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Editorial

Giving transit what it needs

California Senate Democrats and Gov. Schwarzenegger are offering plans to gut Prop. 42 and raise the gas excise tax. Sounds bad? Not really.

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There they go again with their raids and gimmicks, right? Last month, Gov. Arnold Schwarzenegger proposed eliminating the sales tax on gasoline but raising a separate excise tax almost, but not quite, as high, so taxpayers would feel like they're getting a break at the pump. But the scheme eviscerates Proposition 42, a 2002 voter initiative designed to put an end to transportation fund raids, and wipes out funding for public transit. Now Senate Democrats are countering with a plan that raises the excise tax by an additional nickel and uses that amount to fund transit -- while getting around the two-thirds vote requirement for raising taxes and still gutting the initiative. Isn't this just another example of those sneaky Sacramento politicians being irresponsible with our money?

Actually, no. Schwarzenegger's plan is not half bad, and the Democrats' plan is even better. They both need some work, but they move in the right direction -- not despite, but precisely because, they are calculated to circumvent restrictions placed on them by voters.

Californians can expect to hear a lot from transit and anti-tax advocates about how Sacramento is launching yet another raid with yet another slate of gimmicks, but it's time for some straightforward talk about those claims, which stand reality on its head. It's the past raids and gimmicks -- raids not on transportation funding but on the state general fund that pays for schools, higher education, public safety, care for seniors and other core services -- that put us in the current fix.

To understand how they have been played, California drivers have to better understand what they pay at the pump, and why. Start with the state excise tax, a flat per-gallon fee of 18 cents, which is constitutionally required to be used on transportation projects and maintenance. It's a type of road user fee, and contrary to assertions from across the political spectrum, this money cannot be, and has not been, "raided" or even borrowed for use on non-transportation programs. Nor has the separate 18.4-cent federal excise tax, which pays for the federal portion of repair and construction of highways, roads and bridges.



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In the 1930s, when California first imposed its excise tax, lawmakers also began charging sales tax on most goods to pay for general government expenses. Motor fuel was exempt until 1971, when the Legislature and then-Gov. Ronald Reagan agreed to lower the sales tax on everything by 1/4 % -- but to broaden it to cover fuel. Now get ready for the first gimmick. It's called the "spillover."

The lower, but broader, sales tax was supposed to be revenue neutral. But when it's not -- when the 1/4 % lower state sales tax applied to all taxable goods including gasoline exceeds the higher state sales tax applied to all taxable goods except gasoline -- the difference, or "spillover," is restricted for transportation planning and transit. That happens whenever the price of gasoline rises faster than the prices of other taxable goods.

There's a second gimmick. The sales tax applied to the entire price paid at the pump -- including that portion already being paid in state excise taxes. The sliver of tax on the tax was diverted to pay specifically for public transit.

Meanwhile, the excise tax was effectively decreasing. After all, it's a flat per-gallon fee and not a percentage, so it doesn't go up as prices go up. Furthermore, as cars became more fuel efficient and used less gas per mile, there were less excise tax pennies per mile of highway, which were becoming increasingly congested and decrepit. After the Oakland freeway collapse during the Loma Prieta quake of 1989, voters agreed to double the excise tax to its current level.

In the late 1990s, lawmakers launched a supposedly limited, five-year project to divert sales taxes paid at the gas pump away from the general fund and for use solely on transportation. It made about as much sense as using the sales tax we pay on laptops only on education, or the sales tax we pay at restaurants only for food inspection.

As the end of the diversion period neared, transportation agencies and advocates found they had become used to their temporary influx of cash. They helped craft Proposition 42 to make the raid on sales taxes permanent. And they ran a campaign inverting reality, telling voters that if they didn't act, lawmakers would raid their "gas tax," a term cleverly broadened to include the sales tax. At least there was an escape clause: If the governor declared an emergency, the money could be returned to its original use.

Voters passed it in 2002, and Gov. Gray Davis quite reasonably declared an emergency. But transportation advocates weren't willing to part with their new funding stream even for a year or two, so they again cried "raid" and returned to the ballot box with a 2006 measure that requires any sales tax money on fuel that is used for general purposes under the "emergency" provision to be "repaid" to transportation, with interest, within three years. Courts and political opponents blocked attempts by Davis, and later Schwarzenegger, to use spillover and sales tax money to meet bond obligations and other needs.

Schwarzenegger is now copying a plan by former Assembly Speaker Fabian Nuñez to get rid of the sales tax on gasoline and to raise the excise tax. He's halfway there: Raising the excise tax is a good thing in theory, because raising the cost of driving encourages the use of public transit, forestalls the need for new lanes and roads, and protects the environment. But he wants to give drivers a 5-cent break at the pump, so he's not discouraging drivers at all. True, scrapping the sales tax gets rid of the gimmickry and restrictions, but it also gets rid of transit funding, so it's a backward step.

The Senate Democrats' plan funds transit by raising the excise tax enough to keep total fuel taxes at their current

level (and by keeping the sales tax on diesel, but that's another story -- and the continuation of another gimmick). Any higher and they'd need a two-thirds vote and Republican sign-on.

If it were up to us, we'd keep the sales tax, scrap Proposition 42 and raise the excise tax to boot, and finally give transit the funding it needs. We might even keep the various other funding gimmicks, like the extra 2 cents we began paying at the pump last year (did anyone notice?) so that oil companies don't have to shoulder the cleanup costs of leaky underground gas station tanks. But the real world is a political world, where revoking initiatives and raising taxes in an election year are long shots. Until California is able to return to rational policymaking, it makes sense to recalculate our fuel taxes to correct past raids and gimmicks that helped run the state off the road.

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