

January 18, 2001
OPINION NUMBER 00-436

Dr. Kam K. Movassaghi, Ph.D., P.E.
Secretary
Department of Transportation and Development
P. O. Box 94245
Baton Rouge, LA 70804-9245

50 Highways
R.S. 47:820.2
DOTD can credit interfund borrowing by amount
of TTF operating costs used for TIMED projects.

Dear Dr. Movassaghi:

You requested the opinion of this office regarding the propriety of offsetting the amount of Transportation Trust Fund ("TTF") operational monies used in implementing the TIMED Program against the obligation to repay the sums borrowed by the TTF from the TIMED funds.

As you noted, R.S. 47:820.2(C) permitted the transfer of TIMED funds to the TTF as interfund borrowing with the requirement that the funds be returned to the credit of the TIMED Account no later than June 30, 2010. The remaining balance owed to the TIMED Account is \$26,832,425.97. You advised that operating costs ranging from approximately \$2.5 million to approximately \$4.1 million per year were incurred on TIMED projects using TTF monies in the fiscal years 1993 through 2000. The total amount of such operating costs paid from TTF funds was \$28,531,438.

Your question is whether this repayment method is legal and appropriate. Please be advised as follows:

R.S. 47:820.2(C) provides in pertinent part as follows:

Monies in the Transportation Infrastructure Model for Economic Development Account not needed for the payment of principal, interest, or premium, if any, or other charges related to the issuance of bonds by the State Bond Commission may be appropriated and used for purposes not inconsistent with the Transportation Trust Fund. Any such appropriations shall be made before January 1, 1994. The total of any such appropriations made shall not exceed one hundred sixty million dollars in the aggregate. **All such appropriations made for Transportation Trust Fund projects and purposes other than those provided for in Subsection B of this Section shall be considered interfund borrowing and shall be returned to the credit of the account no later than June 30, 2010.** (Emphasis added).

In accordance with this provision, DOTD borrowed \$160 million of TIME funds for TTF projects not included in Subsection B's list of TIME projects. In Op.Atty.Gen. No. 97-97, this office found no prohibition against crediting the amount of interfund borrowing from the TIMED Account by the amount of federal funds used for one or more TIME projects.

Likewise, this office can find no prohibition against crediting the amount of interfund borrowing from the TIMED Account by the amount of Transportation Trust Fund monies used for operating costs, as described in your opinion request.

If you have any additional questions, please feel free to contact this office. Trusting this adequately responds to your request, we remain

Yours very truly,

RICHARD P. IEYOUNG
Attorney General

BY: _____
MARTHA S. HESS
Assistant Attorney General

RPI/MSH
cc: Gary Hall

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Syllabus

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Date Received:

Date Released: January 18, 2001

Martha S. Hess
Assistant Attorney General