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Response to the Texas House of Representatives Committee on Transportation's RFI Interim Charge 1B

In 2016, the American Transportation Research Institute (ATRI) requested an update to ATRI's 2007 Highway Funding Analysis. A key finding in this 2007 report was that there was a persistent transportation funding shortfall due, in part, to an erosion of federal motor fuels tax revenues. The trucking industry is a leading user and tax contributor to the highway system, paying \$41.3 billion in federal and state highway-user taxes according to the 2017 ATRI report. The trucking industry pays nearly 46% of highway user fees for the Highway Trust Fund (HTF).

In respect to response page limitations, this submission is largely a direct summary of many of the key findings from ATRI's Report, *A Framework for Infrastructure Funding*. TXTA urges committee members to read the full report that can be found on ATRI's website at: <https://truckingresearch.org/2017/11/08/a-framework-for-infrastructure-funding/>

Vehicle Miles Traveled (VMT)

In 2016, 3.2 trillion miles were driven in the U.S. in what the Federal Highway Administration (FHWA) referred to as a "historic new record" and both car and truck trends experienced similar VMT increases and decreases over a 10-year period.

Federal and State Transportation Revenue

Any time a consumer purchases gasoline or diesel, a federal motor fuels tax of 18.3 cents per gallon for gasoline and 24.3 cents per gallon for diesel is paid into the federal HTF. These taxes are not, however, directly paid to the HTF by the consumer, but instead are collected by the U.S. Treasury from approximately 1,300 major fuel distributors.

Through its Highway Account, the majority of the HTF funds go to state-led efforts to improve, maintain and/or construct roadways. In federal fiscal year 2016, net tax receipts deposited into the HTF Highway Account totaled more than \$35 billion while outlays totaled \$44.7 billion. In part to keep the Highway Account solvent, Congress authorized a transfer \$52.1 billion from the General Fund to the Highway Account through the FAST Act in 2016. The continued deficit between HTF revenues and outlays highlights the insufficiency of the fuels tax at current levels to adequately fund surface transportation.

Options to solve this issue, including raising the fuels tax, have been debated extensively. However, Congress is the only body that can increase the federal excise taxes on gasoline and diesel, and an increase has not been passed since 1993. Other strategies for funding transportation infrastructure have been studied at the local, state and federal level, and include alternative forms of taxation and fee assessment, tolling and mileage-based user charges.

In addition to fuel taxes, highway funding is also collected through registration fees, tolls, sales taxes, excise taxes on certain equipment and other sources.

Key Existing and Potential Funding Mechanisms

The need for surface transportation infrastructure improvements and for greater federal leadership in funding those improvements is well established. What remains is to quantify how to provide funding for those transportation improvements.

The following criteria have been utilized to evaluate the ability of several key transportation revenue mechanisms to fund the nation's transportation system:

- Administration: How feasible is revenue collection, and how many collection points are there?
- Efficiency: How much does it cost to collect revenue?
- Equity: Who pays the tax/fee and who benefits?
- Effectiveness: Is this tax/fee able to raise sufficient transportation revenue?

Federal Motor Fuels Tax

The federal motor fuels tax has long been a successful model for assessing a road user charge and states have followed the federal lead with their own state-level fuel taxes. Since this tax is assessed on a per-gallon basis, it is directly tied to road usage and vehicle type/size (i.e. bigger/heavier vehicles burn more fuel, and thus generate more fuel tax revenue). Fuel tax collection is a highly efficient process, particularly when compared to tolling and other funding mechanisms.

It is estimated that the cost for collecting federal motor fuel excise tax revenue is just 0.2 percent of the revenue collected. Applying this figure, the 2015 cost of federal fuel tax collection was approximately \$69 million to collect \$34.5 billion in revenue. The key to this efficiency is the limited number of excise tax transactions; there are only 1,304 collection points made up mostly of major fuel distributors who pay the tax directly to the U.S. Treasury. The same system is used by the State of Texas.

That said, many federal fuel tax detractors describe the tax as "unsustainable." This perceived sustainability issue, however, is largely due to political recalcitrance and an outdated tax rate that has not been increased by Congress since 1993.

Two key factors that greatly impact the revenue collected through the fuel tax – vehicle fuel efficiency increases and inflation. Surprisingly, both factors offer justification for a fuel tax. Though VMT is on an upward trend, which tends to increase fuel tax revenues, the fuel efficiency of the U.S. fleet is also increasing.

Trucking, on the other hand, has not seen comparable gains in fuel efficiency. The Energy Information Administration (EIA) reports a 6.1 MPG fuel economy rate for heavy duty trucks in 1993 versus a 6.3 fuel economy rate in 2014. At 24.3 cents per gallon (the rate of the federal diesel fuel tax), each 10,000 miles driven would result in \$393 in federal fuel tax in 1993 down to \$385 by 2014, representing a two percent decrease. Thus, the trucking industry pays slightly less today per mile, but what it pays has not suffered the same erosion that is found with automobile- derived revenues.

Two other factors – the deployment of electric vehicles and fuel tax exemptions – also impact revenues generated from the fuel tax. It is estimated that less than one percent of U.S. vehicles are categorized as electric. If sales of electric vehicles continue to grow, and new methods for capturing revenue from these vehicles are not created, an increasing number of vehicles will act as free-riders on the nation’s highways.

Texas Motor Fuel Taxes*

In fiscal 2018, Texas motor fuels taxes brought in \$3.7 billion, about 6.6 percent of all state tax collections. In that year, they were the state’s fourth-largest source of tax revenue after the sales tax, the motor vehicle sales and rental tax and the franchise tax.

The majority of our motor fuels tax revenue is used for transportation projects. In Texas, gasoline and diesel fuel are subject to a 20-cent tax per gallon. In addition, the federal government imposes taxes of 18.4 cents per gallon on gasoline and 24.4 cents per gallon on diesel fuel.

According to the American Petroleum Institute, when taking into account the federal tax (and other applicable state taxes and fees, although Texas has none of these), Texas’ total levies on gasoline and diesel are the nation’s seventh-lowest and fourth-lowest, respectively, and by far the lowest among the 10 most populous states. Texas drivers pay total levies of 38.4 cents per gallon on gasoline, versus nearly 74 cents in California and 60.4 cents in Florida, for example.

Texas’ gasoline and diesel tax rates haven’t changed since 1991, while the federal rates were last changed in 1993. In the years since, fuel prices have tripled — but since the taxes are based on volume rather than price, tax collections have risen much more slowly.

Exemptions

An exemption from federal motor fuels taxes can be granted to “any state, or any political subdivision of a governmental entity.” This includes government fleets, school bus fleets, and public transit systems. Also included are qualified non-profit organizations. ATRI’s 2007 Highway Funding analysis quantified \$907,000,000 lost annually due to exemptions at the federal and state level.

Fuel Tax Summary

Administration. The federal fuel tax is administered through mechanisms that are already in place. These mechanisms collect transportation revenue for the entire nation through transactions with a relatively small number of fuel distributors.

Efficiency. The fuel tax is highly efficient due to the low number of transactions, resulting in administrative costs of .02 percent. An increase in the fuel tax would not change the cost of collection, making it progressively more efficient.

The fuel tax that is collected from distributors is, generally speaking, passed on to and paid by drivers. Thus, the tax is a direct proxy for charging for roadway effectiveness. The federal fuel tax effectively collects revenue from all U.S. drivers and all roadways through a limited number (1,300) of collection points. The effectiveness of the fuel tax to collect sufficient revenues is however at risk due to the following:

- Unwillingness of elected officials to increase the tax;
- New vehicles that are more fuel efficient than their predecessors or are electric;
- Erosion of the purchasing power of collected revenues due to inflation;
- Road users that are exempt from paying the tax;
- Tax evasion.

One way to improve the effectiveness of the federal fuel tax would be to increase the tax and/or index the tax to inflation and increasing fuel economy.

Revenue Mechanism through Registration Fees

These fees could be structured based on vehicle type or weight to capture some degree of the burden that each vehicle places on the system. That said, vehicle registrations are not tied directly to vehicle use. The same registration is paid if a vehicle is driven 1 mile or 10,000 miles.

Registration fees can effectively collect transportation revenue. The registration process already exists and is a necessary function of government. As part of the registration process, revenue is collected from roadway users and those funds can be used for improving safety and surface transportation. The fee is difficult to evade as there is significant legal risk associated with driving a vehicle that is not registered. Vehicle registration is strictly enforced in the U.S. by all levels of government.

Vehicle Miles Traveled Tax

At the national level, adoption of a VMT tax would require the federal government to track each vehicle, charge a variable mileage fee for each vehicle and ensure that mileage payments are not evaded.

In some ways this scheme would be similar to the current motor fuels tax in that a gallon of gasoline is essentially a proxy for how many miles a specific vehicle could travel. The critical difference lies however in the administration of such an effort.

As discussed earlier, the motor fuels tax is collected from approximately 1,300 individual points. A federal VMT tax would have to be collected directly from the individual owners of more than 250,000,000 vehicles registered in the U.S. More challenging, however, is how to determine the number of miles driven annually by a quarter billion vehicles. Placing tracking devices in each vehicle would be necessary, as would enforcing proper use to prevent evasion. If the goal is highly accurate data (e.g. separating frontage roads from freeways), then a vehicle-integrated device will be needed. Another issue is how to identify the “invisible” vehicles not using the tracking devices, a new anti-evasion challenge that is yet unsolved.

Using a hypothetical and very conservative cost of \$50 annually per vehicle to install and maintain the technology, track, collect and enforce a national VMT tax, the total collection cost would be in the range of \$12.5 billion annually.

The Internal Revenue Service (IRS) collects tax revenue for the Federal Government. In 2015, 79,890 employees of the IRS, using a budget of \$11.4 billion, processed 240 million tax returns.^{135,136} At the federal level, deploying, monitoring, collecting, and enforcing compliance for a VMT tax on a similar number of entities (i.e. 250 million registered vehicles in the U.S.) would require a similar, if not more technologically complex, government program.

Additionally, many vehicle owners will dislike the idea of having their travel monitored and taxed by a government agency. GPS monitoring is crucial to ensure that drivers are only taxed for miles driven on public roads in the relevant jurisdiction. To date it is unknown how the VMT taxpayers would submit their tax revenue as the administrative infrastructure for managing a VMT tax does not currently exist. In any case, the system would be large, complex and inefficient in comparison to other methods of transportation revenue generation.

Supporters of the vehicle mileage tax have suggested that Electronic Logging Devices (ELD), now in use nationwide to record commercial vehicle drivers' Hours of Service (HOS) could be utilized. While these devices do track the vehicle using GPS, there is no mandate that all commercial vehicles have them installed. There is an exemption, both on the federal and state side, that drivers operating within a 150 air-mile radius and no more than 12 hours are exempt from ELD use. As many as 50%, or perhaps more, trucks in Texas are utilizing this exemption. Both the Federal Motor Carrier Safety Administration (FMCSA) and the Texas Department of Public Safety (DPS) have adopted a change allowing drivers to now extend the shift to 14 hours. This will enable even more drivers and trucks to be exempt from ELD use.

With as much as 50% of Texas trucks not having ELD's, the question is how to track these vehicles. As stated earlier in the ATRI report, no such method has been developed. While disconnecting an ELD leaves tracks for an auditor to monitor, a GPS system could be defeated by simply unplugging the device.

The VMT tax would be equitable to the degree that it is enforceable – the tax will only apply to those properly tracking miles and thus following the law. Much like a motor fuels tax, the VMT tax has the potential to cost higher-mileage drivers, such as those that live in rural areas, more than a typical urban driver. That said, if variable pricing were put into practice, miles driven in urban areas would likely cost more than rural miles.

As an example, Texas, which is 2nd on the ATRI list, annually receives approximately \$3.5 billion from FHWA. This equates to 8.8 percent of the annual federal funding for fiscal year 2016. Assuming current revenues remain static, a 10 cent increase in the federal fuels tax on gasoline and diesel would increase the state's transportation revenue by \$1.3 billion – based on the assumption that an additional \$15 billion is raised through a 10 cent fuels tax increase, and that those funds are allocated to states using the existing federal formulas.

The ATRI report concludes that an increase in federal transportation revenue can efficiently occur if the federal government can develop a multi-faceted, equitable and long-term funding program.

TXTA has been on record for many years in support of raising motor fuel taxes in the State of Texas. While it will be necessary to create new mechanisms to ensure the growing number of electric vehicles also contribute to the system, motor fuel taxes will continue to be the most fair and efficient method for raising the revenues necessary to support our vital road and bridge infrastructure.