

The Senate Select Committee on Transportation Funding, Expenditures & Finance



Interim Report to the 84th Legislature

January 2015

SENATE SELECT COMMITTEE ON TRANSPORTATION FUNDING, EXPENDITURES & FINANCE

SENATOR ROBERT NICHOLS
Chair
SENATOR JOAN HUFFMAN
Vice Chair



MEMBERS:
SENATOR DONNA CAMPBELL
SENATOR KEVIN ELTIFE
SENATOR KELLY HANCOCK
SENATOR JUAN "CHUY" HINOJOSA
SENATOR KEL SELIGER
SENATOR CARLOS URESTI
SENATOR JUDITH ZAFFIRNI

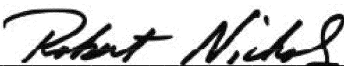
January 2015

The Honorable Dan Patrick
Lieutenant Governor
State of Texas
Capitol Building, Room 2E.13
Austin, Texas 78701

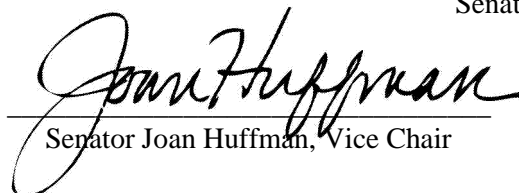
Dear Governor Patrick:

The Senate Select Committee on Transportation Funding, Expenditures, and Finance of the Eighty-Third Legislature hereby submits its interim report for consideration by the Eighty-Fourth Legislature. We thank you for providing us the opportunity to address these important issues.

Respectfully submitted,



Senator Robert Nichols, Chair



Senator Joan Huffman, Vice Chair



Senator Donna Campbell



Senator Kevin Eltife



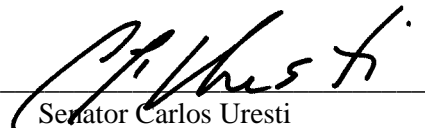
Senator Kelly Hancock



Senator Juan "Chuy" Hinojosa



Senator Kel Seliger



Senator Carlos Uresti



Senator Judith Zaffirni

Chair, Government Organization Committee
Vice Chair, Joint Oversight Committee
on Higher Education Governance,
Excellence, and Transparency
Legislative Budget Board



Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997

Committees
Administration
Finance
Health and Human Services
Higher Education

January 19, 2015

Senator Robert Nichols, Chair
Senate Select Committee on Transportation Funding,
Expenditures & Finance
Texas Legislature
Austin, Texas 78711

Dear Chair Nichols:

Thank you for your leadership as Chair of the Senate Select Committee on Transportation Funding, Expenditures & Finance. It is my privilege to serve with you, and I appreciate the opportunity to share my perspective regarding the Committee's interim report. Because the report includes helpful information regarding transportation funding options for the Legislature to consider, I am delighted to sign it. I submit this letter, however, to be included in our interim report as a record of some of my concerns.

On October 9, 2013, the committee heard testimony about and discussed the particular and substantial impact of energy sector activities on our roads. This challenge is of great importance to our state, not only for our constituents who must face dangerous and inadequate roads while commuting to work, school, and church, but also for the energy companies that need an adequate infrastructure to develop our rich oil and gas resources efficiently. Because of the importance of this issue and of its impact, I am disappointed that it is not addressed in the report.

Discussing every possible option for increasing revenue for transportation funding may be impractical, and the three existing and three new revenue sources included in the report are fundamental to any approach the Legislature may take. Relying only on dedicating existing revenue sources to transportation, however, will create funding gaps in other areas of the budget. With the dramatic increase in population and vehicle miles traveled on our roads in the last two decades, it is critical that we

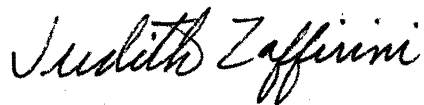
Letter to Senator Robert Nichols
January 19, 2015
Page 2 of 2

emphasize new sources of revenue if we want to address adequately our vast needs.

Thank you for your impressive dedication to these important issues. I look forward to our continued productive relationship during the current legislative session. Count on my continued leadership to ensure that every Texan has access to quality transportation infrastructure.

May God bless you.

Very truly yours,

A handwritten signature in cursive script that reads "Judith Zaffirini". The signature is written in black ink and is positioned below the typed name.

Judith Zaffirini

JZ/sg

Table of Contents

Senate Select Committee on Transportation Funding, Expenditures & Finance Interim Hearings	i
Options Utilizing Existing Revenues.....	1
Texas Emissions Reduction Plan.....	1
State Highway Funds transferred to agencies other than TxDOT.....	2
Motor Vehicle Sales Tax.....	3
Options Utilizing New Revenue.....	5
Index Motor Fuels Tax.....	5
Vehicle Registration Fee.....	7
Drivers License Surcharge.....	8

Senate Select Committee on Transportation Funding, Expenditures & Finance Interim Hearings

October 9, 2013, Room E1.036

The Committee received invited testimony on:

1. The impact of increased energy sector activities on state roads.

June 24, 2014, Room E1.016

The Committee received invited testimony on:

1. The future reliability of all current state transportation funding sources.
2. Alternatives that may increase available state funding for transportation, including an examination of increases to current transportation-related funding streams and possible dedication of non-transportation related funding streams toward transportation.
3. The use of debt financing in state transportation funding, including the uses of the Texas Mobility Fund, and the effects on long-term transportation planning of using debt financing.
4. Alternative transportation funding options used nationally and internationally.

September 16, 2014, Room E1.016

The Committee received invited testimony on:

1. The future reliability of all current state transportation funding sources.
2. Alternatives that may increase available state funding for transportation, including an examination of increases to current transportation-related funding streams and possible dedication of non-transportation related funding streams toward transportation.
3. Alternative transportation funding options used nationally and internationally.

The audio/video recordings, minutes, and witness lists for the above referenced hearings may be found online at: <http://www.senate.state.tx.us/75r/senate/commit/c642/c642.htm>

This Committee was charged with looking at the current state of transportation funding, expenditures and new methods to finance our future transportation needs. The Committee received testimony from experts in the field of transportation finance, explored finance methods used in other states and reviewed a menu of options available to the 84th legislature.

Ultimately this Committee did not make any formal recommendations on new transportation funding measures, but rather it encourages the 84th Legislature to make a commitment to providing adequate funding for our aging and congested transportation system. There are numerous options available to the Legislature. This report will briefly address some of those options.

Options Utilizing Existing Revenues

Texas Emissions Reduction Plan (TERP)

TERP is a General Revenue–Dedicated Account created by Senate Bill 5, Seventy-seventh Legislature, 2001. Senate Bill 5 also established the TERP account. TERP is a grant program in areas of the state that are in non-attainment or near-non-attainment with federal Clean Air Act (CAA) standards. Grants are provided to eligible individuals, businesses, or local governments to reduce emissions from on-road and non-road diesel-powered construction and industrial equipment, vehicles, and stationary engines.

Revenues deposited to the TERP Account originally consisted of the following fees, taxes, and surcharges:

- \$225 title fee on out-of-state vehicles registering in Texas, the primary revenue source envisioned for TERP;
- 10 percent of the registration fee for truck trailers and commercial vehicles;
- a 1 percent surcharge on each sale, lease, or rental of new or used off -road equipment;
- 2.5 percent of the total charge for retail sale or lease of year 1996 and earlier on-road diesel motor vehicles over 14,000 lbs; and
- a \$10 fee per commercial motor vehicle inspection.

The \$225 title fee on out-of-state vehicles was subsequently ruled unconstitutional and was never collected. To replace the lost revenue, the Seventy-eighth Legislature Regular Session, 2003, enacted House Bill 1365 which (1) increased the vehicle certificate of title transfer fee by \$15 to \$20, depending on the county where the vehicle is registered (i.e., \$20 in counties located in non-attainment and near-nonattainment areas and \$15 in all other counties); (2) increased the surcharge on off-road equipment from 1 percent to 2 percent; and (3) added a 1 percent surcharge on the sale, lease, or use of model year 1997 and later heavy-duty on-road vehicles. The total certificate of title fee for an applicant residing in a county located within a non-attainment area became \$33 and \$28 for applicants residing in all other counties.

House Bill 1365 also contained a provision which, effective September 1, 2008, would have set the certificate of title fee at \$28 statewide and deposited fee revenue to the credit of the Texas Mobility Fund No. 365 instead of to the TERP Account. However, House Bill 2481, Seventy–ninth Legislature, Regular Session, 2005, continued the certificate of title fee at \$33 for applicants residing in counties located in non-attainment areas and provided that \$5 of the \$33 certificate of title fee collected in non-attainment areas be deposited to TERP Account. To replace the revenue loss to the TERP Account, the Legislature included a provision in House Bill 2481 requiring that non-dedicated State Highway Fund (SHF) receipts in an amount equal to the certificate of title fees deposited to the Texas Mobility Fund during the preceding month be remitted to the TERP Account on a monthly basis. Based on current statute, the allocation of \$5

of the \$33 certificate of title fee in non-attainment areas to the TERP Account is scheduled to expire on September 1, 2015. However, the provision requiring repayment of the TERP Account by the State Highway Fund does not expire until August 31, 2019.

The \$5 portion of the fee that is deposited directly to the TERP Account or the repayment of the title fees deposited to the Texas Mobility Fund by State Highway Fund No. 6 represents nearly 60 percent of all TERP receipts. Since 2009 this transfer has accounted for around \$500 million of the current funds in TERP.

Since the inception of the TERP Account, the unexpended balance in the account has steadily increased. Revenue deposited into the TERP Account has regularly exceeded appropriations resulting in a growing balance which is used for budget certification.¹

Elimination of this transfer will allow the State Highway Fund to save around \$100 million annually which can be used for additional transportation projects.

Additionally, there are opportunities, through statutory change, which would allow TERP funds to provide traffic congestion relief while achieving the program's goal of air quality improvement. Amending TERPs enabling legislation to allow for funding of Congestion Mitigation and Air Quality (CMAQ) transportation projects would benefit motorists as well as help the state achieve its air quality improvement goals. These projects could be chosen by the Texas Department of Transportation (TxDOT) and approved by the Texas Commission on Environmental Quality (TCEQ) to ensure compliance with federal air quality standards.

It should be noted that the TERP account currently has a balance in excess of \$950 million. The 84th Legislature could appropriate these funds for their intended purpose including transportation projects that assist with air quality improvement.

State Highway Funds transferred to agencies other than TxDOT

Certain transportation related revenue streams are constitutionally dedicated to the State Highway Fund for the purpose of acquiring right of way, construction, maintenance, and policing of the state highway system. However, over the past decade the Legislature has relied on these funds to pay for other non-transportation related purposes. Commonly referred to as “diversions” these transfers of funds to agencies other than TxDOT have been the topic of discussion over the past few legislative sessions. The 83rd Legislature made good progress towards ending this practice, but there is more work to be done. Below is a description of funds transferred from the State Highway Fund to agencies other than TxDOT. Totals are biannual numbers.²

¹ Legislative Budget Board Report http://www.lbb.state.tx.us/Documents/Publications/Issue_Briefs/527_TERP.pdf

² Legislative Budget Board presentation to the Select committee on September 16, 2014

OFFICE OF THE ATTORNEY GENERAL: Funding provides legal services on behalf of the Department of Transportation and the Department of Public Safety (includes right-of-way acquisition proceedings and representation in lawsuits).	\$11.9M
TEXAS A&M TRANSPORTATION INSTITUTE: Funding supports highway safety and other transportation related research.	\$16.9M
DEPARTMENT OF PUBLIC SAFETY: Funding is provided to police the state highway system and administer state traffic and safety laws on public roads as authorized by Article 8, §7-a, Texas Constitution, and Transportation Code §222.001.	\$812.6M
DEPARTMENT OF MOTOR VECHICLES: Appropriations support motor vehicle registration and titling, vehicle dealer registration and regulation, motor carrier registration and regulation, and agency administration.	\$71.4M
STATE OFFICE OF ADMINISTRATIVE HEARINGS: Funding is provided for hearings for the Department of Public Safety's Administrative License Revocation Program.	\$6.5M
DEPARTMENT OF INSURANCE: Funding supports TexasSure, the state's vehicle insurance verification system, a database allowing law enforcement and tax collector/assessors to instantly identify whether drivers possess valid auto insurance. Pursuant to Transportation Code §502.357, an additional \$1.00 fee is assessed on vehicle registrations (deposited to the State Highway Fund) and maybe appropriated to the Department of Insurance and/or other designated implementing agencies to implement the insurance verification system program.	\$10.1M
DPS TROOPER SCHEDULE C SALARY INCREASE: State Highway Fund funding is appropriated for a pay increase for troopers at the Department of Public Safety	\$85.6M
BENEFITS FOR EMPLOYEES OF AGENCIES OTHER THAN TXDOT: Employee benefits are paid proportionately by fund, and therefore a proportionate amount of the State Highway Fund is provided for insurance, retirement, Social Security, and benefit replacement pay costs for employees and retirees from the agencies identified as receiving State Highway Fund appropriations. (excludes Texas Dept. of Insurance)	\$221.7M

Motor Vehicle Sales Tax (MVST)

Currently a sales tax of 6.25 percent is assessed on the purchase of a new or used vehicle. With the exception of a small amount that is dedicated to the Property Tax Relief Fund, the MVST is deposited into the General Revenue Account for non-dedicated spending purposes.

As vehicles become more fuel efficient, the state gas tax is a less dependable viable option for future funding. In addition to its current funding, TxDOT needs a predictable, constitutionally dedicated, transportation related revenue stream that adjusts to inflation and is not dependent on a particular fuel source for its future planning needs. The existing motor vehicle sales tax meets all of these needs.

The Legislature could dedicate a portion of the MVST to the State Highway Fund for the construction and maintenance of the state highway system. The tables below show the estimated impact of different scenarios for dedicating the MVST to the SHF.³

³ Legislative Budget Board presentation to the Select committee on September 16, 2014

Option 1: Deposit 10% of collections to SHF in FY 2016. Increase allocation by 10% each fiscal year until 100% of collections are deposited to SHF.

Revenue Impact (Millions)	2016	2017	2018	2019	2020
SHF	\$379.4	\$789.7	\$1,232.6	\$1,709.9	\$2,223.7
GR	(\$379.4)	(\$789.7)	(\$1,232.6)	(\$1,709.9)	(\$2,223.7)

Option 2: Deposit collections in excess of FY 2015 collections to SHF

Revenue Impact (Millions)	2016	2017	2018	2019	2020
SHF	\$149.9	\$304.3	\$384.9	\$586.4	\$757.4
GR	(\$149.9)	(\$304.3)	(\$384.9)	(\$586.4)	(\$757.4)

Option 3: Beginning in FY 2016, deposit 50% of collections to the SHF and 50% to GR

Revenue Impact (Millions)	2016	2017	2018	2019	2020
SHF	\$1,897.1	\$1,974.2	\$2,054.3	\$2,137.3	\$2,223.7
GR	(\$1,897.1)	(\$1,974.2)	(\$2,054.3)	(\$2,137.3)	(\$2,223.7)

Option 4: Deposit all revenues in excess of \$2.5B to the state highway fund. The initial \$2.5B remains in GR

Revenue Impact (Millions)	2016	2017	2018	2019	2020
SHF	\$1,294.2	\$1,448.4	\$1,608.6	\$1,774.6	\$1,947.4
GR	(\$1,294.2)	(\$1,448.4)	(\$1,608.6)	(\$1,774.6)	(\$1,947.4)

Options Utilizing New Revenue

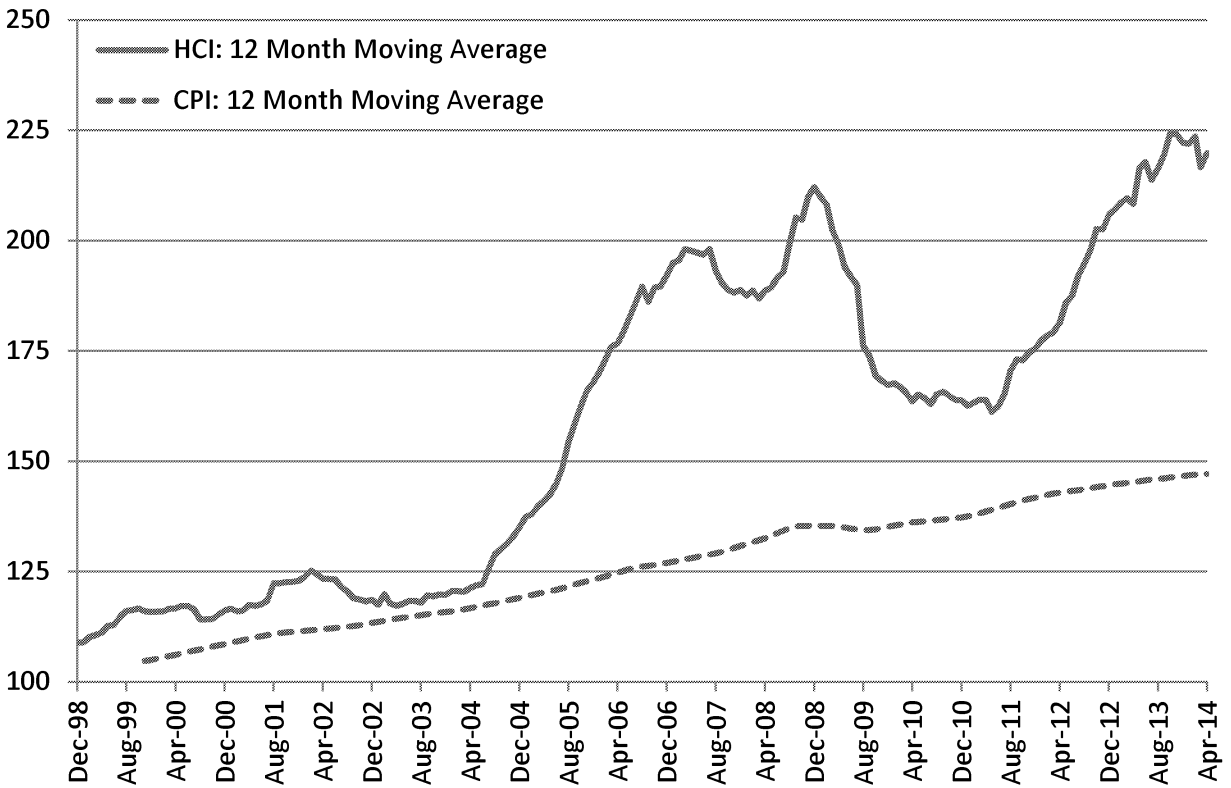
Index Motor Fuels Tax

The state motor fuels tax is a fixed rate that was last increased in 1991. The current rate is \$0.20 per gallon of gasoline. Twenty five percent (25%) of the tax on each gallon goes to pay for public education. Over the last 20 years inflation has far exceeded the purchasing power of the fuel tax.

Indexing the gas and diesel tax rate to the Highway Cost Index or the Consumer Price Index is an option to allow the tax rate to keep pace with the rate of inflation. The chart below shows the current division of revenue between the state highway fund and education.

Estimated Motor Fuel Tax Revenue 2016/2017 (Transportation/Education)	Estimated Motor fuel Tax Revenue Annual 10 Year Average (Transportation/Education)
\$5,110 M/ \$1,708M	\$2,621M / \$876M

Highway Cost Index vs. Consumer Price Index



4

⁴ Testimony of Brianne Glover, Texas A&M Transportation Institute, on September 16, 2014

The table below shows the potential additional revenue available for transportation and education if the motor fuel tax was changed from a unit based tax to one indexed to inflation.⁵

Additional Revenue	Potential Additional Revenue 2016/2017 (Transportation/Education)	Potential Additional Revenue Annual 10 Year Average (Transportation/Education)
Index to HCI	\$312M / \$104M	\$623M / \$257M
Index to CPI	\$151M / \$50M	\$297M / \$99M

Vehicle Registration Fee

The state of Texas requires all personal car and light truck owners to pay an annual \$50.75 state vehicle registration fee. For commercial vehicles, the registration fee is based on the weight of the vehicle, and these fees range from \$54 to more than \$840. The vehicle registration fee has not been significantly adjusted since 1987.

Current Vehicle Registration Fee (\$ millions)

Estimated Registration Fee Revenue 2016/2017	Estimated Registration Fee Revenue Annual 10 Year Average
\$3,145M	\$1,773M

Texas currently ranks number 16 in the nation for vehicle registration fees. The chart below shows the estimated impact of increasing the fee by \$5, \$10 and \$25.⁶

Additional Revenue	Potential Additional Revenue 2016/2017	Potential Additional Revenue Annual 10 Year Average
\$5 Increase	\$239M	\$136M
\$10 Increase	\$478M	\$272M
\$25 Increase	\$1,195M	\$680M

⁵ Testimony of Brianne Glover, Texas A&M Transportation Institute, on September 16, 2014

⁶ Testimony of Brianne Glover, Texas A&M Transportation Institute, on September 16, 2014

Driver License Surcharge

Texas drivers age 18 to 84 pay \$25 to apply for or renew their driver license every six years. This fee is dedicated to the Texas Mobility Fund (minus \$1 for administration). An additional driver license surcharge could be charged at the time of application or renewal and be dedicated solely to funding transportation. Driver license renewal fees are collected once every six years per driver. New application and replacement licenses are unscheduled and vary in number from year to year.

Current Driver License TMF Revenue

Estimated Drivers License Revenue 2016/2017	Estimated Revenue Annual 10 Year Average
\$276M	\$147M

The chart below shows the estimated impact of establishing a drivers license surcharge of \$5 and \$10.⁷

Additional Revenue	Potential Revenue 2016/2017	Potential Revenue Annual 10 Year Average
\$5/License Surcharge	\$57M	\$31M
\$10/License Surcharge	\$115M	\$61M

⁷ Testimony of Brianne Glover, Texas A&M Transportation Institute, on September 16, 2014