to inquire into any such matter.

14       §90. Exempt from taxation; not secured by full faith and credit of the state; not  
15       used in the calculation of net state tax supported debt

16       A. Bonds, notes, or other evidence of indebtedness issued or any  
17       infrastructure bank loan or financing assistance granted pursuant to the authority of  
18       this Subpart shall be exempt from all taxation for state, parish, municipal, or other  
19       purposes. Such bonds, notes, or other evidence of indebtedness or infrastructure  
20       bank loans may be used for deposit with any officer, board, municipality, or other  
21       political subdivision of the state, in any case where, by present or future laws,  
22       deposit of security is required for state funds.

23       B. Such bonds, notes, or other evidence of indebtedness, such guarantees,  
24       and such pledges issued and delivered pursuant to this authority shall constitute  
25       special and limited obligations of the Bank and shall not be secured by the full faith  
26       and credit of the state or any source of revenue of the state other than those sums on  
27       deposit in, credited to, or to be received by the Bank, including payments to be made  
28       pursuant to letters of credit.

1           C. In no event shall any bond, note, or other evidence of indebtedness, or  
 2           guarantee, pledge, or other obligation of any type whatsoever entered into by the  
 3           Bank be used in the calculation of net state tax supported debt as provided by Article  
 4           VII, Section 6(F) of the Constitution of Louisiana.  
 5           §90.1. Public purpose only  
 6           Funds expended pursuant to the provisions of this Subpart shall be  
 7           exclusively used for public purposes to fund eligible transportation projects within  
 8           the state.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 767 Re-Reengrossed

2015 Regular Session

St. Germain

**Abstract:** Creates the Louisiana State Transportation Infrastructure Bank which shall provide loans and financial assistance to municipalities, parishes, and political subdivisions of the state for eligible transportation projects.

Proposed law establishes the Louisiana State Transportation Infrastructure Bank (Bank) within the Department of the Treasury.

Proposed law provides that the purpose of the Bank is to select and assist in financing eligible transportation projects by providing loans and other financial assistance to municipalities, parishes, and political subdivisions of the state for planning, constructing, and improving transportation facilities necessary for public purposes.

Proposed law defines a number of terms as used in proposed law. Pertinent terms and definitions are as follows:

- (1) "Government unit" means a parish, municipality, or political subdivision of the state.
- (2) "Eligible transportation project" means any transportation facility which has been approved by the Department of Transportation and Development and selected by the Bank to receive a loan or other financial assistance from the Bank to defray an eligible cost.
- (3) "Transportation facility" means any public road, highway, bridge, airport, port, ferry, or transit facility or system that provides access or benefits to the state highway system and benefits the public by either enhancing mobility or safety, promoting economic development, or increasing the quality of life and general welfare of the public. "Transportation facility" also includes mass transit including, but not limited to, monorail and monobeam mass transit systems.
- (4) "Eligible costs" include, dependent on which account the eligible transportation project is to be financed from, costs that are permitted under applicable federal laws, requirements, procedures, and guidelines in regard to establishing, operating, and providing assistance from the Bank, costs of preliminary engineering, traffic and

revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the eligible transportation project, construction, construction management, facilities, nonoperating costs, and other costs necessary for the eligible transportation project.

- (5) "Qualified borrower" means any municipality, parish, or political subdivision of the state authorized by the board of directors of the Bank to construct, operate, or own an eligible transportation project.

Proposed law provides that the Bank shall be governed, administered, and operated by a board of directors (board) composed of the following members:

- (1) The secretary of the Department of Transportation and Development, or his designee.
- (2) The state treasurer, or his designee.
- (3) The chairman of the Senate Committee on Transportation, Highways and Public Works, or his designee.
- (4) The chairman of the House Committee on Transportation, Highways and Public Works, or his designee.
- (5) One member appointed by a majority of the other members of the board from among three persons who shall be nominated by the Louisiana Bankers Association and who shall possess no less than five years' experience in commercial lending or investment banking practices.
- (6) One member appointed by the board members of the State Board of Certified Public Accountants of Louisiana and who shall possess no less than five years' experience in professional accounting and auditing standards for financial accounting, management, and reporting.
- (7) One member appointed by the governor from the board of directors of the Louisiana Good Roads and Transportation Association and who shall possess no less than five years' experience in transportation program planning.

Proposed law provides that the members appointed from the Louisiana Bankers Association, the State Board of Certified Public Accountants, and the Louisiana Good Roads and Transportation Association shall serve three-year terms. A vacancy in such a position shall be filled in the manner provided for by the original appointment for the remainder of the three-year term.

Proposed law provides that the state treasurer or his designee shall serve as chairman of the board and the board may select such other officers as may be required by the board's bylaws.

Proposed law provides for the powers and duties of the board. Such powers and duties include but are not limited to the following:

- (1) To appoint an executive director to administer the affairs of the bank, who shall be an employee of the state treasurer approved by the board.
- (2) Make loans to qualified borrowers to finance the eligible costs of eligible transportation projects and to acquire, hold, and sell loan obligations at prices and in a manner as the board determines advisable.
- (3) Provide qualified borrowers with other financial assistance necessary to defray eligible costs of an eligible transportation project.



- (4) Establish rules and regulations, in accordance with the Administrative Procedure Act, R.S. 49:950 et. seq. regarding review, consideration, and approval or rejection of bank loans or financial assistance. The House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works shall exercise oversight of any rules or regulations rather than the House Committee on Appropriations and Senate Committee on Finance.
- (5) Establish fiscal controls and accounting procedures to ensure proper accounting and reporting by the bank and qualified borrowers.
- (6) Borrow money through the issuance of bonds and other forms of indebtedness as provided by proposed law.
- (7) Expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary for the operation of the bank.
- (8) Expend funds credited to the bank as the board determines necessary for the costs of administering the operations of the bank.
- (9) Establish advisory committees as the board determines appropriate, which may include individuals from the private sector with banking and financial expertise.
- (10) Collect fees and charges in connection with its loans or other financial assistance.

Proposed law requires that the board submit an annual report of its activities to the governor and the legislature no later than September first of each year. Proposed law further requires that the Bank submit an annual report to any appropriate federal agency in accordance with requirements of any federal program.

Proposed law creates the Louisiana State Transportation Infrastructure Fund as a special fund in the state treasury (fund). Monies in the fund are to be used exclusively by the Bank to provide assistance to qualified borrowers for eligible transportation projects as may be permitted by federal law or regulations and by proposed law.

Proposed law provides that money needed for the operation of Bank or otherwise dedicated shall be invested by the state treasurer as provided by law for the investment of other state funds, except as may be limited by federal law or the terms and conditions of any grant, related to money deposited in the revolving loan fund.

Proposed law provides that provided that such monies shall be deposited in the fund only after satisfaction of all obligations to the TIMED program have been met in the fiscal year, revenues used to capitalize the Louisiana State Infrastructure Bank Fund shall include but are not limited to the following: investments by the state treasurer as provided by law for the investment of other state funds, monies deposited in the fund pursuant to present law, grants, gifts, and donations received by the state for the purposes of proposed law, any other revenues, whether local, state, or federal, as may be provided by law, and any monies which may be appropriated by the legislature to the fund.

Proposed law provides that the Bank shall establish and maintain at least the four following accounts in the fund: state and local roadway account, state and local nonroadway account, federal roadway account, and the federal nonroadway account.

Proposed law provides that all unexpended and unencumbered monies in the fund and its accounts shall remain in the fund and its accounts at the end of each fiscal year as authorized by proposed law, except as may be limited or required by federal law or the terms and conditions of any grant, related to money deposited in the fund.

Proposed law provides that no monies in the fund may be expended or otherwise used, nor any bonds or other evidences of indebtedness or other obligations issued or insured for any eligible transportation project or for any payment, expenditure, commitment, pledge, loan, letter of credit, guarantee, subsidy, or other activity related to eligible transportation projects or the financing thereof without the prior written approval of the State Bond Commission.

Proposed law provides that the Bank may provide loans and other financial assistance from sums on deposit in and credited to the fund to a qualified borrower for all or part of the eligible costs of an eligible transportation project.

Proposed law provides that proposed law is not to be deemed to be the exclusive authority under which parishes, municipalities, or political subdivisions may borrow money or incur indebtedness for eligible transportation projects.

Proposed law provides that the board shall determine the form and content of loan applications, financing agreements, and loan obligations including but not limited to the term and rate or rates of interest on a financing agreement.

Proposed law provides that the board shall determine which projects are eligible transportation projects from all applications submitted.

Proposed law provides that in selecting eligible transportation projects, the board shall consider the projected feasibility of the project, the amount and degree of risk to be assumed by the Bank, and the level of local financial support for the eligible transportation project as evidenced by resolutions of the governing bodies in the area the project will be located.

Proposed law provides that in selecting eligible transportation projects, the board may consider, but not be limited to the following criteria in making its determination that a proposed project is an eligible transportation project: in-kind contributions to the project, the maximum economic benefit, enhancement of mobility, enhancement of public safety, acceleration of project completion, and enhancement of transportation services, the ability of the governmental unit to repay a loan according to the terms and conditions established pursuant to proposed law.

Proposed law provides that any loan from the Bank shall bear interest at or below market interest rates, as determined by the board.

Proposed law provides that repayment of any loan from the Bank shall commence not later than five years after the eligible transportation project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later.

Proposed law provides that the term of a loan shall not exceed 30 years after the date of the first payment on the loan.

Proposed law provides that the bank may require the government unit to enter into a financing agreement in connection with its loan obligation or other financial assistance.

Proposed law provides that prior to executing a loan or financing agreement, the board shall require submission of resolution of the governing body of the qualified borrower authorizing the borrower to enter into such loan or financing agreement.

Proposed law provides for the required contents of such required resolution, including but not limited to the following: the form and details of the loan or financing agreement, including the terms, security for, manner of execution, repayment schedule, and redemption features thereof, a statement as to the maximum principal amount of any such obligation, the maximum interest rate to be incurred or borne by said obligation or guaranteed by said obligation, the maximum redemption premium, if any, and the maximum term in years for such obligation, guarantee, or pledge.

Proposed law provides that any resolution authorizing an infrastructure bank loan or financing agreement pursuant to proposed law shall be published once in the official journal of the qualified borrower incurring such loan or seeking to accept financial assistance.

Proposed law provides that for a period of 30 days after the date of such publication, any person in interest may contest the legality of the resolution authorizing such evidence of indebtedness or other infrastructure bank loan and any provision thereof made for the security and payment thereof.

Proposed law provides that after the 30 day period, no one shall have any cause or right of action to contest the regularity, formality, legality, or effectiveness of the resolution required pursuant to proposed law and the provisions thereof or of the bonds, notes, or other evidence of indebtedness or other infrastructure bank loan or financing agreement, or the legality thereof, and all of the provisions of the resolutions and such evidence of indebtedness shall be conclusively presumed to be executed in accordance with applicable law or regulation, and no court shall have authority or jurisdiction to inquire into any such matter.

Proposed law provides that bonds, notes, or other evidence of indebtedness issued or any infrastructure bank loan or financing assistance granted pursuant to the authority proposed law shall be exempt from all taxation for state, parish, municipal, or other purposes.

Proposed law provides that bonds, notes, or other evidence of indebtedness, such guarantees, and such pledges issued and delivered pursuant to proposed law shall constitute special and limited obligations of the Bank and shall not be secured by the full faith and credit of the state or any source of revenue of the state other than those sums on deposit in, credited to, or to be received by the Bank, including payments to be made pursuant to letters of credit.

Proposed law provides that in no event shall any bond, note, or other evidence of indebtedness, or guarantee, pledge, or other obligation of any type whatsoever entered into by the Bank be used in the calculation of net state tax supported debt as provided by Article VII, Section 6(F) of the Constitution of Louisiana.

Proposed law provides that funds expended under the provisions of proposed law shall be exclusively used for public purposes to fund eligible transportation projects within the state.

Present law phases in deposits of the tax on the sale, use, lease or rental, the distribution, consumption, and the storage of motor vehicles into the Transportation Trust Fund and the Transportation Mobility Fund beginning July 1, 2008. For Fiscal Year (FY) 2014-2015, 100% of the avails are to be deposited into the Transportation Trust Fund (93%) and Transportation Mobility Fund (7%).

Present law dedicates 7% of deposits to the Transportation Mobility Fund to be used exclusively for final design and construction and not for studies.

Proposed law deletes the 7% dedication to the Transportation Mobility Fund and instead dedicates 7% of deposits to the Louisiana State Infrastructure Bank Fund.

(Amends R.S. 48:77(B)(2); Adds R.S. 36:769(M) and R.S. 48:81-90.1)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Add a provision to present law (transfer of boards, commissions, departments, and agencies to the Dept. of the Treasury) regarding the placement of the Louisiana State Transportation Infrastructure Bank in the Dept. of the Treasury.

2. Reorder certain powers and duties of the board of directors of the Louisiana State Transportation Infrastructure Bank.
3. Add a provision that clarifies that revenues utilized to capitalize the Louisiana State Transportation Infrastructure Bank Fund shall include any monies deposited into the fund pursuant to present law rather than 7% of the remainder of total avails deposited in the Transportation Trust Fund pursuant to present law.
4. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Change designation and placement of proposed law within Chapter 1 of Title 48.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.