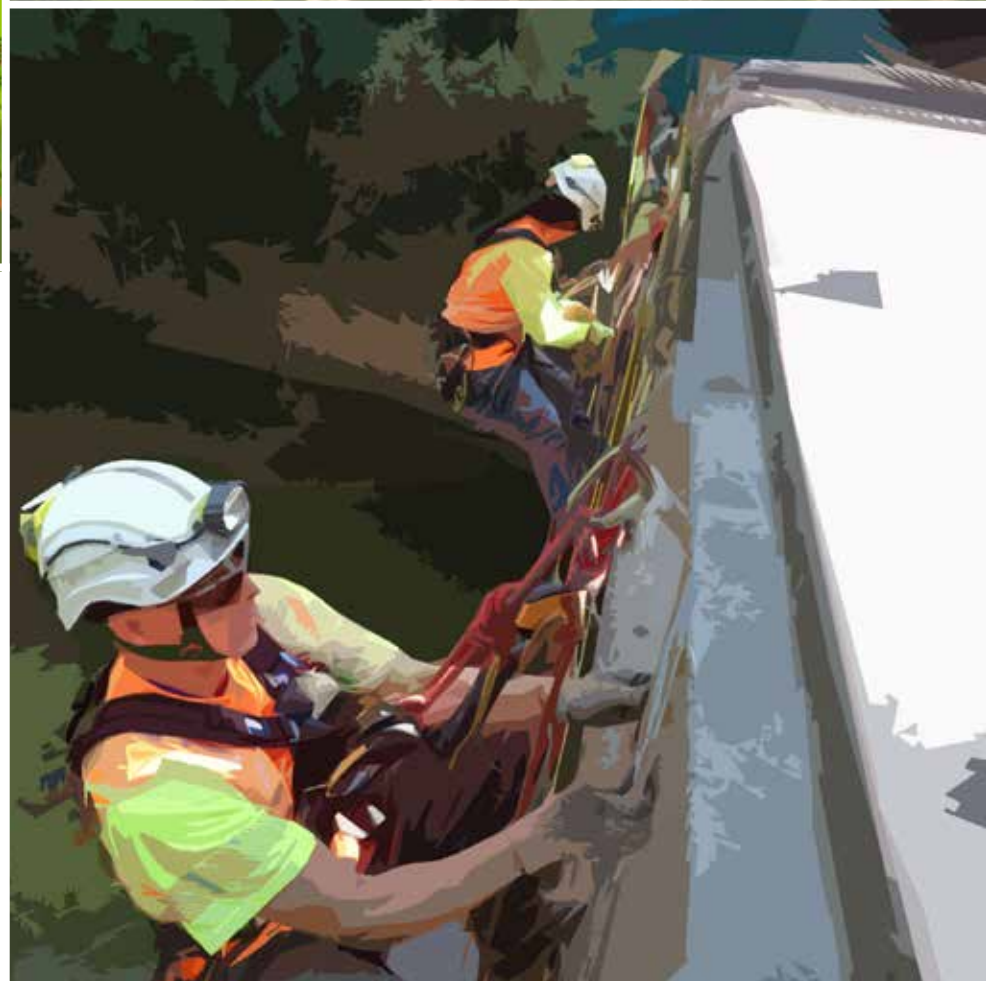




# TEXAS TRANSPORTATION FUNDING

Fiscal Years 2022-2023



TxDOT State Legislative Affairs



TxDOT Federal Affairs



## INTRODUCTION

The development and delivery of a transportation project may take many years from conception to completion. Most projects move through several phases from the public involvement, environmental analysis, design, engineering, and right-of-way acquisition phases to the physical construction of projects. However, before the Texas Department of Transportation (TxDOT) can make any financial commitment to developing and delivering a project, available funds must be identified. A project's eligible funding sources may vary depending on its scope and associated constitutional or statutory funding restrictions.

For years, traditional funding from state and federal gas tax revenues sufficiently met the needs of the state highway system. Over time, however, these revenues failed to meet the transportation needs of the state's growing population and the mobility needs of the traveling public. To address the increased demand on the state transportation system and the diminishing purchasing power of gas tax revenues, the Texas Legislature provided TxDOT with several financing instruments to advance projects more quickly, as opposed to paying for projects on a cash basis as the money became available. The available proceeds from using these bonding tools in the early 2000s [Proposition 14 State Highway Fund Bonds (\$6 billion), Proposition 12 Highway Improvement General Obligation Bonds (\$5 billion), and Texas Mobility Fund Bonds (\$7.4 billion)] were fully allocated to existing projects

and have been spent. In the last session, however, the Texas Legislature passed House Bill 2219 (87<sup>th</sup> Legislature, Regular Session, 2021) to allow TxDOT to issue approximately \$2 billion in Texas Mobility Fund Bonds until January 1, 2027. This estimate includes a revision in the revenue forecasts, and other factors are minimizing the capacity of these potential future bond issuances.

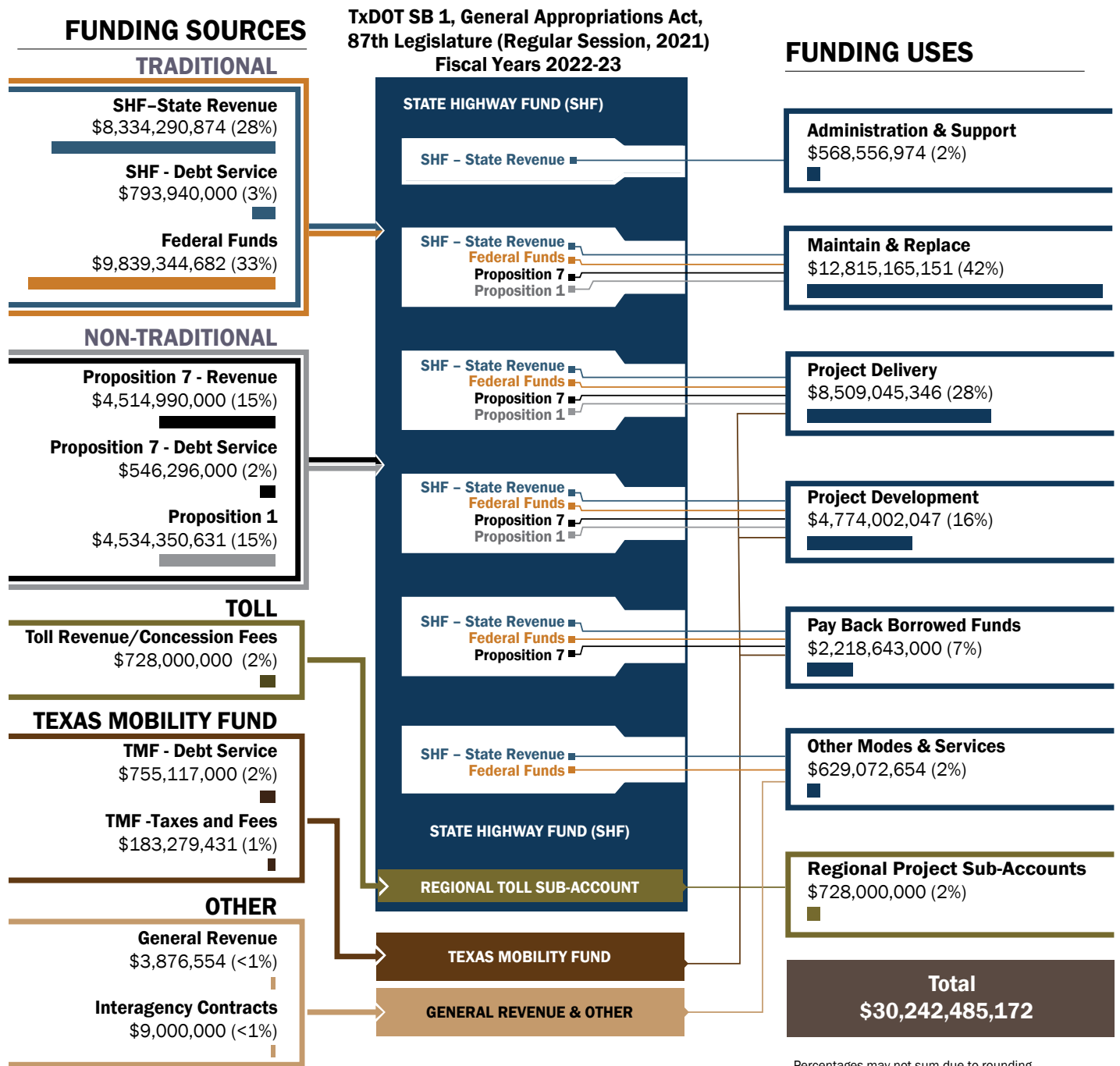
In addition to bond programs provided in earlier legislative sessions, the Texas Legislature more recently, with voter approval, provided two constitutional, non-traditional sources of funding known as Proposition 1 (2014) and Proposition 7 (2015). Under Proposition 1, TxDOT receives a certain amount of the state's oil and natural gas production (severance) tax revenue. Proposition 7 funds are derived from state sales and use taxes as well as motor vehicle sales and rental taxes. These non-traditional funding sources are only available for the development, delivery, and maintenance of roadway projects, other than toll roads, on the state highway system.

This brochure explores the history and uses of these funds and financing tools as well as a summary of TxDOT's Fiscal Year (FY) 2022-2023 budget. This edition of TxDOT's Funding Brochure also examines the diminishing capacity of issuing Texas Mobility Fund Bonds and the increase in appropriations to fund local projects with TxDOT's most flexible funding sources.



Figure 1 provides an illustration of TxDOT’s bill pattern in the FY 2022-2023 General Appropriations Act (87<sup>th</sup> Legislature, Regular Session, 2021). TxDOT’s budget includes a variety of funding sources on the left and the diagram shows the types of revenue sources that fund TxDOT’s projects and operations.

**Figure 1**





## The State Highway Fund

The State Highway Fund, or “Fund 6,” is TxDOT’s primary funding source and receives revenues from taxes and fees. Most of these revenues (motor fuel and lubricant taxes and motor vehicle registration fees) are dedicated by Section 7-a, Article VIII, Texas Constitution, to fund the acquisition of state right of way, construction, and maintenance of public roadways. Funds constitutionally-dedicated for the purpose of supporting public roadways may not be spent on other modes of transportation such as rail projects, public transportation, aviation services, or Gulf Intracoastal Waterway improvements.

The State Highway Fund also contains subaccounts for Propositions 1 and 7 funds, State Infrastructure Bank (SIB) funds, regional subaccounts with toll and concession revenue from Comprehensive Development Agreements (CDAs). State law requires toll and concession revenues only to be used on projects within the region of the project generating the funds.

The State Highway Fund main account receives the following revenues:

- State Motor Vehicle Fuels Tax [20 cents per gallon total, 25 percent (5 cents) goes to Available School Fund]\* (see Figure 2)
- Federal highway\* and other agency reimbursements (includes federal fuel tax) (see Figure 2)
- Vehicle Registration Fees\*
- Other, smaller revenues such as lubricant sales taxes,\* permit fees for special vehicles, fees, and interest\* on certain funds
- Local project participation funds

State Highway Fund subaccounts hold the following:

- Proposition 1 funds\*
- Proposition 7 funds\*
- SIB loan repayments and interest
- Regional toll revenue and revenue from CDAs

\* Indicates revenues that are dedicated by the Texas Constitution and state law to public roads on the state highway system.

## Federal Funds

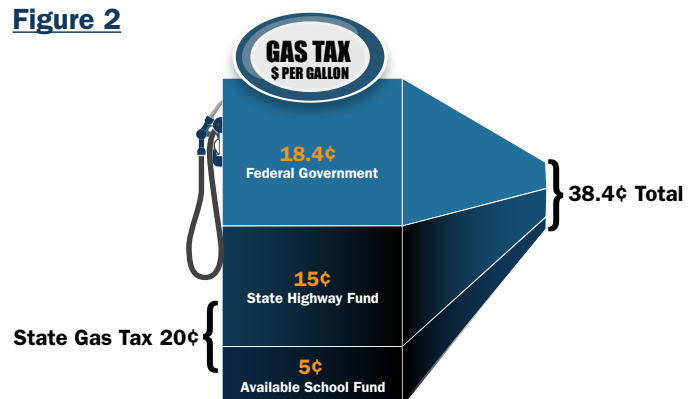
Federal funds, which comprise roughly one-third of TxDOT’s two-year budget, are deposited in the State Highway Fund. The state’s General Appropriations Act (GAA) includes federal funds in TxDOT’s budget as estimated reimbursements for payments on projects that meet certain federal requirements. In other words, the state budget appropriates federal funds after the projects have been built, paid for, and reimbursed back to TxDOT.

At the federal level, revenue collected from the federal tax on gasoline and diesel is deposited in the Highway Trust Fund. Highway Trust Fund dollars are then distributed to states in amounts primarily determined by highway and transit formulas, in addition to discretionary allocations. For decades, federal aid for highways was supported solely by tax and fee revenue deposited in the Highway Trust Fund. Since 1993, the federal motor fuels tax rate has remained at 18.4 cents per gallon of gasoline (see Figure 2) and 24.4 cents per gallon of diesel fuel. These collections have not kept up with the rising demands on the nation’s transportation system. Therefore, since 2008, Congress has supplemented the Highway Trust Fund with federal general revenue to add to federal gas tax collections.

TxDOT recently received federal funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (2020), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) (2021), and the American Rescue Plan Act (ARPA) (2021) to help offset lost revenue as a result of COVID-19 by providing funding for the Highway Infrastructure Program, transit and ferry services, and aviation grants.

The Infrastructure Investment and Jobs Act (IIJA) was enacted on November 15, 2021. The IIJA provides a five-year reauthorization of federal highway, highway safety, transit, and rail programs for federal fiscal years 2022 through 2026. Please visit the TxDOT Federal Affairs website for more information on the Infrastructure Investment and Jobs Act.

**Figure 2**



## Proposition 1

In November 2014, 80 percent of Texas voters approved a ballot measure known as Proposition 1, which authorized a constitutional amendment for transportation funding. The amendment directs a portion of existing oil and natural gas production taxes (also known as severance taxes) to be divided evenly between the Economic Stabilization Fund and the State Highway Fund. Under Section 49-g(c), Article III, Texas Constitution, the funds deposited to the State Highway Fund may only be used for constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

Figure 3 illustrates the method of calculating Proposition 1 transfers to the State Highway Fund. It begins with a preset collection threshold consisting of the net amount of FY 1987 oil and natural gas production tax levels. Oil production tax revenues in FY 1987 were \$531.9 million and natural gas production tax revenues in the same year were \$599.8 million, resulting in a net amount of \$1.13 billion. One-quarter of total severance tax collections above the 1987 threshold are deposited in the state's General Revenue Fund. Since the passage of Proposition 1, the remaining 75 percent of severance taxes has been evenly divided between the Economic Stabilization Fund and the State Highway Fund.

Currently, state law requires the Texas Comptroller of Public Accounts (comptroller) to determine the sufficient

balance threshold of the Economic Stabilization Fund by calculating seven percent of certified, general revenue-related appropriations made for the fiscal biennium. If the amount in the Economic Stabilization Fund is less than seven percent of the general revenue related appropriations made in the fiscal biennium, the comptroller must reduce the allocation to the State Highway Fund and increase the allocation to the Economic Stabilization Fund, in an equal amount, until the balance in the Economic Stabilization Fund reaches the required threshold.

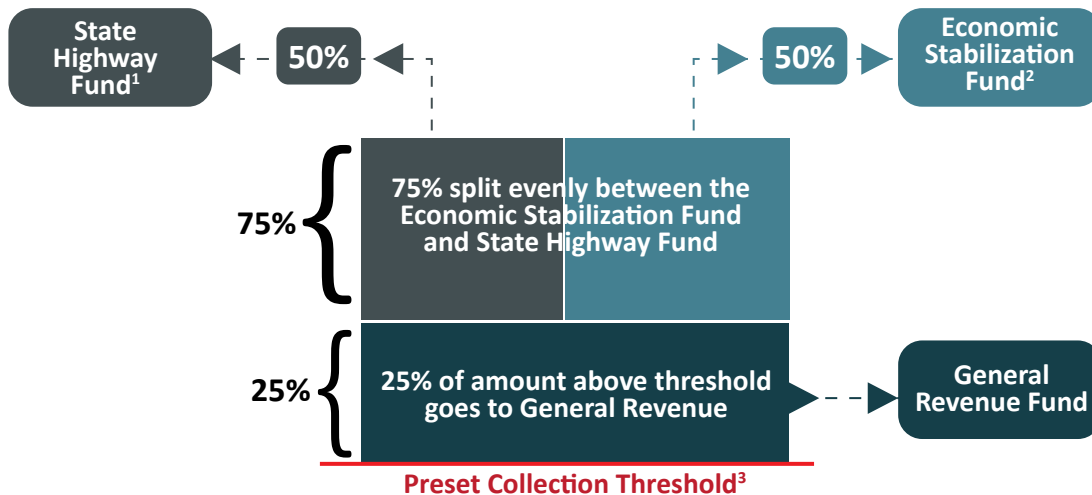
Since FY 2015, a total of \$9.69 billion of Proposition 1 funds has been deposited into a subaccount within the State Highway Fund. In November 2021 (FY 2022), the State Highway Fund received a Proposition 1 deposit of \$1.46 billion. The comptroller estimates TxDOT will receive a Proposition 1 deposit of \$2.43 billion in FY 2023. A \$2.08 billion transfer is projected in FY 2024 based on the FY 2023 oil and natural gas production revenue levels estimated by the comptroller. Beyond FY 2024, for planning purposes, TxDOT estimates a 10-year average.

Proposition 1 deposits to the State Highway Fund will expire in 2034, and the last transfer will occur in FY 2035, unless a future legislature votes to extend it.

### Figure 3

#### Proposition 1: Texas Oil & Gas Production Taxes Above Threshold

Proposition 1 funds transfers are set to expire after the Fiscal Year 2035 transfer (December 31, 2034), unless a future legislature votes to extend them.



1. Actual amounts deposited in the State Highway Fund may vary based on the sufficient balance of the Economic Stabilization Fund determined by the Texas Comptroller of Public Accounts. The sufficient balance threshold of the Economic Stabilization Fund is to be set at an amount equal to seven percent of the certified general revenue-related appropriations made for the state fiscal biennium.

2. The Economic Stabilization Fund is also known as the Rainy Day Fund.

3. Preset collection threshold is set at 1987 oil and natural gas production tax levels: \$531.9 million in oil production tax revenues and \$599.8 million in natural gas production tax revenues.

## Proposition 7

Proposition 7, a constitutional amendment passed by 83 percent of voters in 2015, authorized increased funding for the state highway system. Under the amendment, a portion of sales and use taxes as well as a smaller portion of motor vehicle sales and rental taxes may only be used pursuant to Section 7-c, Article VIII of the Texas Constitution, to (1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads and 2) the legislature may appropriate Proposition 7 funds to pay for the debt service on Proposition 12 Highway Improvement General Obligation Bonds.

As illustrated in Figure 4, Proposition 7 has two components. The first component requires the comptroller to deposit into the State Highway Fund up to \$2.5 billion of the net revenue from state sales and use tax that exceeds the first \$28 billion of revenue coming into the state treasury every fiscal year. The second component of Proposition 7 dictates that when state motor vehicle sales and rental tax revenues exceed \$5 billion in each fiscal year, the comptroller must transfer 35 percent of the revenue above the first \$5 billion collected to the State Highway Fund.

Proposition 7 has features to allow for both the extension and the retention of fund transfers to the State Highway Fund. For instance, the state constitution allows the legislature, by a record vote of a majority of the members of each chamber, to extend either of the expiration dates of the two Proposition 7 provisions relating to the transfer of 1) state sales and use taxes and 2) motor vehicle sales and rental taxes for 10-year increments. Additionally, the

constitution allows the legislature, by a record vote of two-thirds of the members of each chamber, to reduce the revenue deposited in the State Highway Fund under either provision (with the reduction made in the state fiscal year in which the legislature's resolution is adopted or in either of the following two state fiscal years), provided that the reduction is not more than 50 percent of the amount that would otherwise be deposited in the State Highway Fund in the affected state fiscal year. The ability of the legislature to reduce Proposition 7 fund transfers creates some uncertainty in planning long-term construction projects.

The State Highway Fund has received deposits totaling \$10 billion in Proposition 7 funds from state sales and use tax revenues. The comptroller estimates that a total of \$5 billion of Proposition 7 funding from state sales and use tax will be available for new transportation projects in the FY 2022-2023 biennium (\$2.5 billion each fiscal year).

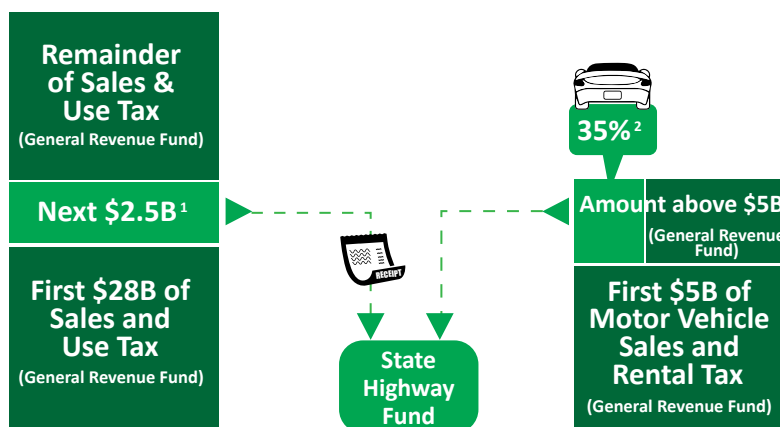
In the summer of 2021, the comptroller deposited \$237 million in state motor vehicle sales and rental tax revenue into the State Highway Fund for the first time. The comptroller estimates a \$297.4 million deposit of motor vehicle sales and rental tax revenue in FY 2022 and \$337.8 million in FY 2023 to the State Highway Fund will occur during the FY 2022-2023 biennium.

The first component of Proposition 7 (sales and use tax) expires August 31, 2032, and the second component (motor vehicle sales and rental tax) took effect on September 1, 2019 (FY 2020) and expires August 31, 2029.

**Figure 4**

### Proposition 7: Sales & Use Tax; Motor Vehicle Sales & Rental Tax

Proposition 7 funds (Sales & Use Tax) are set to expire August 31, 2032. Proposition 7 funds (Motor Vehicle Sales & Rental Tax) are set to expire August 31, 2029 unless a future legislature votes to extend or eliminate the dates.



1. This transfer of funds to the State Highway Fund took effect September 1, 2017 (FY 2018).

2. This transfer of funds to the State Highway Fund became eligible to take effect beginning with the state fiscal year starting on September 1, 2019 (FY 2020).



## STATUTORILY AUTHORIZED USES OF FUNDING STREAMS

TxDOT created the following chart to assist with identifying some of the limitations and available uses of its multiple funding sources.

**Figure 5**

FUNDING SOURCE	PROJECT TYPE							
	Highways (Non – Tolled)	Highways (Tolled)	Rail (Passenger)	Rail (Freight)	Transit (Public)	Aviation (Public)	Ports (Outside Gates)	Ports (Inside Gates)
Proposition 1 Funds	✓							
Proposition 7 Funds	✓							
State Highway Fund (Dedicated) <sup>1</sup>	✓	✓						
Texas Mobility Fund <sup>2</sup>	✓		✓		✓	✓	✓	
State Highway Fund (Non-Dedicated) <sup>3</sup>	✓	✓	✓	✓	✓	✓	✓	
General Revenue <sup>4</sup>	✓	✓	✓	✓	✓	✓	✓	✓

*Non-constitutionally dedicated State Highway Fund revenues are fully committed and unavailable for new purposes without impacting the current uses noted above.*

1. State Highway Fund (Dedicated) includes traditional sources of funding dedicated by the Texas Constitution and consists of state motor fuel and lubricant taxes, motor vehicle registration fees, and interest earned on dedicated deposits. It also includes federal reimbursements that are not reflected in the above grid, as a small amount of these federal funds may at times be used for other modes of transportation.
2. The Texas Constitution allows for the use of Texas Mobility Fund revenues and bond proceeds to develop and construct state highways and other public transportation projects.
3. State Highway Fund (Non-Dedicated) includes very limited revenue sources that are designated by statute but not the Texas Constitution. These limited revenue sources are further constrained by an annual, statutorily required transfer of approximately \$150 million, which backfills the Texas Mobility Fund’s loss of Certificate of Title Fees. Many multimodal transportation services have received level funding for decades because of the limited availability of non-constitutionally dedicated funds.
4. State general revenue can be used on all forms of multimodal transportation in order to pay for exceptional items or legislative directives where other revenues are unavailable due to restrictions or have already been fully obligated.







## FUNDING CHALLENGES AHEAD

The development and delivery of transportation projects requires long-term planning and the careful fiscal management of revenues and expenditures for TxDOT to make progress payments on construction projects that last over several years. For this reason, TxDOT staff must carefully plan projects to ensure future funds will support both the progress payments on existing projects while still maximizing funding to support as many new projects as possible and the development of future projects based on state and local needs. This section of the funding brochure reviews some near-term challenges that TxDOT anticipates will need to be addressed to maintain its current level of operation.

### Proposition 1 and 7 Sunset Dates

While Proposition 1 and 7 funds contribute to the funding of Texas roadway projects, predicting their contributions over time presents challenges in forecasting long-term construction projects. Therefore, near-term construction contract letting will require close attention to ensure the appropriate funds are available for progress payments on projects as invoices become due.

In 2019, the 86<sup>th</sup> Legislature extended the expiration date of Proposition 1 funds from FY 2024 to FY 2034, which gave TxDOT a wider window of time in which to plan projects at near-current funding levels. This window of time is important because it fully covers TxDOT's current 10-year planning document, the Unified Transportation Program (UTP). Additionally, Proposition 1 funds are more volatile and difficult to estimate within a short time frame than other funding sources.

Proposition 7 has two revenue components, each with its sunset date. They include 1) funds from state sales and use taxes, which expire at the end of FY 2032 and 2) funds from motor vehicle sales and rental taxes, which expire at the end of FY 2029. Although TxDOT was first eligible to receive motor vehicle sales and rental tax revenue in FY 2020, due to the loss or delay of revenues from the pandemic, TxDOT did not receive its first deposit until FY2021.

While these expiration dates are several years out, assessing the need for an extended expiration time frame remains critical as the opportunities to change the dates occur only biennially based on when the legislature convenes. Further, TxDOT only began receiving motor vehicle sales and rental tax revenue in the past year as sales have just recently met the threshold after two years of eligibility. The extension of Proposition 1 and 7 expiration dates would maximize fiscal predictability as well as maintain a trajectory of consistent planning and programming.

### Alternatively-Fueled Vehicles and Road User Fees

Alternatively-fueled vehicles use sources of energy other than gasoline or diesel and may include electric vehicles or hybrid gas and electric vehicles. As more Texans purchase alternatively-fueled vehicles, the expectation is that the state will experience a decline in the amount of revenue generated from its most reliable and stable source of revenue: revenue derived from state and federal motor fuels taxes. The number of alternatively-fueled vehicles registered in Texas has not yet reached a point to accurately project lost motor fuel taxes, according to the state's December 2020 publication, "Study on Imposing Fees on Alternatively Fueled Vehicles."<sup>1</sup> State and federal motor fuels taxes are considered fees in exchange for using the roadway and contribute to the maintenance of the roads and are sometimes referred to as "road user fees." Even though gas tax rates have not been raised since the early 1990s, gas tax still plays a prominent role in TxDOT's budget. Funds from the state gas tax are also deposited into the State Highway Fund on a monthly basis and in a predictable fashion, which allows TxDOT to make immediate payments and reliable funding forecasts. Alternatively-fueled vehicle users, however, either pay significantly less or no gas taxes to use the roads by the nature of their vehicles' use of non-gas energy sources. Currently, alternatively-fueled vehicle users do not pay any other form of a road user fee to make up for this discrepancy between alternatively-fueled vehicles and traditional gas and diesel vehicles. The decline in gas tax revenues caused by increased use of alternatively-fueled vehicles, as well as the diminishing purchasing power of motor fuel taxes as a result of not raising the gas tax to accommodate inflation, threatens one of the state's most stable sources of transportation revenue.

1. "Study on Imposing Fees on Alternatively Fueled Vehicles," prepared by the Texas Department of Motor Vehicles, et al. (in accordance with Senate Bill 604 of the 86<sup>th</sup> Legislature, Regular Session), (Austin, TX, 2020).



## Cost Drivers to Non-Dedicated State Highway Fund and the Texas Mobility Fund

As mentioned earlier, this edition of TxDOT's Funding Brochure examines the diminishing capacity of issuing Texas Mobility Fund Bonds and the increase in appropriations to fund local projects with TxDOT's most flexible funding sources, which are both Texas Mobility Fund and non-dedicated State Highway Fund dollars.

Non-dedicated State Highway Fund dollars are TxDOT's most flexible source of state funding. **These dollars make up less than 2 percent of TxDOT's biennial appropriations.** TxDOT must rely on a certain level of flexible funding sources in order to secure matching funds for federal dollars, which allow local government entities (mostly rural) to obtain federal funding for multi-modal transportation services, including certain types of public transportation resources, aviation services, rail projects, and Gulf of Mexico waterway activities. Non-dedicated State Highway Fund dollars have traditionally supported these activities. Many of these projects and services have maintained the same level of funding over decades. This shortage of flexible funding requires TxDOT to ask the legislature for general revenue to support these additional items.

Non-dedicated State Highway Fund sources consist of special vehicle permit fees, the sale of magazine publications, motor vehicle certificates, land sales, legal judgments and settlements, certain reimbursements, and other fees, which totals approximately \$200 million each fiscal year. While these revenues gradually increase over time, so do the expenses.

The most significant impact to non-dedicated State Highway Fund dollars involves replenishing the Texas Mobility Fund. Constitutional and statutory requirements compel TxDOT to replace revenues from Certificate of Title Fees previously deposited directly into the Texas Mobility Fund and now deposited in the Texas Emissions Reduction Plan (TERP) Fund. House Bill 4472 (87<sup>th</sup> Legislature, Regular Session, 2021) remits a portion of these funds back to TxDOT for the purpose of congestion mitigation and air quality improvement projects in nonattainment areas and affected counties, but these remitted funds are not always eligible for multi-modal transportation services. The replenishment of these fees to the Texas Mobility Fund amounts to a loss of approximately \$150 million per year of non-dedicated State Highway Funds, the most flexible source of transportation funding. Texas Mobility Fund dollars are generally more flexible than most other revenue sources, but they are still not as flexible as non-dedicated State Highway Funds.

In recent legislative sessions, the legislature appropriated or statutorily required the expenditure of certain funds for projects that do not qualify for TxDOT's largest funding sources in the State Highway Fund. Therefore, TxDOT has used Texas Mobility Fund dollars to support the non-dedicated roadway requirements for miscellaneous public transportation expenditures.

Examples of these appropriations include, but are not limited to the following:

- \$125 million – Funding for county roads, which are not on the state highway system, that have been impacted by oil and gas production. While appropriations allow TxDOT to use available revenue to provide grants to counties, the Texas Mobility Fund is the only available source of funds that can provide these grants.
- \$32 million – Funding for the construction of specific, legislatively directed intelligent transportation systems on international bridges.
- Up to \$20 million per year – Funding for access to ports, which are outside the gates of the ports but may not be located on the state highway system.
- Various appropriations of \$5 - \$15 million – Funding for specific, legislatively-directed airport projects, including runways.

Many of these appropriations add new funding requirements that have reduced the flexible funding sources of the state and diminished the capacity of funds in the Texas Mobility Fund that may be used to issue more bonds. TxDOT and the state may need these bond proceeds to keep projects on schedule in years or biennia when revenues are less dependable than they are now.

## Conclusion

In conclusion, the Texas Legislature has provided TxDOT with a variety of funding sources over the years, and the funding supports its current transportation priorities. However, as Texas' population continues its dramatic growth, funding sources with greater flexibility are needed to address both existing as well as changing transportation needs.



## MISSION

Connecting you with Texas.

## VALUES

### People

People are the Department's most important customer, asset, and resource. The well-being, safety, and quality of life for Texans and the traveling public are of the utmost concern to the Department. We focus on relationship building, customer service, and partnerships.

### Accountability

We accept responsibility for our actions and promote open communication and transparency at all times.

### Trust

We strive to earn and maintain confidence through reliable and ethical decision-making.

### Honesty

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.

## VISION

A forward thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans.





## Optimize System Performance

Develop and operate an integrated transportation system that provides reliable and accessible mobility, and enables economic growth.

- Mitigate congestion.
- Enhance connectivity and mobility.
- Improve the reliability of our transportation system.
- Facilitate the movement of freight and international trade.
- Foster economic competitiveness through infrastructure investments.

## Preserve our Assets

Deliver preventive maintenance for TxDOT's system and capital assets to protect our investments.

- Maintain and preserve system infrastructure to achieve a state of good repair and avoid asset deterioration.
- Procure, secure, and maintain equipment, technology, and buildings to achieve a state of good repair and prolong life cycle and utilization.

## Promote Safety

Champion a culture of safety.

- Reduce crashes and fatalities by continuously improving guidelines and innovations along with increased targeted awareness and education.
- Reduce employee incidents.

## Value our Employees

Respect and care for the well-being and development of our employees.

- Emphasize internal communications.
- Support and facilitate the development of a successful and skilled workforce through recruitment, training and mentoring programs, succession planning, trust, and empowerment.
- Encourage a healthy work environment through wellness programs and work-life balance.



## GOALS AND OBJECTIVES

### Deliver the Right Projects

Implement effective planning and forecasting processes that deliver the right projects on-time and on-budget.

- Use scenario-based forecasting, budgeting, and resource management practices to plan and program projects.
- Align plans and programs with strategic goals.
- Adhere to planned budgets and schedules.
- Provide post-delivery project and program analysis.

### Focus on the Customer

People are at the center of everything we do.

- Be transparent, open, and forthright in agency communications.
- Strengthen our key partnerships and relationships with a customer service focus.
- Incorporate customer feedback and comments into agency practices, project development, and policies.
- Emphasize customer service in all TxDOT operations.

### Foster Stewardship

Ensure efficient use of state resources.

- Use fiscal resources responsibly.
- Protect our natural resources.
- Operate efficiently and manage risk.





**Educational Series**

<https://www.txdot.gov/government/legislative/state-affairs/educational-series.html>



**TxDOT Project Tracker**

<https://www.txdot.gov/inside-txdot/projects/project-tracker.html>



**TxDOT State Legislative Affairs**

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