Members

Rep. Edmond Soliday, Chairperson
Rep. Michael Speedy
Rep. Lloyd Arnold
Rep. William Davis
Rep. Randall Frye
Rep. Jud Mcmillin
Rep. Rick Niemeyer
Rep. Thomas Saunders
Rep. Benjamin Smaltz
Rep. Daniel Forestal
Rep. Edward Delaney
Rep. Cherrish Pryor
Rep. Steven Stemler
Sen. Thomas Wyss, Vice-Chairperso
Sen. James Arnold
Sen. Jean Breaux
Sen. Earline Rogers
Sen. Ronald Grooms
Sen. James Banks
Sen. Vaneta Becker
Sen. Michael Crider
Sen. James Merritt
Sen. Allen Paul

JOINT STUDY COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ASSESSMENT AND SOLUTIONS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Sarah Freeman, Attorney for the Joint Study Committee
Stephanie Wells, Fiscal Analyst for the Joint Study Committee

Authority: IC 2-5-28.5

MEETING MINUTES[1]

Meeting Date:	**November 18, 2013**
Meeting Time:	**3:30 P.M.**
Meeting Place:	**State House, 200 W. Washington St., Room 233**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**4**

Members Present: **Rep. Edmond Soliday, Chairperson; Rep. Michael Speedy; Rep. Lloyd Arnold; Rep. Randall Frye; Rep. Rick Niemeyer; Rep. Daniel Forestal; Rep. Edward Delaney; Sen. Thomas Wyss, Vice-Chairperson; Sen. James Arnold; Sen. Jean Breaux; Sen. Earline Rogers; Sen. Ronald Grooms; Sen. Vaneta Becker; Sen. Michael Crider.**

Members Absent: **Rep. William Davis; Rep. Jud Mcmillin; Rep. Thomas Saunders; Rep. Benjamin Smaltz; Rep. Steven Stemler; Sen. James Banks; Sen. James Merritt; Sen. Allen Paul; Rep. Cherrish Pryor.**

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[1] These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at http://www.in.gov/legislative Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for hard copies.

Representative Soliday called the meeting to order at 3:32 p.m. Committee members introduced themselves and reviewed a proposed recommendation concerning alternate infrastructure funding mechanisms. See Exhibit A.

Sarah Freeman, staff attorney for the Committee, distributed copies of a cooperative agreement between the Federal Highway Administration, the Federal Transit Administration, the Indiana Department of Transportation, and the State Budget Agency that designated the Local Infrastructure Revolving Fund codified at IC 4-10-19 as the State Infrastructure Bank. See Exhibit B. Stephanie Wells, fiscal analyst for the Committee, explained that three loans totaling over $10 million have been made from the State Infrastructure Bank.

The Committee adopted its final report by voice vote and then amended the final report to include the recommendation concerning alternate infrastructure funding mechanisms.

Representative Soliday adjourned the meeting at 3:45 p.m.

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Authority: IC 2-5-28.5

To: TIAS Committee Members
From: Sarah Freeman, Committee Attorney
Date: November 18, 2013
Re: Committee Recommendations

Adopted Recommendation #1 (Soliday)

The Committee recommends that a Market Study be conducted concerning the long and short term potential economic opportunities and consequences of establishing additional commercial ports in the following regions:

(1) Lake Michigan, including channels that are ordinarily navigable to Lake Michigan.
(2) The Ohio River, including channels that are ordinarily navigable to the Ohio River.

The Committee further recommends that the market study include the following:
(1) Current data and statistics on Great Lakes shipping trends.
(2) An analysis of the federal permitting process administered by the United States Army Corps of Engineers.

Adopted Recommendation #2 (Soliday)

The Committee recommends that legislation be enacted to amend IC 8-10 to:
(1) clarify the potentially overlapping jurisdictions of the ports of Indiana and local port authorities; and
(2) address the rights and responsibilities of local port authorities established before the enactment of the legislation.

(over)

TIAS 11/18/13 Ex. A

Adopted Recommendation #3 (Soliday)

The Committee recognizes that the federal Passenger Rail Investment Improvement Act of 2008 requires states with passenger rail service lines of less then 750 miles to fund the lines' operating costs, and that only the executive branch and the budget committee may address the state of Indiana's assumption of financial responsibility for the Hoosier State line operated between Indianapolis and Chicago by the National Passenger Railroad Corporation (Amtrak). However, the Committee recommends that the creation of a long term subsidy for the Hoosier State line should be considered as a potential solution only after Amtrak submits a more viable business and service plan for review and analysis by the executive branch and the budget committee.

Proposed Recommendation #4 (Soliday)

The Committee recommends that legislation be enacted to study alternate infrastructure funding mechanisms to replace decreasing fuel tax revenues, including both a flat per vehicle option as well as an option that accounts for variations in usage and the degree of damage caused to roads and bridges by vehicles of different sizes and configurations. The Committee further recommends that the study include options that are technology neutral and protect individual privacy rights.

COOPERATIVE AGREEMENT BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, FEDERAL TRANSIT ADMINISTRATION, OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, INDIANA DEPARTMENT OF TRANSPORTATION AND THE INDIANA STATE BUDGET AGENCY

1.1 INTRODUCTION

This Cooperative Agreement is entered into by and between the Federal Highway Administration (FHWA) and/or the Federal Transit Administration (FTA), agencies of the United States Department of Transportation (USDOT) and the Indiana Department of Transportation (INDOT), and Indiana State Budget Agency (SBA), agencies of the State of Indiana, pursuant to section 350 of the National Highway System Designation Act of 1995 (NHS Act), Public Law 104-59,23 U.S.C. § 101 note, and IC- 4-10-19.

The Indiana State Budget Agency , State House, 200 W. Washington, Room 212, Indianapolis, IN 46204, is the designated agency of the State for the administration of the Local Infrastructure Revolving Fund (LIRF) program and is lawfully authorized to administer the LIRF in accordance with the requirements of the NHS Act, the applicable guidelines, policies and procedures issued and adopted thereunder from time to time by FHWA/FTA (collectively, the NHS SIB Guidelines), and IC-4-10-19, which is attached as Exhibit A of this Cooperative Agreement.

1.2 ESTABLISHMENT OF STATE INFRASTRUCTURE BANK

The State enabling legislation establishes the SBA as the designated instrumentality of the State to administer the LIRF. The State represents and warrants that it has the legal, managerial, technical and operational capabilities to administer the LIRF. The State hereby certifies that the State law, and the powers it confers on the SBA, are consistent with the Constitution of the State and that the State, acting through INDOT, may legally bind itself to the terms of this Cooperative Agreement.

The State enabling legislation establishes a LIRF existing under IC-4-10-19, to be held by the State Treasurer as custodian, and administered by the SBA. The SBA agrees to create within the LIRF a separate account to be designated as the Highway Account and a separate account to be designated as the Transit Account, each of which shall be dedicated solely to providing loans and other forms of financial assistance consistent with the NHS Act and permitted under the State law. (The Highway Account and the Transit Account are sometimes hereinafter referred to individually as an Account and, collectively, as the Accounts). Amounts on deposit in the Accounts shall be invested in accordance with the provision of subsection 350(e) of the NHS Act and NHS SIB Guidelines; earnings on amounts deposited in the Accounts shall be applied in accordance with the provisions of subsection 350(e) of the NHS Act and the NHS SIB Guidelines.

TIAS
11/18/13
Ex. B

1.3 FUNDING

(i) FHWA/FTA PAYMENTS

FHWA agrees to make payments to INDOT for deposit in the LIRF upon receipt of a properly completed request transmitted on the FHWA form within Exhibit B. Similarly, FTA agrees to make payments to INDOT for deposit in the LIRF upon receipt of a properly completed request transmitted on the FTA form within Exhibit B. Federal payments made under this Cooperative Agreement shall not exceed amounts authorized by subsection 350(b)(2) of the NHS Act or other legislation that may authorize such payment. The timing of deposits of Federal funds obligated pursuant to subsection 350(b)(2) and requested in the appropriate FHWA or FTA form of Exhibit B may be established by the Secretary in order to ensure compliance with the requirements of subsection 350(g)(1) of the NHS Act relating to the historic disbursement rates of the Federal-aid highway program and the Federal transit program.

(ii) STATE MATCHING REQUIREMENT

As required by subsection 350(e)(1) of the NHS Act, on or before the date on which the INDOT receives a Federal payment, the INDOT shall deposit matching funds (from non-Federal sources) into the Highway Account or the Transit Account, as applicable, in the amount equaling at least 25 percent of the amount of Federal payment unless such matching share may be at a lower percentage as otherwise provided in subsection 350(e)(1) of the NHS Act.

1.4 FINANCIAL ASSISTANCE

(i) TIMELY EMPLOYMENT

The SBA agrees to employ funds deposited in the LIRF in an expeditious and timely manner.

(ii) USE

The SBA agrees to provide only such financial assistance through the LIRF that is authorized under section 350 of the NHS Act, the NHS SIB Guidelines, and section IC-4-10-19 of the State law. If the financial assistance is not in the form listed in subsection 350(c) or subsections 350(1)(3)(A) through 350(1)(3)(F) of the NHS Act, then INDOT shall request specific approval from FHWA or FTA or both, as applicable of the form of assistance consistent with subsection 350(1)(3)(G) of the NHS Act.

(iii) SPECIAL RULE FOR URBANIZED AREAS

The INDOT agrees, as required by subsection 350(a)(4) of the NHS Act, that it will capitalize the Highway Account with Federal funds otherwise apportioned or allocated to a State under subsection 104(b)(3) or section 160 of title 23, United States Code, or under subsection 1013(c) or section 1015 of the Intermodal Surface Transportation efficiency Act of 1991, and attributed to urbanized areas of over 200,000 in population, only if the metropolitan planning organization concurs, in writing, with the provision of such assistance.

(iv) **ADMINISTRATIVE: DIRECT AND INDIRECT COST**

The INDOT may use up to 2 percent of the aggregate amount of disbursements made in each of Federal fiscal years 1996 and 1997 to cover program administration cost of the LIRF for each such Federal fiscal year. These moneys will be used for the reasonable cost of administering the LIRF, as described in subsection 350(j) of the NHS Act. To the extent permitted by the NHS Act, program administration funds may also be used for the cost of servicing loans, federally capitalized LIRF program start-up costs, financial, management and legal consulting fees, and reimbursement of cost for LIRF-related support services from other State agencies to the extent such cost and services relate to the LIRF.

(v) **LEVERAGE**

As authorized by subsection 350(1)(3) of the NHS Act, the State may implement a program to leverage deposits. The Federal funds and the associated State matching share from non-Federal sources may be used as a source of security for bonds issued by the State or its designated agent to finance or refinance loans made by SBA through the LIRF (or interests or participation therein) provided such activities comply with the NHS Act and the NHS SIB Guidelines.

(vi) **PROJECT AGREEMENTS WITH RECIPIENTS**

Before providing financial assistance for a project, the INDOT agrees to enter into a written project agreement (Project Agreement) to provide financial assistance through the LIRF, which financial assistance shall be in a form permitted by subsection 350(c) of the NHS Act (and section IC-4-10-19) and shall be for a qualified project, as defined in subsection 350(d) of the NHS Act. The Project Agreement shall include interest rates, repayment terms, a disbursement schedule, and any other fees, compensation, or other collateral offered by the recipient of the assistance and such other terms and provisions in accordance with the provisions of subsection 350(e) of the NHS Act and the NHS SIB Guidelines issued thereunder.

(vii) **DISBURSEMENTS**

The State agrees to disburse funds from the LIRF as project costs are refinanced or incurred, as set forth in the Project Agreement, or as otherwise recommended by INDOT and approved by the SBA.

(viii) **FEDERAL AUTHORITIES**

The State agrees that it and all recipients of financial assistance directly made available to the LIRF pursuant to the provisions of the NHS Act will comply with all applicable Federal laws and regulations.

(a) **SPECIAL REQUIREMENTS FOR FTA PROJECTS**

For projects financed through the SIB's Transit account, the State agrees that it and all recipients of financial assistance directly made available to the LIRF pursuant to the provisions of the NHS Act will also comply with all applicable requirements of the FTA Master Agreement for the Fiscal Year in which financial assistance is made, except that any current or future requirement of the NHS SIB Guidelines, or any Special Condition or Special Requirement to this Cooperative Agreement imposed by FTA that conflicts with a requirement of the FTA Master Agreement supersedes the conflicting requirement of the FTA Master Agreement.

(ix) USE OF REPAYMENT PROCEEDS

The State agrees that repayment proceeds and fees, compensation, or other collateral associated with LIRF financial assistance derived from the Highway Account shall be used consistent with subsection 129(a)(7) of title 23, United States Code, except to the extent the FHWA determines that such provisions are inconsistent with such requirements as provided by subsection 350(e)(4) of the NHS Act. FTA reserves the right to establish appropriate conditions concerning repayment proceeds and fee, compensation, or other collateral associated with LIRF financial assistance derived from the Transit Account, consistent with the requirements of subsection 350(e)(4) of the NHS Act.

1.5 ACCOUNTING AND AUDIT PROCEDURES

(i) ACCOUNTING AUDIT PROCEDURES

The State agrees to establish fiscal controls and accounting procedures sufficient to assure proper accounting for payments received and disbursements made through the LIRF, and to provide LIRF balances at the beginning and end of the accounting period and to demonstrate compliance with this Cooperative Agreement. The State further agrees to use accounting, audit and fiscal procedures conforming to generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board.

(ii) SIB ASSISTANCE RECIPIENT ACCOUNTING AND AUDIT PROCEDURES

INDOT agrees that the Project Agreement will require each recipient to maintain project accounts in accordance with generally accepted accounting standards.

(iii) ANNUAL COMPLIANCE AUDIT

The State agrees to conduct an annual independent financial and compliance audit of the LIRF and the operations of the LIRF. This audit may be conducted in accordance with the Single Audit Act of 1984 (See Office Management and Budget Circular A-133). The State agrees to complete the audit report within one year of the appropriate accounting period and submit it to both the FHWA and FTA Administrator at the Regional Office administering the project, with a copy sent to DOT's Office of the Inspector General within 30 days of completion. FHWA or FTA will notify the State within 90 days as to the technical adequacy of the audit report and its findings.

(iv) ANNUAL REPORT

The State agrees to submit an Annual Report to FHWA and FTA Administrator at the Regional Office administering the project, and make such report available to recipients of LIRF financial assistance no later than 90 days after the end of the Federal fiscal year. This report shall identify recipients of financial assistance, amounts of financial assistance, financial assistance interest and repayment terms, and project categories, with emphasis on how the State has met the goals set forth in its application and the financial condition of the Highway Account and Transit Account.

(v) OTHER DOCUMENTS

In addition to the Annual Report and Annual Audit, the State agrees to provide promptly to FHWA, FTA, USDOT, or the Comptroller General of the United States (or representative thereof) any other records they may reasonably require.

(vi) RECORDS RETENTION

The State agrees to maintain all official project files relating to the LIRF until all financial assistance has been repaid and necessary audits have been performed. Retention and ultimate disposition of LIRF project files shall be in accordance with State laws unless such period for retention conflicts with the requirement above or the 3-year minimum requirement of 49 C.F.R. § 18.42, in which event, the later period of retention shall prevail.

1.6 SANCTIONS AND COMPLIANCE

(i) CORRECTIVE ACTIONS

If either the FHWA or FTA determines that the State has not complied with the terms of this Cooperative Agreement, the requirements of the NHS Act or the NHS SIB Guidelines, FHWA or FTA (as applicable) will notify the State of the noncompliance and of the requested corrective action. The State agrees to take appropriate corrective action or submit a compliance plan to both FHWA and FTA within 60 days.

(ii) REMEDIES FOR FAILURE TO COMPLY WITH THIS COOPERATIVE AGREEMENT

If the State fails to take corrective action, or provide an acceptable plan to correct any noncompliance, FHWA or FTA (as applicable) may withhold from future grant moneys available to the State under the provisions of Titles 23 or 49 of the United States Code and the Regulations promulgated thereunder, an amount equal to the total amount in dispute until the corrective action is taken or acceptable plan provided.

1.7 EXECUTION, AMENDMENT, AND TERM OF THIS COOPERATIVE AGREEMENT

(i) DESIGNATED SIGNATORIES

The following officials are authorized to enter into amendments to this Cooperative Agreement:

(a) *For the State:*
Curtis A. Wiley, Commissioner, Department of Transportation
Betty Cockrum, Commissioner, Department of Administration
Peggy Boehm, Director, State Budget Agency

(b) *For FHWA:*
Federal Highway Administrator

(c) *For FTA:*
Federal Transit Administrator

(ii) **AMENDMENT**

This cooperative Agreement may be amended at any time by mutual agreement between the designated signatories in writing. Amendments shall be submitted in writing to all parties unless waived by any party. The receiving parties shall respond within 30 days approving such change or with written suggested changes. Items not significantly altering this Cooperative Agreement but changing implementation of review procedures, may be implemented through the agreement of INDOT and the SBA of the State, and the Administor of either FHWA or FTA, as applicable.

(iii) **TERMINATION**

This Cooperative Agreement shall remain in effect until terminated in writing by the parties hereto.

STATE OF INDIANA
Department of Transportation

By: _____
Curtis A. Wiley, Commissioner

Date: 9/17/97

Department of Administration

By: _____
Betty Cockrum, Commissioner

Date: 9/18/97

State Budget Agency

By: _____ for
Peggy Boehm, Director

Date: 9-17-97

Federal Highway Administration

By: _____

Date: 01-20-98

Federal Transit Administration

By: _____

Date: 1/28/98

Approved as to Form & Legality:

Emily S. Pasko, Deputy (FOR)
Jeffrey A. Modisett
Attorney General of Indiana

Date: 9-18-97

Exhibit A

twelve thousand six hundred (12,600) but less than thirteen thousand (13,000) for extension of airport runways. The amount of the loan may not exceed three hundred thousand dollars ($300,000).

(k) IC 6-1.1-20 does not apply to a loan made by an entity under this section.

(l) As used in this section, "entity" means a governmental entity authorized to obtain a loan under subsections (e) through (j). *As added by P.L.380-1987(ss), SEC.2. Amended by P.L.5-1988, SEC.22; P.L.22-1988, SEC.2; P.L.12-1992, SEC.13; P.L.1-1995, SEC.33.*

4-10-18-12 Appropriation to underground storage tank excess liability fund

Sec. 12. If the amount of money in the underground petroleum storage tank excess liability fund established by IC 13-23-7-1 reaches zero (0), ten million dollars ($10,000,000) shall be transferred to the underground petroleum storage tank excess liability fund from the fund if the:

(1) underground petroleum storage tank financial assurance board recommends that the appropriation should be made; and

(2) budget committee approves the appropriation.

As added by P.L.13-1990, SEC.2. Amended by P.L.1-1996, SEC.24.

Chapter 19. Local Infrastructure Revolving Fund

4-10-19-1 "Fund" defined
4-10-19-2 "Political subdivision" defined
4-10-19-3 Purpose; administration by budget agency
4-10-19-4 Administration of fund; methods for financing infrastructure; annual report on projects funded
4-10-19-5 Powers of budget agency
4-10-19-6 Procedures for allocation of money to projects; application
4-10-19-7 Use of loan or grant; requirements for grant
4-10-19-8 Requirements for loan; loan agreement
4-10-19-9 Expenses
4-10-19-10 Investment of money in fund
4-10-19-11 No reversion to state general fund

4-10-19-1 "Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the local infrastructure revolving fund established by this chapter. *As added by P.L.13-1996, SEC.1.*

4-10-19-2 "Political subdivision" defined

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. *As added by P.L.13-1996, SEC.1.*

4-10-19-3 Purpose; administration by budget agency

Sec. 3. The local infrastructure revolving fund is established for the purpose of providing funds to local governments for infrastructure projects. The fund shall be administered by the budget agency. *As added by P.L.13-1996, SEC.1.*

4-10-19-4 Administration of fund; methods for financing infrastructure; annual report on projects funded

Sec. 4. (a) In administering the fund, the budget agency shall do the following:

(1) Monitor infrastructure finance needs and the availability and cost of capital.

(2) Provide financial management of investment pools and financial services associated with loans.

(3) Explore and evaluate capital financing techniques.

(4) Explore methods for the state to enhance the credit quality of municipal bond issues at a minimum cost to the state.

(b) The Indiana department of transportation, Indiana department of environmental management, and any other appropriate state agency, in consultation with the budget