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Moving Highway Funding to Stable Ground

EXECUTIVE SUMMARY

The first of PAR's two-part series on highway funding came to several basic conclusions. Louisiana's roads and bridges fare poorly in comparison with national norms. A substantial backlog in unmet needs on existing highways is not getting smaller. In addition, a number of very large "mega-projects," proposed to help promote economic development, remain little more than a wish list at this point.

At the same time, the state faces three funding crises:

(1) The Transportation Infrastructure Model for Economic Development (TIMED) program is insolvent.

(2) The state's Transportation Trust Fund (TTF), which relies on the volume-based gasoline tax, cannot keep up with rising construction costs.

(3) The federal highway trust fund is in trouble due to declining gas tax revenue.

While Louisiana can do little about the federal crisis, it has a number of options for placing the TTF and the TIMED program on a sound fiscal footing. This report examines those options and potential approaches to funding proposed "mega-projects."

TTF Funding Options

Louisiana's Statewide Transportation Plan poses an aggressive scenario for tackling the $14 billion highway project backlog and to undertake some mega-projects as well. DOTD has estimated that it would require an additional $650 million in annual funding. This is an optimistic, but reasonable, objective to use in considering options for expanding highway funding. Political considerations aside, good budgeting practice ascribes varying levels of acceptability to the available funding options. Unfortunately, the more politically acceptable options tend to be the least acceptable in terms of good budgeting.

Expanding highway funding, while maintaining optimum budget flexibility, would ideally be achieved using annually determined general fund appropriations, with or without additional tax revenue. However, permanently shifting existing general revenue by dedicating certain taxes and fees to a specific purpose runs counter to good budgeting policy. Revenue dedications decrease flexibility, skew priorities and generally should be avoided. The only reasonable justification for a dedication would be where a new or increased highway user fee or tax would provide new revenue for the highway program.

A prime example of an inappropriate shifting of a general revenue source is the vehicle sales tax legislation enacted in 2008 to phase in a dedication of this revenue to the TTF over seven years. It was to have added about $26 million this year and risen to about $340 million or more in six years when it would cover more than half of the $650 million goal. A safety-valve provision triggered by a drop in revenue estimates shut off the dedication for FY09, FY10 and possibly for future years as well. Surplus funds are being tapped to make up for the loss in revenue for those two years and thus to protect the matching federal aid. The large shifts of general fund revenue required by the phase-in in future years will make continuation of the phase-in to completion increasingly unlikely.

This report provides estimates of recurring revenue enhancements that might be derived by increasing rates for various user taxes and fees. These options include the gasoline tax, auto license tax, truck license tax, driver's license fees, fines and tolls. The gasoline tax increase would be the obvious choice for raising a large share of any desired additional revenue. However, meeting the $650 million objective with the gas tax alone would require adding 21.7 cents to the current 20-cents-per-gallon tax. (The 20-cpg tax includes 16 cpg for the regular highway program and 4 cpg dedicated to the TIMED program—a list of 16 major transportation projects set in the Constitution.)

Innovative funding approaches, such as public-private partnerships, are more applicable to new major projects than to ongoing maintenance. Several options, such as returning roads to local government control or funding public transit as an alternative to expanding highways, could lower highway spending but create other costs.

Rethinking Budgeting for Highways

The current budget request process fails to clearly incorporate meaningful funding goals. Budgeting for highway construction and maintenance is typically limited to the amount of available dedicated revenue in the TTF, with the occasional addition of general revenue appropriations or bond authorizations for specific projects. Using its annual highway needs assessments, together with revised cost estimates, DOTD could instead present a budget request indicating the amount of general fund support needed beyond the dedicated funding to meet various funding levels. The Statewide Transportation Plan offers a model for presenting budget choices on a continuum. A "minimum" funding level would keep the backlog of unmet needs from growing. A second level might indicate funding "adequate" to eliminate the backlog over an appropriate number of years. A third or "optimum" funding level might allow additional funding for mega- projects as well. This budgeting approach would allow the administration, Legislature and other interested parties to know each year if the TTF was meeting the "minimum" funding level and what percentage of "optimum" funding was ultimately being provided.

Funding the TIMED Program

A crisis in the TIMED program was created when the cost of the remaining TIMED projects outstripped the capacity of the dedicated 4-cents-per-gallon gas tax to fund them. The debt service on roughly $845 million in borrowing to complete the St. Francisville and New Orleans bridge projects now well underway will increasingly cut into funding for the regular highway priority program. The method of funding and the cost of the last two major TIMED projects have yet to be determined. The basic options are to continue cutting further into the regular highway maintenance program or provide a new or expanded revenue source for the TIMED program. Also, part of the problem could be avoided or reduced by indefinitely deferring the last two projects or by downsizing them.

Innovative Funding of Mega-Projects

The $16 billion in major highway construction projects identified in the Statewide Transportation Plan are, for the most part, above and beyond the $14 billion backlog in projects on existing highways and would be undertaken over a 30-year period or so. Nearly $12 billion in potential mega-project spending would be required to complete Interstate 49 from New Orleans to Arkansas and construct loops planned for Lafayette, Baton Rouge and Monroe.

The transportation plan's most aggressive funding scenario, requiring an additional $650 million annually, would only allow nominal progress on the list of very large projects over the next three decades. Most of these projects would require complex financing packages in which state funding would be only one element. A variety of funding sources and innovative financing strategies would be required.

Tolls are the basis of much innovative financing and are currently being considered for several Louisiana mega-projects. The LA 1 reconstruction project from Golden Meadow to Port Fourchon is being partially financed using toll-supported bonds. Expressways, limited access toll lanes, truck-only lanes and bridges are some of the more common toll facilities. Louisiana law prohibits placing tolls on existing roads unless lanes are added.

Several innovative debt mechanisms allow the state to borrow against or lend its own federal aid apportionment, but federal aid uncertainties make these less viable. Impact fees are being used in some states to tax development near new highways to capture part of the resulting benefit. Louisiana state government has not used impact fees but local government tax increment financing (TIF) is similar and may be used to tap the growth in sales and property taxes to support bonds for a mega-project.

Public-Private Partnerships (PPPs)

Public-private partnerships (PPPs) typically provide a private firm a long-term concession to finance and build or simply operate and maintain a public facility in return for the right to collect tolls. When a firm agrees to operate an existing toll- or non-toll road, it usually makes an up-front payment the government can then use for other projects. The facility is not sold, but leased, and remains the property of the public entity.

PPPs have been used to fund, build and operate most major highway projects in many countries and for major toll highway projects in a number of states. While Louisiana has not yet used a PPP to finance and build a major project, planners for several urban loop projects have considered doing so. However, in most cases tolls were expected to only be able to support 20 percent to 40 percent of the project costs.

Toll-supported PPP highway projects require a certain size and utilization to be feasible. The PPP approach is not suitable for small road projects or projects where available free alternate routes would have a competitive advantage over the toll facility. PPPs have been criticized for the loss of public control and the lack of a regulatory framework. However, to a large extent, these concerns can be mitigated in a carefully drawn agreement.

The legal structure that will allow the Louisiana Transportation Authority (LTA) and local toll authorities to use PPPs is in place. The LTA is lining up teams of advisers to assist in evaluating and managing possible PPP contract proposals. LTA also has a funding mechanism, the Transportation Mobility Fund (TMF), to help bridge the gap between toll revenues and total project costs. So far the TMF has only received $5 million from surplus, but will get 7 percent of the vehicle sales tax dedication if it is ever applied. This funding, however, will not begin to help meet the costs associated with a typical mega-project.

Recommendations

Recommendation #1: The TIMED program should be placed on a sound fiscal footing by levying an additional gasoline and motor fuels tax of up to 2 cents per gallon to fully fund the completion of all projects currently under contract. Contracts for the final two projects should not be let until a subsequent tax increase is levied sufficient to fund them as well. An alternative would be to eliminate, indefinitely postpone or downsize the final two projects.

Recommendation #2: The gasoline and motor fuels tax should be indexed to the rate of inflation and automatically adjusted annually without requiring further action by the Legislature.

Recommendation #3: The state's initial highway funding objective should be to provide the $650 million in annual new revenue needed to fund the aggressive highway construction program outlined in the Statewide Transportation Plan. A major share of this new funding must necessarily come from increases in some or all of the major highway user fees and taxes, particularly the gasoline and motor fuels tax, auto licenses and truck registration fees.

Recommendation #4: The vehicle sales tax dedication should be repealed. As an alternative, a general fund appropriation to the highway priority program should be considered annually.

Recommendation #5: DOTD should submit an annual budget request indicating the general revenue support needed to meet the "minimum" highway funding needs (without increasing the project backlog), an intermediate or "adequate" funding level that would eliminate the backlog over time and an "optimum" level designed to aggressively attack the project backlog and help fund mega-projects as well.

Recommendation #6: Windfall revenues appropriated for highway construction should be limited to the top-priority mega-projects as determined by the DOTD planning process.

Recommendation #7: State and local toll authorities should pursue toll-based funding for new facilities. They should also continue to examine public-private partnership opportunities, but with extreme caution, using maximum transparency and recognizing the limited applicability of this approach.

Conclusion

Louisiana currently faces three highway funding crises. The crisis in the federal highway trust fund is one over which the state has little control. Its solution requires congressional action. However, the crisis in the TIMED program requires timely legislative action to make this separate program solvent and avoid subsidizing it from the regular highway priority program.

The long-term crisis in the state's TTF requires serious deliberation over the next two years. Decisions must be made as to whether the state is going to commit to an aggressive and consistent highway improvement program and how the appropriate level of funding is to be provided. An expanded construction program cannot be built easily on revenue shifted from other purposes. A significant new revenue source or sources will be required to prevent the long-term deterioration of the highway system. The likely failure of the vehicle sales tax phase-in, the lack of a replacement for the disappearing stimulus funds and the demands of the TIMED program could threaten the loss of federal funds and seriously undermine the highway program in FY12, if not earlier.

In the face of competing parochial demands, it is imperative that the state's highway priority program be preserved and strengthened. Louisiana's citizens and economy would benefit from a significant increase in highway and bridge funding in terms of less congestion, shorter commute times, lower vehicle maintenance bills, fewer traffic casualties, new and expanded business, and improved tourism. The Statewide Transportation Plan has provided a sound funding objective for undertaking an aggressive construction program. The additional $650 million a year that would be required, along with a mechanism for assuring future revenue growth, is a reasonable objective and an amount that could be put to work effectively.

INTRODUCTION

The first of PAR's two-part series on highway funding came to several basic conclusions. Louisiana's roads and bridges fare poorly in comparison with national norms. The tremendous backlog in unmet needs on existing highways is not shrinking. An extensive wish list of very large "mega-projects," proposed to help promote economic development, awaits funding. At the same time, the state faces three funding crises:

(1) The Transportation Infrastructure Model for Economic Development (TIMED) program is insolvent with major bridge and road projects not completed.

(2) The state's Transportation Trust Fund (TTF), which has been temporarily buoyed with state surplus, bond money and federal stimulus money, will soon re-enter its downward spiral. The fund's reliance on the volume-based gasoline tax cannot keep up with rising construction costs in the long run.

(3) The federal highway trust fund is in trouble and a failure to fix it could result in deep losses in federal highway aid.

This report summarizes the state's current highway funding difficulties; examines the traditional options for expanding highway funding (with a special focus on the gasoline tax); evaluates some of the alternative and innovative sources for financing mega-projects, including public-private partnerships; and offers recommendations for dealing with some basic funding issues. This report does not deal with the broader funding issues regarding non-highway transportation infrastructure such as ports and public transit options.

DOTD's Statewide Transportation Plan suggests an aggressive plan to address the state's $14 billion backlog in highway improvements and to undertake some of the desirable mega-projects over time. This plan would require an estimated additional $650 million a year with inflation adjustments in the future. The only significant effort to boost highway funding in the last two decades—a phased-in vehicle sales tax dedication—has been, at least temporarily, derailed. Even if the phase-in reaches completion, it would be six years in the future and only halfway to the revenue goal.

This examination of highway funding options assumes that the annual $650 million additional state funding posed in DOTD's planning model is a reasonable objective. While reasonable considering the state's highway "needs," this goal may appear less than realistic in the current economic and political climate. It would represent about $210 a year, on average, for each licensed Louisiana driver in new revenue and/or revenue shifted from another purpose. If the state is unwilling to make an effort of this magnitude, road conditions can only deteriorate further over time.

Current Highway Funding Situation

Highway funding will not experience the deep cuts affecting other state functions for FY10. However, there will not be any increases in continuing funding either. The 2008 act phasing in a shifting of the vehicle sales taxes to the TTF is suspended; however, surplus money is being used as a replacement. The portion of the 2008 surplus going to highways is significantly less than was allocated in the last two years and will likely be the last for years to come.

In the short run, it will be politically difficult to shift recurring general revenue to highways from other purposes and tax increases are always difficult. While it can be shown that Louisiana ranks very low on some tax comparisons such as vehicle registrations, the state ranks fairly high (17th) in terms of highway spending effort. Louisiana state and local highway spending relative to personal income is one-third higher than the national average ($16 per $1,000 PI compared to $12).

The question of what the state can afford is largely a matter of the state's priorities. However, spending comparisons with the other states can indicate the level of fiscal effort Louisiana is currently making. The latest figures on highway spending per capita and per $1,000 of personal income from the government census are for FY06. However, FY06 spending comparisons are badly distorted by the loss in population and significant but temporary increase in personal income and public spending due to the hurricanes and recovery efforts. FY05 offers a better comparison than FY06; however, spending in both years was inflated somewhat by bond proceeds used to accelerate the TIMED projects. Table 1 combines state and

Table 1. State/Local Highway Spending, La. and U.S., FY05 and FY06

	FY05 Rank	FY05 Amount	FY06 Rank	FY06 Amount
$ Per Capita				
La.	32	$397	20	$496
U.S.	--	$421	--	$453
$ Per $1,000 PI				
La.	18	$16	17	$16
U.S.	--	$12	--	$12

Source: BEA, Census of Government Finance, 2005 and 2006 and PAR calculations.

local spending to account for the different levels of responsibility for highways among the states.

Louisiana state/local highway spending per capita was nearly at the U.S. average (94.3 percent) for FY05. However, in terms of personal income, Louisiana's spending effort that year was one-third higher than the U.S. average. The state was spending a significantly larger share of its income on highways than the average state. The $4 difference in spending per $1,000 PI meant Louisiana state and local governments spent nearly $450 million more than they would have at the U.S. average spending ratio.

This comparison does not mean that the state could not afford to spend more on highways, but it indicates that a special effort would be required to do so. As a relatively poor state, Louisiana has had to make a greater effort in terms of the share of income directed to public services in an attempt to meet national standards in other areas besides highways, such as education.

Louisiana's highway funding currently faces three significant crises. The Transportation Trust Fund crisis results from the continuing decline in purchasing power of the volume-based gas tax and is only worsened by the state's overall fiscal woes. A crisis in the TIMED program was created when the cost of the remaining TIMED projects outstripped the capacity of the dedicated 4-cents-per-gallon gas tax to fund them. TIMED projects now threaten to cut into funding for the regular highway priority program. A federal highway funding crisis, with a serious potential for state losses in federal aid beginning in FY10, awaits congressional action to repair the under-funded federal highway trust fund. As much as $17 billion in additional funds may be required to keep the fund solvent through September 2010. While Louisiana can do little about the federal crisis, it has a number of options for placing the TTF and the TIMED program on a sound fiscal footing.

TRADITIONAL FUNDING OPTIONS FOR HIGHWAYS

Most states rely heavily on user-based revenues, primarily gasoline and motor fuels taxes, to fund their portion of the cost of highways. User fees or taxes are often justified under the benefit principle of taxation, which holds that those who benefit from a public service should pay in relation to their use of that service. Highway users pay gasoline taxes; vehicle license and registration fees; vehicle sales taxes; and other vehicle-related taxes, fees and fines, as well as tolls. These vary greatly in the degree to which they reflect the payer's actual use of or benefit from the highways.

Assessing benefits in the case of highways is not simple. Those who never drive depend on the highways for delivery of food and goods and for access to services such as hospitals and fire protection, which they may or may not actually use. Highways are a public good that benefit the entire community. Thus, it can be argued that because everyone benefits, everyone should help pay according to their ability. This is a justification used for applying a government's general funds to highways. Prior to 1990, Louisiana funded highways from an annual general fund appropriation. Gasoline taxes went into the state revenue pot and highways received an appropriation equal to about three-fourths of the gas tax collections until a 1990 constitutional amendment dedicated those revenues to a special highway fund.

For the past two decades, Louisiana has depended primarily on dedicated gasoline and motor fuels taxes and federal aid to build and maintain state highways while local governments have relied on property taxes, state shared revenue, special assessments and some local sales taxes for roads. Recent legislation attempted to add some more user-related revenues to the state mix by phasing in the dedication of existing vehicle license taxes and the state sales tax on motor vehicles.

A large but temporary bump in funding from three consecutive years of state surpluses has nearly run its course. By FY15, the new dedication phase-in could be complete (if it is allowed to continue on schedule), the stimulus money will be long gone, state surplus distributions will be a memory, and the Transportation Trust Fund revenues will continue back down the historic trend of losing purchasing power in face of the state's growing unmet highway needs. Temporary funding sources will help feed DOTD's construction budget for a couple of years, at which point changes in the funding structure will be needed if cutbacks in the construction program are to be avoided.

Over the past few years, the organization Driving Louisiana Forward has suggested a number of options for filling the highway funding gap, including adjusting the gas tax for inflation (indexing), dedicating vehicle sales taxes to the TTF, using tolls to add new lanes and routes, shifting DOTD employee benefits from the TTF to the general fund, dedicating all truck and auto registration fees to the TTF, locking up overflow dollars from the rainy-day fund for highways and coastal restoration, and dedicating an increase in traffic fines to the TTF.

The recommended indexing of the gas tax, use of tolls and increased fines would have provided new revenue. However, the remaining options would have merely shifted money from the state's general fund to highways. The vehicle sales tax and truck license dedication proposals were enacted; however, the vehicle sales tax dedication is suspended for FY09 and FY10 due to a provision triggered by a drop in revenues and its future is uncertain.

By far, the more appropriate methods of providing additional funding would be through direct general revenue appropriations, with or without a general revenue tax increase, or the use of general obligation bonds. Highway user fees and taxes are well-suited to providing ongoing funding of the basic highway program. Dedicating highway-user revenues, such as tolls and gasoline taxes, to highways can be justified if the revenue is directly related to highway use and is from a new or increased levy.

On the other hand, it is inappropriate to dedicate existing general revenue fund sources, such as the vehicle sales tax, or to accomplish the same thing indirectly by requiring the general fund to pick up costs currently paid from the TTF. Permanently shifting general fund revenue from other purposes is a zero-sum game that creates budget inflexibility.

One-time windfalls, such as the occasional surplus, need to be used wisely but cannot be counted on for ongoing funding. Innovative funding approaches, such as public-private partnerships, are more applicable to major new projects than to regular maintenance. Several options, such as returning roads to local government control or funding public transit as an alternative to expanding highways, could lower highway spending but create other costs.

If the state is to continue making headway on the backlog and accelerate the construction of planned large projects using traditional state revenue sources, it will have to obtain additional revenue from one or more of the following. However, each of these sources has significant political or practical limitations.

Appropriate Recurring Revenue Sources

State Motor Fuels and Gasoline Tax

Nationally, there has been a growing recognition that traditional funding has not kept up with the growth in highway construction costs and needs. Yet, in many states, recent efforts to expand funding to deal with the deteriorating infrastructure have looked once again to the gasoline tax. For example, the governor of Massachusetts recently proposed a 19-cents-per-gallon (cpg) increase in the state's 24-cpg gas tax. State business groups upped the ante by announcing support for a 25-cent increase.

Because Louisiana's gas tax is volume-based rather than value-based, its revenue growth depends entirely on gasoline use. Not only is the tax not adjusted for inflation, but high inflation can depress

fuel use and tax collections. The gas tax was raised from 12 cpg to 16 cpg in 1984 and dedicated to the Transportation Trust Fund beginning in 1990. Also in 1990, the 4-cpg TIMED program tax was added, bringing the total to 20 cpg.

The gas tax has lost half of its purchasing power since 1984. The 20-cent tax would have to be increased to 40 cpg today to equal the purchasing power of the 16-cent tax when levied in 1984 and the 4-cent TIMED tax when levied in 1990.

In 1990, when Louisiana's gas tax went to 20 cpg, only six other states had higher tax rates and the national average rate was 15.4 cents. By January 2009, the same 20 cpg rate ranked 12th from the bottom in the United States (tied with Texas and Vermont) and was well below the national average of 26.4 cpg. While gas taxes range from 8 cpg (suspended through 8/09) in Alaska to 41.3 cpg in New York, Louisiana is generally in line with its immediate neighbors (Texas 20 cpg, Arkansas 21.8 cpg and Mississippi 18.8 cpg) and most of the southern tier states.

While Louisiana has only a state levied gas tax, in a number of states the total gas tax burden often includes a sales tax, local taxes or other special levies. Eight states have variable gas tax rates that allow periodic increases without legislative action—Florida, Iowa, Kentucky, Maine, Nebraska, New York, North Carolina and Wisconsin. These states index their rates to inflation or to the price of motor fuels or make other similar adjustments.

Assuming that Louisiana needs an additional $650 million a year in transportation funding to achieve the goals in its statewide plan, is a gasoline tax increase a rational option for obtaining all or a portion of the revenue increase? The following are some of the pros and cons.

Cons

Rate doubles A 22-cpg increase is needed to produce an additional $650 million. This would more than double the existing tax to 42 cpg.

Slow growth Gas tax collections are expected to grow slowly or even decline over time due to alternative fuels, better fuel efficiency and changes in driving habits.

Instability Oil markets are volatile and gas consumption falls when prices rise, which in turn cuts volume-based tax revenue.

Poor hit harder The gas tax takes a larger share of a low-income family's income compared to higher-income families. Working people with long commutes or job-related travel may not be able to reduce gas consumption.

Federal competition The states must compete with the federal government for additional gasoline taxes. In February, a federal commission called for a 10-cpg increase indexed to inflation and some urge much larger increases.

Tax avoidance Having a tax rate significantly out of line with neighboring states can encourage out-of-state purchases and illegal practices.

Pros

Reasonable burden A 42-cpg tax would be essentially the same as the initial 20-cent tax after adjusting for inflation. Adding 22 cpg to raise $650 million would not greatly burden most drivers. At 20,000 miles a year and 20 miles per gallon, a driver's tax outlay would rise from $200 to $420—about $4 more a week. Driving 10,000 miles a year at 30 mpg would add $73 a year or $1.40 a week. These burdens could be halved by adding only 11 cents to raise $325 million and using other sources for the other $325 million.

Benefit principle The gas tax is directly related to use of the highways and to the direct benefits received by motorists. An increased gas tax would more accurately charge the user the true cost of driving and provide an incentive for fuel efficiency (with related national security and environmental benefits).

Interstate differences workable Large tax rate discrepancies between neighboring states are apparently not impossible to live with. (e.g., New York's tax rate is 41.3 cpg while next door New Jersey's is 14.5 cpg; Florida—34.5 cpg and Georgia—12.0 cpg.)

Funding capacity While the long-run viability of motor fuels taxes is questionable, a properly indexed gas tax could provide a stable source of funding to help meet the maintenance and capacity demands of the highway system, at least for the foreseeable future.

Other User Fees and Charges

A number of revenues or potential revenues relate in some way to motor vehicle use and have been or could be dedicated for highway purposes. These include vehicle registration and license taxes, tolls and fines, among others.

Auto License Tax Automobile registration fees provide a major share of state highway revenues in many states. However, Louisiana held the annual license tax on private automobiles to $3 until 1989 when it was raised to $1 per $1,000 value with a $10 minimum. Revenue from regular auto licenses has long been dedicated to Highway District #2 (revenues from five parishes around Lake Ponchartrain) and the remainder to the TTF.

For a typical car (valued at $15,000), Louisiana's fee is $15 or less than half the $30.52 average for the surrounding three states (AR-$17, MS-$23.75, TX-$50.80). The rates range widely across the country from $8 in Arizona to $100.75 in nearby Oklahoma. Last year, Colorado's governor proposed increasing the fee by an average of $100 to raise the $500 million a year needed to deal with that state's highway maintenance backlog.

This is an obvious place to look for new revenue that might appropriately be dedicated to highways. However, the public's strong attachment to the lower fees is demonstrated by the fact that the tax is fixed in the Constitution. Doubling the tax on the state's 3.5 million registered autos to meet the neighboring state average would raise roughly $45 million and matching Oklahoma could add about $290 million.

Truck License Tax Louisiana's truck registration fees rank among the lowest (45th) in the nation. Truck license taxes are based on weight, load and class. Unlike auto licenses, the rates are not fixed in the Constitution. While they may be changed more easily, the current rates have remained essentially the same since 1977. For a typical semi-trailer and truck, Louisiana's $490 fee is only 28 percent of the $1,706 average for the surrounding three states (AR-$1,370, MS-$2,892, TX-$856).

Truck and trailer license fees have been going to the general fund. However, recent legislation dedicates this revenue to a new State Highway Improvement Fund to be used for state highways not eligible for federal aid (NFA roads). The dedication will be fully phased in FY10 at about $34 million. Without rate increases, it should reach about $41 million by FY12 and then grow relatively slowly thereafter.

Assuming that truck fees on average are less than a third of the neighboring state average, bringing them up to 100 percent would raise an additional $105 million a year by FY12. The total collections (about $146 million) would more than cover the estimated $120 million cost of maintaining the NFA roads.

Tolls Tolls are the most direct types of highway user charges. In Louisiana, tolls may be levied on roads or bridges by the state, by authorities created by law, by parish or municipal authorities set up under general state law or by private entities under contractual arrangements with the state or an authority.

Louisiana currently makes little use of tolls for roads or bridges. While there are 4,622 miles of toll roads nationally, Louisiana is credited with only 1.5 miles of toll roads and two toll bridges. However, one of those bridges is the 24-mile Ponchartrain Causeway and the other is the Crescent City Connection bridge at New Orleans (Mississippi River bridge). A new third toll bridge, the Leeville bridge on LA 1, opens in July 2009. Former toll-financed parish and state bridges were, by law, required to revert to free status once the bonds were paid.

Traditional state-collected toll projects could play an increasing role in Louisiana, particularly in developing mega-projects as a part of complex, innovative funding arrangements, possibly in public-private partnerships. Using tolls broadly by placing them on existing roads is an unlikely option for providing a continuing annual increase in highway revenue. A former DOTD secretary's proposal to seek authority to toll I-10 and I-12 raised an uproar of protest and was quickly squelched by the governor.

Fines Fines and surcharges on fines for particular offenses have been used for a variety of purposes in Louisiana. DOTD collects fines for truck infractions but does not receive any fines or special charges assessed against automobile operators, except on the toll facilities. In 2003, Texas placed a surcharge on DUI tickets, ranging from $1,000 to $2,000 annually for three years to help fund its highway construction program. With more than 25,000 DUI

arrests a year, a similar program for Louisiana ($1,000 each year for three years) might eventually net as much as $75 million annually.

Direct General Fund Appropriations

General fund appropriations are sometimes made for specific highway projects but seldom is this a significant source of highway funding. DOTD was budgeted only $7 million in general funds in FY08, but received an additional $16 million late in the year to partially make up the loss in gas tax revenue. No general funds for highways were budgeted for FY09. Considering the state's fiscal prognosis for the next few years, it is unlikely that highways will be receiving general fund appropriations.

Aside from politics and other program priorities, the general fund could be tapped as part of a highway funding strategy. Ostensibly, the entire $650 million in added funding could come from general revenue; however, it would consume about 7 percent of the undedicated state general revenues.

Inappropriate Recurring Revenue Sources

Revenue Dedications

There have been efforts to dedicate to transportation any and all revenue remotely related to it. The idea that only users should pay the cost of the highways ignores the benefit all citizens, including non-drivers, receive from a good transportation system. Two of the three recent new dedications to highway funding involve transportation-related revenue. There are no major transportation-related revenues left to shift, even if dedications were an entirely acceptable method of funding. Dedicating specific non-user-related revenues to highways would be arbitrary and even less acceptable from a budgetary standpoint.

Dedicating general revenue would be no more acceptable. Yet, a bill to dedicate $765 million in general fund revenue to highways over the next five years passed the House in the recent legislative session. The bill did not provide for any additional revenue nor did it indicate what other programs would be cut in the process.

As discussed above, the only possible justification for dedication to highways would involve a new or increased levy of a true, highway-user-related fee or tax.

Vehicle Sales Tax The most significant effort to dedicate additional revenue to transportation purposes was the seven-year phase-in of the state motor vehicle sales tax to the TTF. Beginning this year, it would have added about $26 million and increased annually, reaching $340 million or more in six years when it would cover half of the $650 million goal. A safety valve provision triggered by a drop in revenue estimates suspended the dedication for FY09, FY10 and possibly for future years as well.

Because the state and local sales tax rates are already quite high, a rate increase is unlikely. And considering the state's fiscal situation, it is unlikely that the state could pick up the dedication phase-in in mid-schedule. Any application of the dedication would come out of the beleaguered general fund and the phase-in schedule calls for some very large increases in the later years. Thus the continuation of the phase-in to completion is not an absolute certainty and must still be considered a funding option—albeit an inappropriate one.

Driver's License Fees Louisianans pay about $6 a year for their driver's licenses while the average for surrounding states is about $5. As a user fee, driver's licenses are related more closely to identification, regulation and public safety functions than to highway use. Driver's license fees cover about a third of the $62 million Office of Motor Vehicles annual budget, with other vehicle-related fees covering the remainder. With about 3 million drivers, each dollar increase would raise $3 million. With renewals for four years, even a small annual fee increase would be quite noticeable to the payer. While some states dedicate these fees to roads, this is not a promising source of highway funding.

Indirect General Fund Transfers

The general fund can be tapped indirectly to increase highway funding. For example, the proposal to prohibit the use of TTF money for purposes other than highway construction would end allocations to DOTD administration, the parishes, ports and other current dedicated

purposes. Bills in the 2007 legislative session proposed various limits that would have increased funding for highways by up to $339 million. Of course, the department's operational budget and funding for the other purposes would have had to be made up from general fund revenues.

A 2008 act shifted the $35 million cost of state police traffic control from the TTF to the state general fund. Because this is a statutory transfer, it could be easily undone.

Prohibiting the use of TTF funds for non-highway purposes would go more than halfway toward meeting the $650 million a year objective. This would require a constitutional amendment and would place other current recipients, such as parish roads, at the mercy of annual appropriations. The major objection to this approach is that it provides additional funding for highways without providing any new revenue. It tends to elevate highways far above other related transportation concerns, forces a change in state priorities and creates funding losers by playing a zero-sum game.

A more straightforward approach would be to eliminate all of the dedications and require all programs to compete annually for general fund revenue or leave the dedications and simply appropriate the additional highway money from the general fund.

One-Time Revenue Sources

One-time revenue or windfalls such as the occasional state surplus are unpredictable and obviously cannot be counted on as part of a long-term funding strategy. Highway funding is an ideal use of these non-recurring funds as long as they are directed to high-priority projects and not siphoned away for lower-priority pet projects.

Excess General Fund Revenue

Excess revenue occurs when revenue estimates exceed budget needs or are increased during the year due to a rise in collections. Excess revenue remaining at the end of the fiscal year becomes "surplus," and the Constitution limits spending of surplus money to capital outlay and specified non-recurring purposes. However, until the year ends, excess revenue can be appropriated and spent as general fund revenue for any purpose before it becomes surplus.

Louisiana has been in the enviable position of having significant surpluses in FY06, FY07 and FY08 totaling about $2.8 billion. Appropriations for highways and bridges from the FY06 and FY07 surpluses totaled nearly $1.2 billion. Highways only received one-fifth that amount from the FY08 surplus ($246 million) and a third of that ($79 million) is going to replace the suspended vehicle sales tax dedication for FY09 and FY10. The estimated $1.3 billion state general fund revenue shortfall for FY10 and slow growth, long-range revenue projections make additional surpluses unlikely for at least several years.

With temporary windfalls in hand, the Legislature recently granted well over $600 million in permanent annual tax cuts. These cuts will blunt the potential for future excess revenues that could be directed to highway construction. They will also ensure greater difficulty in obtaining additional highway funding from regular general fund revenues.

Unclaimed Property

The recent dedication of $15 million a year in unclaimed property revenue to I-49 projects is a relatively small revenue stream but bonded it can produce some $175 million in project funding plus whatever added funding that might leverage. Again, this is a hit on the general fund. Of course, once bonded, this revenue stream is tied up for 30 years.

Other Potential Approaches

Expand Local Responsibility and/or Funding

The 2003 Statewide Transportation Plan suggested that as many as 5,000 miles of current state roads be transferred to local control. The state was historically lenient in taking over local roads, and it currently has one of the highest local-to-state ratios in the nation. The plan noted the shift would reduce state revenue from pavement preservation funding by $35 million (this figure has likely doubled since 2003.) The plan would shift the cost of maintaining these roads to local governments. Judging by the cost estimate for maintaining the state's NFA roads, local governments could be stuck with more than $100 million in maintenance costs.

Local governments are constitutionally prohibited from levying a motor fuels tax or vehicle license fee, and vehicles are exempt from property taxes.

Considering these fiscal limitations, the state could not return thousands of miles of roads without providing the means to maintain them. If the state is unwilling to expand local user-tax authority or expand aid for local transportation, it may have to continue to accept responsibility for a relatively large portion of the road system.

A recent effort in Texas to decentralize its highway program proposed granting 35 urban counties authority to levy optional gasoline taxes of up to 10 cpg to fund regional construction projects. It is too early to tell where this effort might lead.

Lowered Expectations

One new approach suggests stretching funds by building good—not perfect—roads. This concept, dubbed "Practical Design," was initiated in Missouri with apparent success and is spreading to other states. This approach confronts the tendency for highway engineers to design a Cadillac when a Chevrolet could get the job done. While no one is accusing Louisiana of overbuilding roads, political decisions have resulted in costly misplaced priorities. Politicians and economic developers often seek expensive new construction solutions to transportation problems that might be solved more economically by tweaking the existing system.

Recurring Revenue Enhancement Options

Table 2 lists the obvious options, with variations, for adding ongoing revenue to fund highways. Surpluses and other potential windfalls are excluded as non-recurring and unpredictable.

The objective of an additional $650 million annually is based on the expected level of maintenance and construction needs and not on an evaluation of the ability or willingness of Louisiana citizens to pay additional taxes or forgo alternative uses of the existing revenue. It should be noted that the added revenue needed to make the TIMED program whole would be separate and apart from the $650 million goal.

The goal could be achieved using one or a combination of the options. The options fall into two distinct categories—those that increase revenues and those that merely shift them from other uses. Those making the decisions should recognize the need to produce a revenue stream that can at least keep pace with inflation over time. A number of states attempt to do this by indexing gas tax rates to inflation.

Rethinking Budgeting for Highways

Budgeting for highway construction and maintenance is typically limited to the amount of available dedicated revenue in the TTF, with the occasional addition of general revenue appropriations or bond authorizations for specific projects. However, the budget process does not make clear how appropriate the current level of funding is in terms of the maintenance needs of the existing highway system.

Using its annual highway needs assessments, together with revised cost estimates, DOTD could instead present a budget request indicating the amount of general fund support needed beyond the dedicated funding to meet various funding levels. DOTD's Statewide Transportation Plan offers a model for presenting budget choices on a continuum of outcomes. A "minimum" funding level would provide for basic maintenance of the existing system and prevent the backlog of unmet needs from growing. A second level might indicate funding "adequate" to eliminate the backlog over an appropriate number of years. A third or "optimum" funding level might allow additional funding for mega-projects as well.

This budgeting process could function similarly to the way the funding formulas work for public education and higher education. It would allow the administration, Legislature and other interested parties to know each year if the TTF was meeting the "minimum" funding level and what percentage of "optimum" funding was ultimately being provided.

FUNDING THE TIMED PROGRAM

A crisis in the TIMED program was created when the cost of the remaining TIMED projects outstripped the capacity of the dedicated 4-cents-per-gallon gas tax to fund them. The 4-cent tax is currently supporting $2.67 billion in debt and has no remaining capacity to support new debt. As a result, a significant portion of the debt service on bonds to complete the St. Francisville and New Orleans bridge projects now well underway will have to be paid from the 16-cent tax that is meant to fund the regular highway priority program.

Table 2.
Traditional Highway Funding Options
Objective: Annual Increase of $650 Million [1]
(Estimates for FY10)

Revenue	Additional Amount
Gasoline and Motor Fuels Tax	
Adding 21.7cpg for total of 41.7cpg (NY is now at 41.3cpg)	$650 m
Add 10 cpg ($30m per add'l. 1cpg)	300 m
Meet average of three neighboring states (20.2cpg)	6 m
Vehicle Sales Tax	
Dedicate the full tax to TTF[2]	252 m
Phase-in as scheduled (may require legislation) at 20 percent	50 m
Automobile License Tax (current estimate $43.7 m)[3]	
Equal highest state (OK) from $15 for typical car to $100	290 m
Equal three-state average, raise from $15 to $30	45 m
Truck License Tax (current estimate $34.4 m)[3]	
Equal highest state (MS) from l7 percent to 100 percent ($490 to $2,892)	170 m
Equal three-state average, from 28 percent to 100 percent ($490 to $1,706)	90 m
General Fund	
Direct annual appropriation (up to 8 percent of general fund)	up to 650 m
Prohibit non-highway use of TTF	340 m
Shift DOTD administrative cost to general fund	270 m
Dedication of various general fund sources	unknown
Fines	
Add $1,000 annual fine for three years for DUI, as in TX ($3,000 X 25,000 DUIs/yr.)	75 m
Other	unknown
Tolls	
Increases to existing tolls	unknown

Notes:
[1] If one wishes to adjust the $650 million goal for inflation (at 2.5 percent), it would require $735 million in 2015.
[2] In combining options, one must take into account the fact that the vehicle sales tax fully phased in will grow to about $340 million by 2015.
[3] Calculations assume that the tax on a "typical" car or truck approximates the average tax for all cars or

Nearly $1 billion in bonds were planned to be issued to complete these two projects - $485 million in 2008 and $500 million in 2010. DOTD had assumed that money to continue those projects was running out, but another $140 million (a year's worth of 4-cent tax collections) that had been mis-recorded was located in May. This find apparently closed the gap to about $845 million; however, it was only sufficient to cover another two months of payments for work on these projects.

After some delays due to market conditions, $303 million in bonds is now being issued and DOTD is recalculating its borrowing needs to complete the projects. It is unclear how much of the debt service on these last rounds of borrowing will not be covered by the 4-cent TIMED tax. However, depending on how the debt is structured, collections on an additional 2-cent gas tax should be more than sufficient to cover it.

Two additional major TIMED projects remain to be undertaken, and the cost and method of funding them has yet to be determined. Unless a new or expanded revenue source is made available, funding these two final projects could involve cutting further into the regular highway maintenance program. Another option would be to downsize or indefinitely defer these projects.

The constitutionally separate TIMED program requires separate funding. It should not be subsidized from the general fund or the Transportation Trust Fund. The voters were badly misled into believing a 4-cpg tax could pay for 16 major projects with low-balled cost estimates. The Legislature has continued this program long after the original 10-year period and now has an obligation to make it solvent without undermining the regular highway priority program.

ALTERNATIVE AND INNOVATIVE FINANCING SOURCES

The $16 billion in major highway construction projects identified in the Statewide Transportation Plan are, for the most part, above and beyond the $14 billion backlog in projects on existing highways and would be undertaken over a 30-year period or so. However, even the most aggressive funding scenario in the plan, which calls for an additional $650 million annually, would only allow nominal progress on this list of very large projects over the next three decades. Most of these projects would require a complex financing package in which state funding would be only one element. A number of projects are depending heavily on the state's congressional delegation to bring in earmarked federal funds. Various other funding sources and innovative financing strategies would be required. These innovative strategies might involve public-private partnerships to draw in private investment to supplement or even replace public funding.

Some innovative funding approaches, used with apparent success in a number of other states, have only recently begun to be used or given serious consideration in Louisiana.

Tolls Louisiana has yet to allow a private entity to collect tolls in exchange for financing a highway construction project. However, toll funding is currently being planned or considered for several mega-projects. The current LA 1 reconstruction project from Golden Meadow to Port Fourchon is being partially financed using toll-supported bonds. However, the state will collect the tolls. Studies for the I-49 North project (Interstate 220 to the Arkansas line) and the proposed Lafayette and Baton Rouge loops have assumed the projects could be partially supported by tolls. Planners are considering trading toll concessions for private investment. However, the estimated toll-supported shares of these projects have been relatively low - 20 percent to 40 percent - depending on the project. This leaves a substantial amount to be raised from public sources.

Tolls are the basis for most of the more innovative financing arrangements, particularly public-private partnerships, used in other states. Tolls can be used to assess the real cost of using a facility, which can differ by time of day or level of congestion. Expressways, limited-access toll lanes and truck-only lanes are some of the more common toll facilities.

Electronic toll collection allows tolls to be adjusted for changing conditions (congestion pricing) and enables the use of prepaid cards or automatic billing that eliminate toll booth stops. Oregon even tested a mileage tax by fitting cars with GPS systems that gave mileage data to the gas pump, which then added the tax to the gas bill.

Purely public toll projects are often not fully supported by the tolls and require the public entity to continue subsidizing the operation, particularly in the early years. The toll feasibility standard used by the Florida Turnpike Enterprise requires the tolls to cover 50 percent of operating cost and debt service by year 12 and 100 percent by year 22.

Public-private toll road arrangements may also be subsidized, but more often are expected to be self-supporting. In some cases they are designed to generate excess revenue that can be used for other projects. Even self-supporting projects can free up revenue for other maintenance or construction.

Some projects do not involve public funds but rely entirely on tolls. Colorado's Northwest Parkway, with 10 miles of highway and 26 bridges, was 100 percent privately funded and is operated by a joint venture of two foreign companies as concessionaire.

Shadow or pass-through tolls are payments made per vehicle by the government entity to a private

partner in lieu of tolls. This keeps the facility free but transfers the risk and responsibility to the private party.

While useful in many situations, tolls can have adverse consequences. For example, placing tolls on existing non-toll roads could result in the overuse of alternative routes. Louisiana law prohibits tolls on existing roads unless lanes are added. Tolls are most effective where the consequences are known and intended, as when providing a new or alternate route and adding capacity to existing routes (a new truck lane or express lane.)

Tolls can enable lease arrangements where the concession to operate and collect the tolls on an existing toll or non-toll road is sold to a private entity. The up-front payment can then be used to build other public projects. The major companies bidding on such projects in this country are typically foreign firms (e.g., Australian and Spanish) that have extensive experience elsewhere in the world. This can be disconcerting to state legislators, who often balk at hiring out-of-state firms.

Louisiana's most-used roads are the interstates; however, federal permission would be required to place tolls on existing interstates. While the USDOT has granted several states pilot designations to toll interstates, only Pennsylvania has been moving ahead with a proposed conversion of Interstate 80 into a toll road, using a public-public partnership between the state and the Pennsylvania Turnpike Commission, to provide $2.5 billion in rehabilitation over 10 years.

Innovative Debt A variety of debt mechanisms are available, mostly using the state's federal aid apportionment. GARVEE bonds are debt supported by future federal aid payments. TIFIA loans use a special pot of federal money to make long-term debt deferral of up to five years for initial payments. A $66 million TIFIA loan jump-started the LA 1 project to Port Fourchon. States can make Section 129 loans to toll projects from their federal aid grants. Some states use loans from federal- and state-funded State Infrastructure Banks (SIBs). Borrowing from a state's current (Section 129) or future (GARVEE) federal aid has obvious drawbacks, particularly now that aid is uncertain.

Impact Fees Impact fees are being used in some states to tax the development near new highway construction and capture a portion of the benefit that development incurred due to the new infrastructure. Louisiana local government tax increment financing (TIF) is similar and has been used in several cases to tap the growth in sales and property taxes to support bonds for road improvements (none have been mega-projects.) The state does require mitigation for the impacts of development. While the state has not initiated any TIFs, it has agreed to participate in several.

Mass Transit Alternative Louisiana has little in the way of mass transit to compete with the automobile. While 41 parishes have some form of public transit, these are primarily urban bus systems, limited rural bus or van operations, and the New Orleans streetcar system. Mass transit is seldom self-supporting, but it might be cost-effective to shift some highway funding to light rail or bus systems it if it could reduce highway congestion without requiring new pavement. The state now contributes less than $10 million a year to transit.

Mega-Project Funding Plans

All but two of the mega-projects in the TIMED program will soon be completed. In addition, of the $16 billion worth of mega-projects listed in the State Transportation Plan, DOTD has undertaken portions of several of the Priority A and B mega-projects in the past five years. These include LA 1, I-49 North, I-49 South, widening I-10 on both sides of Lake Charles, widening I-10 in Baton Rouge (split to Siegen Lane), widening I-12 from O'Neal Lane to Range Road through a design-build contract, allocating $35 million for widening I-12 in Slidell and widening I-10 in Baton Rouge from Siegen to Highland Road with $72 million in economic stimulus funds. However, much more funding is needed to complete even the highest priority projects.

The first phase of LA 1 from Port Fourchon to Leeville has been completed at a cost of $309 million. The second phase, LA 1 from Leeville to Golden Meadow, will require $360 million in funding that is currently unavailable.

Right now, the planned North-South interstate from New Orleans to Arkansas is designated "Future I-49." About one-third of the route has been upgraded to interstate standards, mostly as TIMED projects that are now completed. Several

remaining costly projects include the connector through Lafayette, a connector through Shreveport, a stretch from I-220 to the Arkansas border and conversion of the southern portion to limited access.

Three potential toll-supported mega-projects currently in planning are proposed loops around Baton Rouge, Lafayette and Monroe. The loops are included in the State Transportation Plan list of mega-projects, but are in Priorities C and D (except for a Baton Rouge north bypass in priority B), which would not be funded by the state even under the best case funding scenario. The local or regional authorities created to implement the loops are struggling to put together financing.

Most of the projects under way are being done in phases as funding can be cobbled together from a variety of federal, state and local sources. The complexity of the funding schemes is illustrated by the plan shown in Table 3, which was put together in 2007 for the first phase of rebuilding 19 miles of LA 1 from Golden Meadow to Port Fourchon.

Some of the major projects under way or in some planning stage are outlined in Table 4. These projects alone represent nearly $12 billion in potential construction costs to complete. Considerable work has been done on the I-49 North and South projects on a piecemeal basis; however, only planning and some initial engineering work has been done for the connector and loop projects listed. All of these mega-projects are struggling to secure funding and all are well beyond the state's capacity to fund. I-49 backers are looking to federal earmarks in the next federal highway act for the bulk of the funding.

Public-Private Partnerships (PPPs)

Plans for many of Louisiana's proposed highway mega-projects are considering public-private partnerships (PPPs) and toll financing. PPPs have been used to fund, build and operate most major highway projects in many countries and in the United States for major toll highway projects in a number of states.

A PPP is an agreement between a government and a private entity to provide a service or facility for public use and to share the risks and rewards. PPPs are a limited form of privatization, but the public retains ownership of the facility. While some PPP contracts grant very long-term concessions, control of the facility reverts to the governmental owner in the case of default on the agreement. New highway and bridge projects can be good candidates for PPPs, if the project and expected toll revenue are large enough.

Table 3. Complex Funding Scheme for LA 1

Source	Estimated amount (in $millions)
Toll Revenue Bonds/TIFIA Loan	$136.4
Federal Highway Formula Funds	46.8
Federal Highway Earmarks	67.9
State TTF	10.0
State General Obligation Bonds	0.1
NOAA Grant	1.7
Local Sources	.3
State General Fund (Act 203, FY06 surplus)	63.0
Coastal Impact Assistance Program (anticipated)	35.0
TOTAL	**$361.1***

*Note: Actual contracts for the first phase totaled $307 million, including a bridge ($161 million), 5.34 miles of elevated expressway from the Gulf to Leeville ($138 million) and a toll center ($8 million).

Table 4. Examples of Mega-Projects in Louisiana

Project	Estimated Cost To Complete
I-49 North (I-20 to Arkansas border)	$550 million
I-49 South (New Orleans to Raceland)	$3.6 billion
Lafayette (I-10 in Lafayette to Berwick)	$1.4 billion
Lafayette Loop (SW version 1)	$400 million
(SW version 2)	$800 million
Baton Rouge Loop (90-100 miles)	$4 billion
Ouachita Loop (Monroe bridge)	$320 million

By accessing private capital, PPPs can allow projects to be undertaken quicker than they might if the government relied on pay-as-you-go or was limited in its bonding capacity. Because the private entity is risking its investment, it has an incentive to cut costs and be innovative. In a lease arrangement, a PPP can provide up-front money or annual payments for the right to operate a new or existing facility, assuming a significant toll potential.

PPPs may allow governments to leverage major private investment without raising taxes; however, the public will end up paying for the facility through tolls. Critics argue that this approach is more costly than public financing in the long run. But that argument is relevant only if the facility can be built with public funds alone, which may not be the case.

PPP and Highways Louisiana has yet to use PPP for a major new highway project; however the state has long used private contracts for highway construction, design and engineering, environmental studies and road maintenance. Recently, the state has begun using design-build contracts, a limited form of PPP, where the contractor is responsible for both aspects to achieve better coordination, efficiency and earlier completion. This allows construction to begin while design elements are being completed.

The $406 million Audubon Bridge at St. Francisville is the state's first design-build contract, which was expected to cut nine to 12 months from the completion time. When Hurricane Gustav created delays, the contractor had to absorb the losses. DOTD expects a design-build contract to significantly shorten the completion time for the $100 million expansion of I-12 to Walker, currently underway. Two of the major stimulus-funded projects are authorized to use design/build as well.

Limits of PPPs Toll-supported PPP highway projects require a certain size to be feasible. The PPP approach is not suitable for small road projects or projects where available free alternative routes would have a competitive advantage over the toll facility. While the lack of competing routes is good for the toll facility, it might create a problem of acceptance if the public feels it has no free alternative and is essentially forced to use the toll road. Toll and free lanes can be operated on the same road bed as long as the toll lane can provide the benefit of shorter travel times.

As with privatization in general, PPPs have been criticized for the loss of public control and the lack of a regulatory framework. However, to a large extent, these concerns can be mitigated in a carefully drawn agreement. The extensive experience in other states offers considerable guidance regarding the best practices to be used in drawing up partnership agreements. The extensive language in Louisiana's own Transportation Mobility Fund legislation sets important limitations and requirements regarding PPP agreements.

PPPs in Other States Many states and cities have undertaken major PPP highway projects or have them under consideration. The larger projects include Indiana's $3.8 billion payment from two foreign groups for the right to operate the 157-mile

Indiana Toll Road under a 75-year lease, the 99-year lease on the Chicago Skyway, netting the city $1.8 billion, and a $12.8 billion bid by a consortium to operate and maintain the existing 469-mile Pennsylvania Turnpike system as a toll road for 75 years (this proposal recently fell through). PPPs are being used to build new toll lanes on existing routes, to convert high-occupancy vehicle (HOV) lanes to high-occupancy/toll (HOT) lanes or to build truck-only toll lanes.

Texas has been getting a lot of attention lately for its use of tollways and innovative infrastructure finance. The state is currently negotiating contracts for two multi-billion-dollar toll projects in the Dallas-Fort Worth area using PPPs with a Spanish company as the main private partner. The state would put up about one-third of the construction costs in each case and the contractor would pay operating costs from tolls over the 50-plus year concessions. These are both extremely complex projects on highly congested routes with expected heavy usage.

Louisiana groups have made pilgrimages in the last few years to see what Austin, Dallas and Houston might offer as guidelines. The maze of alternative toll and non-toll expressway routes in those cities is impressive, but is it a useful model for a much less populated and poorer state?

In Texas, the state, regional and county authorities can build and operate toll highways. The state just recently scaled back an ambitious 50-year plan to build 4,000 miles of new highways, major city loops and dedicated truck routes. The new approach emphasizes regional efforts, individual projects and improvements on existing roads rather than new routes. A heavy reliance on toll financing is expected, and regional and local toll authorities have begun taking advantage of PPP opportunities.

Louisiana PPP Legislation Public-private partnerships are authorized in Louisiana by the Constitution and a series of laws enacted from 1997 on allowing the creation of local toll authorities to plan, design, construct and operate toll roads and facilities. The preamble to most of these acts includes the finding that "public revenue, including federal funds, has not kept pace with the state's growing transportation needs." Thus far, no toll roads have been undertaken using the PPP authority.

In 2001, the Louisiana Transportation Authority (LTA) was created in DOTD with statewide jurisdiction to plan, construct, operate toll or transit projects and use PPPs. Recently, the LTA has begun preparing for possible PPP contract proposals by lining up five teams of strategic advisers to assist in evaluating, awarding and managing such contracts.

In 2006, LTA was given a funding mechanism, the Transportation Mobility Fund (TMF), which was to use a new annual revenue stream to bridge the gap between projected toll revenues and the total cost of a toll project. The TMF money is to be used for mega-projects in DOTD's priority list or identified by the LTA. The focus was intended to be on the urban areas and highways, particularly interstates 49 and 69.

One consulting firm has suggested an aggressive construction program using the TMF. The plan would require a dedicated revenue stream of at least $180 million a year to support $1.8 billion to $2.2 billion in bonds and leverage a 12-year construction program totaling $5 billion to $6 billion. The program could provide urban bypasses and completion of the interstate system. Projects could include I-49 (North, connector and South); bypass loops for Lafayette, Baton Rouge and Monroe; and projects for Lake Charles and New Orleans. The projects could be purely public or PPPs.

Another presentation suggested a $4 billion program target with the TMF providing 40 percent (or $1.6 billion) and local financing (tolls and other local sources) for the remaining $2.4 billion. This plan required an annual revenue stream of $120 million to $140 million. It was suggested that using PPPs could leverage an even larger investment.

However, the only funding the TMF has received has been a $5 million earmark from the FY06 surplus for planning on the Baton Rouge Loop. The 2008 dedication of the vehicle sales tax to transportation specified that 7 percent would go to the TMF. The amount would only reach about $25 million by 2015, if the phase-in actually occurs. However, this could support a $290 million bond issue sometime in the future. While useful, this would not begin to satisfy the $1.4 billion public investment required just for the Baton Rouge Loop project. The total cost for this loop alone is pegged at $3.6 billion to $4.5 billion.

THE PROBLEM IN SUMMARY

Louisiana's highway construction spending has for several years been at an unprecedented level. However, the tide is turning. Traditional highway revenues were down sharply at the end of FY08, the TIMED program is out of bonding capacity with two big projects left, and the federal highway trust fund is in trouble. Louisiana's $14 billion backlog in work on the existing roads and bridges will continue to rise if TTF revenues are allowed to continue falling behind the inflation in construction costs. Efforts to provide a funding base for undertaking $16 billion in mega-projects over the next 30 years have been largely fruitless. The condition of the state's highways and bridges remains poor relative to the national ratings, which are not good.

The Legislature's attempt to shore up TTF funding has hit a snag. The phase-in of the vehicle sales tax dedication is in limbo and may be difficult to restart. It could have made up for the slow growth in other TTF revenue in the short run, but at best could not stop the long-run funding decline and would have had little impact on the backlog. Hard decisions regarding revenue increases are overdue if there is going to be real progress on implementing the statewide transportation plan.

The traditional method of funding the state highway system will likely prevail for the foreseeable future, but these revenues have limited growth potential due both to economic and political factors. As a result, innovative funding methods and the use of public-private partnerships to tap private investment sources will receive much more attention.

The state has prepared the way for using public-private partnerships; however, the token funding for the TMF is far short of what supporters suggested was needed to make this the driving force behind a program to finance the state's highway mega-projects.

The very large size of the projects that might be considered for public-private partnerships and the lengthy concession periods involved demand that extreme caution be exercised. Experience in other states and nations has provided well-developed guidelines for preparing and drawing up contracts designed to assure that the public is adequately protected.

New construction toll roads are difficult to fully finance using toll-supported bonds. In spite of the enabling legislation, the LA 1 South project includes Louisiana's first toll-supported bridge in a quarter century. Tolls will pay the debt on the bridge portion of the project.

Planners for the various regional mega-projects are all considering using tolls and the possibility of using private partners. Involving private firms has several benefits but perhaps the most important would be bringing the market to bear on financing decisions. Data for several of these projects indicate there would not be enough users to provide toll funding for even half of the total costs. A private firm would have to make realistic decisions about the revenue potential.

Regional developers often view their local economic development projects with a "build it and they will come" belief that may be overly-optimistic. A number of mega-projects receiving the greatest attention, namely the urban loops, are quite low on the state transportation plan priority list and appear to have questionable viability as tollways. If regional authorities can implement those types of projects independently, as some of the Texas authorities have done, well and good. If they are relying on the state for a major share of their funding, a more rigorous analysis is required.

While it is a politically difficult role, DOTD must be able to make these assessments and clearly communicate where these projects stand in terms of the statewide priorities and why. It is not DOTD's job to challenge proposed legislative appropriations for low-priority projects, but it should make the information readily available that could be used to make that challenge if warranted.

RECOMMENDATIONS

Recommendation #1: The TIMED program should be placed on a sound fiscal footing by levying an additional gasoline and motor fuels tax of up to 2 cents per gallon to fully fund the completion of all projects currently under contract. Contracts for the final two projects should not be let until a subsequent tax increase is levied sufficient to fund them as well. An alternative would be to eliminate, indefinitely postpone or downsize the final two projects.

If an alternate source of funding is not provided, the regular TTF will have to support the debt service to finance the last $845 million or so in borrowing needed to complete the TIMED projects currently under contract. Depending on how the final borrowing is structured, an additional 2-cpg gasoline tax ($60 million annually) should provide sufficient coverage. The tax could be adjusted annually or set at a fixed rate and escrowed for future debt service until the debt is paid.

Recommendation #2: The gasoline and motor fuels tax should be indexed to the rate of inflation and automatically adjusted annually without requiring further action by the Legislature.

Had the gas tax been indexed in 1990, there would be no need to make further funding adjustments today and the state would not be facing a $14 billion backlog in highway projects. As it is now, indexing the existing gas tax will help to keep funding from falling further behind but, on its own, will not be sufficient to move the state's construction program forward.

Recommendation #3: The state's initial highway funding objective should be to provide the $650 million in annual new revenue needed to fund the aggressive highway construction program outlined in the Statewide Transportation Plan. A major share of this new funding must necessarily come from increases in some or all of the major highway user fees and taxes, particularly the gasoline and motor fuels tax, auto licenses and truck registration fees.

Louisiana's citizens and economy would benefit from a significant increase in highway and bridge funding in terms of less congestion, shorter commute times, lower vehicle maintenance bills, fewer traffic casualties, new and expanded business, and improved tourism. The Statewide Transportation Plan has provided a reasonable funding objective for undertaking an aggressive construction program. The additional $650 million a year is a current dollar estimate and will rise over time, thus requiring a mechanism for assuring future revenue growth. The $650 million objective is reasonable and an amount that could be put to work effectively. If a gasoline tax increase is selected as a major element of the new funding, the growth mechanism should be annual indexing to inflation.

DOTD will begin updating and revising the 2003 Statewide Transportation Plan in mid-2010. The highway funding objective should be adjusted to reflect any new developments in the plan.

Recommendation #4: The vehicle sales tax dedication should be repealed. As an alternative, a general fund appropriation to the highway priority program should be considered annually.

While related to vehicles, this revenue has little correlation with highway use and has not been a dedicated part of the TTF during the past 20 years of the fund's existence. Vehicles are only one of the thousands of items upon which the general sales tax is levied and most of which could be related in some way to various government programs or services. If general fund money is needed for highways, it should be appropriated directly.

Recommendation #5: DOTD should submit an annual budget request indicating the general revenue support needed to meet the "minimum" highway funding needs (without increasing the project backlog), an intermediate or "adequate" funding level that would eliminate the backlog over time and an "optimum" level designed to aggressively attack the project backlog and help fund mega-projects as well.

Budget makers, legislators and other interested parties should be provided a gauge for annually determining the adequacy of the level of highway funding being provided. They should know whether and to what extent the project backlog is being addressed and have an estimate of how many years it will take to eliminate the backlog at a given level of funding. Similar to "full funding" for higher education, it should be clear how close the state is to providing an "optimum" level of funding for highways.

Recommendation #6: Windfall revenues appropriated for highway construction should be limited to the top-priority mega-projects as determined by the DOTD planning process.

The availability of windfall money should not be allowed to be used as an excuse to spread funding around for low-priority pet projects. In the face of

competing parochial demands, it is imperative that the state's highway priority program be preserved and strengthened.

Recommendation #7: State and local toll authorities should pursue toll-based funding for new facilities. They should also continue to examine public-private partnership opportunities, but with extreme caution, using maximum transparency and recognizing the limited applicability of this approach.

Public-private partnerships can be attractive for very large, heavily used projects. The advantage is less clear for smaller or partially toll-supported projects. PPPs should not be considered a viable solution for every project that cannot obtain sufficient public funding. The more aggressive funding level recommended for the highway program would include a revenue stream to provide gap funding for toll projects.

CONCLUSION

Louisiana highway funding currently faces three crises. The crisis in the federal highway trust fund is one the state has little control over. Its solution requires congressional action. However, the crisis in the TIMED program requires legislative action, and soon, to make this separate program self-supporting.

The long-term crisis in the state's Transportation Trust Fund requires serious deliberation over the next two years. A decision must be made as to whether the state is going to aggressively and consistently deal with building its highway system and how the appropriate level of funding would be provided. An expanded construction program cannot be built on revenue arbitrarily shifted from other purposes. A significant new revenue source or sources will be required to prevent the long-term deterioration of the highway system. The likely failure of the vehicle sales tax phase-in, the lack of a replacement for the disappearing federal stimulus funds and the demands of the TIMED program could threaten the loss of federal funds and seriously undermine the highway program in FY12, if not earlier.

Maintaining Louisiana's existing highway system will require an increased revenue effort; improving the system will take even a greater effort. Failure to act soon will undo recent gains and lead to an inevitable decline.

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