Transportation Funding Task Force
Final Report

March 2015

Representative Karen St. Germain, Chairwoman
Senator Robert Adley, Vice Chairman

Transportation Funding Task Force Members

(1) Senator Robert Adley, the president of the Senate's designee.

(2) Representative Karen St. Germain, the speaker of the House of Representatives' designee.

(3) Senator Jack Donahue, the chairman of the Senate Committee on Transportation, Highways and Public Works' designee.

(4) Representative Terry C. Landry, Sr., the chairman of the House Committee on Transportation, Highways and Public Works' designee.

(5) Sherri H. LeBas, P.E., the secretary of the Department of Transportation and Development.

(6) Major General John Basilica, Jr., representative of Louisiana Good Roads & Transportation Association.

(7) Kenneth E. "Ken" Naquin, representative of Louisiana Associated General Contractors.

(8) Kam Movassaghi, Ph.D., P.E., F.ASCE, representative appointed jointly by the American Society of Civil Engineers and the American Council of Engineering Companies.

EXECUTIVE SUMMARY

Charge to the Transportation Funding Task Force

House Concurrent Resolution No. 166 of the 2014 Regular Legislative Session created and charged the Transportation Funding Task Force (task force) to study and make recommendations relative to transportation funding mechanisms to be used in the state and to report their findings to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works.

Potential Funding Mechanisms for Transportation Projects in Louisiana Discussed by Transportation Funding Task Force

At the January 12, 2015 task force meeting it was determined that an initial report would be submitted to the Senate and House Committees on Transportation, Highways and Public Works. However, it was also decided that further information was necessary in order to be able to make recommendations; therefore, an additional meeting was held to discuss present special fuels tax collection and alternative collection methods, indexing the gas tax, and incorporation of metropolitan planning organization input. This final report includes the content of the initial report as well as information presented at the February 20, 2015, Transportation Funding Task Force meeting.

Below is a list of potential funding mechanisms addressed in this report. It is by no means an exclusive list of ideas considered by the task force, but only includes items that were discussed at length at task force meetings, formally presented to the task force, or that task force members developed based upon information presented at task force meetings.

As each of these items below were discussed in task force meetings, the one issue that was discussed time and time again was that no enhancement of transportation infrastructure funding in Louisiana will be successful without the full trust of the public.

- Continue to pursue the possibility of public-private partnerships, recognizing the issue of traffic counts.
- Replacing the current 16¢ fuel excise tax with an 8% sales tax on all fuels. In light of today's gas prices, the establishment of a floor to ensure the current level of revenues would be necessary.
- Providing opportunities for local governments to raise revenue for their local transportation projects.
- Providing tax incentives for private investments in the development of major transportation projects.

- Issuing additional gas and fuels tax revenue bonds and coming to the conclusion that the cost of doing so makes this proposal impracticable.

- Mandating that for a specific period of time, possibly 3 years, that a certain percentage of capital outlay bonding capacity, possibly 60%, be dedicated to transportation infrastructure, with the knowledge that this would only be one time money and that non-state projects are already statutorily limited to no more than 25% of the cash line of credit capacity for projects in any fiscal year.

- Examining the advisability of appropriating Transportation Trust Fund monies to programs other than those administered by the Department of Transportation and Development (DOTD), specifically those monies appropriated for traffic control purposes and those above what is constitutionally required to be appropriated to the Parish Transportation Fund. A definition of "traffic control purposes" may need to be established.

- Re-filing 2014 Regular Legislative Session transportation funding instruments, including legislation to create a state infrastructure bank and the dedication of taxes on future internet purchases for transportation and higher education.

- Revisiting the "trigger" on the dedication of the motor vehicles sales tax to the Transportation Trust Fund and the Transportation Mobility Fund.

- Using excess mineral revenues for transportation infrastructure purposes prior to deposit of such revenues into the Budget Stabilization Fund.

- Senator Adley and Representative St. Germain have proposed the possibility of filing legislation seeking to dedicate a portion of the motor vehicle sales tax monies to transportation preservation projects and offsetting the loss to the State General Fund by raising the cap on the amount of mineral revenues that go to the State General Fund.

- The Louisiana Association of Business and Industry (LABI) has identified transportation infrastructure as a priority during this period of tremendous growth in manufacturing in Louisiana. LABI would like to work with stakeholders to find a creative way to capture this growth for transportation infrastructure projects. LABI identified additional items that should be examined which are more fully identified in this report.

- Reexamining special fuels tax collection and enforcement methods to ensure that the growing number of owners or operators of special fuel vehicles pay for their use of Louisiana highways.

- Indexing the flat gas excise tax to a inflationary measure to provide for a more sustainable source of revenue in order to attempt to meet rising construction and maintenance costs.

- Expediting roadway improvement schedules through a program of advanced arterial design between DOTD and Metropolitan Planning Organizations (MPOs) working with local jurisdictions, protecting the integrity and efficiencies of both State and MPO Short Range and Long Range Transportation Plans through the use of "Tripartite Agreements", and strengthening DOTD district offices and MPOs with independent funding and regulatory incentives to protect and facilitate area transportation plans and projects.

Recommendation

At the final task force meeting, the members unanimously voted to recommend that the legislature and current and future administrations continue to review and consider the transportation funding concepts put forth in this final report.

Transportation Funding Task Force Meetings

The Transportation Funding Task Force met on September 10, 2014, September 30, 2014, October 30, 2014, December 10, 2014, January 12, 2015, and February 20, 2015. A final meeting was held on March 4, 2015 to review, revise, and approve the content of this final report.

The following persons made presentations to the task force:

- Sherri H. LeBas, P.E., Secretary, Department of Transportation and Development
- Sujit M. CanagaRentna, Fiscal Policy Manager and Transportation Liaison, Council of State Goverments' Southern Office, Southern Legislative Conference
- Kam Movassaghi, Ph.D., P.E., F.ASCE, "A New Model for Louisiana's Transportation System"
- John Kennedy, State Treasurer, Treasurer's Report
- Representative John Bel Edwards, in his capacity as a 2016 gubernatorial candidate
- Don Wilbon, Managing Director, J.P. Morgan, "Louisiana Transportation Infrastructure Financing: A National Perspective"
- Jamison Feheley, Managing Director, Head of Public Finance Banking, J.P. Morgan, "Louisiana Transportation Infrastructure Financing: A National Perspective"
- Antti Suhonen, Vice President, J.P. Morgan, "Louisiana Transportation Infrastructure Financing: A National Perspective"
- Rudy Gomez, Blueprint Louisiana
- Stephen Waguespack, President, Louisiana Association of Business and Industry
- Colonel Michael D. Edmonson, Superintendent, Louisiana State Police
- Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue
- Ann Shaneyfelt, Executive Director/Clean Cities Coordinator, Louisiana Clean Fuels
- Alex Schroeder, Transportation Technology Deployment Manager, National Renewable Energy Laboratory

- Major General John Basilica, Jr., representative of Louisiana Good Roads & Transportation Association

- Matt Johns, President, Louisiana Planning Council, and Director of Operations, Rapides Area Planning Commission

State Transportation Funding Overview

The Transportation Trust Fund

Louisiana's transportation system is largely funded by federal funds and by a 20¢ per gallon state tax on gasoline and motor fuels that is constitutionally dedicated to the Transportation Trust Fund (TTF).[1] This 20¢ can be broken down into 2 categories: a 16¢ per gallon gasoline tax and an additional 4¢ per gallon gasoline tax for the sole purpose of completing projects in the Transportation Infrastructure Model for Economic Development Program (TIMED) program. In addition to the gasoline and motor fuels tax, the revenues from the motor vehicle license tax are also dedicated to the TTF.[2]

Louisiana Constitution Article VII, §27(B) provides for the use of the funds within the TTF:

> The monies in the trust fund shall be appropriated or dedicated solely and exclusively for the costs for and associated with construction and maintenance of the roads and bridges of the state and federal highway systems, the Statewide Flood-Control Program or its successor, ports, airports, transit, state police for traffic control purposes, and the Parish Transportation Fund or its successor and for the payment of all principal, interest, premium, if any, and other obligations incident to the issuance, security, and payment in respect of bonds or other obligations payable from the trust fund as authorized in Paragraph (D) hereof.

Louisiana Constitution Article VII, §27(B) further provides that the appropriation from TTF to the ports, the Parish Transportation Fund, the Statewide-Flood Control Program, and state police for traffic control purposes cannot exceed 20% annually of the tax revenues of the TTF. However, no less than the avails of 1¢ of the gasoline tax is to be annually appropriated to the Parish Transportation Fund.

The Establishment of the Transportation Trust Fund

Prior to 1989, the 16¢ tax on gasoline and other motor fuels was not dedicated to highways. At the time, Louisiana had a long-range priority system to determine the needs of state highways and bridges based on annual evaluation of condition, traffic count, and safety. The program allowed the Legislature to determine the amount to be appropriated annually.

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[1]Louisiana Constitution Article VII, §27(B).

[2]Louisiana Constitution Article VII, §5. This is sometimes referred to as the "motor vehicle" or "automobile" registration tax or fee.

In 1989, evaluations indicated that *$2.9 billion was needed over the next ten years to bring state highway bridges up to federal minimum standards*. The $2.9 billion did not include inflation nor interest if bonds were to be used.[3] Also, at the time, the state was facing a reported *budget shortfall of at least $400 million dollars* if it did not reduce state spending and renew sale taxes that were set to expire. In addition, budget cuts had resulted in the elimination of 6,000 state employees since the election of Governor Roemer in 1987.[4]

Act No. 847 of the 1989 Regular Session was passed seeking voter approval to establish the TTF within the Louisiana Constitution and to dedicate the 16¢ gasoline tax to it.[5] The Public Affairs Research Council of LA, Inc.'s 1989 "Guide to the Proposed Constitutional Amendments" explained that "Trust fund revenue would be restricted to construction and maintenance of state and federal highways and bridges, statewide flood control, ports, airports, state police for traffic control, and parish roads. Expenditures would have to conform to established priority programs except for the TIMED projects."

Act No. 16 of the 1989 First Special Session sought to levy a 4¢ additional gasoline and motor fuel tax to finance the TIMED program. This was a companion act to Act No. 847 of the 1989 Regular Session as it was contingent on the passage of the constitutional amendment proposed in Act No. 847 of the 1989 Regular Session. The TIMED program would widen 536 miles of state highways to four lanes on 11 project corridors, widen and/or add new construction on 3 major bridges, and provide for improvements to both the Port of New Orleans and Louis Armstrong International Airport. While Act No. 16 established a 4¢ per gallon gasoline fuel tax, the taxpayers would actually only be paying an additional 2¢ more rather than 4¢ more on a $1 gallon of gasoline or motor fuel because the amendment proposed in Act No. 847 would permanently remove a state sales tax on gasoline.[6]

In these hard times, 71% of voters approved of these gasoline tax measures.[7] Task force discussions have focused on the need to honor the commitment made to the voters in 1989 and to responsibly use TTF and TIMED dollars.

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[3]http://www.parlouisiana.org/s3web/1002087/docs/Constitutional%20Amendment%20Archive/CA1989_Oct.pdf.

[4] "Louisiana Changes Course and Accepts Tax Increase", Francis Frank Marcu, Special to *The New York Times*, published October 9, 1989, http://www.nytimes.com/1989/10/09/us/louisiana-changes-course-and-accepts-tax-increase.html.

[5]http://www.parlouisiana.org/s3web/1002087/docs/Constitutional%20Amendment%20Archive/CA1989_Oct.pdf.

[6] *Id.*

[7]"Louisiana Changes Course and Accepts Tax Increase", Francis Frank Marcu, Special to *The New York Times*, published October 9, 1989, http://www.nytimes.com/1989/10/09/us/louisiana-changes-course-and-accepts-tax-increase.html

Where We Are Today

Much like in 1989, the state is facing a budget shortfall. Also, much like in 1989, the state has a backlog of infrastructure projects including but not limited to capacity, preservation, safety, ports, airports, and rail. The current administration has done an extremely admirable job of reducing the backlog with state surpluses and federal stimulus dollars. Nevertheless, the backlog is still large and infrastructure projects all over the state remain unfunded.

In addition, dollars for preservation projects are limited. It is estimated that an annual minimum of $70 million is necessary to meet federal match requirements for a well rounded preservation program. We currently dedicate approximately $26.7 million to match federal funds under a restructured preservation program which is focused primarily on interstate highways.

These needs continue to grow as the purchasing power of the state and federal gas tax has eroded. In 2014 dollars, the 16¢ gas tax has the purchasing power of 6.9¢.[8] Due to this diminished purchasing power, there has been much attention given to how our state TTF dollars are being spent.

Discussion in multiple task force meetings has focused on the appropriation of up to 20% of the TTF monies for purposes other than that of maintenance and construction of state highways and bridges. Particularly, this discussion has focused on the appropriations to the Parish Transportation Fund[9] (PTF) and to state police for traffic control purposes. Over the years, the appropriations to these entities through the general appropriations bill (House Bill No. 1) have varied based upon the need at the time and various budgeting factors. A 12-year summary of the appropriations of TTF monies to the PTF and for traffic control purposes is attached to this report as Appendix A.

While the appropriations to the PTF and for traffic control benefit our transportation system as a whole, task force members have questioned whether it is prudent to provide the PTF with more than the constitution requires and if we are wisely using the TTF dollars for traffic control purposes while the needs for highways and bridges are so great.

The task force also heard testimony regarding how current Louisiana law provides for a scheduled phase-in of the motor vehicle sales tax collections to the TTF (93%) and to the Transportation Mobility Fund[10] (TMF) (7%). This phase-in was to have begun in Fiscal Year 2008-

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[8] Southern Legislative Conference, Louisiana Department of Transportation and Development, DOTD Secretary Sherri H. LeBas, P.E., https://www.slcatlanta.org/AR2014/presentations/Econ_LeBas.pdf

[9] The Parish Transportation Fund is a fund within the treasury which is made available to parishes for road purposes from funds annually appropriated by the legislature in accordance with Art. VII, §27 of the Constitution of Louisiana. La. R.S. 48:752(1).

[10] The Transportation Mobility Fund was created as a special fund in the state treasury to be administered and disbursed by the Louisiana Transportation Authority (LTA). La. R.S. 48:2112. To qualify for funding from this fund, a project shall be either a mega project from Priority A through D of DOTD's Statewide Transportation Plan or

2009 and to have been completed in Fiscal Year 2014-2015, at which point 100% of collections would be dedicated to these funds. However, current law also provides for the phase-in to be effectively conditioned upon the official revenue forecast exceeding the forecast for Fiscal Year 2008-2009 that was adopted on May 9, 2008 (or $9.703 billion State General Fund forecast). No official forecasts have yet exceeded that level, and the dedication of the sales tax has not been implemented.[11]

The furthest that the Revenue Estimating Conference (REC) has forecasted for is for Fiscal Year 2018 with that number being a $9.107 billion State General Fund. DOTD has extrapolated out based on the REC's forecasts and expects to reach the trigger in Fiscal Year 2020. The Legislative Fiscal Office testified that if there was more normalized growth (in the 3-4% range) it could be possible to reach the trigger by 2020.[12]

DOTD Responsibilities, Revenues, and Expenditures [13]

DOTD Responsibilities

The Department of Transportation and Development (DOTD) is responsible for 16,655 state roadway miles, including 931 miles of interstate. In addition, the state owns 7,982 bridges and manages off-system bridge federal funds for 5,222 locally owned bridges. DOTD also manages port, flood, and aviation priority programs, works with freight programs, manages funds received from the Federal Transit Administration for public transit, and works with levee districts in North Louisiana.

DOTD's scope of responsibility includes the following:

- 3.6 million acres mowed annually
- 25,295 cubic yards of litter removed
- 3000 plus highway-rail crossings
- 3000 plus traffic signals
- 1 million plus traffic signs
- Over 745 buildings and 16 rest areas
- 4 ferry service locations

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identified as a mega project by the LTA, and recommended by the LTA to be included as a mega project in an update of DOTD's Statewide Transportation Plan. La. R.S. 48:2113.

[11] Legislative Fiscal Office, Fiscal Note, HB No. 778 of the 2014 Regular Session.

[12] Testimony by Dr. Eric Kalivoda, Deputy Secretary, DOTD, and Greg Albrect, Chief Economist, Legislative Fiscal Office for the State of Louisiana, September 10, 2014, Transportation Funding Task Force Meeting.

[13] Transportation Funding Task Force, Sherri H. LeBas, P.E., DOTD Secretary, September 10, 2014.

DOTD Budget and Expenditures[14]

In Fiscal Year 2014-2015, DOTD's operating and capital budget was roughly $1.7 billion, with NO revenues coming from the State General Fund. The breakdown and source of that amount is as follows:

- $868 million federal funds
- $595 million TTF dollars (16¢ gas tax, automobile registration fees, aviation fuel tax, self-generated dollars)
- $118 million TIMED/TTF funds
- $63 million GO Bonds/Other (new cash lines of credit from HB 2)
- $50 million State Highway Improvement Funds (truck registration fees)
- $50 million self generated (ferry charges, matching funds from municipalities/equipment buy back, weight permits, interest, fines)
- $26 million Interagency Transfers

In Fiscal Year 2014-2015, DOTD's expenditures are expected to be as follows:

- $753 million capital outlay, engineering (the majority of which represents actual construction with a small portion for engineering services)
- $176 million debt service (payment $118 million from 4¢ gas tax, pulling $27 million from 16¢ gas tax for TIMED debt service, $31 million bonded out for half of Highway Improvement Fund for non-federal aid roads)
- $136 million capital outlay (non-highways - port, aviation, transit)
- $106 million non-DOTD dedicated ($46 million Parish Transportation Fund, $60 million to Department of Public Safety)
- $19 million non-federal eligible roads (pay as you go)
- $580 million operating budget (maintained a mostly flat operating budget since 2010)

The following funding streams supplement the state imposed gas tax:

- Dedicated auto registration fees to the TTF
- Dedicated truck/trailer registration fee to Highway Improvement Fund
- State sales tax on new and used vehicles to TTF (2008)
  - Subject to general fund threshold and not yet implemented
  - Could generate over $400 million annually
- $15 million appropriated from Unclaimed Property Fund for use on I-49 corridor, both north and south

[14] These figures are current as of the September 30, 2014, task force meeting. Through allowable budget restructuring, amounts may vary today.

TIMED Funding

As discussed previously, the TIMED Program was developed to widen 536 miles of state highways to 4 lanes on 11 project corridors, widening and/or new construction on 3 major bridges and improvements to both the Port of New Orleans and Louis Armstrong International Airport. All but two of the TIMED projects are complete. The last 2 projects include La. 3241 (I-12 to Bush) and Florida Avenue (Elysian Fields to Paris Road).[15]

There are $2.7 billion in bonds outstanding issued for the TIMED program. Annual debt service for these bonds is $139.8 million in Fiscal Year 2014-2015, $154.5 million in Fiscal Year 2020-2021, with a maximum annual debt service of $224.1 million occurring in Fiscal Year 2042-2043.

Total projected 2014-2015 gas and fuel revenues are $587.6 million, consisting of $117.5 million from the 4¢ and $470.1 million from the 16¢.[16]

The debt service on the TIMED bonds in Fiscal Year 2014-2015 is expected to use $22.3 million from the 16¢ portion of the gas tax. By Fiscal Year 2017-2018, $26.7 million will be needed from the 16¢ portion of the gas tax to meet debt service on the bonds issued for TIMED projects. The debt service on the existing debt is climbing faster than expected revenue growth. [17]

Federal Transportation Funding Overview[18]

The federal government surface transportation programs are financed mostly through the Highway Trust Fund, an accounting mechanism in the federal budget which is comprised of two separate accounts: one for highways and one for mass transit.

The federal gas tax currently stands at 18.4¢ per gallon and is the major source of funding for the Highway Trust Fund. This tax was last raised in 1993. By 2013, this tax had lost 38% of its purchasing power and it is estimated that by 2024, that number will climb to 52%.

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[15] Transportation Funding Task Force, Sherri H. LeBas, P.E., DOTD Secretary, September 10, 2014.

[16] During the January 12, 2015 task force meeting it was noted that this amount conflicts with the amount of TTF revenues as presented by DOTD (page 11). DOTD's number includes automobile registration fees, self-generated dollars, as well as other TTF dollars and the number noted here only includes gas and fuel tax revenues.

[17] Presentation to the Transportation Funding Task Force by Louisiana State Treasurer John Kennedy, September 30, 2014.

[18] "Transportation Funding in the States", presentation before the Louisiana Transportation Funding Task Force, Louisiana State Capitol, September 10, 2014, Sujit M. CanagaRentna, Fiscal Policy Manager, the Council of State Governments', Southern Office, Southern Legislative Conference (SLC).

The average state gets about 52% of its highway and bridge capital outlays from the federal government through the Highway Trust Fund though there are wide variations, with a low of 35% in New Jersey and a high of 100% in Rhode Island.

Over the past 10 years outlays from the Highway Trust Fund have exceeded revenues by more than $52 billion and outlays will exceed revenues by an estimated $167 billion between 2015 and 2024, if obligations from the fund continue at the 2014 rate.

Three major factors driving the looming funding gap in the Highway Trust Fund are as follows: (1) The federal gas tax has not been increased since 1993, is not indexed for inflation, and has lost considerable purchasing power in the last 20 plus years, (2) Growth in use of alternative fuel vehicles, and (3) Reduction of vehicle miles traveled given vast improvements in vehicle fuel efficiency and people deciding to live closer to their work places, keeping driving to a minimum, and forgoing cars completely in certain parts of the country.

Since 2008 Congress has addressed these shortfalls by transferring $54 billion, mostly from the general fund of the treasury, to the Highway Trust Fund.

On July 31, 2014 Congress approved a 10 month patch to the Highway Trust Fund which transferred $10.8 billion to ensure that state transportation programs were funded through May 2015.

Transportation experts and stakeholders have been clamoring for a long-term solution and a long term funding deal to finance our nation's transportation and infrastructure system since fiscal year 2008. These experts and stakeholders have been advocating for a 6-year, $330 billion plan with stable long term funding sources, but so far Congress has only delivered short term solutions. Experts note that the average household pays $46 in federal and state gas taxes every month, an amount lower than other utility expenditures (electricity, gas, internet, cellular service). These experts also contend that a 10¢ per gallon increase in the federal gas tax would amount to an additional cost of $1.15 for the average driver per week, a change which would significantly boost the position of the Highway Trust Fund.

As the First Session of the 114th Congress begins, Senator Inhofe (R-OK), chairman of the Environment and Public Works Committee, is reported as stating that a long-term highway infrastructure bill is a top priority and, while nothing is off the table, a federal gas tax increase will be an uphill battle.[19]

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[19] *"Key GOP Senator says gas tax hike on the table"*, Timothy Cama, *The Hill*, January 7, 2015. http://thehill.com/policy/energy-environment/228833-key-gop-senator-says-gas-tax-hike-possible

Public Private Partnerships[20]

Public–private partnerships are long-term contractual arrangements where a public entity partners with the private sector to build or operate, or both, infrastructure projects. In return for building or operating, or both, the projects, the private partner receives payments from the government entity and/or has the right to collect revenues from the project. Public-private partnerships can potentially provide several advantages over publicly managed infrastructure projects. A spectrum of alternative public-private partnership arrangements are available to governments and offer distinctly different approaches to involving a private partner.[21]

During task force discussions about public-private partnerships, it was noted that the public perception of public-private partnerships is that a private entity funds the entire project without public funds. However, as explained during task force meetings, a public investment is required to be made as well.

Also noted in task force discussions was that private entities also use traffic counts to determine if a project is feasible. Louisiana may not have any areas with high enough traffic counts to attract a private entity to invest in such a project.

However, there are a wide spectrum of public-private partnership alternatives available and Louisiana should seek to find innovative ways beyond traffic counts to attract public-private partnerships.

Some public-private partnership alternatives include:[22]

- Operation and Management Contracts: Public sector owns facility, but it is operated by the private sector.
- Leases: Private firm operates and manages project and collects revenue from the public.
- Design, Build, Finance, Operate, and Maintain: Private sector constructs/operates the project; ultimately transfers it back to the public sector.

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[20] Louisiana law provides for the ability the state to enter into public-private partnerships. Act No. 304 of the 2006 Regular Legislative Session authorized the Louisiana Transportation Authority to enter into public-private partnerships agreements for the construction of qualifying transportation facility projects.

[21] "Louisiana Transportation Infrastructure Financing: A National Perspective", October 30, 2014, J.P. Morgan, Jamison Feheley, Managing Director, Head of Public Finance Banking, Don Wilborn, Managing Director, Antii Suhonen, Vice President. For informational purposes only.

[22] *Id.*

- Concession Agreements (Long-term lease): Concessionaire has responsibility for maintenance and capital expenditure.

- Privatization: Sale of asset.

The potential advantages of public-private partnerships are as follows:[23]

- Risk Transfer: The use of public-private partnerships can transfer the construction and/or operating risk of an infrastructure project from the taxpayers to the private partners.

- Provide significant up-front proceeds: The concession sale (long-term lease) of current infrastructure can provide significant up-front proceeds that can be used by governments for the construction of other much needed projects or used for other purposes.

- Delivery of much needed infrastructure: Public-private partnerships can provide an important alternative for financing green filed infrastructure projects particularly when governmental financial capacity is limited.

- Minimize cost to taxpayers: The private sector is often more efficient than governments in operating/constructing new infrastructure and, also, can often utilize more aggressive financing structures. These cost savings are passed through to the government entity through a competitive bid process.

- Take advantage of private sector expertise: In addition to the cost savings that private sector expertise can provide, a private sector operator often provides a higher level of service than government operators as their financial returns are directly affected.

- Tolls not taxes.

- Private equity versus public debt.

- Expedited completion times.

- Project cost savings.

- Enhanced quality and system performance.

- Substituting private resources and personnel for limited public resources.

- Access to new sources of private capital.

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[23] The source for the first five bullet points is J.P. Morgan's presentation to the task force and the source for the final bullet points is Sujit M. CanagaRentna's presentation to the task force.

The potential disadvantages or risks of public-private partnerships are as follows:[24]

- Government can lose control if contract does not establish proper oversight.
- Long-term nature of agreements can be problematic if not structured properly.
- Lack of communication with all stakeholders (public, legislators, environmental, investors, etc.) can lead to costly delays.
- Lack of asset/transaction preparation can lead to a suboptimal bidding situation that does not maximize value.
- Proceeds can dry up quickly if not clearly identified and does not match the term of the contract.
- Lack of in-house public sector expertise to negotiate complex public private partnership agreements.
- States lose control/access to key public infrastructure assets.
- Public private toll facilities may be insufficiently regulated to protect the public from unreasonably high toll rates or excessive profits.
- Non-compete clauses.
- Length of terms of agreements.
- Role of the federal government in the approval process.
- Solicited or unsolicited public private partnership projects may result in adverse fiscal outcomes for states.

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[24] The source for the first five bullet points is J.P. Morgan's presentation to the task force and the source for the final bullet points is Sujit M. CanagaRentna's presentation to the task force.

The current state of the United States public-private partnership market can be described as follows:[25]

- For the past few years, green field transactions have led the way while brown field monetization opportunities have been limited. Brown field transactions face meaningful political obstacles and the added value to the project sponsor through a brown field monetization is limited by a trend of increased municipal leveraging, toll increase discipline, and outsourcing operations.

- Availability payment transactions have become the dominant structure while revenue risk concessions are less frequently seen. Availability payment transactions are more financially feasible, as the government sponsor is willing to take on revenue risk in exchange for a lower cost of capital. Revenue risk concessions are more costly to the government sponsor as they typically require a greater amount of equity and often receive lower ratings, leading to a more costly capital structure.

Replacing the Current Sixteen Cent Fuel Excise Tax with an Eight Percent Tax on All Fuels[26]

Assuming a base price of a gallon of gasoline was $2.866,[27] an additional $210 million per year could be generated by swapping the 16¢ per gallon tax for an 8% sales tax, applying it to all fuels including any fuel that is currently excluded from the existing excise tax, and leaving the current 4¢ tax per gallon for TIMED projects intact.[28] The additional cost burden on an average driver in the state would be $3.65 a month. However, in light of the constant fluctuation of gas prices, the establishment of a floor would be necessary to ensure the current level of revenues.

This proposal would include changes to the management structure of DOTD, highway district restructuring, "right-sizing" the state surface transportation infrastructure, tying that "right-sizing" to revenue sharing with local entities, and increasing the role of metropolitan planning organizations.

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[25] "Louisiana Transportation Infrastructure Financing: A National Perspective", October 30, 2014, J.P. Morgan, Jamison Feheley, Managing Director, Head of Public Finance Banking, Don Wilborn, Managing Director, Antii Suhonen, Vice President. For informational purposes only.

[26] Selected Funding Proposals Presented in New Model for Louisiana's Transportation System presented by Kam Movassaghi, Ph.D., P.E., F.ASCE.

[27] This gallon of gasoline base price is based upon a $3.25 sales price of gasoline. The sales price would include the 18.4¢ federal excise tax and the 20¢ state excise tax.

[28] The task force recognizes that this proposal would require legislation and that these dollars are currently pledged to pay bonds.

Providing Tax Incentives for Private Investments in Development of Major Transportation Projects[29]

With the decreased ability of federal and state agencies to meet the accumulated needs, more states are turning to various means of attracting private funds for transportation. Investment in transportation creates both temporary and permanent jobs, as much or perhaps more than the equivalent investment in an industrial plant. Further, an effective transportation system opens the door to further economic development. Today, the address of choice for an industry considering relocation is that of an interstate highway.

Providing such incentives for new corridor development will attract investments in new transportation projects in Louisiana. The program should include investments in highways, rail, waterways, ports, and airports.

Providing Opportunities for Local Governments to Raise Revenue for their Local Transportation Projects[30]

Parishes and municipalities are prohibited from taxing motor fuel.[31] Additionally, fuels subject to the 20¢ excise tax are exempt from state and local sales taxes[32]. With limits on property and general sales taxes, local entities are limited from generating revenues for their local transportation needs. Allowing local governments to raise revenue for their transportation projects would reduce dependency on state funding and provide opportunities to enhance local transportation networks.

Issuing Additional Gas and Fuels Tax Bonds[33]

One cent of gas and fuel tax revenues generates about $30 million annually, which could raise approximately $418 million in bond proceeds, assuming a 20 year, level debt service schedule at current market rates. New bonds would require legislation. Bonds would need to be issued under a new bonding program that would allow projects other than the TIMED projects. The state would get the best ratings and market acceptance for new gas and fuels bonds by simultaneously closing

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[29] Selected Funding Proposals Presented in New Model for Louisiana's Transportation System presented by Kam Movassaghi, Ph.D., P.E., F.ASCE.

[30] *Id.*

[31] La. R.S. Art. 7, §4(C).

[32] La. R.S. Art. 7, §7(27)(A).

[33] Presentation to the Transportation Funding Task Force by Louisiana State Treasurer John Kennedy, September 30, 2014.

off the ability to issue additional TIMED bonds. Under the TIMED Program, 2 projects remain to be funded on a pay-as-you-go basis and authorization to issue additional new money bonds expired on December 31, 2012.

Theoretically, the state could refund existing gas and fuels bonds with some other source, thereby making revenues available to pay debt service on new gas and fuels bonds for new projects. However, such a refunding would be economically inefficient because the existing debt is not currently callable.

A more efficient approach would be to simply sell new general obligation (GO) bonds for the new transportation projects instead of using the GO bonds for a refunding of gas and fuels debt. With GO bond interest rate borrowing costs being lower than gas and fuels, such an approach could raise approximately $432 million for new transportation projects.

New gas and fuel tax bonds, or new GO bonds for new transportation projects, would be subject to the net state tax supported debt limit.

Approximately $1.4 billion net state tax supported debt can be issued between Fiscal Year 2014-2015 and Fiscal Year 2017-2018 within the 6% constraint, assuming $415 million in debt for Fiscal Year 2014-2015 and $350 million annually after that.

Mandating that for Specific Period of Time A Certain Percentage of the Capital Outlay Bonding Capacity Be Dedicated to Transportation Infrastructure Needs

At a September 30, 2014 task force meeting, Treasurer Kennedy suggested mandating that for specific period of time, possibly 3 years, that a certain percentage of the capital outlay bonding capacity, possibly 60%, be dedicated to transportation infrastructure needs.[34]

Based on the project descriptions in the Capital Outlay Acts, it appears that the percentage of funding for roads, highways, and bridges are as follows:

- Fiscal Year 2015 23.07%
- Fiscal Year 2014 34.26%
- Fiscal Year 2013 35.46%
- Fiscal Year 2012 34.49%
- Fiscal Year 2011 24.80%

It was pointed out that this proposal would only include one-time money and that non-state projects are currently statutorily limited to no more than 25% of the cash line of credit capacity for

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[34] *Id.*

projects in any fiscal year. In addition, except in limited circumstances, non-state entity projects require a match of not less than 25% of the total requested amount of funding.[35]

Appropriating TTF Monies to Programs Other than those Administered by DOTD

As previously noted, TTF monies appropriated to entities besides DOTD have varied over the years.

In Fiscal Year 2014, $46.4 million was appropriated to the PTF. It has been noted that had this amount been limited to the 1¢ required by the constitution then approximately $16 million would have been available for use for ports, airports, and flood control. However, this matter would need to be addressed by an appropriation in the general appropriation bill (House Bill No. 1) and would not necessarily require a new or different funding mechanism.

Also, there has been discussion about TTF monies appropriated to State Police for "traffic control purposes" as permitted by Louisiana Constitution Article VII, §27(B). Neither the constitution or statutes provide a definition of "traffic control purposes". It has been suggested that legislation be proposed to define "traffic control purposes" in such a way that only includes incident specific items such as hurricane evacuation control and accident response. While not a funding mechanism, defining this term in this manner would possibly require administrations and the legislature to more closely examine TTF monies appropriated to State Police.

2014 Regular Legislative Session Transportation Funding Instruments

A number of transportation funding bills were filed by Senator Adley and Representative St. Germain during the 2014 Regular Legislative Session.

Both Senator Adley and Representative St. Germain had legislation seeking to remove or ease off the "trigger" in place for moving the motor vehicles sales tax revenues into the TTF.[36]

Senator Adley filed legislation to create the "Better Highways and Education Fund" and to dedicate sales tax proceeds on Internet-driven retail purchases made in the future to it.[37]

Other legislation by Representative St. Germain sought to create a Louisiana Infrastructure Bank and to set up a revolving loan program for local governments to finance road and infrastructure projects. This legislation would have permitted the treasurer to invest public funds into the

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[35] La. R.S. 39:112(E).

[36] HB No. 979, Rep. St. Germain, and SB No. 109, Sen. Adley, of the 2014 Regular Legislative Session.

[37] SB No. 463 of the 2014 Regular Legislative Session, Sen. Adley.

Louisiana Transportation Infrastructure Bank and would have permitted a portion of excess mineral revenues to be used by the bank.[38]

There has been discussion at task force meetings about some of these instruments being filed again in the upcoming 2015 Regular Legislative Session.

Dedicating a Portion of Excess Mineral Revenues to Transportation Infrastructure Projects

The constitution provides for the disposition of and specific purposes for which state mineral revenues may be utilized.

1. Up to $850 million per year in mineral revenues may be used to support the state operating budget. This is known as the "base" and this amount may be increased every 10 years by a law enacted by two-thirds vote of the legislature. The amount of any such increase is limited to an amount equal to 50% in the aggregate of the increase in the consumer price index for the immediately preceding 10 years. The base was last increased in 2004 from $750 to $850 million. The base could be increased at this point in time.

2. Certain specific mineral revenues are dedicated for the Wildlife and Fisheries Conservation Fund and the Louisiana Education Quality Trust Fund.

3. State severance tax: One-fifth of tax collections are distributed to the parish in which the severance occurs.

4. Royalties from mineral leases on state land: One-tenth is distributed to the parish in which severance or production occurs (excluding property within the Russell Sage Wildlife and Game Refuge).

The constitution provides that after satisfaction of the allocations to the Conservation Fund, the Louisiana Education Quality Trust Fund, and parish governments, and after $850 million has been allotted for use in the operating budget, remaining mineral revenues ("excess mineral revenues") are deposited into the Budget Stabilization Fund until that fund is at its maximum legal balance, currently $845 million. The current fund balance is $445 million. This fund was established as a way to provide a cushion for a "rainy day" by retaining those excess mineral revenues and certain other nonrecurring monies.

In Fiscal Year 2010, a law was passed to temporarily suspend deposits into the Budget Stabilization Fund so that more mineral revenues could be used in the operating budget (mineral

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[38] HB Nos. 628, 979, 884 of the 2014 Regular Legislative Session, Rep. St. Germain.

revenues in excess of the $850 million limit). The suspension of deposits from mineral revenues expires July 1, 2017. Also, in addition to the prohibition on deposits of mineral revenues, new law also requires that each year at least $25 million from any source be deposited into the Budget Stabilization Fund.

There is no certainty that there will be "excess" mineral revenues in any fiscal year, since such occurrence is highly dependant upon the price of oil and gas. However, as the State General Fund is weaned from the temporary use of these excess revenues, the maintenance and construction of the state's infrastructure could be added as a priority for use of mineral revenues, just as those provided for land and wildlife conservation, education, and support of local government.

Revisiting the "Trigger" on the Dedication of the Motor Vehicle Sales Tax to the Transportation Trust Fund and the Transportation Mobility Fund

As previously discussed, the task force has also heard testimony regarding how current Louisiana law provides for a scheduled phase-in of the motor vehicle sales tax collections to the TTF (93%) and to the TMF (7%) which is effectively conditioned upon the official revenue forecast exceeding the forecast for Fiscal Year 2008-2009 that was adopted on May 9, 2008 (or $9.703 billion State General Fund forecast). This condition is often referred to as a "trigger."

The Legislative Fiscal Office indicates that once the "trigger" is met the entire amount of motor vehicle sales tax collections would flow to the TTF and TMF.

Given the need for transportation funding, perhaps the state may wish to revisit the scheduled phase-in of the motor vehicle sales tax collections to the TTF and to the TMF. One possible manner in which to address this issue could be to amend the law such that only the incremental amount above the threshold would flow to the TTF and TMF.

Specifically, Senator Adley and Representative St. Germain have discussed the possibility of proposing legislation to remove this "trigger". The pair further proposes dedicating the first $100 million collected in the next fiscal year from this tax to the TTF and requiring that $70 million of that $100 million be dedicated to state surface system preservation needs. The additional $30 million would then be appropriated in a balanced manner to other projects such as those of ports, capacity projects, and other priority projects.

Senator Adley and Representative St. Germain further suggest that the law be amended to remove the dedication of any of these dollars to the TMF and instead dedicate what would have gone to the TMF to a state infrastructure bank which would provide loans to local governments for needed transportation projects in their areas.

Since the amount of mineral revenues allocated to the State General Fund may be increased at this time, Senator Adley and Representative St. Germain suggest that the $100 million loss to the State General Fund that would be created due to the dedication of the motor vehicle sales tax monies

could be mitigated by raising the amount of mineral revenues allocated to the State General Fund from $850 million to $950 million beginning in Fiscal Year 2016-2017.

LABI Items to Consider

LABI identified five items that the organization believes should be examined while seeking solutions for our transportation infrastructure funding needs. These items are as follows:

(1) Identify ways to phase out the reliance on appropriations of TTF monies to programs other than those administered by DOTD.

(2) As the state experiences economic growth, a phase in of the dedication of motor vehicle sales tax dollars to transportation projects needs to be reconsidered. However, any phase in of these dollars needs to be done in a deliberate manner.

(3) The concept of dedicating mineral revenues to transportation infrastructure should be discussed again. Any dedication of these funds to transportation infrastructure would have to be done along with a strong Budget Stabilization Fund. It was a concept that was brought up in the 2014 Regular Legislative Session, but there was not time to fully develop it. It generated great discussion in the interim.

(4) The hurricanes of 2005 brought tremendous economic growth to the state as well as growth in the state budget. The current boom in economic growth in Louisiana should result in a spike and fall in economic growth and the state budget again. The state should attempt to capture some of the dollars that will be generated as one-time monies during this growth and dedicate them to one time transportation infrastructure needs.

(5) Public-private partnerships are funding mechanisms worth exploring. Louisiana has a great model law, but traffic count may be an issue for some of the traditional public-private partnership projects. The state may want to identify one project to pursue using this financing method and go out to financial markets with it to have the market tell us how to proceed with it. New innovative funds may be interested in some of these projects. This concept will need to be more fully researched.

Special Fuels Tax Collection

Special Fuel Taxes in General

State taxes on special fuels are also constitutionally dedicated to the Transportation Trust Fund.[39] "Special fuels" are defined as "any gas or liquid, other than gasoline or diesel fuel, used or suitable for use as motor fuel in an internal combustion engine or motor to propel any form of

[39] Louisiana Constitution Article VII, §27(A).

vehicle, machine, or mechanical contrivance. The term includes, but is not limited to compressed natural gas (CNG), liquefied natural gas (LNG) and liquefied petroleum gas (LPG)."[40]

In 1991, there were essentially two different vehicle models that could be purchased and operated on fuels other than gasoline and diesel. Today there are more than 150 models that can be purchased and operated on fuels other than gasoline and diesel. In addition, today consumers display an increased willingness to purchase vehicles that operate on fuels other than gasoline and diesel.[41] As more vehicles are developed to run on special fuels or alternative sources of energy, Louisiana should reexamine special fuels tax collection and enforcement methods to ensure that the growing number of owners or operators of special fuel vehicles pay for their use of Louisiana highways.

Current Special Fuels Tax Collection Method[42]

Gasoline and diesel fuel tax collection and special fuels tax collection differ greatly. For gasoline and diesel, the first handler that removes the fuel from the terminal rack (supplier or distributor) pays the excise tax. The excise tax is remitted to the Louisiana Department of Revenue (LDR) by the supplier/permissive supplier. The excise tax is then passed on at each subsequent purchase all the way to the retail level.

However, when special fuels are used to power a motor vehicle (special fuels vehicle) licensed or required to be licensed for use on Louisiana highways, the owner or operator of those vehicles pays the excise tax on these fuels to LDR by means of purchasing an annual special fuels decal. The decals are required to be renewed each year the special fuels vehicle is in use. Special fuel vehicles acquired, altered, or converted after July 1st of each year must be registered and have been issued a decal. A special fuels vehicle owner must complete a new application for vehicles using special fuels upon purchasing or converting a vehicle to be able to operate on special fuels. There is no mechanism in place to require an owner or operator of special fuels vehicles to pay the special fuels tax when the vehicle is registered with the office of motor vehicles or converted. The tax is collected on a voluntary basis by the owner or operator of the special fuels vehicle initiating contact with the LDR.

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[40] La. R.S. 47:818.2(62).

[41] Transportation Funding Task Force Meeting, February 20, 2015, Alex Schroeder, National Renewable Energy Laboratory, Transportation Technology Deployment Manager, "Alternative Fuel Taxes, Decals, and Compliance."

[42] Transportation Funding Task Force Meeting, February 20, 2015, Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue, "Special Fuels: A Primer on Compress Natural Gas, Liquified Natural Gas, Liquefied Petroleum Gas."

Special Fuels Tax Rates[43]

The rate of the state tax on special fuels utilized by special fuels vehicles depends on whether a vehicle has a gross weight of 10,000 pounds or less or over 10,000 pounds.

The owner or operator of a special fuels vehicle with a gross weight of 10,000 pounds or less pays the special fuels tax by paying either the annual flat tax in the amount of 80% of $150, based on a 16¢ per-gallon special fuels tax rate, or a variable rate of 80% of the current special fuels tax rate.[44]

The variable tax rate computation is based on estimated fuel efficiency of 12 miles per gallon, but cannot exceed the annual flat rate. In the event of an increase or reduction of the special fuels tax, the annual flat rate is to increase or decrease based on $150 at a 16¢ per-gallon special fuels tax rate rounded to the nearest dollar, and the variable rate is to be based on 80% of the per-gallon special fuels tax in effect.[45]

For example, if the owner of a special fuels sedan opted to pay the variable rate and drove the vehicle 10,000 miles annually then he would owe $133. However, if another special fuels sedan elected to pay the variable rate and ended up driving the vehicle 14,000 miles that year then the rate would equal $186.66, but the law limits the amount that owner would pay to $150.[46]

The owner or operator of a motor vehicle having a gross weight of more than 10,000 pounds is required to pay the special fuels tax by paying the rate of 80% of the special fuels tax rate in effect on all such fuel used. The aggregate annual tax paid by such person cannot be less than 80% of $150 based on a 16¢ per-gallon special fuels tax per motor vehicle. For the purpose of determining the amount of the tax and enforcing this law, the number of gallons of special fuels used the previous year on Louisiana highways is determined by using the following schedule for calculating the number of miles per gallon:[47]

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[43] *Id.*

[44] La. R.S. 47:818.102(A).

[45] *Id.*

[46] Transportation Funding Task Force Meeting, February 20, 2015, Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue, "Special Fuels: A Primer on Compress Natural Gas, Liquified Natural Gas, Liquefied Petroleum Gas."

[47] La. R.S. 47:818.102(B).

	TYPE OF VEHICLE	MILES PER GALLON
(1)	Any motor vehicle with two axles that has a gross license tag weight classification of 10,000 pounds to 20,000 pounds	9
(2)	Any motor vehicle with two axles that has a gross license tag weight classification in excess of 20,000 pounds	7
(3)	Any motor vehicle or motor vehicles with a combination of three axles	6
(4)	Any motor vehicle or motor vehicles with a combination of four axles	5
(5)	Any motor vehicle or motor vehicles with a combination of five axles	

For example, the owner of a beverage delivery truck operated on special fuels that drives 10,000 miles annually, would owe $177. However, if the owner of the same truck drives 5,000 miles annually he would owe $150 because the amount cannot be less than $150.[48]

However, the owner of a school bus, including school board owned buses, which transports Louisiana students and is propelled by an internal combustion engine or motor capable of using special fuels as fuel pays the special fuels tax by paying an annual flat rate in the amount of $75.[49]

Number of Special Fuels Decals Issued and Renewed [50]

The total special fuels decals issued by LDR is growing each year. In the fiscal year ending in 2006, 137 decals were issued, including new and renewed decals. In the fiscal year ending in 2014, 838 decals were issued, including new and renewed decals. Monies allocated to the Transportation Trust Fund from funds collected by LDR for the special fuels tax totaled $37,021.22 the fiscal year ending in 2007, and $101,761.74 for the fiscal year ending in 2014. Monies allocated to the TIMED account from funds collected by LDR for the special fuels tax totaled $9,255.30 for the fiscal year ending in 2007 and $25,440.34 for the fiscal year ending in 2014. The number of decals issued and monies allocated to the TTF and TIMED account for a number of fiscal years are attached to this report as Appendix B and Appendix C respectively.

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[48] Transportation Funding Task Force Meeting, February 20, 2015, Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue, "Special Fuels: A Primer on Compress Natural Gas, Liquified Natural Gas, Liquefied Petroleum Gas."

[49] La. R.S. 47:818.102(D).

[50] *Id.*

Enforcement of Special Fuels Tax Collection[51]

No special fuels vehicle can be issued a motor vehicle inspection certificate, as required by R.S. 32:1304, without a current decal as evidence of tax payment.[52]

Additionally, the penalty for failure to pay the special fuels excise tax is 5% of the amount due. One possible method to increase compliance with the requirement to pay this tax is to increase the penalty to an amount equal to the special fuels excise tax due.

Alternative Special Fuels Tax Collection Methods[53]

Currently, transportation fundamentals are changing and funding paradigms are being challenged. The growing number of motor vehicles operated by special fuels and alternative fuels increases the complexity in this area. Multiple fuels with varying energy contents, fuel delivery methods, and taxation schemes present challenges in enforcement, parity, and promotion. Decals and energy-content based taxation are two mechanisms being implemented across the country.

Decals are being used in some states as a mechanism for compliance, convenience, and incentive. The advantages of utilizing decals are that revenues are recovered from non-traditional fueling options, their use facilitates private fleet use of alternative fuels, and incentives the use of alternative fuels, especially for vehicles or fleets with relatively high fuel consumption. The disadvantages are that flat-fee decals effectively provide a subsidy to heavy alternative fuel users and a penalty on light-duty vehicle drivers. However, it is recognized that Louisiana has somewhat addressed this by setting special fuel rates in part based on vehicle weight. Another disadvantage of the decal system is that the burden of compliance is unclear resulting in possible situations of double taxation or no taxation at all. While some of states are implementing decals, there is no emerging methodology to determine an appropriate decal fee.

An additional challenge in taxing special fuels is that fuel taxes are generally based on volume and the current system of taxation does not accommodate variation among special fuels. For example, 1.53 gallons of LNG are necessary to produce the energy equivalent of a gallon of gasoline and 1.73 gallons of LNG are necessary to produce the energy equivalent of a gallon of diesel. Both the United States Congress and a number of states are seeking to pass legislation that equalizes taxes on LNG with that of diesel and New Mexico has established an energy equivalent tax for CNG, LNG, and LPG.

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[51] *Id.*

[52] La. R.S. 47:818.102(E).

[53] Transportation Funding Task Force Meeting, February 20, 2015, Alex Schroeder, National Renewable Energy Laboratory, Transportation Technology Deployment Manager, "Alternative Fuel Taxes, Decals, and Compliance."

A chart detailing recent legislation regarding special fuels taxes, as well as similar issues, in a number of states is attached to this report as Appendix D.

Clean Energy Proposal

Additionally, Senator Adley received a proposal from Clean Energy regarding taxing natural gas motor fuels at the pump. A summary of the Clean Energy proposal is attached to this report as Appendix E.

Clean Energy submitted the following summarization of their proposal:

> In conjunction with the increased utilization of natural gas vehicles, states have been reexamining their motor fuel tax statutes. This process has led to states moving away from administratively cumbersome tax decals in favor of taxing at the pump. This policy shift has also necessitated the adoption of unique units of tax called gallon equivalents. There are two types of gallon equivalent units: diesel gallon equivalent (DGE) and gasoline gallon equivalent (GGE). Each of these units represents an amount of natural gas which has the same energy content as a gallon of diesel or gasoline respectively. This method creates tax equality between traditional and natural gas motor fuels and in the marketplace allows for consumers to easily make price comparisons.[54]

Gas Tax: Flat vs. Indexing[55]

Flat fuel taxes lose purchasing power over time due to inflation. Construction and maintenance costs continue to rise at a rate higher than inflation.

Indexing fuel taxes to meet inflation has certain advantages. Indexing flat fuel taxes adheres to the "user fee" principal while providing for a more sustainable source of revenue. Indexing allows for automatic adjustments, including increases, that are more easily absorbed by the average tax payer. For example, a one cent increase would total a $5.16 increase in fuel taxes paid per year.

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[54] E-mail from Brett Barry, Public Policy and Regulatory Advisor, Clean Energy, to House of Representatives Committee on Transportation, Highways, and Public Works staff. Friday, March 6, 2015.

[55] Transportation Funding Task Force Meeting, February 20, 2015, Major General John Basilica, representative of Louisiana Good Roads & Transportation, "Transportation Funding Task Force Gas Tax Reform: Indexing."

A number of states have variable rate fuel tax programs where the tax either varies with gas prices[56], the Consumer Price Index[57], gas prices and the Consumer[58], gas prices and legislative spending decisions[59], or the Highway Construction Cost Index.[60]

Incorporation of Metropolitan Planning Organization Input[61]

The Louisiana Planning Council (LPC) serves as the state association of Metropolitan planning organizations (MPOs). Metropolitan planning organizations coordinate comprehensive short and long range federal, state, and local transportation plans and programs in urbanized areas. All modes of transportation are required to be considered and factored into MPO plans. Leveraging scarce transportation dollars at all levels of government including private sector resources is the primary challenge of each MPO.

Time is Money

Over the past 20 years Louisiana MPOs have individually and as a group, evaluated, proposed, recommended, and requested consideration of local option fuel taxes. Meanwhile, federal, state, and many local transportation streams have not retained their buying power while transportation infrastructure costs continue to increase. Further compounding the financial issue is that transportation infrastructure improvements regularly take a dozen or more years from start to finish (including even pavement markings and overlay projects). The timeline factor is frustrating to state and local elected officials and results in projects costing more than initially thought due to construction costs rising over time.

The LPC, on behalf of their members, offered the following recommendations to address these issues:

(1) Expedite roadway improvement schedules through a program of advanced arterial design between DOTD and MPOs working with local jurisdictions to determine cross

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[56] California, Connecticut, Washington, D.C., Georgia, Kentucky, North Carolina, New York, Pennsylvania, Virginia, Vermont, West Virginia.

[57] Florida.

[58] Maryland.

[59] Nebraska.

[60] Arkansas.

[61] Excepts from "Louisiana Planning Items to Consider", Matt Johns, President, Louisiana Planning Council, and Director of Operations, Rapides Area Planning Commission, February 20, 2015. Mike Hollier, Planning Manager for the Lafayette Metropolitan Planning Organization, and Kent Rogers, Executive Director for the North Louisiana Council of Governments, also participated in the presentation.

sections, access, utilities, safety, capacity, right-of-way, multiple leveraged funding streams, and sustainability (simultaneously with feasibility and environmental review).

(2) Protect the integrity and efficiencies of both State and MPO Short Range and Long Range Transportation Plans through the use of "Tripartite Agreements" which would bind DOTD, MPOs, and local governments to adopted area transportation plans and projects. After agreement on a project, it takes an average of 4 to 5 years to complete environmental and feasibility studies and as well design and engineering. This is all before spending monies on the physical roadway itself. In those 4 to 5 years, new state and local officials are elected, MPO membership changes, and administration at the state level changes. As these changes occur, highway priorities can change. These changes sometimes result in shelving projects for which a great deal of time, effort, and monies have been spent. Tripartite agreements approved by all parties involved may curtail this practice.

(3) Strengthen DOTD district offices and MPOs with independent funding and regulatory incentives to protect and facilitate area transportation plans and projects.

In addition to these three items, the LPC stated its opposition to reducing appropriations to the Parish Transportation Fund to the constitutional minimum with the caveat that the council would not oppose reducing appropriations to the Parish Transportation Fund should local governments have the option of taxing fuel at the local level.

Allowing Local Entities to Tax Fuels

During the February 20, 2015, task force meeting, an idea was proposed to possibly allow local entities to tax fuels in exchange for repealing the authority to impose inventory taxes.

As stated above, parishes and municipalities are prohibited from taxing fuels and MPOs have requested consideration of local option fuel taxes.

However, parishes and municipalities are authorized to levy their ad valorem property taxes on business inventory.[62] Generally, a refundable credit is allowed against state income taxes for 100% of these taxes paid to parishes and municipalities on inventory held by manufacturers, distributors, retailers and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.[63]

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[62] La. Const. Article 6, §§26 and 27.

[63] La. R.S. 47:6006.

Adopting this proposal could free up dollars that the state pays in the form of these refundable tax credits and, in exchange, give local entities the possibility of a new revenue stream to take care of infrastructure needs in their areas.

Obligating Parish Transportation Fund Monies

In addition, presentation participants suggested considering requiring obligation of monies appropriated from the Parish Transportation Funds in the year those monies were appropriated. Should this not occur, any balance of funds not appropriated by a parish during that year could be required to be transferred back to the Parish Transportation Fund to be distributed to other parishes that have obligated all Parish Transportation Fund monies appropriated to them. Participants likened this concept to how federal transportation dollars are required to be obligated by states and are redistributed to other states should a particular state not obligate those funds.

APPENDIX A

Fiscal Year	Parish Transportation Fund	Traffic Control
2002	$39,200,000	$40,043,794
2003	$39,200,000	$40,012,424
2004	$39,200,000	$39,712,441
2005	$39,200,000	$34,939,814
2006	$39,200,000	$34,844,633
2007	$47,962,500	$34,844,633
2008	$47,962,500	$0
2009	$47,300,000	$0
2010	$46,407,500	$0
2011	$46,400,000	$0
2012	$46,400,000	$37,828,213
2013	$46,400,000	$49,943,490
2014	$46,400,000	$59,842,208

APPENDIX B[64]

SPECIAL FUEL DECALS ISSUED AND RENEWED

Fiscal Year	New Decals Registered	Decals Renewed	Total Decals Renewed
FYE 14	245	593	838
FYE 13	214	453	667
FYE 12	274	161	435
FYE 11	46	121	167
FYE 10	15	117	132
FYE 09	8	105	113
FYE 08	11	117	128
FYE 07	7	123	130
FYE 06	5	132	137
Total	825	1,922	2,747

[64] Transportation Funding Task Force Meeting, February 20, 2015, Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue, "Special Fuels: A Primer on Compress Natural Gas, Liquified Natural Gas, Liquefied Petroleum Gas."

APPENDIX C[65]

MONIES ALLOCATED TO THE TTF AND TIMED ACCOUNTS FROM SPECIAL FUELS TAX COLLECTIONS

Fiscal Year	TTF	TIMED
FYE 15	$152,454.45	$38,113.88
FYE 14	$101,761.74	$25,440.34
FY 13	$76,280.84	$19,070.32
FY 12	$49,377.04	$12,344.45
FY 11	$27,702.08	$6,952.52
FY 10	$25,578.69	$6,394.67
FY 09	$25,484.66	$6,371.16
FY 08	$29,283.66	$7,320.92
FY 07	$37,021.22	$9,255.30
Totals	$524,944.37	$131,236.57

[65] Transportation Funding Task Force Meeting, February 20, 2015, Jarrod Coniglio, Deputy Secretary, Louisiana Department of Revenue, "Special Fuels: A Primer on Compressed Natural Gas, Liquified Natural Gas, Liquefied Petroleum Gas."

APPENDIX D[66]

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Alabama	DGE =6.06 lbs (no tax until Oct. 1, 2016)	GGE = 5.66 lbs (no tax until Oct. 1, 2016)	Decal (suspended as of 4/9/14 per HB 552)	HB 552 enacted 4/9/14; also addresses method of sale	Yes	Yes	Yes
Alaska	Gallon	None - they need one					
Arizona	No tax	No tax	Only applicable to LP				
Arkansas	GGE = 5.37	100 cubic feet	Only applicable to LPG vehicles				Yes
California	6.06 lb. (effect. 1/1/15)	5.66 lbs. or 126.67 cu. ft (effect. 1/1/15)	Yes	5.66 lbs. or 126.67 cu. ft. for CNG and 6.06 lbs. for LNG (AB 1907 enacted 9/29/14 - also addresses method of sale w/ DGE for LNG)	Yes	Yes	Yes
Colorado	DGE = 128,000 Btu; LNG taxed at 60% of rate to reflect lower energy content effective Jan. 1, 2014.	GGE = 114,000 Btu (126.67 cubic feet as effective Jan. 1, 2014)	Sticker				Yes

[66] Transportation Funding Task Force Meeting, February 20, 2015, Ann Vail Shaneyfelt, Executive Director, Clean Cities Coordinator, Louisiana Clean Fuels.

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Connecticut	1 scf = 0.012 gallons, or 83 cubic feet = 1 NG gallon	1 scf = 0.012 gallons, or 83 cubic feet = 1 NG gallon		HB 5466 enacted directs Revenue Dept. to develop conversion factors			
Delaware	gallon	None - they need one; open to using industry definition					
District of Columbia	gallon	None available					
Florida	6.06 lbs.	5.66 lbs. or 126.67	Repealed effective 1/1/2014		Yes	Yes	
Georgia	6.06 lbs.	per GGE; 1 Therm = 0.8 gallons			Yes		
Hawaii	per 130,000 Btu/LHV	per 130,000 Btu/LHV					

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Idaho	1.18 gallons	per therm - rate adjusted for energy content	Yes				
Illinois	GGE = 1.24 Therms	5.66 lbs. or 126.67 cu. ft. = 1 GGE (effective 8/21/2014)		SB 3369 DGE for LNG and GGE for CNG; also addresses method of sale; voted for DGE at NCWM meeting		Yes	
Indiana (surcharge added)	DGE effective 1/1/2014	GGE effective 1/1/2014	yes; repealed as of 1/1/2014	Adopted DGE for taxation; voted for DGE at NCWM meeting	Yes	Yes	
Iowa	DGE = 6.06 lbs. LNG (effective 7/1/14); Rate will be 22.5 cents p/DGE	100 cubic feet (rate adjusted for energy content); GGE = 5.66 lbs. or 126.67 cu. ft. (effect. 7/1/14); Rate will be 21 cents p/GGE		SB 2338 enacted 3/26/2014	Yes	Yes	
Kansas	DGE = 6.06 (effective 7/1/14)	GGE = 126.67 or 5.66 lbs. (effective 7/1/2014)	yes	HB 2057 enacted 4/17/2014	Yes	Yes	

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Kentucky (surcharge added)	6.06 lbs. as of 8/1/14	5.66 lbs.			Yes	Yes	
Louisiana	GGE	GGE	yes				
Maine	57% of diesel rate	GGE = 123.66; tax rate p/ 100 cubic feet					
Maryland	Not sure	1 cf = .00831 gallons or 125 cu. Ft. = 1.04 gls.					
Massachusetts	4.23 lbs. = GGE; Rate based on percentage of sales price for LPG	4.23 lbs. = GGE; Rate based on percentage of sale price for LPG					
Michigan	6% sales tax	6% sales tax					
Minnesota	gallon but rates adjusted for energy content based on assumption that 1.65 LNG gl = GGE	100 cubic feet					
Mississippi	GGE = 126.67 cubic feet (tax per DGE 6.06 lbs. effective July 1, 2015)	GGE = 126.67 cubic feet	Decal (not for LNG after July 1, 2015)	HB 1590 enacted 3/31/2014	Yes		

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Missouri	6.06 lbs. = DGE (effective Jan. 1, 2016)	115 cubic feet = gl. (5.66 lbs. = GGE effective Jan. 1, 2016)	yes	HB 2141 enacted 7/7/14) also addresses method of sale)	Yes	Yes	Yes
Montana		120 cubic feet = gl.					
Nebraska	gallon (6.06 lb DGE effective Jan. 1, 2015)	5.66 pounds = gl.			Yes	Yes	
Nevada	gallon	5.66 pounds or 126.67 = 1 GGE (effective 1/1/2014)				Yes	
New Jersey	sales tax	sales tax					
New Hampshire	6.06 lbs. or 1.68 gls. effective 1/1/2015	5.66 lbs. or 126.67 cu. ft. effective 1/1/2015		LNG and CNG based on energy content in gasoline (Enacted HB 1142)	Yes	Yes	

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
New Mexico	Per gallon adjusted for energy content (6.06 lbs. = a gallon of LNG as of 7/1/2014. LNG rate 20.6 cents)	114 cubic feet = 1 gl. (5.66 lbs. or 126.67 cu. ft. = a gallon of NG as of 7/1/2014. CNG rate 13.3 cents)	Sticker (repeal effective 7/1/2014)	HB 30 enacted 3/7/2014	Yes	Yes	
New York	No tax until 9/1/2016	No tax until 9/1/2016					
North Carolina	6.06 lbs. = 1 DGE effective 1/1/2015	5.66 lbs. = gl.; 126.67 scf		SB 786 enacted 6/4/2014	Yes	Yes	
North Dakota	Per gallon	120 cubic feet = 1 gl.					
Ohio	DGE = 6.06 lbs LNG (effective 1/1/2014	No tax		5.66 lbs. or 126.67 cubic feet for CNG (HB 336); another bill says CNG taxed per gallon equivalent (HB 335)	Yes		
Oklahoma	DGE = 6.06 lbs. LNG (effective 1/1/2014) - rate also drops to $0.05	126.67 cubic feet = 1 GGE	Sticker	SCR 42 adopoted - suppors sale of NG in gallon equivalent units	Yes		

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Oregon	decal	decal		HB 4131 enacted 3/3/2014 - extends decal to LNG			
Pennsylvania	DGE = 6.06 lb. LNG (effective 1/1/2015)	114,500 Btu = GGE; 126.67 cubic feet = 1 GGE as of 12/15/2012; also use 5.66 lbs. = 1 GGE			Yes	Yes	
Rhode Island		No excise tax but 7% sales tax					
South Carolina	Per gallon	126.67 cu. ft.		DGE for LNG, GGE for CNG (HB 4957); also addresses method of sale			
South Dakota	1.5536 gls. Effective July 1, 2014	126.676 cu. ft. Effective July 1, 2014		SB 93 enacted 3/10/2014			
Tennessee	6.06 lbs. = DGE	5.66 lbs. = GGE	Permits required	HB 1516 DGE for LNG	Yes	Yes	

State	LNG Conversion Factors Used for Taxation	CNG Conversion Factor Used for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
Texas	1 GGE = 5.37 lbs or 1 DGE = 6.06 lbs. LNG to pay p/GGE or DGE depending on how dispensed (effective Sept. 1, 2013)	5.66 lbs. = 1 GGE or DGE = 6.38 lbs. CNG pays 15 cents p/GGE or DGE depending on how dispensed (effective Sept. 1, 2013)	Sticker		Yes	Yes	
Utah	per GGE; currently no definition of DGE, likely would use approx. 1.53 gls.	120 cubic feet = GGE		5.66 lbs. for CNG (HB 266, 240)			
Vermont	NA - 6% sales tax as of 7/1/2013	NA - 6% sales tax as of 7/1/2013	Higher registration fee				
Virginia (surcharge of 12.6 cents gas, and 3.5 cents diesel added)	GGE = 1.5362 LNG gls.; sales tax replaces excise tax as of 7/1/2013	GGE = 126.67 cu. Feet; sales tax replaces excise tax as of 7/1/2013		SB 505 addresses method of sale			
Washington	Decal based on flat rate x fuel tax then divided by .12	Decal based on flat rate x fuel tax then divided by .12	decal	SB 6440 enacted 4/3/2014 - calls for study on excise tax treatment of NG			

State	LNG Conversion Factors Used for Taxation	CNG Conversion FactorUsed for Taxation	Decal or Annual Fee	2014 Legislation	Use Proposed NCWM DGE for Tax	Use NCWM GGE for Tax	Use DGE for W&M (method of sale)
West Virginia	GGE of LNG 1.554 gallons	GGE = 5.66 lbs. (effective Jan. 1, 2014)				Yes	
Wisconsin	Rate tied to gasoline Btu content; rate shown is per gallon	Rates tied to gasoline Btu content; rate shown is per therm					
Wyoming	6.06 lbs. = 1 DGE	5.66 lbs. or 126.67 cu. ft. = 1 GGE		HB 69 enacted 3/10/2014	Yes	Yes	
Totals					20	19	5

1/1/2015

APPENDIX E[67]

Louisiana Natural Gas Motor Fuels Tax

March 5, 2015

Current Status:

- Louisiana taxes natural gas vehicles (NGVs) by assessing a yearly fee.
- For vehicles of 10,000 lbs. and under the fee is set at $150.
- For vehicles over 10,000 lbs. the fee is based on the following calculation: Total number of miles driven / average miles per gallon X the rate of tax = the fee. However, the fee cannot be less than $150.

The Problem:

- Out of state NGV owners do not pay any fuel tax in Louisiana since there is no mechanism for collecting taxes at the pump.
- The decal system creates an unnecessary administrative burden.
- Current laws and regulations do not provide the appropriate definitions in order to collect natural gas motor fuel taxes at the pump.
    - Compressed natural gas (CNG) is not a liquid and therefore cannot be taxed by the gallon. Instead CNG is taxed and sold by a unit called a gasoline gallon equivalent (GGE)
        - A GGE is an amount of CNG that has the same energy content as a gallon of gasoline.
        - A GGE is defined by the U.S. Department of Revenue as 5.660 lbs. of compressed natural gas.
    - Liquefied natural gas (LNG) is taxed and sold by the diesel gallon equivalent (DGE)

[67] Clean Energy proposal submitted to task force members on March 4, 2015. An updated version of this proposal was submitted by Brett Barry, Public Policy and Regulatory Advisor, Clean Energy on Friday, March 6, 2015 and provided to task force members on March 10, 2015.

- A DGE is an amount of LNG that has the same amount of energy as a gallon of diesel.

- While LNG is by definition a liquid it is not taxed nor sold by a gallon for the following reasons:

    - LNG is a cryogenic fuel which is cooled to -260 degrees. Any variation in temperature will greatly affect its volume and therefore a gallon measurement can be easily manipulated.

    - LNG has only about 60 percent of the energy of diesel fuel per gallon. Therefore, taxing LNG by the gallon would result in a LNG truck paying almost twice the amount of fuel tax as a diesel truck traveling the same route.

New Tax Policy

- Tax all natural gas motor fuels, including sales to out of state vehicles, at the pump.
    - Tax LNG at the pump by the DGE
        - A DGE is defined as 6.06 lbs. of LNG
        - A DGE is utilized by 22 states as the unit of tax for LNG
    - Tax CNG at the pump by the GGE
        - A GGE is defined as 5.660 lbs. of CNG
        - A GGE is utilized by most states and the federal government as the unit of tax for CNG

Summary of Proposal

1. Captures revenue from out of state NGVs

2. Simplifies the collection of taxes for both the consumer and the government