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staff for the Transportation Committee
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HIGHWAY FUNDING AND TRANSPORTATION INFRASTRUCTURE NEEDS - BACKGROUND MEMORANDUM

House Bill No. 1012, Section 6, requires the Legislative Council to study highway funding and transportation infrastructure needs, including those needs resulting from energy and economic development in this state. House Bill No. 1012 was the appropriation bill for the Department of Transportation.

2005-06 INTERIM COMMITTEE STUDY AND ACTIVITIES

During the 2005-06 interim, the Legislative Council chairman directed a study of federal highway appropriations and state matching requirements. This study was assigned to the Transportation Committee. The committee reviewed federal highway appropriations which were greatly affected by the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which the President signed into law on August 10, 2005. The Act provided funding through federal fiscal year 2009. The Act is a continuation of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21). The federal highway trust fund is the source of funding for most of the programs in the Act. Federal motor fuels taxes are the major source of income into the highway trust fund. The major issue was a projected shortfall in state matching funds. The shortfall was a result of an increase in federal conventional funding and an increase in emergency relief expenditures. The projected shortfall of $10.6 million was reduced to a projected shortfall of $3.1 million because there were no state highways that were roads acting as dam projects and because of changes in the federal formula funding from estimated to actual amounts. The department was able to meet the shortfall without additional funding. This biennium there are no unmatched federal funds.

The 2005-06 interim Transportation Committee received information on the REAL ID Act of 2005. The purpose of the REAL ID Act is to allow computers to work together among the states to retrieve motor vehicle and birth certificate information. Under the Act, a state driver's license will become a national identification that is accessible by all states. The committee was informed it would cost approximately $14 million to implement the REAL ID Act in this state and Congress did not provide any funding for the implementation of the REAL ID Act. Noncompliance with the Act does not result in the loss of federal funding but will result in the citizens of the noncompliant state not being able to use their identification for federal purposes, e.g., boarding an airplane.

The 2005-06 interim Transportation Committee received information on state funding sources and alternatives. The committee reviewed the impact of increased motor fuel prices on the consumption of motor fuel, and hence the collection of motor fuels taxes. The motor vehicle fuels tax is applied on a gallon basis, so an increased price per gallon does not result in more or less tax, unless people drive more or less because of the price of fuel. However, there is a tendency for people to drive less when the cost of fuel is high.

The 2005-06 interim Transportation Committee monitored the increase in bid amounts for projects due to the increase in prices for raw materials and labor. As a result of increased costs, $24 million in construction projects originally scheduled for 2006 were delayed and the Department of Transportation anticipated that over $91 million in projects for 2007 and 2008 would be scheduled at a later date.

The 2005-06 interim Transportation Committee received information on the impact of not spending money on or delaying road construction projects. The committee was informed that every $1 million spent on road construction creates 47.5 jobs and for every $1 spent on preventative maintenance, $4 to $5 is saved in construction costs in the near future. In addition, national studies have demonstrated that every $1 invested in transportation yields approximately $5.40 in reduced delays, improved safety, and reduced vehicle operating costs.

In addition to studying highway funding, the 2005-06 interim Transportation Committee monitored certain infrastructure projects, including the Liberty Memorial Bridge. The committee was informed that bridges are monitored on a monthly basis and are thoroughly inspected every two years. At that time, the department had 59 certified bridge inspectors to inspect approximately 5,300 bridges. Before 2006 the last thorough inspection of the Liberty Memorial Bridge was in late 2003 or early 2004, and there was no indication of damage at that time. In January 2006 the department discovered problems on the outside of the columns and the outside flaws warranted further testing that revealed internal problems.

The 2005-06 interim Transportation Committee also received a report from the Upper Great Plains Transportation Institute on the outcome of the institute's study of how improvements to the transportation infrastructure of this state might enhance the business climate and the state's competitive position in economic development. Senate Bill No. 2018 (2005) provided a general fund appropriation of $360,000 to the Upper Great Plains Transportation Institute to conduct this study. The study made the following highway recommendations:

- A preservation program that keeps pavement in good condition generates substantial economic benefits.
- Highway access to key industrial and agricultural facilities should be analyzed on a case-by-case basis.
- The benefits and costs of eliminating or mitigating spring load limits on key highway segments should be analyzed on a case-by-case basis; however, load limit elimination on highway segments serving key agricultural and manufacturing locations may be cost-effective.
- New mechanistic pavement analysis techniques offer potential for improved forecasting of pavement lives and may make it possible to shorten the durations of spring load restrictions in some cases and identify more cost-effective designs. As such, it is important to develop data and input to fully utilize these advanced procedures.
- Selective case studies should be undertaken of highway load limits in counties so that a cost-effective analysis plan can be developed. A great deal of information must be developed in order to assess the benefits and costs of uniform county load limits.

The 2005-06 interim Transportation Committee received information on the taxation of coal, oil, and gas as a potential source of highway funding. The committee received testimony on present proceeds from the oil and gas gross production tax proceeds which are transferred to the oil and gas impact grant fund and are used for road repair and maintenance. The oil and gas impact grant fund is administered by the Energy Development Impact Office. The office provides financial assistance for basic governmental services to local units of government affected by energy activity. The state does not share in impact funding for state roads.

2007 LEGISLATION

In addition to this study, House Bill No. 1012 authorized the Department of Transportation to hire additional full-time equivalent positions for highway construction, in addition to those authorized by the Legislative Assembly, if it would be cost-effective as compared to entering into contracts for construction and maintenance. Section 4 of this bill requires the Department of Transportation to report to the Legislative Council on any additional full-time equivalent positions hired under this section. The Legislative Council has delegated the duty to receive this report to the Transportation Committee.

In addition, Section 14 of House Bill No. 1012 appropriated $1 million from the highway fund to the public transportation fund and Section 10 of the bill changed the formula for payments to transportation providers of public transportation funds from a fixed amount to an adjustable formula that changes based upon the appropriation. Section 13 of the bill reduces the state general fund share of the motor vehicle excise tax revenue from 100 percent to 90 percent and requires a deposit of 10 percent into the highway fund.

There were at least four bills other than House Bill No. 1012 which relate to highway funding and infrastructure needs that passed during the 2007 legislative session: House Bill Nos. 1044, 1049, and 1166 and Senate Bill No. 2178.

House Bill No. 1044 increased allocations to counties from oil and gas gross production taxes by up to $75,000 per year.

House Bill No. 1049 had the practical effect of reducing the special fuels tax for diesel fuel used for heating fuel from four cents to two cents per gallon from January 1, 2008, through June 30, 2009, and after that date makes diesel fuel used for heating fuel exempt from special fuels tax. The bill reduced the rate of tax for propane sold for use as heating fuel from 2 percent to 1 percent effective January 1, 2008, and makes fuel exempt from special fuels tax July 1, 2009. House Bill No. 1049 has a fiscal effect on the highway tax distribution fund of $1,987,000 for the 2007-09 biennium as per the fiscal note.

House Bill No. 1166 required the director of the Department of Transportation to include a four-lane alternate for the next major reconstruction project for United States Highway 52. The legislative history reveals that the Legislative Assembly prefers this alternate and that a certain portion of Highway 52 be constructed.

Senate Bill No. 2178 allowed a county that reaches the annual cap on the oil and gas gross production tax revenue to receive an additional $1 million in revenues if the county levies a total of at least 10 mills for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any additional amount received by the county is not for allocation to political subdivisions within the county but must be credited entirely to the county general fund.

In addition, a study contained in Section 3 of Senate Bill No. 2178 was assigned to the interim Taxation Committee by the Legislative Council. The interim Taxation Committee is to study the allocation of oil and gas tax revenues to or for the benefit of political subdivisions with emphasis on determining whether allocations sufficiently address oil and gas development infrastructure impact to political subdivisions. In short, the interim Taxation Committee is studying the transportation infrastructure needs of political subdivisions resulting from energy development in this state. In duplication in part, the interim Transportation Committee is studying infrastructure needs, including needs resulting from energy and economic development in this state.

As to the interim Transportation Committee's study of highway funding and other similar studies, the Advisory Commission on Intergovernmental Relations is studying funding for rural township and county roads and bridges and funding for public transportation. In addition, the Advisory Commission on Intergovernmental Relations is studying increasing from four-tenths to five-tenths of one cent the amount of sales tax that is deposited in the state aid distribution fund. The state aid distribution fund is distributed to counties and cities that use the funds in part for roads. Because of the duplicative studies by the Taxation Committee and the Advisory Commission on Intergovernmental Relations, what remains for the Transportation Committee to study is the funding and infrastructure needs of state highways.

House Bill No. 1495, which failed to pass the Senate, would have required cities and counties to use not less than 15 percent of highway tax distribution funds on priorities of the director of the Department of Transportation.

STATE MATCHING SOURCES

In general, fuels taxes and registration fees are deposited in the highway tax distribution fund. However, $13 of each registration fee for a passenger motor vehicle, bus, and truck weighing over 20,000 pounds goes directly into the state highway fund. The highway tax distribution fund is distributed 63 percent to the state, 23 percent to the counties, and 14 percent to the cities. Money received by the state goes into the state highway fund.

Certain income sources have recently been increased or implemented to match federal funds. In 2005, Senate Bill No. 2012 increased registration fees $10, classified pickups as passenger motor vehicles but limited the increase due this reclassification to one-half for this biennium, and deposited $13 of each registration fee in the state highway fund. The bill increased motor vehicle fuel and special fuels tax rates from 21 cents to 23 cents per gallon. The bill allowed for grant or revenue anticipation financing for the Liberty Memorial Bridge improvement project and the United States Highway 2 project improvements. This financing provides for federal reimbursement for debt financing costs relating to federal-aid highway projects. This financing is done through the issuance of bonds. The bill would have redirected money collected as motor vehicle excise taxes from the general fund to the state highway fund. This transfer of revenue was vetoed by the Governor because the "diversion of funds increases the risk of an allotment, or could force the calling of a special session of the legislature to deal with future revenue requirements." In 2007 the only major increase for matching funds came from House Bill No. 1012, Section 13, with 10 percent of motor vehicle excise taxes being placed in the state highway fund.

ALTERNATIVE REVENUE SOURCES

During the 2003-04 interim, the Budget Committee on Government Administration studied highway construction and maintenance funding, including revenue sources and distribution formulas for the state, cities, and counties. The committee reviewed other states' methods of financing highway projects. The majority of states' highway revenue is generated from fuels taxes and motor vehicle registration fees.

In addition, states generate additional funding for highways from a variety of other sources. The following schedule summarizes select revenue sources that are used for highway purposes in other states in addition to fuels taxes and registration fees:

Revenue Type	State
Sales tax - General	Arizona, Illinois, Kansas, Nevada, Utah, and Virginia
Motor vehicle excise tax	Iowa, Kansas, Michigan, Missouri, Nebraska, North Carolina, and South Dakota
Motor fuels sales tax	California, Georgia, and Michigan
Automobile parts sales tax	Michigan
Gaming tax	Colorado
Rental car tax	Florida, Hawaii, Iowa, South Dakota, and Utah
Severance tax	Arkansas, Kentucky, New Mexico, Oklahoma, Tennessee, and Wyoming
Corporate income tax	Maryland
Lubricating oil tax	Alabama, Mississippi, and Texas
Contractor tax	Mississippi

The 2003-04 interim Budget Committee on Government Administration reviewed information prepared by the Florida Department of Transportation regarding alternative transportation revenue sources. Alternative revenue sources identified include:

1. Vehicle miles of travel fees - An annual assessment based on the number of miles traveled in the preceding year.
2. Weight distance fees - An annual assessment based on factors, including miles driven and vehicle weight.
3. New vehicle or automobile parts sales tax - Taxes on new or used vehicle purchases or on sale of automobile parts.
4. Emissions fees - An annual fee based on a vehicle's emissions characteristics and on the annual number of miles traveled.
5. Highway right-of-way lease income - Collections from leases of highway right of way for fiber optic cables, cell phone towers, or other purposes.
6. Road-branding fee - A fee charged for naming a segment of a highway for an individual or business.

At the committee's request, the Department of Transportation identified the following potential options for providing additional transportation revenue:

1. Increasing the motor vehicle fuel tax on gasoline, gasohol, and diesel fuel.
2. Increasing motor vehicle registration fees.
3. Increasing the 2 percent special fuels tax.

4. Increasing the excise tax on the sale of new and used motor vehicles.
5. Dedicating a portion of the general sales tax to transportation.
6. Increasing the tax on rental cars.
7. Dedicating a portion of severance tax revenues on natural resources to transportation.
8. Imposing a sales tax on motor fuels.
9. Increasing the sales tax on automobile parts.
10. Shifting the funding for the ethanol incentive program to another source.
11. Providing funding for the Highway Patrol from sources other than the highway fund.
12. Enacting a personal property tax on vehicles.
13. Dedicating gambling funds to transportation.
14. Establishing toll bridges and toll roads.
15. Developing private/public partnerships.
16. Enacting a vehicle miles of travel tax.
17. Enacting a weight distance tax.
18. Bonding for highway projects; however, a revenue source would be needed to repay the bonds.
19. Appropriating money from the general fund.
20. Enacting taxes on other petroleum products.
21. Utilizing corporate income tax collections.
22. Developing rest area concessions.
23. Utilizing traffic fine collections.
24. Increasing taxes on beer and cigarettes.
25. Enacting a contractor tax.
26. Utilizing collections from mineral leases on state-owned land.
27. Utilizing room tax collections.
28. Charging for use of highway right of way.
29. Utilizing collections from an annual insurance underwriters fee.
30. Taxing alternative fuel sources.

One other option that has been considered by the Legislative Assembly but was not included in the preceding lists was increasing driver's license fees.

STUDY SUGGESTIONS

The committee may desire to receive reports from the Department of Transportation on highway funding and transportation infrastructure needs. As for those needs resulting from energy and economic development in this state, matters that relate to political subdivisions are being studied by the interim Taxation Committee and to a lesser extent by the Advisory Commission on Intergovernmental Relations. The committee may desire to focus on the effect of energy and economic development on state highways. If available, the committee may wish to receive testimony from stakeholders in specific economic development projects to review the needs for those projects and how those needs are being addressed by the Department of Transportation and other state agencies.