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GAO

Report to Congressional Requester

April 2003

HIGHWAY SAFETY

Better Guidance Could Improve Oversight of State Highway Safety Programs

GAO-03-474

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Better Guidance Could Improve Oversight of State Highway Safety Programs

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Highlights

Highlights of GAO-03-474, a report to Ranking Minority Member, Subcommittee on Competition, Foreign Commerce, and Infrastructure, Committee on Commerce, Science, and Transportation, U.S. Senate

Why GAO Did This Study

In 1998, the Transportation Equity Act for the 21st Century funded a series of highway safety programs. These safety programs, administered by the National Highway Traffic Safety Administration (NHTSA), increased funding to the states to improve highway safety through activities designed to encourage, among other things, the use of seat belts and child passenger seats and to prevent drinking and driving. The states implement these activities through a "performance-based" approach under which they establish highway safety goals and initiate projects to help reach those goals. NHTSA reviews the goals and provides oversight to the state highway safety programs. GAO was asked to provide trend data on highway safety, determine how much highway safety funding was provided and how the states used the funds, and review NHTSA's oversight of highway safety programs.

What GAO Recommends

GAO recommends that NHTSA provide more specific written guidance to its regional offices on when it is appropriate to use management reviews and improvement plans to assist states with their highway safety programs.

www.gao.gov/cgi-bin/getrpt?GAO-03-474.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Peter Guerrero (202) 512-2834.

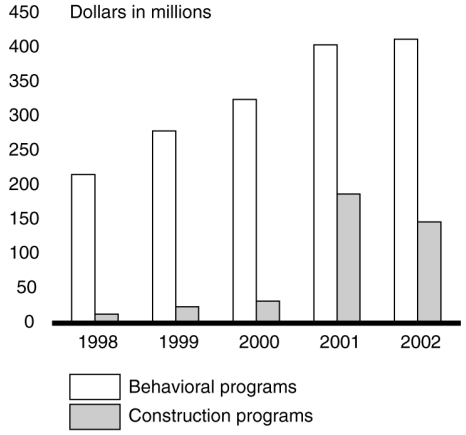
What GAO Found

While the annual number of traffic fatalities has declined since the 1970s, it has stayed fairly level since 1995, at about 41,900 per year. Fatality rates per miles traveled have also continued to decline, but the bulk of this decline occurred between 1982 and 1992. In addition, the number of alcohol-related fatalities declined from about 26,000 in 1982 to about 17,400 in 2001. However, alcohol-related fatalities rose in 2000 and 2001.

About $2 billion has been provided over the last 5 years for highway safety programs under the Transportation Equity Act for the 21st Century. About $729 million went to the core highway safety program, Section 402, to carry out traffic safety programs designed to influence drivers' behavior in such areas as seat belt use, alcohol-impaired driving, and speeding. About $936 million went to seven incentive programs designed to encourage state efforts to improve seat-belt use, reduce drunk driving, and improve highway safety data. About $361 million was transferred from highway construction to highway safety programs under provisions that penalized states that had not passed repeat offender or open container laws to reduce drunk driving. Of the incentive and transfer funds, most were used for behavioral programs, but about $395 million was used for highway construction programs.

Under the performance-based approach, NHTSA provides advice, training and technical assistance to the states, which are responsible for setting and achieving highway safety goals. NHTSA also provides oversight through management reviews and improvement plans intended to help ensure that the states are operating within guidelines and achieving the desired results. However NHTSA's regional offices have made inconsistent use of management reviews and limited and inconsistent use of improvement plans because NHTSA's guidance to the regional offices does not specify when to use them. As a result, NHTSA's efforts to work with the states may not be fully realized.

Highway Safety Funding to States, Fiscal Years 1998 through 2002



Source: GAO presentation of NHTSA data.

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GAO
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United States General Accounting Office
Washington, DC 20548

April 21, 2003

The Honorable Byron L. Dorgan
Ranking Minority Member,
Subcommittee on Competition,
Foreign Commerce, and Infrastructure
Committee on Commerce, Science, and Transportation
United States Senate

Dear Senator Dorgan:

Over the last 25 years, more than 1.2 million people have died as a result of traffic crashes in the United States. Since 1982, about 40 percent of traffic deaths were from alcohol-related crashes. In addition, traffic crashes are the leading cause of death for people aged 4 through 33. In 2000 alone, the economic cost of fatalities and injuries from crashes totaled almost $231 billion, according to the National Highway Traffic Safety Administration.

To improve safety on the nation's highways, the Transportation Equity Act for the 21st Century (P.L. 105-178, 1998) authorized a number of highway safety programs. Specifically, the act reauthorized the core federally funded highway safety program, Section 402 State and Community Grant Program. This program, authorized in 1966, uses a formula based on population and road mileage to make grants available for each state to carry out traffic safety programs designed to influence drivers' behavior, commonly called behavioral safety programs. In addition, the act authorized seven other grant programs that provide incentive funding to encourage safety through the use of seat belts and child passenger seats and through efforts to prevent drinking and driving. Finally, a 1998 amendment to the act established two new penalty requirements to reduce the number of alcohol-related fatalities associated with repeat drunk-driving offenders and open alcoholic beverage containers in motor vehicles. Beginning in 2000, states that failed to adopt these requirements were penalized by having a portion of their federal highway construction funds transferred to highway safety programs. The National Highway Traffic Safety Administration oversees the states' highway safety programs; and, in 1998, it adopted a performance-based approach to oversight, under which the states set their own highway safety goals and targets and the agency's 10 regional offices provide assistance to and oversight of the states to help them reach those goals.

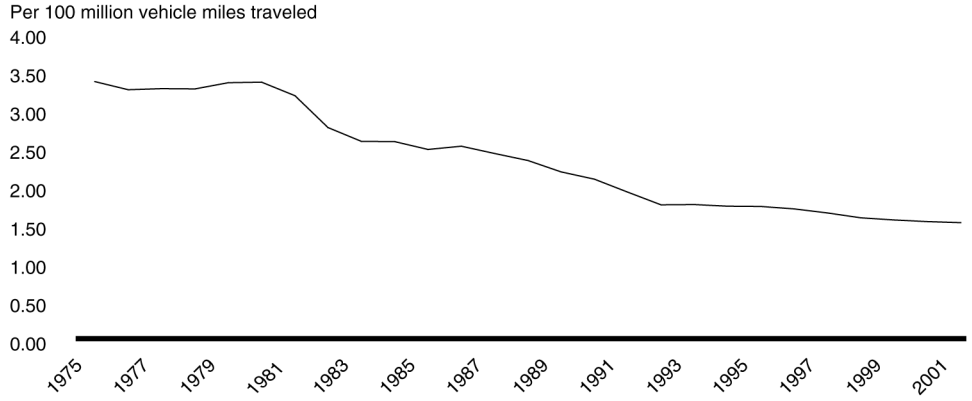
You asked us to (1) provide information on trends in highway safety and how alcohol contributes to these statistics, (2) provide information on how much funding the Transportation Equity Act for the 21st Century made available to the states for highway safety programs and how states have used these funds, and (3) review the National Highway Traffic Safety Administration's oversight of the states' highway safety programs.

To analyze highway fatality statistics, we used data from 1975 through 2001, the most recent year for which data are available from the agency's Fatality Analysis Reporting System, the national database on fatal traffic accidents. In addition, for information on crashes and alcohol-related fatalities, we used data that started to be collected in 1988 and 1982, respectively. To provide information on available funding and its uses, we obtained and analyzed data from the agency and visited six states that accounted for a large amount (about 40 percent) of the funds transferred under the penalty provisions (California, Georgia, Missouri, New York, Ohio and Texas). We also used these states and visited the agency's six regional offices that are responsible for them, to review the agency's oversight of states' programs. We also interviewed representatives of the Governors Highway Safety Association and other highway safety organizations to obtain their perspective on safety issues and program oversight. Appendix I provides additional details on our scope and methodology.

Results in Brief

The number of traffic fatalities has declined since the 1970s. Specifically, traffic fatalities dropped from a high of about 51,100 in 1979 to a low of about 39,300 in 1992. Since 1995, fatalities have been fairly constant with a slight increase, averaging about 41,900 per year. The slowing in the decline in fatalities—as measured by the number of fatalities per 100 million vehicle miles traveled—is shown in figure 1. Similarly, the number of alcohol-related fatalities declined from about 26,200 in 1982, when the National Highway Traffic Safety Administration began tracking them, to about 17,400 in 2001. However, since 1992, declines in the number of alcohol-related fatalities have slowed, and these fatalities have also increased in 2000 and 2001.

Figure 1: Rate of Traffic Fatalities, 1975 through 2001



Source: GAO presentation of National Highway Traffic Safety Administration data.

About $2.0 billion has been provided to the states under the Transportation Equity Act for the 21st Century, as amended, for (1) the core Section 402 State and Community Safety Grants program, (2) seven incentive programs, and (3) two penalty transfer programs for fiscal years 1998 through 2002. About $729 million of these funds supported the Section 402 program and were used for behavioral highway safety programs that addressed problems such as seat-belt use, alcohol-impaired driving, and speeding. The seven incentive programs accounted for about $936 million. Five of these incentive programs required all of their funds to be used for behavioral highway safety programs, and two of the incentive programs allowed their funds to be used for either highway safety programs or highway construction projects. Finally, in fiscal years 2001 and 2002, about $361 million was transferred to safety programs from the states' Federal-Aid Highway construction account in 34 states that did not meet federal requirements related to open container and repeat offender laws. The states that were subject to the transfer penalties could use these funds for either alcohol-related programs or for highway safety construction—specifically, for projects to eliminate roadway hazards. These states chose to allocate about 69 percent of the transfer funds to highway safety construction.

Under the National Highway Traffic Safety Administration's performance-based oversight approach, each state sets its own safety performance goals and develops an annual safety plan that describes projects designed to achieve the goals. The agency's 10 regional offices review the annual plans and provide technical assistance, advice, and comments. The

regional offices can also conduct management reviews of state highway safety programs. Management reviews generally involve sending a team to a state to review its performance, examine its projects, and determine that it is using funds in accordance with requirements. While the management reviews often identify problems with states' highway safety programs that need correction, we found that the regional offices were inconsistent in conducting these reviews. This variation in the use of management reviews occurs because the agency's guidance is not specific on when the reviews should be conducted. As a result, some regional offices conduct reviews every other year, while others conduct them only when requested by a state. In addition, when a state fails to make progress toward its highway safety performance goals, the agency requires the development and implementation of an improvement plan that identifies programs and activities the state and regional offices will undertake to address program weaknesses. We found that the regional offices have made limited and inconsistent use of improvement plans. For example, some states did not have improvement plans, even though their alcohol-related fatality rates have increased or their seat-belt use rates have declined. The National Highway Traffic Safety Administration has not established clear criteria for using improvement plans.

We are recommending that the National Highway Traffic Safety Administration provide more specific written guidance to the regional offices on when it is appropriate to use management reviews and improvement plans to assist states in their safety programs. In commenting on a draft of this report, the National Highway Traffic Safety Administration agreed with our recommendation and stated that it had begun the process to develop this guidance.

Background

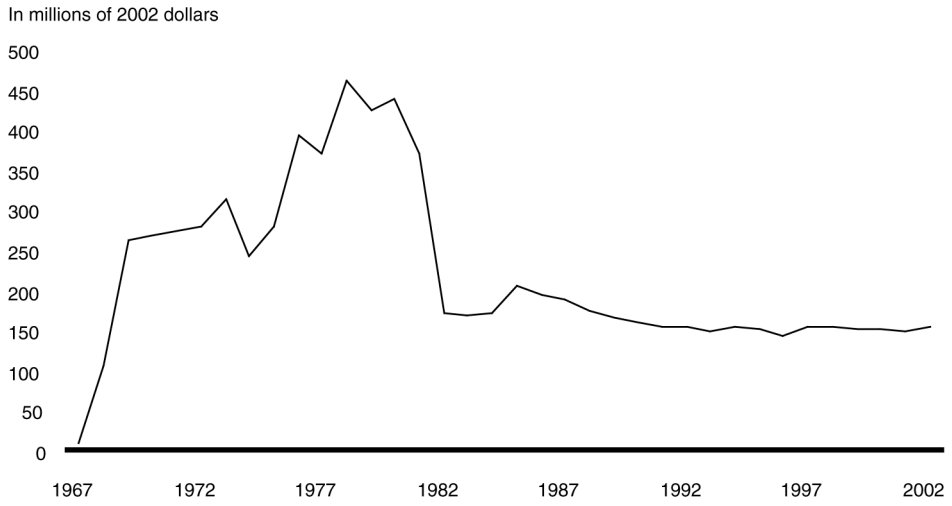
The behavioral safety programs authorized by the Transportation Equity Act for the 21st Century (TEA-21) attempt to improve highway safety by reducing the frequency and seriousness of crashes and by mitigating the consequences of crashes. The National Highway Traffic Safety Administration (NHTSA), within the Department of Transportation, provides oversight of state highway safety programs.

Core Safety Program

The Section 402 State and Community Grants program is the core safety grants program that was authorized in 1966. It is highly flexible, allowing the states to use funds for a wide variety of highway safety projects, including projects to reduce alcohol-impaired driving, increase seat-belt use, develop regional traffic safety initiatives, improve traffic records and

safety data, and improve pedestrian safety, among other projects. As shown in figure 2, the funding for this program reached a high of over $450 million in 1978, in 2002 dollars. Since 1991, program funding has remained relatively stable at about $150 million a year, in 2002 dollars.

Figure 2: State and Community Grants Program Funding, Fiscal Years 1967 through 2002



Source: GAO analysis of NHTSA data.

Incentive Grant Programs

Besides reauthorizing the Section 402 program, TEA-21 authorized seven new incentive grant programs that provide funds to encourage states to increase seat-belt use, reduce alcohol-impaired driving, and improve highway safety data. States must meet certain requirements to qualify for these incentive grants and generally must apply for them. Table 1 provides information on the seven safety incentive grant programs.

Table 1: Highway Safety Incentive Grant Programs

Incentive category	Title of incentive	Description of incentive
Seat Belt/ Occupant Protection Incentives	Section 157 Safety Incentive Grants for the Use of Seat Belts	Creates incentive grants to states to improve seat-belt use rates. A state may use these funds for any highway safety or construction program. The act authorized $500 million over 5 years.
	Section 157 Safety Innovative Grants for Increasing Seat-Belt Use Rates	Provides that unallocated Section 157 incentive funds be allocated to states to carry out innovative projects to improve seat-belt use.
	Section 405 Occupant Protection Incentive Grant	Creates an incentive grant program to increase seat belt and child safety-seat use. A state may use these funds only to implement occupant protection programs. The act authorized $68 million over 5 years.
	Section 2003(b) Child Passenger Protection Education Grants	Creates a program designed to prevent deaths and injuries to children, educate the public on child restraints, and train safety personnel on child restraint use. The act authorized $15 million over 2 years for Section 2003(b). However, the Congress appropriated funds to support the program for 2 additional years.
Alcohol Incentives	Section 163 Safety Incentives to Prevent the Operation of Motor Vehicles by Intoxicated Persons	Provides grants to states that have enacted and are enforcing laws stating that a person with a blood alcohol concentration (BAC) of 0.08 or higher while operating a motor vehicle has committed a per se driving-while-intoxicated (DWI) offense. A state may use these funds for any highway safety or construction program. The act provides $500 million over 6 years for the program.
	Section 410 Alcohol Impaired Driving Countermeasures	Revised an existing incentive program and provides grants to states that adopt or demonstrate specified programs, or to states that meet performance criteria showing reductions in fatalities involving impaired drivers. The act provides $219.5 million over 6 years, which are to be used for impaired driving programs.
Data Incentives	Section 411 State Highway Safety Data Improvements	Provides incentive grants to states to improve the timeliness, accuracy, completeness, uniformity and accessibility of highway safety data. The act provides $32 million over 4 years.

Source: GAO.

Penalty Transfer Programs

To encourage states to enact stronger safety laws, TEA-21, as amended through the TEA-21 Restoration Act, established penalties for states that fail to enact laws implementing two new requirements set forth in the act. Under Section 154, a state must have a law prohibiting the possession of any open alcoholic beverage container, or consumption of any alcoholic beverage, in the passenger compartment of any motor vehicle on a public highway or right of way. Under Section 164, a state must have a repeat intoxicated driver law that provides for, among other things, a 1-year license suspension for the second offense; the impoundment, immobilization, or installation of an ignition interlock on all the offender's vehicles; an assessment of the individual's degree of alcohol abuse and appropriate treatment; and specified minimum jail or community service sentences. States that do not meet either the open container or the repeat offender requirement will have a percentage of funds transferred from their Federal-Aid Highway program to their Section 402 State and Community Grants program. States may use the transferred funds for alcohol-related behavioral programs, such as information programs

designed to reduce drunk driving, or they may allocate funds back to the Federal-Aid Highway program where they are to be used for highway construction projects that address safety concerns, which could include almost any kind of unsafe road or bridge condition. Every year NHTSA's Chief Counsel assesses the states to determine which states are in compliance with the open container and repeat offender requirements.

NHTSA's Oversight of State Highway Safety Programs

NHTSA oversees the state highway safety programs through its 10 regional offices, which administer the grants to the states. The regions' emphasis is on providing the states with technical assistance. NHTSA regions also provide training programs for state safety officials and work with the states to encourage them to participate in programs that have been shown to be successful, such as "Click-It-or-Ticket" seat-belt use programs and increased enforcement. According to NHTSA officials, this has resulted in improvement in the area of seat-belt use. However, the regions do not require the states to adopt particular programs.[1]

In 1998, NHTSA adopted a "performance-based" approach to its oversight of highway safety programs. Under this approach, a state develops an annual performance plan that establishes traffic safety goals and performance measures. In addition, the performance plan must describe the process the state used to identify problems, establish goals, and select projects. Based on the performance plan, the state prepares an annual highway safety plan, which identifies projects to be funded that address the state's goals. In addition, at the end of the year, the state is required to prepare an annual report that describes (1) the state's progress in meeting its highway safety goals, using the measures identified in its performance plan and (2) the contribution of funded projects to meeting the state's highway safety goals. Under the performance-based approach, NHTSA does not approve the state's highway safety plan or projects. Instead, it focuses on whether the state is achieving the goals it set for itself in its plans. However, if the state is not making progress toward meeting its goals, NHTSA regulations state that the NHTSA region and the state should develop an improvement plan to address the shortcomings.

[1]Click-It-or-Ticket is a highway safety program that uses increased enforcement along with a media campaign to encourage seat-belt use.

Other Highway Safety Construction Funding

In addition to NHTSA, the Federal Highway Administration (FHWA), another Department of Transportation agency, funds and oversees projects designed to improve safety. For example, FHWA's Hazard Elimination program provides funds for construction-related safety improvements on any public road, public surface transportation facility, or publicly owned bicycle or pedestrian pathway or trail, including such items as traffic signals, sight distance improvements, pavement and shoulder widening, and guardrail and barrier improvements. States that are subject to the penalty transfer requirements may choose to use some or all of those funds for safety construction projects under the Hazard Elimination program.

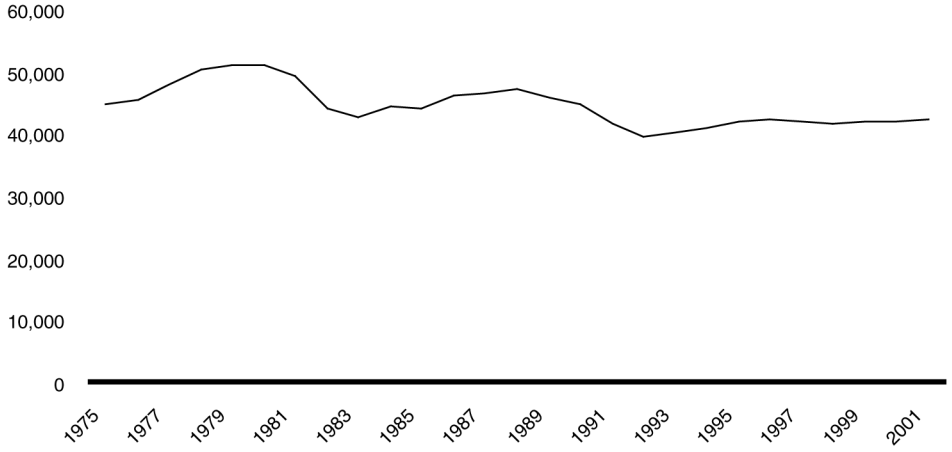
Trends in Highway Safety

The number of traffic fatalities has declined since the 1970s. Specifically, annual traffic fatalities have gone from a high of 51,093 in 1979 to a low of 39,250 in 1992.[2] Since 1995, the number of annual fatalities has increased, averaging about 41,900. (See fig. 3.)[3]

[2]*Traffic Safety Facts 2001*, NHTSA. December 2002. These are the most recent available data.

[3]In commenting on a draft of this report, NHTSA officials noted that between 1997 and 2001 motorcycle fatalities increased by 1,065, which contributed to the overall increase in highway fatalities.

Figure 3: Number of Traffic Fatalities, 1975 through 2001

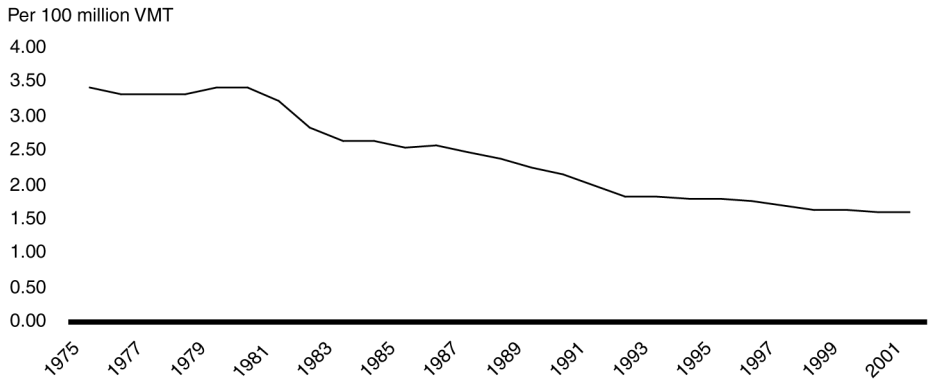


Source: GAO presentation of NHTSA data.

From 1975 through 2001, traffic fatality rates—fatalities per 100 million miles traveled—dropped by more than half; but since 1992, the rate of decline has slowed.[4] In 1979, the nationwide fatality rate peaked at 3.3 deaths per 100 million vehicle miles traveled (VMT). By 1992, the fatality rate had declined to 1.8 deaths per 100 million VMT. Subsequently, fatality rates continued to decline, but at a slower pace, reaching 1.5 deaths per 100 million VMT in 2001. (See fig. 4.)

[4]Fatality rates, which are generally reported as the number of deaths per 100 million VMT, provide a consistent measure of highway fatalities and are appropriate for making year-to-year comparisons. The primary source of uncertainty in estimating fatality rates is the number of vehicle miles traveled. These data are subject to sampling errors whose magnitude depends on how well 4,000 continuous traffic-counting locations represent nationwide traffic rates. The data are also subject to estimating differences between the states, though FHWA works to minimize such differences.

Figure 4: Rate of Traffic Fatalities, 1975 through 2001

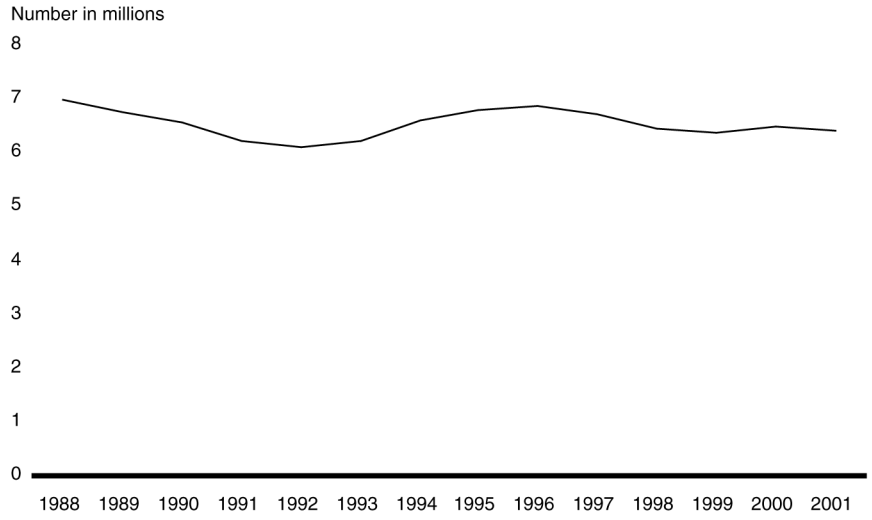


Source: GAO presentation of NHTSA data.

From 1988, when NHTSA began collecting these data, through 2001, trends in the number of highway crashes generally parallel trends in the number of highway fatalities—declining until 1992, then rising somewhat. Throughout this period, according to NHTSA's data, the annual number of crashes has ranged from about 6.0 million to 6.9 million. About 6.3 million crashes occurred in 2001. (See fig. 5.) The severity of crashes has remained consistent: about two-thirds involve property damage only and one-third involve injuries. Only a small fraction of crashes—0.6 percent—are fatal. According to analysts, highway crashes are typically the result of a complex combination of factors, including human behavior, the roadway environment, and the vehicle. Of these, human behavior, including speeding, violating laws, alcohol or drug impairment, inattention, and decision errors, most often contribute to highway crashes.[5]

[5]We discuss factors contributing to highway crashes in more detail in another report, see U.S. General Accounting Office, *Highway Safety: Research Continues on a Variety of Factors That Contribute to Motor Vehicle Crashes*, (GAO-03-436, Mar. 31, 2003).

Figure 5: Number of Traffic Crashes, 1988 through 2001

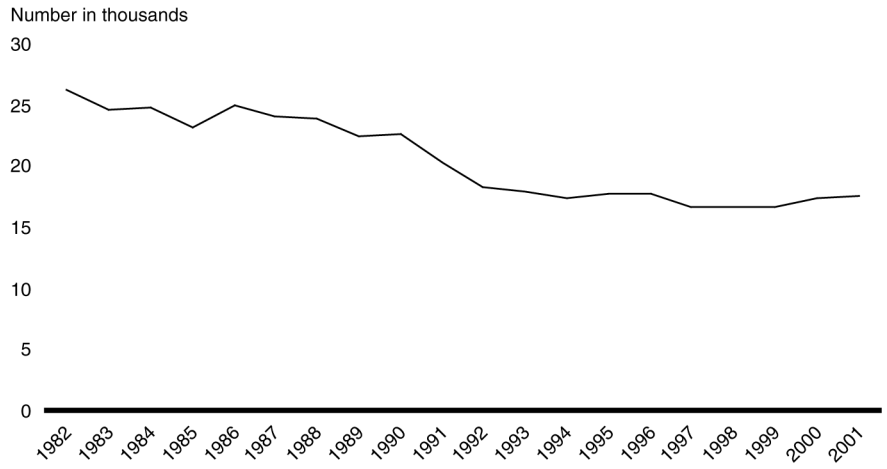


Source: GAO presentation of NHTSA data.

Alcohol-related crashes account for a large portion of traffic fatalities.[6] Between 1982, when NHTSA began tracking alcohol-related fatalities, and 2001, over 400,000 people died in alcohol-related crashes. In 1982, NHTSA reported 26,173 alcohol-related deaths, representing 59.6 percent of all traffic fatalities. Alcohol-related fatalities declined to 39.7 percent of all traffic fatalities in 1999, but rose to 17,448—41.4 percent of fatalities—by 2001. (See fig. 6.) Blood alcohol concentrations (BAC) of 0.08 or greater were reported for 85.6 percent of the 17,448 alcohol-related fatalities in 2001.

[6]Alcohol-related fatalities represent crash victims killed with BAC at any level above 0.01. At this concentration, a person's blood contains 1 one-hundredth of 1 percent alcohol.

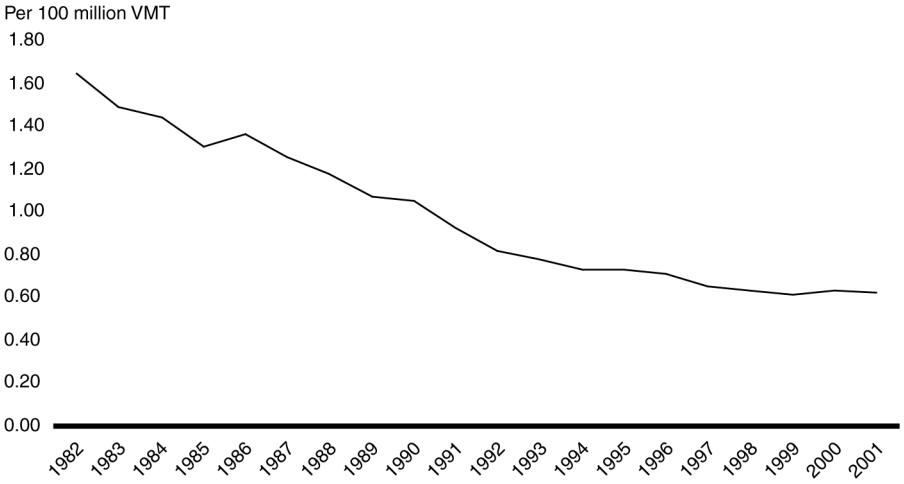
Figure 6: Number of Alcohol-Related Fatalities, 1982 through 2001



Source: GAO presentation of NHTSA data.

As figure 7 shows, alcohol-related fatality rates declined steadily (except in 1986) from 1982 through 1997. However, there has been almost no further decline in rates since 1997, when the rate was 0.65 fatalities per 100 million VMT. In 2001, the rate was 0.63 fatalities per 100 million VMT.

Figure 7: Rate of Alcohol-Related Fatalities, 1982 through 2001



Source: GAO presentation of NHTSA data.

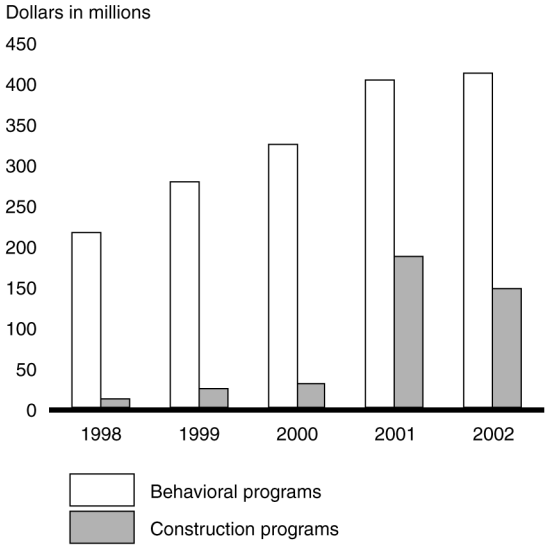
In commenting on a draft of this report, NHTSA noted that the easiest changes in driver behavior have been made. The challenge now is to reach those whose behavior is the most difficult to change. For example, seat-belt use in the United States has reached 75 percent—an all-time high. All 50 states, the District of Columbia, and Puerto Rico have child passenger safety laws, and 49 states have adult safety belt laws in effect. NHTSA estimates that approximately 8.5 percent of nonsafety belt users convert to being regular belt users each year. Continuing to convert this percentage each year becomes increasingly difficult because as the conversion occurs, the hard-core nonusers become a higher proportion of the remaining nonusers. Likewise, NHTSA noted that the problem with drunk driving is increasingly one that involves persons with severe alcohol abuse problems.

States Used Increased Safety Funding to Support Behavioral and Construction Programs

About $2.0 billion has been provided to the states for highway safety programs under TEA-21 for the core Section 402 State and Community Safety Grants program, seven incentive programs, and two penalty transfer programs from fiscal year 1998 through fiscal year 2002. The Section 402 State and Community Grants program received about $729 million, the seven incentive programs received about $936 million, and the penalty transfer programs received $361 million. States could use funds from two of the incentive programs for highway construction and funds from the two penalty transfers for the Federal-Aid Highway Hazard

Elimination program. As a result, states allocated about $147 million of the incentive funds to construction and $248 million of the transfer funds to Hazard Elimination. Figure 8 shows the funding associated with TEA-21 highway safety programs and the split between behavioral programs and highway construction.

Figure 8: NHTSA Highway Safety Funding to States, Fiscal Years 1998 through 2002



Source: GAO analysis of NHTSA data.

While overall highway safety funding has grown, the actual increases by state vary widely. For example, the highway safety funding for Kansas, which was not subject to any penalty transfers, grew by 1.7 percent and stayed at about $5.2 million annually from 1998 through 2001, while the highway safety funding for Montana, which was subject to both transfer penalties, grew by over 480 percent from $0.9 million to $5.4 million, over this period. (See app. II for a breakdown of total federal funding to states for NHTSA highway safety programs.)

Funding for Section 402 Program Remained Level and Was Used to Support Many Behavioral Activities

Funding for the core Section 402 State and Community Grants program has been fairly level, in constant dollars, since 1991. These funds could be used for a variety of programs in a number of major Section 402 program categories, as follows:

- *Police Traffic Services* – Grants support police agency enforcement projects, education, and training. Uses include projects to educate the public and enforce laws about driving while impaired, speeding, and seat-belt use.

- *Impaired Driving* – Grants support programs to reduce alcohol--or other drug-impaired driving. Uses include enforcement, public education, drug recognition training, and training for prosecutors and judges. Prevention training may also target youth, educators, alcoholic beverage servers, and liquor sales clerks.

- *Seat Belts* – Grants support increased use of seat belts and child safety seats. Funds can be used for such purposes as enforcement of seat-belt laws, public education on the importance and use of safety restraints, and proper installation of child safety seats.

- *Community Safety Programs* – Grants support safety or injury control programs. Programs include regional traffic safety programs and safe community programs that take an organized approach to addressing community injury problems.

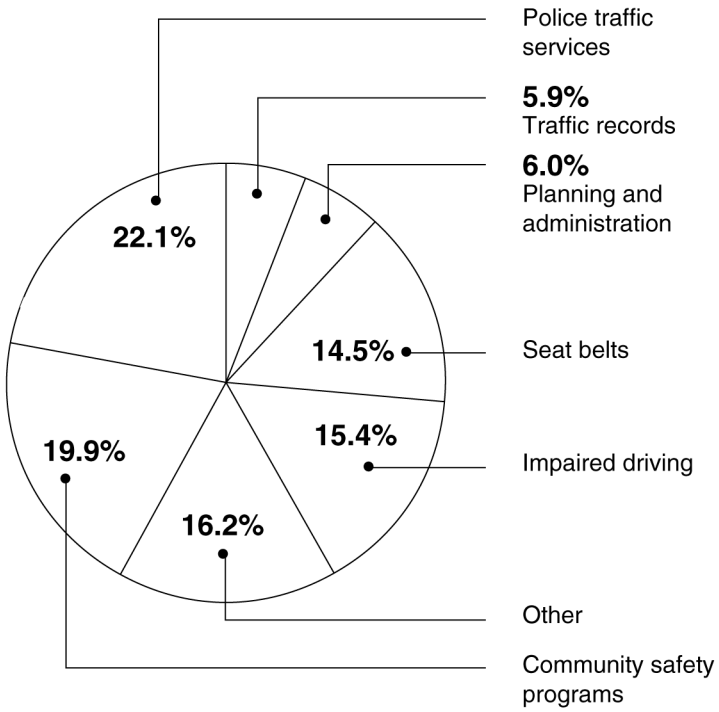
- *Planning and Administration* – States may use up to 10 percent of their Section 402 funds for salaries, travel, equipment, and other expenses necessary to carry out state highway safety office functions.

- *Traffic Records* – Grants support state or local safety records, including data on crashes, drivers, vehicles, roadways, citations, convictions, and emergency medical services. Data systems support problem identification, analysis, and countermeasure evaluation.

- *Other* – Grants can support many other highway safety topics, including roadway safety, pedestrian safety, emergency medical services, speed control, driver education, motorcycle safety, school bus safety, and paid advertising to support Section 402 programs.

Four major program categories account for most of the states' use of the $729 million in Section 402 State and Community Grants funds provided between 1998 and 2002: police traffic services, impaired driving, seat belts, and community safety programs. Combined, these four categories account for about 72 percent of the grant funds. Figure 9 shows how the states used their Section 402 State and Community Grants funds during the 5-year period covered by TEA-21.

Figure 9: Uses of State and Community Grants Funds, Fiscal Years 1998 through 2002



Source: GAO analysis of NHTSA data.

Note: "Other" includes roadway safety, pedestrian safety, emergency medical services, speed control, driver education, paid advertising, and motorcycle safety.

States Had Flexibility in Using Incentive Grant Program Funds

The seven incentive programs under TEA-21 also provide funds to encourage greater seat-belt use, implement programs or requirements to reduce drunk driving, and improve state highway safety data. The funding available for these programs grew from $83.5 million in 1998 to $257.2 million in 2002. While most of these funds were used for funding additional behavioral safety programs, the act provided that two programs, the 0.08 percent BAC Incentive (Section 163) and the Seat Belt Use Incentive (Section 157) could be used for any highway purpose—highway construction, construction that remedied safety concerns, or behavioral safety programs. Table 2 provides information on total funding for incentive programs and the split between behavioral program use and construction.

Table 2: State Use of Highway Safety Incentive Funds, Fiscal Years 1998 through 2002

(Dollars in millions)

Incentive	Behavioral program funding	Construction program funding	Total funding
Alcohol			
Section 163 - .08 BAC	$226.0	$117.3	**$343.2**
Section 410 - Impaired Driving	$166.3		**$166.3**
Occupant Protection			
Section 157 - Seat Belt Use	$179.9	$ 29.8	**$209.7**
Section 157 Innovative - Seat Belt Use	$112.0		**$112.0**
Section 2003(b) – Child Occupant Protection	$ 22.4		**$ 22.4**
Section 405 – Occupant Protection	$ 45.6		**$ 45.6**
Data Improvement	$ 36.3		**$ 36.3**
Total	**$788.6**	**$147.0**	**$935.6**

Source: GAO analysis of NHTSA data.

Note: Figures may not add due to rounding.

Penalty Transfers Increased Funding for Behavioral Programs and Safety Construction Projects

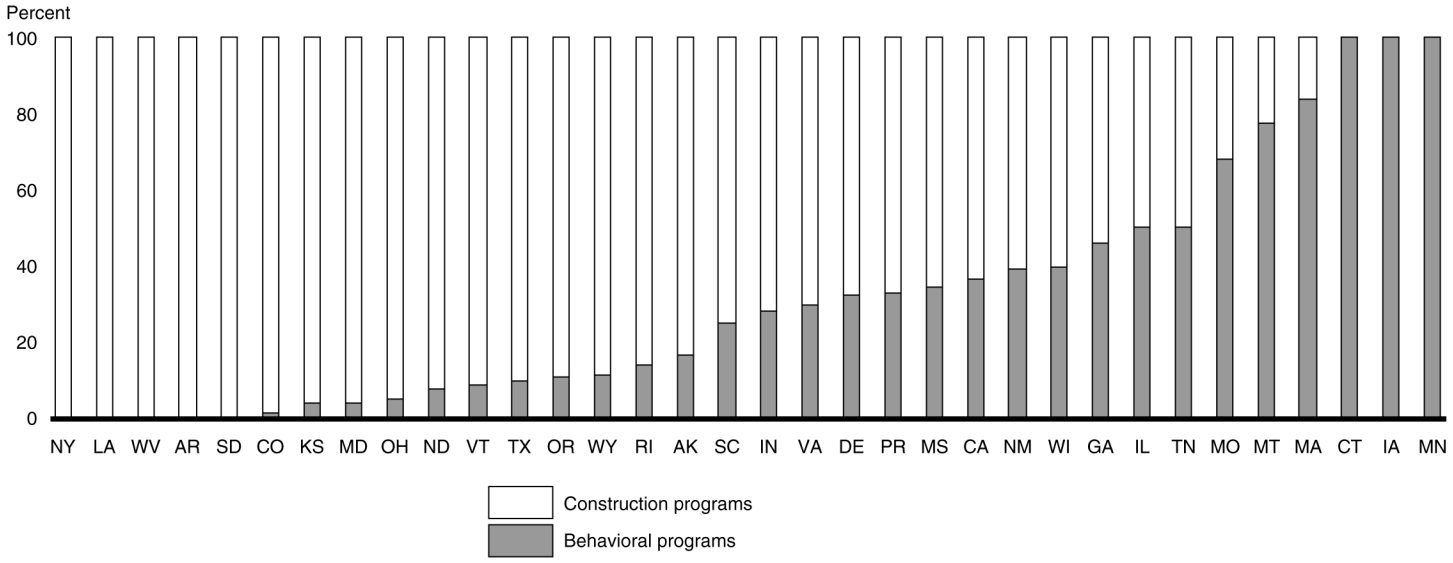
The states that did not meet either the open container or the repeat offender requirements had a percentage of funds (now 3 percent for each requirement not satisfied) transferred from their Federal-Aid Highway construction program to their Section 402 State and Community Grants program.[7] During fiscal years 2001 and 2002, the first 2 years that funds have been transferred, 34 states were subject to one or both of the penalty provisions, and about $361 million was transferred from these states' Federal-Aid Highway Program funding. Appendix III shows how state compliance has changed over time.

While states may choose to keep transferred funds in the NHTSA Section 402 State and Community Grants program where they are to be used to support alcohol-related programs, they also may choose to allocate transferred funds to highway construction projects under the FHWA Hazard Elimination Program. As shown in figure 10, the states varied greatly in their decisions on how to use these funds, from allocating 100

[7]For the first 2 years, the transfer penalty was 1.5 percent of the funds apportioned to the state's National Highway System, Surface Transportation Program, and Interstate Maintenance funding, for each transfer penalty. This amount rose to 3 percent for each transfer penalty in October 2002.

percent of the funds to construction projects to allocating 100 percent of the funds to behavioral projects. Overall, the states allocated about 69 percent to highway safety construction projects under the FHWA Hazard Elimination program, and 31 percent went to highway safety behavioral programs. Twenty-eight of the 34 states with transferred funds allocated a majority to construction activities under the Hazard Elimination program.

Figure 10: State Allocations of Transfer Funds, Fiscal Years 2001 and 2002



Source: GAO analysis of FHWA data.

The six states we visited—California, Georgia, Missouri, New York, Ohio and Texas—used the transfer funds in a variety of ways.

- California, which did not meet all the federal requirements for repeat offenders, had $39.5 million transferred in fiscal years 2001 and 2002. In fiscal year 2001, all of the transfer funds, $19.4 million, went to the highway construction Hazard Elimination program, where they were used for a project involving the construction of a truck lane on Interstate 15 in San Bernardino County. California officials said that there had been a large backlog of hazard elimination projects that could readily use the funds. In fiscal year 2002, a majority of the funds, $14.3 million out of $20.1 million, were used for behavioral safety programs under the Section 402 State and Community Grants program. These programs funded such activities as a regional task force to crack down on drunk driving in Los Angeles County, training for prosecutors, the use of county probation

officers to enforce court orders affecting repeat drunk driving offenders, and the creation of a special speeding and drunk driving unit in the Stockton Police Department. The $5.8 million transferred in 2002 to the highway construction Hazard Elimination program was used for a median barrier project along Interstate 5 in San Joaquin County and a barrier guardrail project along route 160 in Sacramento County.

- Georgia was subject to both transfers for fiscal year 2001, amounting to $16.6 million. It allocated about $9 million of the transfer funds to the highway construction Hazard Elimination program, primarily to improve the state's highway safety data collection system, which had experienced severe problems. According to Georgia officials, the rollout of a new highway safety data collection system had failed, and the state was not able to collect crash data for a time. The transfer funds enabled the state to correct this problem. Additional Hazard Elimination projects included red light running technology, guardrail delineators, and deer accident prevention measures. All the remaining $8 million went to behavioral programs, primarily to law enforcement organizations for drunk driving prevention programs. Georgia subsequently passed new laws that met the federal requirements for open containers and repeat offenders and was not subject to either penalty in fiscal year 2002.

- Missouri was subject to both transfers in fiscal year 2001 and allocated the entire $10.4 million to Section 402 alcohol-related behavioral programs. The state used these funds to, for example, purchase specialized blood-alcohol testing vans and improve the collection of highway safety data. In fiscal year 2002, Missouri was subject to only the open container transfer and allocated almost all its $5.3 million transfer to the highway construction Hazard Elimination program for such activities as traffic signals, grading, and paving to improve intersections.

- New York was subject to the repeat offender penalty transfers for fiscal years 2001 and 2002 and transferred a total of about $15.9 million. New York, which is able to supplement federal highway safety funds with state funds derived from driving-while-intoxicated (DWI) fines, decided to put all the transfer funds into the Hazard Elimination program. New York safety officials said that given the state's high level of support for highway safety behavioral activities, there was no great need to allocate these funds to alcohol-related behavioral programs. Initially, the state was going to use the transfer funds for several Hazard Elimination projects, but when these projects were delayed, state officials decided to allocate all of the transfer funds to safety aspects of a single bridge project.

- Ohio was subject to the repeat offender transfer in both fiscal years 2001 and 2002. Of a total of $15.6 million transferred, the state allocated $14.8 million to the highway construction Hazard Elimination program for seven projects. The remaining $800,000 was used for alcohol-related behavioral programs, such as education programs for high school students, drunk driving task forces, and training for alcohol servers and sales clerks.

- Texas had both open container and repeat offender transfers in fiscal year 2001, totaling $37 million. Of this amount, $33.6 million was allocated to the highway construction Hazard Elimination program and about $3.4 million went to alcohol-related behavioral programs. According to Texas highway safety officials, the state legislature was interested in maximizing funding for highway construction, so the state allocated the funds to Hazard Elimination. Also, because the transfer funds were taken from construction categories, the state officials said it was appropriate for the majority of the funds to be used for safety construction improvements. Texas set up a special $10 million Interstate median barrier program and a $15 million road shoulder rumble strip program with the transfer funds, along with increasing the state's regular Hazard Elimination program funding, allowing additional safety improvement projects to be constructed. Texas subsequently adopted open container and repeat offender laws and was not subject to any transfers in fiscal year 2002.

NHTSA Makes Inconsistent and Limited Use of Oversight Tools

Under its performance-based approach to overseeing state highway safety programs, NHTSA has focused on providing advice, training, and technical assistance to the states, which are responsible for setting and achieving their highway safety goals. In addition, NHTSA has three oversight tools to help it ensure that states' programs are operating within guidelines and are achieving desired results—management reviews, improvement plans, and high-risk designations. However, NHTSA has made inconsistent use of the management reviews and limited use of the improvement plans because guidance provided to the regions is not specific on when to use them. While two U.S. territories are under a high-risk designation, NHTSA and regional office officials did not identify any states that were candidates for high-risk status.

NHTSA Regional Offices Have Made Inconsistent Use of Management Reviews

NHTSA regions can conduct management reviews to help improve and enhance the financial and operational management of the state programs. In conducting these reviews, a team of NHTSA regional staff visit the state and examine such items as its organization and staffing, program management, financial management, and selected programs like impaired

driving, occupant protection, public information and education, and outreach. The resulting report will comment on state activities and may make recommendations for improvement.

NHTSA has no written guidance on when to perform management reviews. We found that the management reviews were not being conducted consistently. For example, in the six NHTSA regions we visited, we found goals of conducting management reviews every 2 years, on no set schedule, and only when requested by a state.

While NHTSA does not require management reviews, the officials that regularly conduct such reviews told us they do them because they find them beneficial in surfacing problems. For example, management reviews completed in 2001 and 2002 identified weaknesses in states' processes, systems, and practices that, if not addressed, could lead to inefficient or unauthorized uses of federal funds. These weaknesses included

- states' inadequate monitoring of subgrantees,
- a lack of coordination in state alcohol program planning,
- the inability of a state to identify how its matching funds requirement was being met,
- the lack of a state computerized system to track grant expenditures or equipment purchased with federal funds,
- costs incurred after a grant was over,
- improper cash advances by the state to subgrantees, and
- large unexpended balances of program funds.

Some regional officials also saw management reviews as a vehicle to help keep them involved in the states' programs and as a means of helping NHTSA build productive partnerships with the states. They noted that state highway safety personnel change over time and new staff may not be familiar with federal requirements. Regional officials said that some states have requested the reviews to assist them in their programs. For example, the new state highway safety program directors in California and Missouri requested the reviews to help identify problems they needed to address. Officials from the region that conducted the reviews only when requested by a state told us that they did not regularly do the reviews because they thought such efforts could hurt their relations with the states.

NHTSA Regional Offices Have Made Limited and Inconsistent Use of Improvement Plans

According to Section 402 program regulations, if a NHTSA regional office finds that a state is not making progress toward its highway safety goals, NHTSA and the state are to develop an improvement plan to address the shortcomings. NHTSA officials emphasized that improvement plans are not intended as punitive actions; rather, they are collaborative efforts between NHTSA and a state to develop an effective state safety program. The regulations call for the plan to detail strategies, program activities, and funding targets to meet the defined goals. For example, NHTSA, working with one state, developed an improvement plan that identified specific actions that NHTSA and the state would accomplish to improve alcohol-related highway safety. The plan included such actions as implementing a judicial education program, requiring all police officers working on impaired driving enforcement to be adequately trained in field sobriety testing, and developing a statewide DWI violation tracking system.

NHTSA regional offices have made limited use of improvement plans to help address the states' highway safety performance. Since the performance-based approach began in 1998, NHTSA and the states have developed 7 improvement plans in 3 of the 10 NHTSA regions. Of these plans, four focus on alcohol-related issues, two involve seat-belt usage, and one addresses overall program management.[8]

NHTSA regional offices have also made inconsistent use of improvement plans. We found that the highway safety performance of a number of states that were not operating under improvement plans was worse than the performance of other states that were operating under such plans. For example, we compared the performance of the three states that had developed improvement plans for alcohol-related problems with the performance of other states. Using 1997, the year before the performance-based approach was uniformly implemented, as a baseline year, we found that for 14 states, the rate of alcohol-related fatalities increased from 1997 through 2001, and that for 7 of these states, the state alcohol-related fatality rate also exceeded the national rate in 2001. One of these seven states was on an improvement plan. Furthermore, for one state that was not on an improvement plan, the alcohol-related fatality rate for 2001 was

[8]The seven improvement plans include one that NHTSA developed with the Department of the Interior's Bureau of Indian Affairs for a tribe, rather than a state. The Bureau of Indian Affairs receives Section 402 funds.

about double the national average and grew by over 40 percent from 1997 through 2001.

Similarly, the performance of a number of states that were not operating under improvement plans to increase seat-belt usage was worse than the performance of the two states that were operating under such plans. We found that the rate of seat-belt usage varied widely by state, from a low of about 52 percent to a high of over 91 percent in 2001. In addition, the rate of change from 1997 through 2001 ranged from 6 percent less use to 27 percent more use. We found that the seat-belt usage rates for the two states that were on improvement plans were about 55 percent and 68 percent in 2001; however, the seat-belt usage rates for 16 other states were worse than the rate for 1 of these states.

The limited and inconsistent use of improvement plans is due to a lack of specificity in criteria for requiring such plans. NHTSA's guidance says simply that these plans should be developed when a state is not making progress toward its highway safety goals. Without a consistent means of measuring progress, NHTSA and state officials lack common expectations about how to define progress, how long states should have to demonstrate progress, and how the goals should be set and measured. NHTSA officials said that while all regions were not using improvement plans, they were reviewing the states' performance and making recommendations for state action.

NHTSA officials told us that while some regional offices may not be doing improvement plans, they periodically assess state performance and make recommendations for state action. In addition, they pointed out that some regions believe that it would not be productive to put a state on an improvement plan if it has been implementing programs NHTSA has recommended it adopt.

NHTSA Has Designated Two U.S. Territories as High Risk

If NHTSA finds a state not in compliance with federal law, it can designate the state's program as high-risk—a more stringent and rarely used NHTSA oversight tool. NHTSA may place a program in high-risk status if it determines that the state has a history of unsatisfactory performance, is not financially stable, lacks a management system that meets standards, has not conformed to the conditions of previous grants, or is otherwise not responsible. Once placed in high-risk status, a state may be subject to a number of special restrictions—withholding the authority to proceed with projects; additional financial reporting, monitoring, or prior approvals of spending; or special management or technical assistance. Currently,

NHTSA has not designated any states as high risk; however, two U.S. territories that receive Section 402 funds are operating under high-risk status. None of the officials with whom we spoke from the six regional offices we visited or from NHTSA headquarters identified concerns about state programs that would warrant a high-risk designation.

Conclusions

Under NHTSA's performance-based approach to overseeing highway safety programs, the states and the federal government are to work together to make the nation's highways safer. The agency's management reviews and improvement plans create opportunities for NHTSA to help the states improve and enhance the financial and operational management of their highway safety programs and make progress toward their highway safety goals. Because the agency has not provided specific guidance on when these oversight tools should be used, they are not being used consistently. As a result, NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of federal funds and in helping the states achieve their highway safety goals.

The NHTSA regions that conduct management reviews regularly have found them beneficial, both for identifying weaknesses in states' processes, systems, and practices and for keeping the regions involved in productive relationships with the states. Consequently, the regions that do conduct the reviews have been able to work with the states to correct vulnerabilities that, if uncorrected, could lead to inefficient or improper uses of federal safety program funds. These regions' ongoing involvement with the states also creates opportunities for sharing and encouraging the implementation of best practices, which may then lead to more effective safety programs and projects.

Although NHTSA's guidance for developing improvement plans indicates that the plans should be used when the states are making little or no progress toward their performance goals, the guidance does not establish a consistent means of measuring progress. As a result, some states do not have improvement plans, even though their alcohol-related fatality rates have increased or their seat-belt usage rates have declined. Without improvement plans, NHTSA's efforts to work with the states may not be fully realized. Moreover, without a consistent means of measuring progress, neither NHTSA nor the states have common expectations about when improvement plans should be used to help states meet their highway safety goals.

Recommendations for Executive Action

To help ensure more consistent use of management reviews and improvement plans, we recommend that the Secretary of Transportation direct the Administrator, National Highway Traffic Safety Administration, to provide more specific guidance to the regional offices on when it is appropriate to use management reviews and improvement plans to assist states with their safety programs. The guidance for using improvement plans should include a consistent means of measuring progress toward meeting established highway safety goals.

Agency Comments and Our Evaluation

We provided copies of a draft of this report to the Department of Transportation for its review and comment. We met with Department officials, specifically, the Acting Senior Associate Administrator for Traffic Injury Control and Chief of Injury Control Operations and Resources, Program Support Division—to discuss their comments. The officials agreed with our recommendations and stated that they have begun taking action to develop criteria and guidance to field offices on the use of management reviews and improvement plans. In addition, they emphasized that over a longer historical perspective, traffic safety has greatly improved and the recent increase in alcohol-related fatalities is slight. The officials also noted that with regard to alcohol-related fatalities, the problem of the "social drinker" has been reduced; and now they face the difficult problem of driving by persons with more severe alcohol abuse. Further, they suggested that some discussion of recent increases in seat-belt usage should be included in the report, along with the efforts the department has made in promoting successful programs. Finally, the officials noted that in moving to a performance-based approach to oversight, they were acting in response to congressional concerns and in the spirit of the Government Performance and Results Act.

In response to the Department of Transportation comments, we have added information noting the challenges the department faces in achieving further improvements in highway safety. In addition, we have added information to the report on seat-belt use and its support of the "Click-It-or-Ticket" program. We also incorporated technical changes to the report suggested by the department, as appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to Secretary of Transportation and the Administrator of NHTSA. We will also make copies available to others upon request. In addition, copies of this report will be available on our Web site at http//www.gao.gov.

If you have questions about the report, please contact me at (202) 512-2834. Key contributors to this report were Richard Calhoon, Robert Ciszewski, Bess Eisenstadt, Dedrick Roberts, and Glen Trochelman.

Sincerely yours,

Peter Guerrero
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

The Subcommittee on Competition, Foreign Commerce, and Infrastructure, Senate Committee on Commerce, Science, and Transportation, asked us to (1) provide information on trends in highway safety and how alcohol contributes to these statistics, (2) provide information on how much funding the Transportation Equity Act for the 21st Century (TEA-21) made available to the states for highway safety programs and how states have used these funds, and (3) review the National Highway Traffic Safety Administration's (NHTSA) oversight of the states' highway safety programs.

To provide information on trends in highway safety and alcohol's contribution to these statistics, we reviewed NHTSA highway safety reports and analyzed NHTSA crash data. We included analyses of data on overall trends of fatalities and crashes, alcohol-related fatalities and crashes, and seat-belt use, which are usual measures in determining highway safety.

To provide information on how much funding TEA-21 made available to the states for highway safety programs and how states have used these funds, we obtained data from NHTSA and state sources. NHTSA provided data on funding for (1) the Section 402 State and Community Grants program since its inception in 1967; (2) the seven incentive grant programs authorized under TEA-21 to supplement the Section 402 program by promoting vehicle occupant protection, discouraging impaired driving, and improving state safety data; and (3) the amounts transferred to highway safety programs in fiscal years 2001 and 2002 by the 34 states whose laws did not comply during those years with the act's open container and repeat offender requirements. To obtain information on how the states used their Section 402 and alcohol transfer funds, we obtained NHTSA data summarizing how states spent their grant funds. For specific information on how states spent their transfer funds, we obtained data from six states that we visited: California, Georgia, Missouri, New York, Ohio, and Texas. We selected these states to provide geographic coverage of six NHTSA regions and maximize the amount of transfer funds involved. The six states chosen were among the eight states that had the highest amount of alcohol transfers for fiscal years 2001 and 2002 and in total accounted for about 40 percent of all transfer funds from the 34 states involved. In each selected state, we obtained data on alcohol transfer spending from the state offices responsible for allocating these funds—the traffic safety office for transfer funds that were allocated to alcohol programs and the highway safety office for funds that were programmed for hazard elimination projects.

To review NHTSA's oversight of the states' highway safety programs, we interviewed NHTSA officials in the Office of Injury Control Operations and Resources and six NHTSA regional offices responsible for the states discussed above. We also discussed program oversight with state officials in our six sample states, and we reviewed state planning documents, improvement plans, and other state program documents from the six selected NHTSA regions. Furthermore, we interviewed officials of private organizations interested in highway traffic safety and NHTSA's oversight of state highway traffic safety programs, including the Governor's Highway Safety Association, Mothers Against Drunk Driving, the National Safety Council, AAA (formerly the American Automobile Association), the AAA Foundation for Traffic Safety, and the Automotive Coalition for Traffic Safety.

We performed our review from July 2002 through March 2003 in accordance with generally accepted government auditing standards.

Appendix II: Federal Funding for State Behavioral Safety Programs

Dollars in millions

State	1998	1999	2000	2001	2002
Alabama	$4.5	$4.5	$6.0	$5.8	$7.2
Alaska	$0.9	$0.9	$1.5	$3.3	$2.2
Arizona	$2.5	$3.6	$3.4	$6.6	$6.8
Arkansas	$2.1	$1.9	$2.8	$3.7	$5.6
California	$33.5	$52.3	$50.2	$50.6	$73.0
Colorado	$2.7	$3.1	$4.7	$3.8	$4.1
Connecticut	$1.9	$1.8	$4.0	$8.6	$9.4
Delaware	$0.7	$1.1	$1.3	$1.6	$2.5
District of Columbia	$0.9	$1.9	$2.1	$1.7	$2.2
Florida	$14.4	$15.3	$17.7	$17.0	$20.2
Georgia	$4.8	$6.4	$9.5	$19.2	$9.7
Hawaii	$1.7	$2.3	$2.7	$2.6	$2.7
Idaho	$1.9	$2.1	$2.1	$2.5	$2.2
Illinois	$11.2	$11.0	$13.6	$16.7	$15.9
Indiana	$4.1	$4.4	$7.0	$7.0	$9.8
Iowa	$2.7	$3.5	$3.9	$4.6	$7.4
Kansas	$5.1	$4.6	$5.4	$5.2	$5.2
Kentucky	$2.7	$2.4	$3.2	$5.9	$5.5
Louisiana	$2.3	$3.2	$4.4	$5.8	$4.5
Maine	$1.5	$1.8	$1.9	$2.0	$1.5
Maryland	$3.1	$3.8	$6.3	$9.7	$8.6
Massachusetts	$2.8	$3.1	$3.7	$10.9	$6.0
Michigan	$6.4	$6.9	$8.9	$9.7	$11.2
Minnesota	$4.0	$4.2	$4.8	$11.0	$9.4
Mississippi	$2.1	$2.1	$3.8	$4.2	$4.1
Missouri	$4.1	$4.5	$4.9	$15.5	$7.0
Montana	$0.9	$1.2	$1.4	$5.4	$5.4
Nebraska	$1.9	$2.1	$2.7	$3.7	$4.0
Nevada	$1.2	$1.5	$2.3	$2.0	$2.5
New Hampshire	$1.0	$1.0	$2.1	$1.8	$2.3
New Jersey	$4.3	$4.4	$6.3	$5.3	$9.5
New Mexico	$2.8	$3.7	$4.3	$6.2	$5.7
New York	$8.4	$14.4	$17.0	$17.1	$14.8
North Carolina	$8.4	$10.7	$12.7	$11.8	$11.6
North Dakota	$1.3	$1.2	$2.0	$2.4	$2.0
Ohio	$5.4	$8.8	$8.0	$9.9	$9.9
Oklahoma	$2.3	$4.0	$2.8	$3.4	$4.5
Oregon	$3.9	$5.7	$6.4	$5.3	$6.5
Pennsylvania	$7.8	$8.0	$10.0	$11.7	$10.2

Dollars in millions					
State	**1998**	**1999**	**2000**	**2001**	**2002**
Puerto Rico	$1.6	$2.0	$2.6	$4.2	$6.0
Rhode Island	$0.7	$0.9	$1.4	$2.1	$1.8
South Carolina	$2.0	$2.7	$4.1	$5.3	$3.5
South Dakota	$1.0	$1.5	$1.0	$1.0	$1.4
Tennessee	$3.4	$3.6	$4.8	$10.4	$10.1
Texas	$11.9	$22.1	$18.8	$20.8	$16.6
Utah	$2.0	$2.4	$3.0	$2.9	$3.6
Vermont	$1.7	$1.9	$2.6	$3.0	$2.7
Virginia	$4.0	$5.8	$9.3	$8.7	$13.3
Washington	$3.7	$7.3	$6.7	$7.8	$7.0
West Virginia	$1.0	$1.3	$1.8	$2.0	$2.3
Wisconsin	$4.1	$3.9	$5.6	$8.8	$5.3
Wyoming	$0.7	$0.7	$0.7	$1.6	$0.9
State total	**$212.1**	**$275.3**	**$320.3**	**$399.6**	**$407.3**
Bureau of Indian Affairs	$1.1	$1.1	$1.1	$1.2	$1.3
American Samoa	$0.4	$0.4	$0.6	$0.7	$0.6
Guam	$0.4	$0.4	$0.6	$0.4	$0.6
Northern Marianas	$0.4	$0.4	$0.6	$0.7	$0.7
Virgin Islands	$0.4	$0.4	$0.4	$0.6	$0.7
Total	**$214.6**	**$278.0**	**$323.6**	**$403.0**	**$411.2**

Source: GAO analysis of NHTSA data.

Notes: State totals include funds for the District of Columbia and Puerto Rico. Figures may not add because of rounding.

Appendix III: The Transfer Provisions Encourage Changes in State Laws

Since Congress enacted the penalty transfer provisions, the general trend in the states has been to enact legislation to bring state laws in conformance with the federal requirements. Some, but not all, states have changed their highway safety laws to conform to the federal provisions. In 1998, prior to the passage of TEA-21, 14 states had conforming open container laws, 5 states had conforming repeat offender laws, and 3 states had both laws. (See table 3.) By the time of the first transfer penalty assessments in 2000, 31 states had conforming open container laws, 24 had conforming repeat offender laws, and 19 states had both laws. Currently, 25 states are in conformance with both laws.

Table 3: Changes in State Compliance with Federal Open Container and Repeat Offender Requirements

	1998 (TEA-21 passed)	October 2000 (First transfers applied)	October 2001 (Second transfers applied)	October 2002 (Third transfers applied)
States complying with open container requirement (Sec. 154)	14	31	35	37
States complying with repeat offender requirement (Sec. 164)	5	24	28	33
States complying with both requirements	3	19	23	25

Source: GAO analysis of FHWA and NHTSA data.

Note: Table includes compliance status of all states, the District of Columbia, and Puerto Rico.

In the six states we visited, officials with whom we spoke differed in their assessment of the effectiveness of the transfer provisions. Some said that the provisions helped change state laws, while others thought that the transfers had little effect on their legislature. For example, Georgia safety officials said that the federal transfer provisions were crucial in the state debate over enactment of both open container and repeat offender laws. Likewise Texas safety officials told us they believed the transfer provisions were important in getting the state to enact both laws. Both Georgia and Texas were subject to both transfer penalties in 2001 but no transfers in 2002, as a result of legislative changes. However, New York safety officials told us that the transfer amounts were insufficient to generate interest in the state legislature and had no real effect on state policy. Instead, the transfer provisions had simply become a bureaucratic exercise for state administrators. Table 4 shows a state-by-state breakdown of transfer funds.

Table 4: States' Compliance with Alcohol Transfer Laws as of October 1, 2002

Dollars in thousands

	Open container (Section 154)		Repeat offender (Section 164)		Amount transferred for fiscal years 2001 and 2002[a]
State	Yes	No	Yes	No	
Alabama	✓		✓		
Alaska		✓		✓	$9,096
Arizona	✓		✓		
Arkansas		✓	✓		$6,266
California	✓			✓	$39,489
Colorado		✓	✓		$6,600
Connecticut		✓		✓	$9,608
Delaware		✓	✓		$4,352
District of Columbia	✓		✓		
Florida	✓		✓		
Georgia	✓		✓		$16,563
Hawaii	✓		✓		
Idaho	✓		✓		
Illinois	✓		✓		$7,338
Indiana		✓	✓		$11,979
Iowa	✓		✓		$3,027
Kansas	✓		✓		$2,907
Kentucky	✓		✓		
Louisiana		✓		✓	$13,477
Maine	✓		✓		
Maryland	✓		✓		$13,685
Massachusetts	✓			✓	$10,299
Michigan	✓		✓		
Minnesota	✓			✓	$7,885
Mississippi		✓	✓		$6,093
Missouri		✓	✓		$15,703
Montana		✓		✓	$9,932
Nebraska	✓		✓		
Nevada	✓		✓		
New Hampshire	✓		✓		
New Jersey	✓		✓		
New Mexico	✓			✓	$7,846
New York	✓			✓	$15,846

Dollars in thousands

	Open container (Section 154)		Repeat offender (Section 164)		Amount transferred for fiscal years 2001 and 2002[a]
State	Yes	No	Yes	No	
North Carolina	✓		✓		
North Dakota	✓			✓	$3,700
Ohio	✓			✓	$15,617
Oklahoma	✓		✓		
Oregon	✓			✓	$5,784
Pennsylvania	✓		✓		
Puerto Rico		✓		✓	$4,503
Rhode Island	✓			✓	$2,222
South Carolina	✓			✓	$8,050
South Dakota	✓			✓	$3,696
Tennessee		✓	✓		$20,275
Texas	✓		✓		$37,030
Utah	✓		✓		
Vermont	✓			✓	$4,237
Virginia		✓	✓		$18,227
Washington	✓		✓		
West Virginia		✓		✓	$6,779
Wisconsin	✓		✓		$4,887
Wyoming		✓		✓	$8,110
Total	37	15	33	19	$361,106

Source: GAO presentation of NHTSA data.

Note: For each state, the District of Columbia, and Puerto Rico, we present the total amount transferred for fiscal years 2001 and 2002, the first 2 years the alcohol transfer provisions were in effect.

[a]Some states that were in compliance with both laws as of October 1, 2002, have transfer amounts because they were not in compliance with at least one of the laws before that date.

NHTSA and some state officials cited rules limiting the advocacy actions of state officials as a barrier to getting more such laws passed. In the Fiscal Year 2000 Department of Transportation Appropriations Act, Congress expanded certain existing anti-lobbying restrictions covering the department and NHTSA to include state officials. The act generally prohibits the use of federal Department of Transportation funds to advocate or oppose state legislation and from "grass roots lobbying" campaigns that encourage third parties to advocate or oppose introduced

congressional or state legislation.[1] As a result, some state highway safety officials that receive federal highway safety funds believe they are barred from lobbying their state legislatures to enact better highway safety laws. Some state officials told us that this means they cannot contact state legislative staff or members to discuss the advantages of taking actions to improve highway safety in the state. For example, they said they are prohibited from taking the initiative to discuss the merits of primary seat-belt laws that have been shown to save lives or to encourage the passage of the open container, repeat offender, or the 0.08 BAC laws the Congress supports, unless they are specifically asked to do so. The Governor's Highway Safety Association believes that the current restrictions are an obstacle preventing states' safety officials from lobbying on behalf of enacting state legislation that meets the federal open container and repeat offender requirements. However, safety officials from the states we visited differed in their assessment of the anti-lobbying provisions. Officials in California and Georgia considered the provisions a serious impediment that limited their ability to influence safety legislation. However, officials from New York, Ohio, Texas, and Missouri did not consider the anti-lobbying provisions to be a major impediment in their states.

[1]The act does not prevent state officials from communicating with Congress or state legislatures if they are requested to do so.

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