

Commission Briefing Paper 5B-05

Identification of Alternate Approaches for Phasing in of New Transportation Revenue Sources at the State and Local Level

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Introduction

This paper is part of a series of briefing papers to be prepared for the National Surface Transportation Policy and Revenue Study Commission authorized in Section 1909 of SAFETEA-LU. The papers are intended to synthesize the state-of-the-practice consensus on the issues that are relevant to the Commission's charged outlined in Section 1909, and will serve as background material in developing the analyses to be presented in the final report to the Commission.

This paper presents information on alternate approaches for phasing in new revenue sources at the State and local level. The paper assumes that the new sources will not be just adjustments to existing sources, but would be new sources not now used, such as vehicle miles of travel (VMT) fees, sales taxes on light duty vehicles, or other sources. The key steps needed to phase in new or enhanced sources are similar, so the phasing options described here actually apply to enhancements to existing sources as well.

Background and Key Findings

Phasing in of new sources at the State and local level will depend on a variety of factors including the needs for revenues, and the availability and attributes of the various revenue options including the roles and required actions of various levels of government.

- Most new funding initiatives come about either through legislative actions or through ballot initiatives and referenda. In the first instance, a legislative body makes the decision on a new or enhanced funding source. In the second case, a ballot measure must be passed to provide the authority to collect new or enhanced revenue source. In some special circumstances, highway toll facilities may also come about as a result of public or private project development actions that have previously been enabled by legislation.
- Either legislation or initiatives and referenda require the same types of steps in order to achieve success in implementation of new or enhanced revenue sources. Phasing can always be a variable. However, if transitions are ever to occur, sufficient progress will need to be made in carrying out the strategies to meet the key challenge areas identified in briefing paper 5B-02.
- The phase-in for the state and local governments involves two major parameters:
 1. Defining the alternative state and local actions needed, and

2. Determining the timing for the state and local governments to take those actions.
- Alternative state and local (as well as federal) actions or optional levels of state and local involvement are likely to be required across each of the key challenges described in paper 5B-02, as noted in the following section with regard to:
 1. Policy Rationale
 2. Technical Analysis
 3. Sustained Leadership
 4. Political Consensus
 5. Public Education and Communications
 6. Institutional and Intergovernmental Relations
 7. Administrative
 8. Legal Framework
 9. Combining Management of Current and Emerging Sources
 10. Infrastructure and Technology
 - The state and local governments' role in all areas can be viewed as either forcing, leveraging, (i.e. through incentives), passive but supportive, neutral or negative. Phasing can, of course, be done on any schedule.
 - State and local actions and involvement in each of the areas noted, however, logically should begin immediately with a focus on developing the required policy rationale and technical support.
 - Phasing can be varied based on how long it takes before all of the elements are in place that are sufficient to drive a transition to new revenue sources. However, most elements need to be in place in order for new revenue sources to be implemented. Approximate lead time estimates are given for each of the elements, assuming that new sources such as VMT fees are to be implemented at some future date.

Staff Comments

This paper discusses general issues related to phasing in new revenue sources in the short term and long term. It builds upon the framework developed in Paper 5B-02, noting specific issues that would have to be considered at the State and local levels. The paper does not go into detail on specific challenges associated with particular new revenue mechanisms. The paper provides a framework, however, for a more detailed discussion of specific steps that may need to be taken to phase-in new revenue sources the Commission may wish to recommend.

Alternative Phasing Options

Policy Rationale Strategies

- Undertake an aggressive, inclusive effort to reestablish the importance and urgency of implementing new revenue sources. .
- An effort to bring major business, industry and political leaders together to assess and confirm the need for new revenue sources, the implications of those new sources for major stakeholder groups, and the implications of a failure to respond, as an initial means to refocus interest, urgency and support.

Possible alternative state and local actions and phasing to develop a policy rationale:

- AASHTO and state leadership of policy development.
- State support to research efforts on the needs and their importance to the economy through AASHTO and NCHRP and TCRP, in coordination with stakeholders.
- Further development of the policy rationale begun in the TRB 2005 Study “The Fuel Tax and Alternatives for Transportation Funding”.
- Support for Federal legislation underwriting development and deployment of needed technologies and for implementation of new types of revenue sources at the state and local levels.
- Lead times: 2-3 years; the policy rationale must exist or nothing else will be initiated.

Technical Analysis Strategies

- Pivot off the national and other technical analysis and evaluation of funding and financing options that has been carried out or is already in an advanced stage, as noted above. What remains is to assess more closely specific issues dealing with the phasing-in of particular new revenue mechanisms.
- Foster additional early demonstrations similar to the Oregon VMT fee demonstration and the University of Iowa field tests under Section 1919 of SAFETEA-LU.
- Should additional analyses be necessary, they might be scoped through the combined efforts of the Transportation Research Board’s (TRB) highway and transit Cooperative research programs (NCHRP and TCRP), as has been done with recent analyses of surface transportation condition, performance and needs. Analysis might be carried out through contractors through normal TRB procedures. Technical oversight might involve representative modal experts, representatives of related organizations and interest groups and the U.S. DOT.

Possible alternative state and local actions and phasing to meet the technical analysis needs

- Foster and support additional early demonstrations and tests of technologies.

- Studies and tests of both alternative technologies and of mechanisms to assure compatibility and interoperability are both desirable.
- Timing should be as soon as possible.
- Lead times: starting immediately, but carried out over ten plus years prior to implementation.

Sustained Leadership Strategies

- A broad, multi-faceted leadership group might be recruited to actively advocate and support experimentation that is necessary prior to the implementation new user fees.

Possible alternative state and local actions and phasing to assure the sustained leadership

- Foster a broader state or regional centered leadership group
- Reestablish a broad leadership group for each legislative period.
- Establish a more permanent guidance body that state, local, and stakeholder participants, with activity levels that may vary from low to high (during legislative periods.)
- Lead times: starting immediately and sustained.

Political Consensus Strategies

- Launching a formal dialogue focused on: a) the specific revenue-raising alternatives under consideration; b) the specific uses that are intended for the funds; c) the impacts and benefits from each; and d) means by which funds might be distributed or allocated both to need and to governmental units.
- Inviting political parties, elected officials at all levels and their respective research and policy-related institutions into the formal dialogue over alternatives under consideration and the rationales for pursuing them. Doing so would constitute one part of a larger communication ‘campaign’ needed to organize support for and effectively address issues and concerns that will arise as specific new revenue-raising proposals are advanced and considered.

Possible alternative state and local actions and phasing in pursuit of political consensus:

- Launching a formal dialogue on new revenue sources at all levels
- Establishing a more permanent state centered guidance body, as under the sustained leadership recommendations.
- Utilize AASHTO to provide continued coordination of the state DOTs.
- Legislative hearings informed by the results of analyses that are conducted under state or local or other sponsorship.
- Lead times: starting immediately and sustained.

Public Education and Communications Strategies

- A comprehensive and coordinated public education and information effort designed and carried out on a sustained basis as part of the larger communications ‘campaign’ to support introduction of new revenue raising mechanisms. Within such a ‘campaign,’ traditional strategies and activities such as public opinion polling, focus groups and media-oriented initiatives are likely to be needed.
- Conduct and support of these types of activities may lie outside the sphere of public responsibility and/or propriety, reinforcing the need to engage major civic and community leaders and interests throughout the ‘campaign,’ as is typically done in the case of statewide and local transportation funding initiatives.

Possible alternative state and local actions and phasing to support public education and communications needs

- The state and local role will necessarily be passive or advisory in activities such as these, although it is expected that the public education and communications efforts will primarily utilize state and local analysis.
- Lead times: starting in two or three years and then sustained.

Institutional and Intergovernmental Relations Strategies

- Directing resources from new funding and financing mechanisms to flow through other than the traditional processes and under a separate set of procedures, perhaps even to new recipient agencies, e.g. Metropolitan Planning Organizations (MPOs);
- Maintaining a focus throughout the evaluation, enactment and implementation process – fact- gathering, testing and dialogue – on identifying: a) what contradictions with existing practice may arise in the flow of new sources of funds; and b) what actions may be needed to minimize these.

Possible alternative state and local actions and phasing to reconcile institutional and intergovernmental roles:

- Evaluating options for new institutional arrangements for delivering the new revenues.
- Altering or amending existing mechanisms to collect, budget and allocate revenue from current sources, including statutory, regulatory and/or administrative procedures associated with state, local, and federal programs.
- Developing and analyzing concepts leading to legislation, regulation or procedures which will direct revenues from new funding mechanisms to flow through non-traditional processes (such as above).
- Developing and analyzing concepts leading to legislation, regulation or procedures to direct revenues to new or expanded categories (such as above)

- Lead times: starting immediately and sustained.

Strategies to Concurrently Manage Current and Emerging Sources

- Engaging the public interest groups or stakeholders representing the major organization partners to join in and carry forward an agenda to examine the issues and find consensus on how they should be resolved. Multimodal, multi-agency, multi-interest groups have been convened before and charged with exploring and advising on (if not finding) solutions to broad policy and program management issues arising from major program and policy shifts. Such an implementation ‘issues and options’ role would certainly involve representatives of AASHTO, APTA and AMPO along with representatives from local governments (municipalities and counties) and state government (NGA and NCSL)
- The value of formally engaging a broad group lies, in part, in their traditional roles as creators of model frameworks, legislation and standards to carry out new missions and responsibilities. These arrangements have been sponsored in various ways through processes already in place and familiar to the potential participants, including through support of the TRB Cooperative Research Programs mentioned earlier.
- Actions taken in the short term to enhance and improve the flow of current revenues to highway and transit investment, at the same time the more involved, time-consuming steps necessary to implement new sources are advanced. This will likely stress governance and management systems at all levels of government as they will have to continue to manage and guide current processes and funding flows simultaneously with deliberation, design and testing of new sources flowing through either traditional or new programs and procedures.

Possible alternative state and local actions and phasing to manage combined revenue sources

- Supporting research and evaluation of new or enhanced systems and procedures to appropriately manage and administer aspects of new revenue sources.
- Develop processes, timetables and strategies for state and/or local adoption or use of new procedures.
- Lead times: starting immediately and then sustained.

Administrative Strategies

- Consider and examine each potential new source of funding or financing to describe and assess: a) the system-related, administrative and management requirements inherent in its use; b) where those capabilities currently reside and where they are lacking among potential partners; and c) what models and steps must be undertaken and over what timetable to assure that full and credible capacity exists to manage the flow of funds from new sources.
- Under the Commission’s guidance, and/or through the TRB Cooperative Research Programs the requirements, state-of-the-practice and opinions of experts in the respective

fields could be examined to guide enhancements on essential administrative and management issues and approaches.

Possible alternative state and local actions and phasing to meet administrative requirements

- Coordinating with other states and others to research and develop needed administrative mechanisms.
- Develop processes, timetables and strategies for state and/or local adoption or use of new procedures.
- Lead times: starting in two or three years and then sustained.

Legal Framework and Strategies

- Establishing clear definitions and outlining the basic mechanics for revenue collection from potential new sources. The legal framework(s) under which states and localities tax and commit revenues for highways and transit must then be laid out so that a preliminary understanding can be reached about where reasonable accommodation is possible with minimal disruption, and, more importantly, where conflict and contradiction may lie between new and old mechanisms, and need further attention. Findings from the latter assessment will largely dictate the scope and pace by which new revenues are likely to be implemented assuming a consensus can be achieved on moving forward;
- Examine thoroughly the extent to which already existing revenue collection, distribution and oversight mechanisms can be used and how to minimize the time and resources that might be required to institute wholly new responsibilities, systems and procedures;
- Reliance on the TRB Cooperative Research Programs to perform these tasks; or
- Assignment of these tasks to state interests (NGA, NCSL) since states have the critical, constitutionally-based role in revenue-raising among partnering levels of government. Legal and finance experts will be central to the examination and questions will need to be addressed about how to maintain a non-partisan perspective through the assessment despite the focus on what ultimately will be overtly political actions.

Possible alternative state and local actions and phasing to establish the legal framework(s)

- Coordination among states, TRB, and others to research and develop needed frameworks, alternatives or models.
- As recommended by the NCHRP 20-24(49) study, by 2010, the federal government also should fully empower the states to experiment with development and implementation of VMT-based revenue systems.
- Lead times: starting in two or three years and complete by the time targeted technology is available (ten years?)

Infrastructure and Technology Strategies

- Identifying and analyzing hardware and software requirements and options to support thorough testing and implementation of new approaches, including functionalities of hardware and software, as well as integration across/among major elements of the network (modes, vehicles, guideways, terminals/stations) and across agencies and institutions.
- Building on the ample investigation on both a hypothetical and applied level that is currently proceeding on questions of vehicle-based technologies.
- Expanding the number and scope of current limited demonstrations, e.g. Oregon's VMT fee application and European examples for variants of technology applications suited to the types of strategies being considered;
- Reliance on current actors and organizations to address or (re)define a way forward technologically, with a specific focus on the evolution of a national strategy, system architecture, standards and phased implementation.

Possible alternative state and local actions and phasing to support application of necessary infrastructure and technology

- State development and joint-state development and testing of new mileage-based revenue systems; supporting development of a system architecture, establishing national standards for new vehicle technology that will facilitate implementation of VMT fees; and ensuring interoperability across the nation.
- In cooperation with the federal government, states establish technology performance standards for vehicle tracking, communications, and privacy for new vehicles, building on the ITS program's Vehicle Infrastructure Integration initiative. The objective should be to promote the development of low-cost and nationally interoperable equipment.
- Lead times: starting today, but lead times on the technology deployments may be over ten years.

Strategies for Investing in the Phase-in

- Reliance on existing institutions and processes including the Transportation Research Board, in collaboration with key stakeholder organizations many of whom are already at work addressing one or more of these challenges;
- Defining an independent, high-level, state coordinating function and organization to plan, manage and integrate activities, including management of a work program, both short and long-term, assurance of a sustained flow of resources for the effort, and to assess and report progress.
- Given the complexities involved, the varied timetables over which action will be required and the diverse interests involved, it appears likely that a new institution may be needed to guide and advance consideration and implementation of new funding and financing sources for highways and transit.

Possible alternative state and local actions and phasing to meet phase-in investment needs:

- Provide research and demonstration support to all parties to examine oversight mechanisms.
- Lead times: starting in two or three years and continuing through deployment.

CONSOLIDATED COMMENTS FROM MEMBERS OF THE BLUE RIBBON PANEL OF TRANSPORTATION EXPERTS - PAPER 5B-05

One reviewer commented as follows:

There are major institutional and legal impediments to overcome relating to financing at the state and local level :

- Some states may be constitutionally prohibited from raising new revenues for multi-modal purposes. For example, some prohibit spending on private railroads.
- Where the Dillon Rule is in place, local governments are prohibited from actions not delegated by the state.
- Land use is often the prerogative of local governments making regional cooperation difficult on such revenue sources as value capture and special assessment districts.
- New MPO's may encroach on the "turf" of existing ones with respect to federal formula-driven revenue sources such as Section 5307 and 5309 FTA transit grants. For example, the allocation of fixed guideway miles may be disputed among MPO districts.
- Where Interstate Compacts are in force, changes require approval of identical language in each state legislature and Congress, a process that takes several years under the best of circumstances.
- Gas taxes can be collected at the pump or at the wholesale/jobber level, each with its own set of issues that require consideration as changes are made.
 1. Given special circumstances, such as those listed above, devising an effective strategy to implement new revenue sources can't simply employ a "one size fits all" approach.
 2. Because such institutions are resistant to change, federal incentives may be useful to encourage more rapid consideration of proposed new revenue sources."

Another reviewer commented as follows:

Papers 5B-04 and 5B-05 are some of the most useful work I've seen on the very difficult and complex issues of phasing in new transportation funding sources. The papers are well thought out and fairly comprehensive as an outline for future actions. One suggested improvement in the public education and communications strategies – the paper references the need to engage major civic and community leaders and interests but would be improved by including representatives of major user groups – AAA, American Trucking Associations, and the like. These are the customers and the funders of the system.