United States Government Accountability Office

GAO

Report to the Congressional Requesters

June 2010

HIGHWAY TRUST FUND

Nearly All States Received More Funding Than They Contributed in Highway Taxes Since 2005

GAO-10-780

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GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-10-780, a report to congressional requesters

Why GAO Did This Study

Federal funding for highways is provided to the states mostly through a series of grant programs known as the Federal-Aid Highway Program, administered by the Department of Transportation's (DOT) Federal Highway Administration (FHWA). In 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorized $197.5 billion for the Federal-Aid Highway Program for fiscal years 2005 through 2009. The program operates on a "user pay" system, wherein users contribute to the Highway Trust Fund through fuel taxes and other fees. The distribution of funding among the states has been a contentious issue. States that receive less than their highway users contribute are known as "donor" states and states that receive more than their highway users contribute are known as "donee" states.

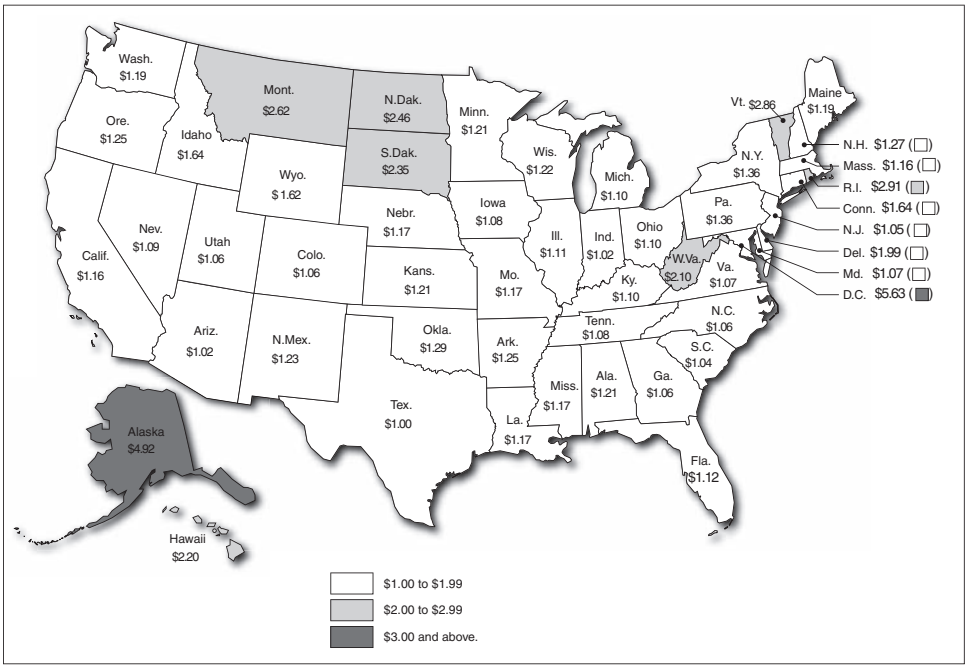
GAO was asked to examine for the SAFETEA-LU period (1) how contributions to the Highway Trust Fund compared with the funding states received, (2) what provisions were used to address rate-of-return issues across states, and (3) what additional factors affect the relationship between contributions to the Highway Trust Fund and the funding states receive. To conduct this review, GAO obtained and analyzed data from FHWA, reviewed FHWA and other reports, and interviewed FHWA and DOT officials. DOT reviewed a draft of this report and provided technical comments, which we incorporated as appropriate.

View GAO-10-780 or key components.
For more information, contact Phillip Herr at (202) 512-2834 or herrp@gao.gov.

What GAO Found

Since 2005, every state received as much or more funding for highway programs than they contributed to the Highway Account of the trust fund. This was possible because more funding was authorized and apportioned than was collected from the states and the fund needed to be augmented with general revenues (see map). If the percentage of funds states contributed to the total is compared with the percentage of funds states received (i.e., relative share), then 28 states received a relatively lower share and 22 states received a relatively higher share than they contributed. Thus, depending on the method of calculation, the same state can appear to be either a donor or donee state.

States' Return per Dollar Contributed to the Highway Account of the Highway Trust Fund, FY2005-FY2008 (the Latest Year for Which Data Are Available)



Sources: GAO analysis of FHWA data; Map Resources (map).

The Equity Bonus Program was used to address rate-of-return issues. It guaranteed a minimum return to states, providing them about $44 billion. Nearly all states received Equity Bonus funding and about half received a significant increase, at least 25 percent, over their core funding.

The infusion of general revenues into the Highway Trust Fund affects the relationship between funding and contributions, as a significant amount of highway funding is no longer provided by highway users. Since fiscal year 2008, Congress has transferred nearly $30 billion of general revenues to address shortfalls in the highway program when more funding was authorized than collected. Using rate of return as a major factor in determining highway funding poses challenges to introducing a performance and accountability orientation into the highway program; rate-of-return calculations in effect override other considerations to yield a largely predetermined outcome—that of returning revenues to their state of origin. Because of these and other challenges, funding surface transportation programs remains on GAO's High-Risk list.

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Abbreviations

CRS	Congressional Research Service
DOT	Department of Transportation
FHWA	Federal Highway Administration
GVW	Gross Vehicle Weight
ISTEA	Intermodal Surface and Transportation Efficiency Act
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
TEA-21	Transportation Equity Act for the 21st Century

GAO
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United States Government Accountability Office
Washington, DC 20548

June 30, 2010

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Peter A. DeFazio
Chairman
Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
House of Representatives

Over decades, the nation has built a vast highway infrastructure that includes about 4 million miles of roads and 600,000 bridges, with the federal government providing a significant portion of funding for this system. In 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorized over $190 billion for the Federal-Aid Highway Program for fiscal years 2005 through 2009.[1] The Highway Trust Fund has been the principal source of funding for this authorization. These funds are primarily collected from taxes on motor fuel and truck-related items and distributed to the states using a series of complex formulas that take into account a number of factors, including the estimated share of taxes highway users in each state contributed to the fund. Because the Federal-Aid Highway Program has operated on a "user pay" system, wherein users contribute to the building and upkeep of the system, states have taken a strong interest in the rate of return on contributions. Thus, how the funding has been distributed among states has been contentious. States that receive less than the estimated contributions of their highway users are known as "donor" states. States that receive more than the estimated contributions of their highway users are known as "donee" states.

To better understand the relationship between contributions to the Highway Trust Fund and the amount of federal funding states received, at your request, we examined:

[1]Additional spending has been authorized since 2009, most recent extension expires December 31, 2010. (Pub.L. 111-147, March 18, 2010, 124 Stat 71.)

- The amount of revenue contributed to the Highway Trust Fund Highway Account compared with the funding states received during the SAFETEA-LU period;[2]

- The provisions in place during the SAFETEA-LU period to address rate-of-return issues across states, and how they affected the highway funding states received; and

- Additional factors that affected the relationship between contributions to the Highway Trust Fund and the funding states receive.

To determine how the amount of revenue contributed compared to funding states received, we obtained and analyzed Federal Highway Administration (FHWA) data including FHWA estimates of payments made into the Highway Account of the Highway Trust Fund, by state, and the actual total apportionments and allocations states received during the SAFETEA-LU period. Because different methods of calculating a rate of return can provide different results, we analyzed four different scenarios to address this question. To determine provisions in place to address rate of return issues and their effect on funding, we obtained and analyzed FHWA data on state funding during the SAFETEA-LU period, and determined the extent to which rate of return provisions increased state funding. To determine additional factors that affect the relationship between contribution to the Highway Trust Fund and states' funding, we reviewed FHWA, GAO and other reports, including our body of work on surface transportation financing and the Highway Trust Fund. For each objective, we also reviewed DOT and FHWA reports and interviewed DOT and FHWA officials. We also obtained additional information from FHWA on the steps taken to ensure data reliability and determined the data were sufficiently reliable for our purposes.

[2]The original period of SAFETEA-LU was fiscal year 2005 through fiscal year 2009.

We conducted this performance audit from April 2010 through June 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I provides more detailed information on our scope and methodology. Appendix II discusses how FHWA determined state contributions to the Highway Account of the Highway Trust Fund during SAFETEA-LU.

Background

Federal funding for highways is provided to the states mostly through a series of grant programs collectively known as the Federal-Aid Highway Program. Periodically, Congress enacts multiyear legislation that authorizes the nation's surface transportation programs. In 2005, Congress enacted SAFETEA-LU, which authorized $197.5 billion for the Federal-Aid Highway Program from fiscal years 2005 through 2009. In a joint federal-state partnership the FHWA, within the Department of Transportation (DOT), administers the Federal-Aid Highway Program and distributes most funds to the states through annual apportionments established by statutory formulas.[3] Once FHWA apportions these funds, the funds are available for states to obligate for construction, reconstruction, and improvement of highways and bridges on eligible federal-aid highway routes, as well as for other purposes authorized in law. The amount of federal funding made available for highways was substantial—from $34.4 to $43.0 billion per year for fiscal years 2005 through 2009.

The Highway Trust Fund was instituted by Congress in 1956 to construct the Interstate Highway System, which is currently 47,000 miles in length. The Highway Trust Fund holds certain excise taxes collected on motor fuels and truck-related taxes, including taxes on gasoline, diesel fuel, gasohol, and other fuels; truck tires and truck sales; and heavy vehicle use. In 1983, the fund was divided into the Highway Account and the Mass Transit Account.[4] More than 80 percent of the total fund is the Highway Account, including a majority of the fuel taxes as well as all truck-related taxes (see fig. 1).

[3]Our discussion of states in this report includes the District of Columbia.

[4]The Leaking Underground Storage Tank Trust Fund was added in 1986.

Figure 1: Federal Highway Excise Tax Rates and Related Allocations to the Accounts of the Highway Trust Fund

Type of excise tax	Tax rate (cents)	Distribution of tax		
		Highway Account, Highway Trust Fund (percent)	Mass Transit Account, Highway Trust Fund (percent)	Leaking Underground Storage Tank Trust Fund (percent)
Motor fuel taxes				
Gasoline	18.4 per gallon	83.9	15.5	0.5
Diesel	24.4 per gallon	87.9	11.7	0.4
Gasohol	18.4 per gallon	83.9	15.5	0.5
Liquefied petroleum gas	18.3 per gallon	88.4	11.6	0.0
Liquefied natural gas	24.3 per gallon	92.3	7.7	0.0
M85 (from natural gas)	9.25 per gallon	83.5	15.5	1.1
Compressed natural gas	144.47 per thousand cubic feet	93.3	6.7	0.0
Truck-related taxes—all proceeds to Highway Account				
Tires	9.45 cents for each 10 pounds of the maximum rated load capacity over 3,500 pounds			
Truck and trailer sales	12 percent of retailer's sales price for tractors and trucks over 33,000 pounds gross vehicle weight (GVW) and trailers over 26,000 pounds GVW			
Heavy-vehicle use	Annual tax for trucks 55,000 pounds and over GVW: $100 plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds. Maximum tax: $550.			

Source: GAO analysis of FHWA data.

Note: Distribution totals do not equal 100 percent due to rounding.

Most Highway Account funds (about 83 percent) were apportioned to states across 13 formula programs during the 4 years of the SAFETEA-LU period for which data are available. Included among these 13 programs are 6 “core” highway programs (see table 1).

Table 1: Core Highway Programs

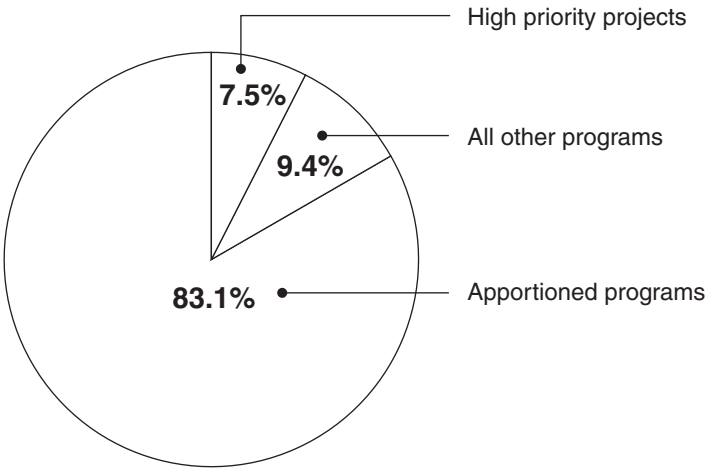
Program	Description
Congestion Mitigation and Air Quality	Projects and programs to reduce transportation emissions in areas with poor air quality
Highway Bridge Program	Projects to improve the condition of highway bridges through replacement, rehabilitation, and systematic preventive maintenance
Highway Safety and Improvement Program	Projects designed to significantly reduce highway fatalities and serious injuries on public roads
Interstate Maintenance	Projects to resurface, restore, rehabilitate, and reconstruct interstate routes
National Highway System	Projects improving roads that are part of the National Highway System
Surface Transportation Program	Projects states and localities may carry out on any federal-aid highway, including bridge projects, transportation enhancements, transit capital projects, and bus facilities

Source: FHWA.

In addition to formula programs, for the time during the SAFETEA-LU period for which final data are available:

- Congress directly allocated about 8 percent of Highway Account funds to state departments of transportation through congressionally directed High Priority Projects.
- The remaining funds, about 9 percent of the total, represent dozens of other authorized programs allocated to state DOTs, congressionally directed projects other than High Priority Projects, administrative expenses and funding provided to states by other DOT agencies such as the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration (see fig. 2).

Figure 2: Highway Account Funds: Apportioned Programs, High Priority Projects, and All Other Programs, FY2005-2008



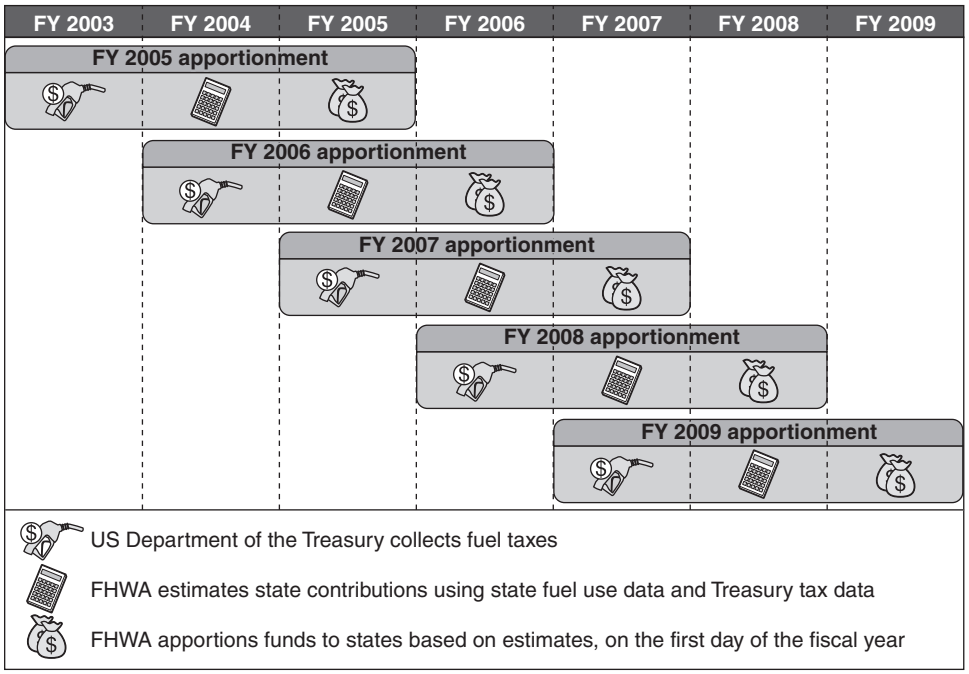
Source: GAO analysis of FHWA data.

Note: Comparable data for FY2009 are not yet available. Apportioned programs funded through the Highway Account include the following: Interstate Maintenance, National Highway System, Surface Transportation, Congestion Mitigation and Air Quality, Highway Bridge, Appalachian Development Highway System, Coordinated Border Infrastructure, Highway Safety Improvement, metropolitan planning, Rail-Highway Safety, Recreational Trails, Safe Routes to Schools, and the Equity Bonus.

Some of the apportioned programs use states' contributions to the Highway Account of the Highway Trust Fund as a factor in determining program funding levels for each state.[5] Because the Department of Treasury (Treasury) collects fuel taxes from a small number of corporations located in a relatively small number of places—not from states—FHWA has to estimate the fuel tax contributions made to the fund by users in each state. Likewise, FHWA must estimate the state of origin of various truck taxes. FHWA calculates motor fuel-related contributions based on estimates of the gallons of fuel used on highways in each state. To do so, FHWA relies on data gathered from state revenue agencies and summary tax data available from Treasury as part of the estimation process (see app. II). Because the collection and estimation process takes place over several years (see fig. 3), the data used to calculate the formula are 2 years old. For example, the data used to apportion funding to states in fiscal year 2009 were based on estimated collections attributable to each state in fiscal year 2007.

[5]These programs include the Interstate Maintenance, Surface Transportation, and Equity Bonus programs.

Figure 3: Time Lag between When Treasury Collects Fuel Taxes and Funds Are Apportioned



Source: GAO.

By the early 1980s, construction of the Interstate Highway System was nearing completion, and a larger portion of the funds from the Highway Trust Fund were being authorized for non-Interstate programs. The Surface Transportation Assistance Act of 1982 provided, for the first time, that each state would for certain programs receive a "minimum allocation" of 85 percent of its share of estimated tax payments to the Highway Account of the Highway Trust Fund. This approach was largely retained when Congress reauthorized the program in 1987. The Intermodal Surface and Transportation Efficiency Act of 1991 (ISTEA) raised the minimum allocation to 90 percent. The Transportation Equity Act for the 21st Century (TEA-21) of 1997 guaranteed each state a specific share of the total program (defined as all apportioned programs plus High Priority Projects), a minimum 90.5 percent share of contributions. It also introduced rate-of-return considerations into funds states received for the Interstate Maintenance, National Highway System, and Surface Transportation Programs. In 2005, Congress implemented through SAFETEA-LU the Equity Bonus Program that was designed to bring all states up to a guaranteed rate of return of 92 percent by fiscal year 2008.

Rate of Return Varies Depending on the Calculation Used, but States Received More Funding from the Highway Trust Fund Than Their Users Contributed

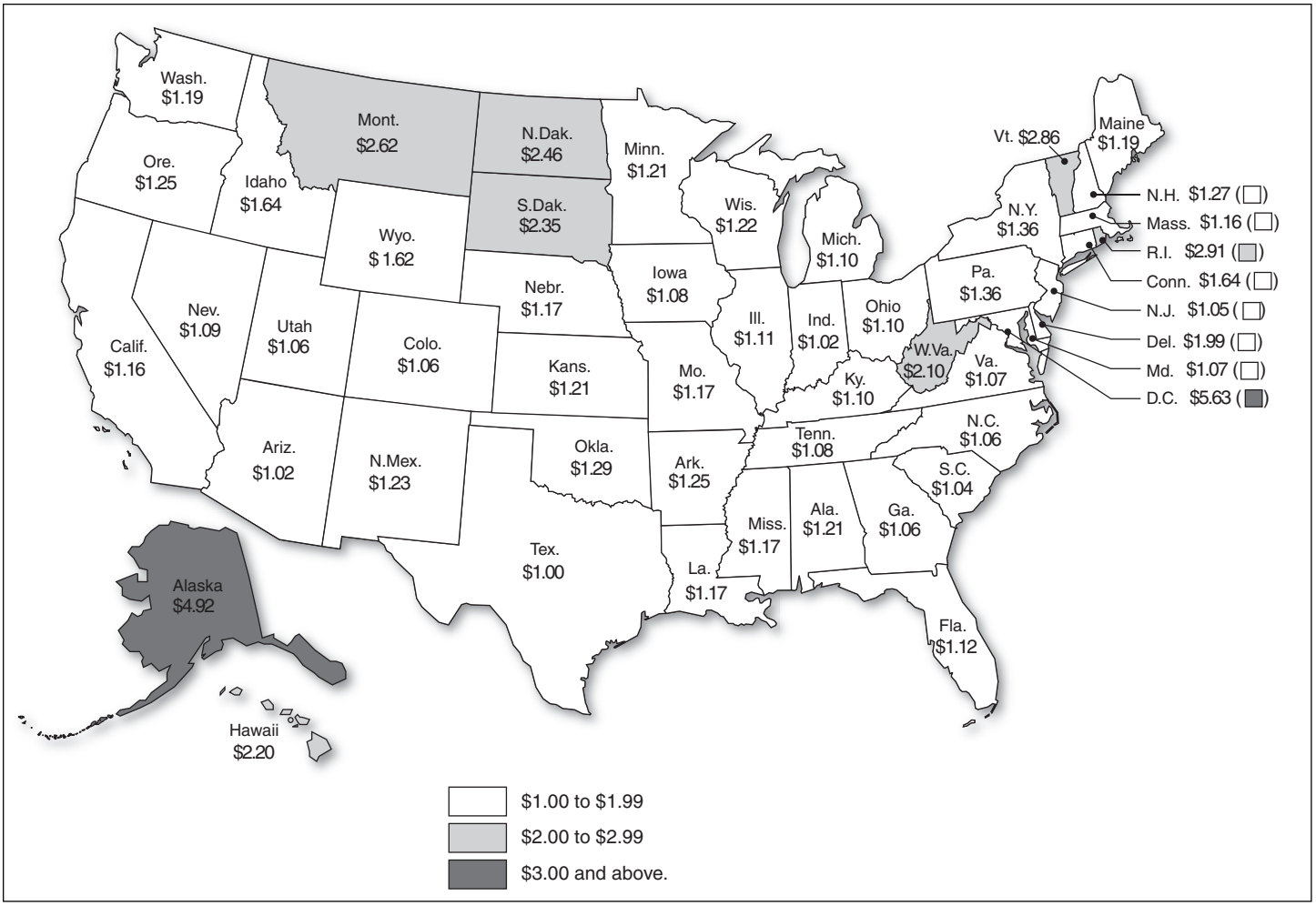
States Received as Much or More Funding Than Their Highway Users Contributed

For the time period for which final data are available, fiscal years 2005 through 2008, our analysis shows that every state but one received more funding for highway programs than users contributed to the Highway Account (see fig. 4). The only exception, Texas, received about $1.00 (99.7 cents) for each dollar contributed. Among other states, this ranged from a low of $1.02 for both Arizona and Indiana to a high of $5.63 for the District of Columbia. In addition, all states, including Texas, received more in funding than their highway users contributed during both fiscal years 2007 and 2008.[6] In effect, almost every state was a donee state during the first 4 years of SAFETEA-LU. This occurred because overall, more funding was authorized and apportioned than was collected from highway users. The account was supplemented by general funds from the Treasury.[7]

[6]If the existing trend continued into 2009, Texas may also be a donee state for the 5-year SAFTEA-LU period.

[7]As states received more in funding than highway users contributed in taxes, both an existing balance in the Highway Account was drawn down, and the account was supplemented by other funds from the Treasury. We did not attempt to estimate what residual contribution in these prior balances is theoretically attributable to a state in our analysis.

Figure 4: States' Rate of Return per Dollar Contributed to the Highway Account of the Highway Trust Fund, Using Same Year Comparison Data, FY2005-2008



Sources: GAO analysis of FHWA data; Map Resources (map).

Note: Texas is $1.00 due to rounding.

Our rate-of-return analysis has two notable features:

- It compares funding states received from the Highway Trust Fund Highway Account with the dollars estimated to be have been collected in each state and contributed by each state's highway users into the Highway Account in that same year. For example, for fiscal year 2008, it compares the highway funds states received in fiscal year 2008 with the amount collected and contributed in that fiscal year—data that did

not become available until December 2009. Because of the 2-year lag (see fig. 3), fiscal year 2008 is the latest year for which these data are available. Thus, the final year of the original SAFETEA-LU authorization period, fiscal year 2009, is not included.

- Unlike other calculations used to apportion certain funds discussed further in this report, this analysis includes all funding provided to the states from the Highway Account, including (1) funds apportioned by formula, (2) High Priority Projects, and (3) other authorized programs, including safety program funding provided to states by other DOT agencies such as the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration (see fig. 2 for a breakdown of these funds).

Rate of Return Varies, as Other Methods of Calculating State's Rate of Return Provide Different Results

Using the above methodology, our analysis shows that states generally received more than their highway users contributed. However, other calculations, as described below, provide different results. Because there are different methods of calculating a rate of return, and the method used affects the results, confusion can result over whether a state is a donor or donee. A state can appear to be donor using one type of calculation and a donee using a different type.

A second way to calculate rate of return is to apply the same dollar return calculation method, but use contribution data that are available at the time funds are apportioned to the states. This calculation method indicates that all states were donees. The data used to calculate the rate of return per dollar contributed differs from our preceding analysis in two ways:

- As shown in figure 3, it uses 2-year-old data on contributions for apportionments, due to the time lag between when the Treasury collects fuel and truck excise taxes and funds are apportioned.[8]

- It uses a subset of Federal-Aid Highway programs including both programs apportioned to states by formula and High Priority Projects. However, it does not include other allocated highway programs or other funding states receive from programs other DOT agencies such

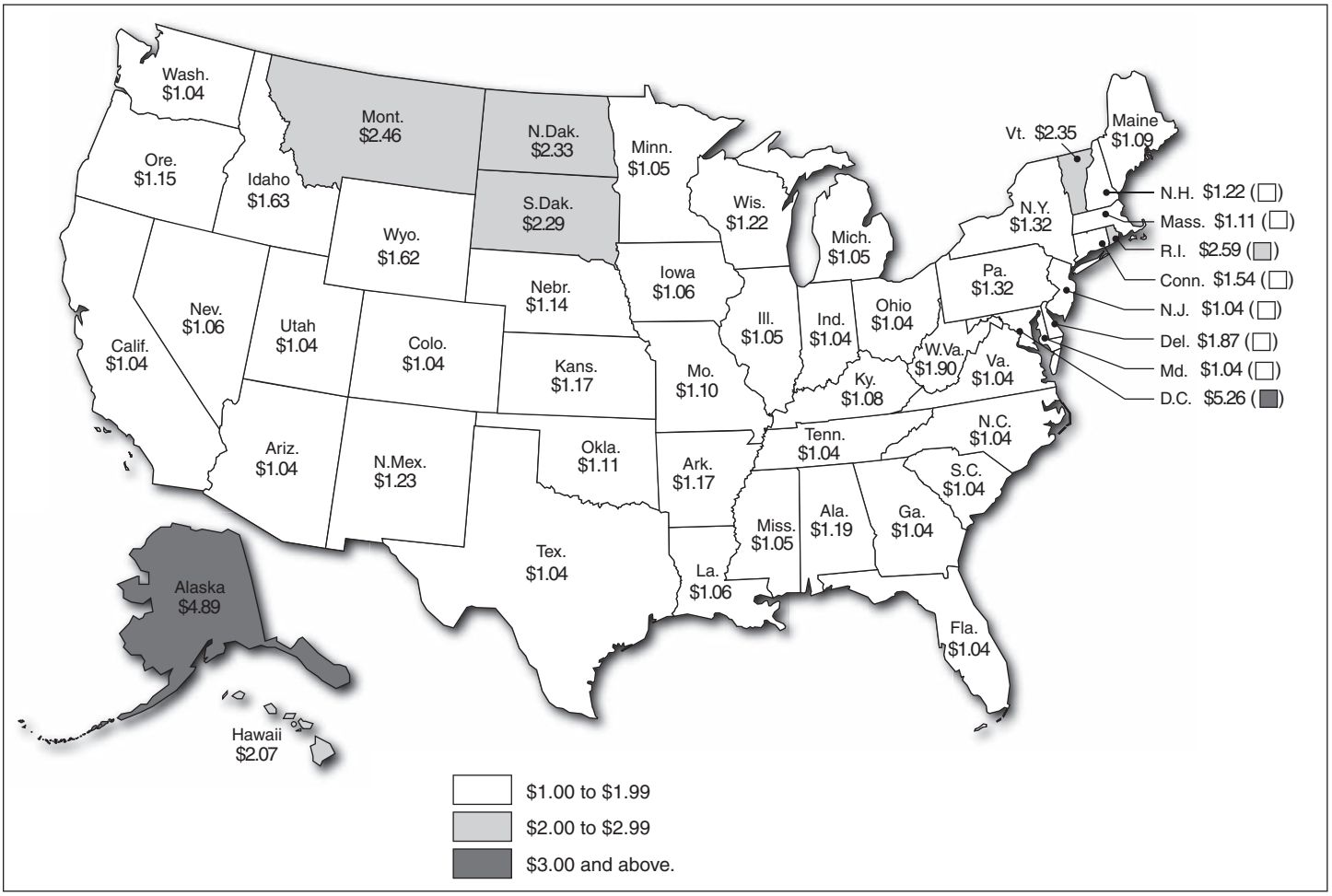
[8]Apportionments are made on the first day of the fiscal year. At that time, tax collections for the year are not known. Likewise, tax collections for the year that ended the day before the apportionments are not known.

as the National Highway Traffic Safety Administration and Federal Motor Carrier Safety Administration (see fig. 2).[9]

Using this approach every state received more in funding from the Highway Account of the Highway Trust Fund than its users contributed for the SAFETEA-LU period. The rate of return ranged from a low of $1.04 per dollar for 16 states, including Texas, to a high of $5.26 per dollar for the District of Columbia, as shown in figure 5. This calculation results in states generally having a lower dollar rate of return than our calculation using same-year data (see fig. 4).

[9]This set of programs is used in the calculation of Equity Bonus Program funding, discussed later in this report.

Figure 5: States' Return per Dollar Contributed to the Highway Account of the Highway Trust Fund, Using Time-Lagged Data, Apportioned Programs, and High-Priority Projects, FY2005-2009



Sources: GAO analysis of FHWA data; Map Resources (map).

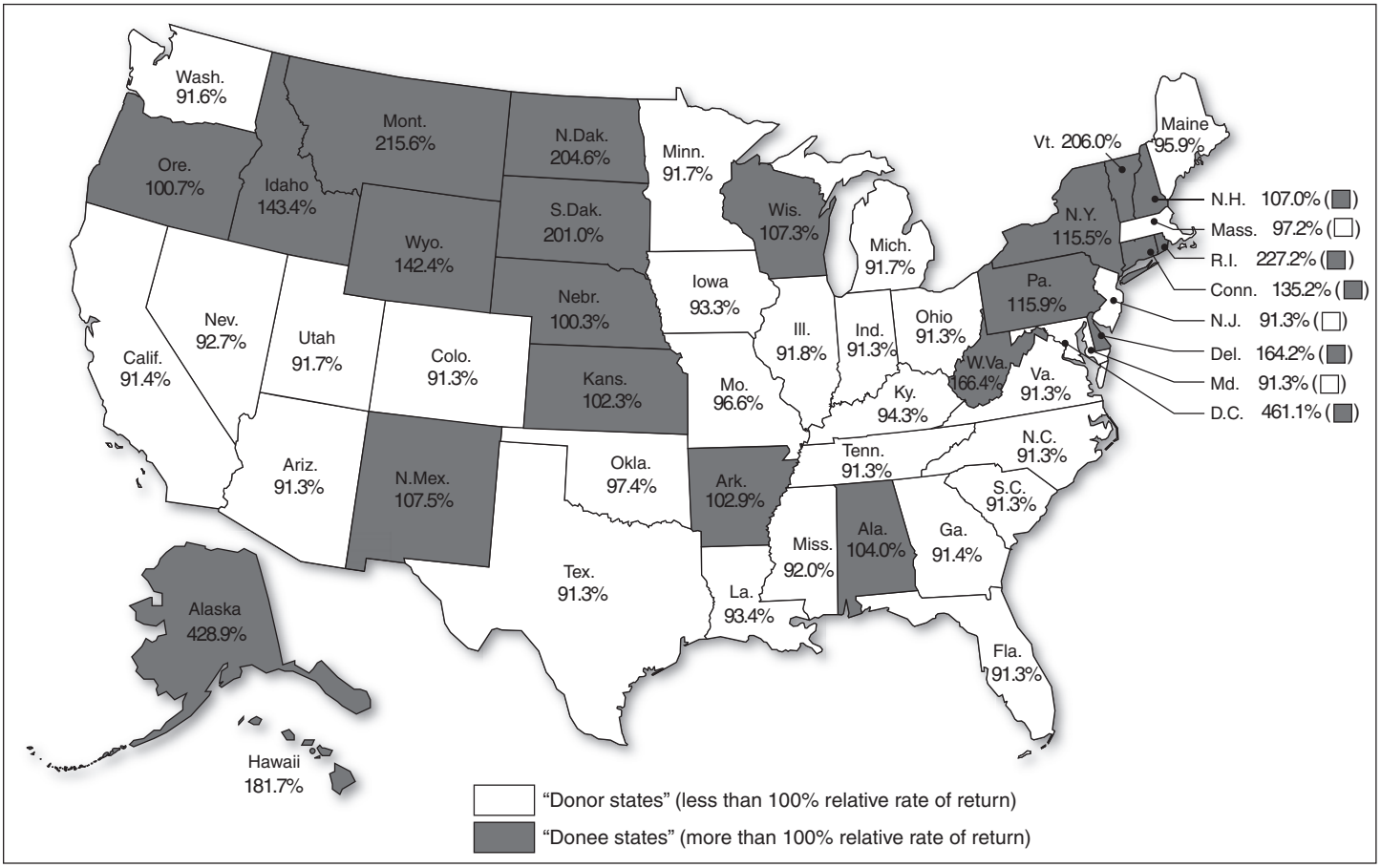
Note: Calculations compare the amount each state received through the apportioned programs and High Priority Projects in FY2005-2009 with each state's highway users' estimated contribution into the Highway Account in the corresponding revenue years (FY2003-2007).

A third calculation, based on a state's "relative share"—the amount a state receives relative to other states instead of an absolute, dollar rate of return—results in both donor and donee states. Congress defined this method in SAFETEA-LU as the one FHWA uses for the calculating rates of

return for the purpose of apportioning highway funding to the states.[10] In order to calculate this rate of return, FHWA must determine what proportion of the total national contributions came from highway users in each state. The state's share of contributions into the Highway Account of the Highway Trust Fund is then used to calculate a relative rate of return—how the proportion of each state's contribution compares to the proportion of funds the state received. A comparison of the relative rate of return on states' contributions showed 28 donor states, receiving less than 100 percent relative rate of return, and 23 states as donees receiving a more than a 100 percent relative rate of return (see fig. 6). States' relative rates of return ranged from a low of 91.3 percent for 12 states to a high of 461 percent for the District of Columbia. Like the return per dollar analysis in figure 5, this calculation includes only formula funds and High Priority Projects allocated to states, and excludes other DOT authorized programs allocated to states (see fig. 2). The difference between a state's absolute and relative rate of return can create confusion because the share calculation is sometimes mistakenly referred to as "cents on the dollar."

[10]These FHWA calculations are part of the Equity Bonus Program, discussed later in the report.

Figure 6: States' Relative Share Rate of Return from the Highway Account of the Highway Trust Fund, Using Time-Lagged Comparison Data, Apportioned Programs, and High Priority Projects, FY2005-2009



Sources: GAO analysis of FHWA data; Map Resources (map).

Note: Calculations compare the share of the total funding each state received through the apportioned programs and High Priority Projects in FY2005-2009 with the estimated share of the national total that each state contributed into the Highway Account in the corresponding revenue years (FY2003-2007).

Using the relative share method of calculation will result in some states being "winners" and other states being "losers." If one state receives a higher proportion of highway funds than its highway users contributed, another state must receive a lower proportion than it contributed. The only way to avoid this is for every state to get back exactly the same proportion that it contributed, which is impractical because estimated state contribution shares are not known until 2 years after the apportionments and allocations. Furthermore, because more funding has

recently been apportioned and allocated from the Highway Account than is being contributed by highway users, a state can receive more than it contributes to the Highway Trust Fund Highway Account, making it a donee under its rate of return per dollar, but a donor under its relative share rate of return.

California provides a useful example of this. From fiscal year 2005 through 2008, using same year contributions and funding across all Highway Trust Fund Highway Account allocations and apportionments, California received $1.16 for each dollar contributed. This analysis shows California as a donee state (see table 2). Alternatively, when calculating a dollar rate of return over the full SAFETEA-LU period (fiscal years 2005 through 2009) using state contribution estimates available at the time of apportionment (fiscal year 2003 through 2007 (as shown in fig. 3) and including only programs covered in rate-of-return adjustments, California remains a donee state, but received $1.04 for each dollar contributed. In contrast, using the relative share approach for the fiscal year 2005 through 2009 period, California received 91 percent of the share its highway users contributed in federal highway-related taxes, which would make it a donor state.

Table 2: Comparison of Different Rates of Return for California from Highway Trust Fund Highway Account, by Method of Calculation

Rate of Return Using Same Year Data	Dollars	Shares
California, FY2005 - 2008, Received (Includes all apportionments and allocations)	$15.2 billion	
California, FY2005 - 2008, contributed	13.2 billion	
Calculation	15.2 billion ÷ 13.2 billion	
Return per dollar using same-year comparison data, FY2005 - 2008	1.16	
Rate of Return Using Data Available at Time of Apportionment		
California, FY2005 - 2009, Received (Includes apportionments from 13 formula programs plus funds from the High Priority Project Program)	16.6 billion	9.07%
California, FY2003 - 2007, contributed	15.9 billion	9.93%
Calculation	16.6 billion ÷ 15.9 billion	9.07% ÷ 9.93%
Rate of return using apportionment-year data, FY2005 - 2009	1.04	91%

Source: FHWA data.

A fourth method for calculating a state's rate of return is possible, but not normally calculated by FHWA. It involves evaluating the relative share as described above, but using the same year comparison data. Again, because of the time lag required to estimate state highway user contributions to the Highway Account, such analysis is possible only 2 years after FHWA

calculates apportionments for states. Our analysis using this approach results in yet another set of rate of return answers. For example, using available data from fiscal years 2005 to 2008, the relative rate of return for California becomes 97 percent, rather than 91 percent. When this analysis is applied to all states, a state may change its donor/donee status. For example, Minnesota, Nebraska, and Oklahoma appear both as donor and donee states, depending on the calculation method. This comparison of the relative rate of return on states' contributions showed 27 states receiving less than 100 percent relative rate of return, and 24 states as receiving a more than a 100 percent relative rate of return. Table 3 shows the results for all four methods described and the wide variation of states' rate of return based on the method used.

Table 3: Comparison of States' Different Rates of Return from the Highway Trust Fund Highway Account, by Four Methods of Calculation

	Return per dollar		Relative share	
State	Same year comparison FY2005 to 2008	Year of apportionment comparison FY2005 to 2009	Same year comparison FY2005 to 2008[a]	Year of apportionment comparison FY2005 to 2009
Alabama	1.21	1.19	101.75%	103.98%
Alaska	4.92	4.89	413.24	428.90
Arizona	1.02	1.04	**85.35**	**91.30**
Arkansas	1.25	1.17	104.98	102.89
California	1.16	1.04	**97.06**	**91.36**
Colorado	1.06	1.04	**89.10**	**91.31**
Connecticut	1.64	1.54	137.71	135.24
Delaware	1.99	1.87	166.80	164.17
District of Columbia	5.63	5.26	472.79	461.14
Florida	1.12	1.04	**93.94**	**91.32**
Georgia	1.06	1.04	**88.65**	**91.36**
Hawaii	2.20	2.07	184.47	181.73
Idaho	1.64	1.63	137.95	143.38
Illinois	1.11	1.05	**93.62**	**91.75**
Indiana	1.02	1.04	**85.75**	**91.30**
Iowa	1.08	1.06	**90.55**	**93.27**
Kansas	1.21	1.17	102.04	102.31
Kentucky	1.10	1.08	**92.50**	**94.34**
Louisiana	1.17	1.06	**97.97**	**93.42**
Maine	1.19	1.09	**99.99**	**95.90**
Maryland	1.07	1.04	**89.85**	**91.35**
Massachusetts	1.16	1.11	**97.25**	**97.22**
Michigan	1.10	1.05	**92.49**	**91.73**
Minnesota	1.21	1.05	101.26	**91.71**

State	Return per dollar		Relative share	
	Same year comparison FY2005 to 2008	Year of apportionment comparison FY2005 to 2009	Same year comparison FY2005 to 2008[a]	Year of apportionment comparison FY2005 to 2009
Mississippi	1.17	1.05	**98.05**	**92.01**
Missouri	1.17	1.10	**97.91**	**96.60**
Montana	2.62	2.46	219.65	215.56
Nebraska	1.17	1.14	**98.38**	100.31
Nevada	1.09	1.06	**91.39**	**92.74**
New Hampshire	1.27	1.22	106.37	106.98
New Jersey	1.05	1.04	**88.06**	**91.34**
New Mexico	1.23	1.23	103.36	107.49
New York	1.36	1.32	114.22	115.50
North Carolina	1.06	1.04	**88.84**	**91.34**
North Dakota	2.46	2.33	206.34	204.64
Ohio	1.10	1.04	**92.78**	**91.33**
Oklahoma	1.29	1.11	108.42	**97.39**
Oregon	1.25	1.15	104.72	100.72
Pennsylvania	1.36	1.32	114.05	115.91
Rhode Island	2.91	2.59	244.72	227.18
South Carolina	1.04	1.04	**87.74**	**91.33**
South Dakota	2.35	2.29	197.70	201.04
Tennessee	1.08	1.04	**90.82**	**91.35**
Texas	1.00	1.04	**83.70**	**91.32**
Utah	1.06	1.04	**88.74**	**91.66**
Vermont	2.86	2.35	239.85	206.04
Virginia	1.07	1.04	**89.89**	**91.33**
Washington	1.19	1.04	**99.71**	**91.62**
West Virginia	2.10	1.90	176.39	166.36
Wisconsin	1.22	1.22	102.54	107.27
Wyoming	1.62	1.62	135.66	142.35
Average	1.19	1.14	100.00%	100.00%

Source: GAO analysis of FHWA data.

Note: Bolding indicates state is a donor state.

[a]Same year data for fiscal year 2009 was not available at the time the analysis was completed. Data are expected in late 2010. Same year data includes all Highway Account spending; year of apportionment data includes formula programs and High Priority Projects only.

Equity Bonus Provisions in SAFETEA-LU Addressed Rate of Return among States

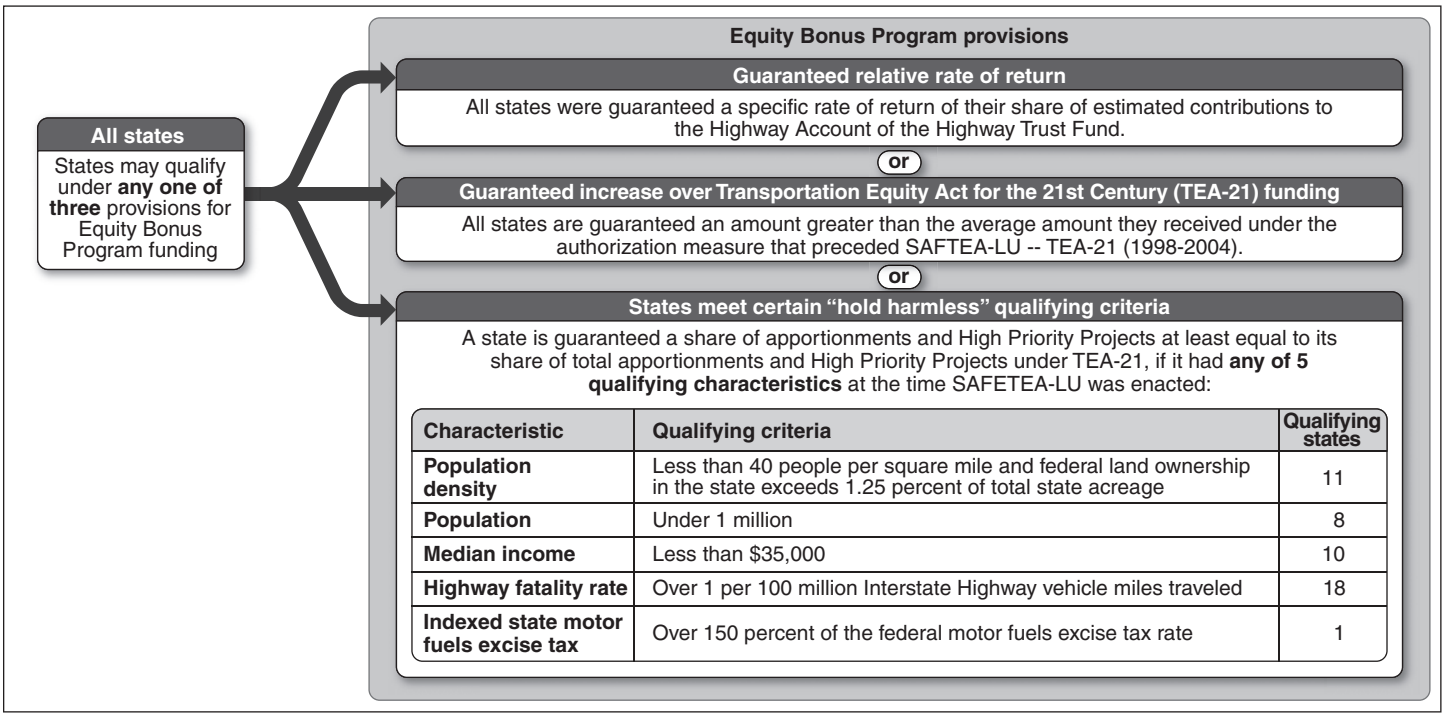
Since 1982, Congress has attempted to address states' concerns regarding the rate of return on highway users' contribution to the Highway Trust Fund. In 2005, Congress enacted in SAFETEA-LU the Equity Bonus Program, designed to bring all states up to a "guaranteed" rate of return.[11] The Equity Bonus is calculated from a subset of Federal-Aid Highway programs, which include 12 formula programs, plus High Priority Projects designated by Congress.[12] In brief, since SAFETEA-LU, the Equity Bonus allocates sufficient funds to ensure that each state receives a minimum return of 90.5 percent for fiscal years 2005-2006, 91.5 percent for fiscal year 2007, and 92 percent for fiscal years 2008-2009 for the included programs. The Equity Bonus provides more funds to states than any other individual Federal-Aid Highway formula program. Over SAFETEA-LU's initial 5-year authorization period, the Equity Bonus provided $44 billion to the states, while the second largest formula program, the Surface Transportation Program, provided $32.5 billion. Each year about $2.6 billion stay as Equity Bonus program funds and may be used for any purpose eligible under the Surface Transportation Program. Any additional Equity Bonus funds are added to the apportionments of the six "core" federal-aid highway formula programs: the Interstate Maintenance, National Highway System, Surface Transportation, Congestion Mitigation and Air Quality, Highway Bridge and the Highway Safety Improvement programs. States are frequently able to transfer a portion of their funds among the core programs, making funding of core programs less critical than it might be.

States may qualify for Equity Bonus funding by meeting any of three criteria (see fig. 7). A state that meets more than one criterion receives funding under whichever provision provides it the greatest amount of funding. FHWA conducts Equity Bonus calculations annually.

[11]Codified at U.S.C. 23 Section 105.

[12]See note on figure 2 for list of apportioned programs.

Figure 7: Equity Bonus Program Criteria



Characteristic	Qualifying criteria	Qualifying states
Population density	Less than 40 people per square mile and federal land ownership in the state exceeds 1.25 percent of total state acreage	11
Population	Under 1 million	8
Median income	Less than $35,000	10
Highway fatality rate	Over 1 per 100 million Interstate Highway vehicle miles traveled	18
Indexed state motor fuels excise tax	Over 150 percent of the federal motor fuels excise tax rate	1

Source: FHWA.

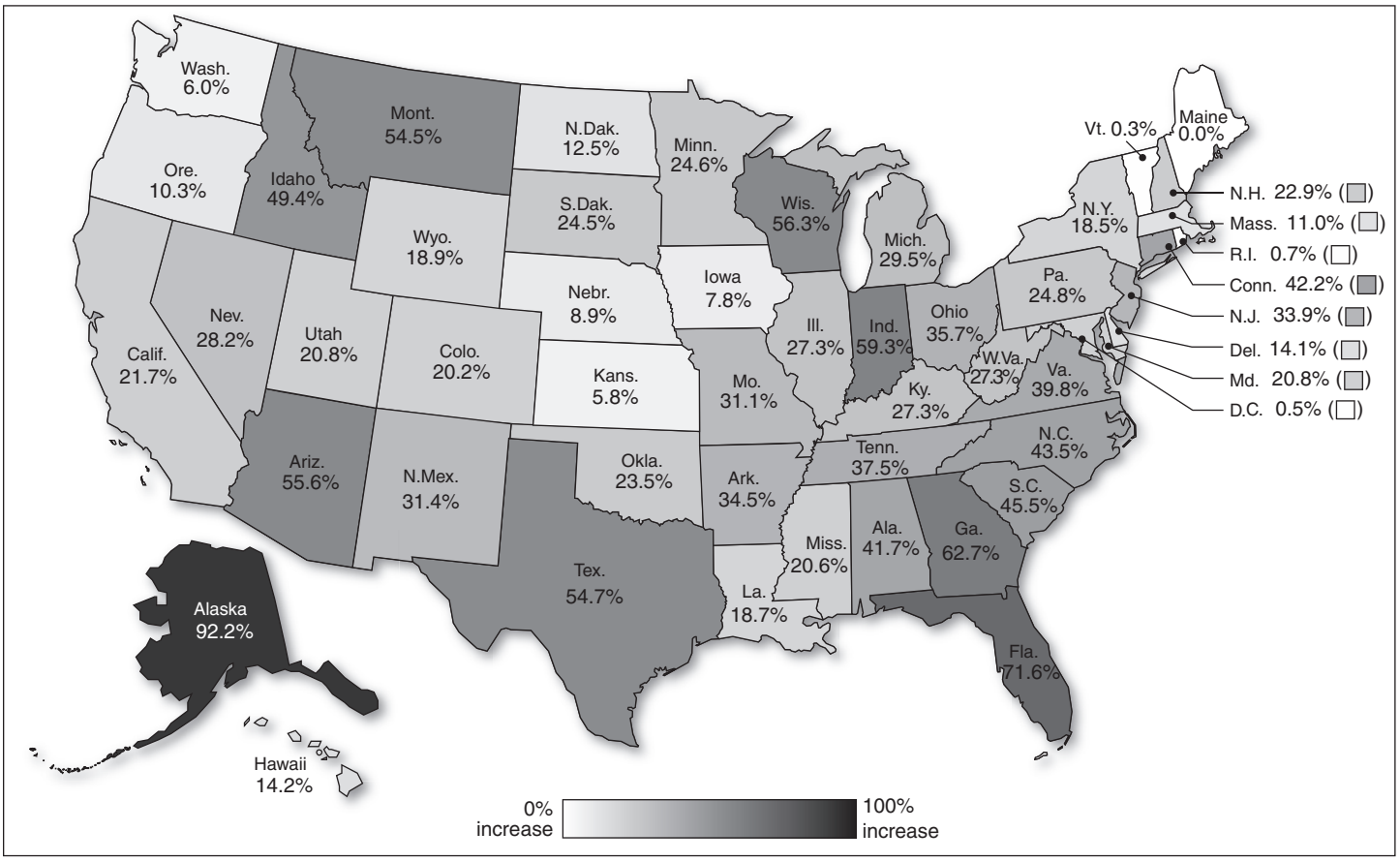
Note: States may have more than one qualifying characteristic under the hold harmless provision; therefore, the qualifying state column is not additive.

For the first criterion, the guaranteed relative rate of return, for fiscal year 2005 all states were guaranteed at least 90.5 percent of their share of estimated contributions. The guaranteed rate increased over time, rising to 92 percent in fiscal year 2009. The second criterion, the guaranteed increase over average annual Transportation Equity Act for the 21st Century (TEA-21) funding, also varied by year, rising from 117 percent in fiscal year 2005 to 121 percent for fiscal year 2009. The number of states qualifying under the first two provisions can vary from year to year. For the third criterion, a guarantee to "hold harmless" states that had certain qualifying characteristics at the time SAFETEA-LU was enacted, 27 states had at least one of these characteristics. A number of these states had more than one of these characteristics.

Forty-seven states received Equity Bonus funding every year during the SAFETEA-LU period. However, the District of Columbia, Rhode Island, and Vermont each had at least 1 year where they did not receive Equity

Bonus funding because they did not need it to reach the funding level specified under the three provisions. Maine was the only state that did not receive an Equity Bonus in any year. Half of all states received a significant increase in their overall Federal-Aid Highway Program–at least 25 percent over their core funding. Each state's percent increase in its overall funding total for apportioned programs and High Priority Projects for fiscal years 2005 through 2009 due to Equity Bonus funding is shown in figure 8.

Figure 8: Percent Increase in Total State Apportionment and High Priority Amounts Due to Equity Bonus, FY 2005-2009



Sources: GAO analysis of FHWA data; Map Resources (map).

Adding General Revenues into the Trust Fund and Other Challenges Raise Questions about Relying on States' Rate-of-Return to Distribute Federal Highway Funds

Additional factors affect the relationship between contributions to the Highway Trust Fund and the funding states receive. These include (1) the infusion of significant amounts of general revenues into the Highway Trust Fund, (2) the challenge of factoring performance and accountability for results into transportation investment decisions, and (3) the long-term sustainability of existing mechanisms and the challenges associated with developing new approaches to funding the nation's transportation system.

First, the infusion of significant amounts of general revenues into the Highway Trust Fund Highway Account breaks the link between highway taxes and highway funding. The rate-of-return approach was designed to ensure that, consistent with the user pay system, wherein the costs of building and maintaining the system are borne by those who benefit, users receive a fair return on their investment to the extent possible. However, in fiscal year 2008 the Highway Trust Fund held insufficient amounts to sustain the authorized level of funding and, partly as a result, we placed it on our list of high-risk programs.[13] To cover the shortfall, from fiscal years 2008 through 2010 Congress transferred a total of $34.5 billion in additional general revenues into the Highway Trust Fund, including $29.7 billion into the Highway Account. This means that, to a large extent, funding has shifted away from the contributions of highway users, breaking the link between highway taxes paid and benefits received by users. Furthermore, the infusion of a significant amount of general fund revenues complicates rate-of-return analysis because the current method of calculating contributions does not account for states' general revenue contributions. For many states, the share of Highway Trust Fund contributions and general revenue contributions are different, therefore state-based contributions to all the funding in the Trust Fund are no longer clear.[14] In addition, since March 2009, the American Recovery and Reinvestment Act of 2009 apportioned an additional $26.7 billion to the states for highways—a significant augmentation of federal highway spending that was funded with general revenues.

Second, using rate of return as a major factor in determining federal highway funding levels is at odds with reexamining and restructuring

[13]GAO, *High Risk Series: An Update*, GAO-09-271 (Washington, D.C.: January 2009).

[14]This also complicates longer-term, historical analyses of state-based rate of return for the Highway Account. During certain periods general funds from the Treasury have been added to the Highway Trust Fund in the form of interest payments on the Highway Trust Fund balance. Conversely, in the past fuel taxes have also been used for deficit reduction.

federal surface transportation programs so that performance and accountability for results is factored into transportation investment decisions. As we have reported, for many surface transportation programs, goals are numerous and conflicting, and the federal role in achieving the goals is not clear. Many of these programs have no relationship to the performance of either the transportation system or of the grantees receiving federal funds and do not use the best tools and approaches to ensure effective investment decisions.[15] Our previous work has outlined the need to create well defined goals based on identified areas of federal interest and a clearly defined federal role in relation to other levels of government.[16] We have suggested that where the federal interest is less evident, state and local governments could assume more responsibility, and some functions could potentially be assumed by the states or other levels of government.[17] Furthermore, incorporating performance and accountability for results into transportation funding decisions is critical to improving results. However the current approach presents challenges. The Federal-Aid Highway program, in particular, distributes funding through a complicated process in which the underlying data and factors are ultimately not meaningful because they are overridden by other provisions designed to yield a largely predetermined outcome—that of returning revenues to their state of origin.[18] Moreover, once the funds are apportioned, states have considerable flexibility to reallocate them among highway and transit programs.[19] As we have reported, this flexibility, coupled with a rate-of-return orientation, essentially means that the Federal-Aid Highway program functions, to some extent, as a cash transfer, general purpose grant program.[20] This approach poses

[15]GAO, *Surface Transportation: Restructured Federal Approach Needed for More Focused, Performance-Based, and Sustainable Programs*, GAO-08-400 (Washington, D.C.: Mar. 6, 2008).

[16]GAO, *Surface Transportation Programs: Proposals Highlight Key Issues and Challenges in Restructuring the Programs*, GAO-08-843R (Washington, D.C.: July 29, 2008).

[17]GAO, *Surface Transportation: Restructured Federal Approach Needed for More Focused, Performance-Based, and Sustainable Programs*, GAO-08-400 (Washington, D.C.: Mar. 6, 2008).

[18]GAO, *Federal-Aid Highways: Trends, Effect on State Spending, and Options for Future Program Design*, GAO-04-802 (Washington, D.C.: Aug. 31, 2004).

[19]GAO, *Surface Transportation: Principles Can Guide Efforts to Restructure and Fund Federal Program*, GAO-08-744T (Washington, D.C.: July 10, 2008).

[20]GAO, *Federal-Aid Highways: Trends, Effect on State Spending, and Options for Future Program Design*, GAO-04-802 (Washington, D.C.: Aug. 31, 2004).

considerable challenges to introducing performance orientation and accountability for results into highway investment decisions. For three highway programs that were designed to meet national and regional transportation priorities, we have recommended that Congress consider a competitive, criteria-based process for distributing federal funds.[21]

Finally, using rate of return as a major factor in determining federal highway funding levels poses problems because funding the nation's transportation system through taxes on motor vehicle fuels is likely to be unsustainable in the longer term. Receipts for the Highway Trust Fund derived from motor fuel taxes have declined in purchasing power, in part because the federal gasoline tax rate has not increased since 1993. In fiscal year 2008 (the last year for which data are available) total contributions to the Highway Account of the Highway Trust Fund decreased by more than $3.5 billion from fiscal year 2007, the first year of decrease during the SAFETEA-LU period. Over the long term, vehicles will become more fuel efficient and increasingly run on alternative fuels—for example, higher fuel economy standards were enacted in 2010. As such, fuel taxes may not be a sustainable source of transportation funding.[22] Furthermore, transportation experts have noted that transportation policy needs to recognize emerging national and global challenges, such as reducing the nation's dependence on imported fuel and minimizing the effect of transportation systems on the global climate.[23] A fund that relies on increasing the use of motor fuels to remain solvent might not be compatible with the strategies that may be required to address these challenges.

In the near future, policy discussions will need to consider what the most adequate and appropriate transportation financing systems will be and whether or not the current system continues to make sense. The National Surface Transportation Infrastructure Financing Commission—created by SAFETEA-LU to, among other things, explore alternative funding mechanisms for surface transportation—identified and evaluated numerous revenue sources for surface transportation programs in its

[21]GAO, *Surface Transportation: Clear Federal Role and Criteria-Based Selection Process Could Improve Three National and Regional Infrastructure Programs*, GAO-09-219 (Washington, D.C.: Feb. 6, 2009).

[22]GAO, *Highway Trust Fund: Improved Solvency Mechanisms and Communication Needed to Help Avoid Shortfalls in the Highway Account*, GAO-09-316 (Washington, D.C.: Feb. 6, 2009).

[23]GAO, *Surface Transportation Programs: Proposals Highlight Key Issues and Challenges in Restructuring the Programs*, GAO-08-843R (Washington, D.C.: July 29, 2008).

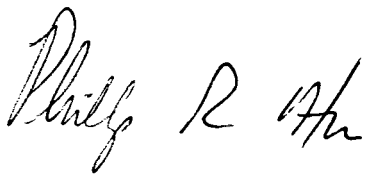
February 2009 report including alternative approaches to the fuel tax, mileage-based user fees, and freight-related charges.[24] The report also discussed using general revenues to finance transportation investment but concluded that it was a weak option in terms of economic efficiency and other factors, and recommended that new sources of revenue to support transportation be explored. These new sources of revenue may or may not lend themselves to using a rate of return approach.

Agency Comments and Our Evaluation

We provided a draft of this to DOT for review and comment. DOT provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. The report also will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or herrp@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO Staff who made major contributions to this report are listed in appendix II.



Philip R. Herr
Director, Physical Infrastructure Issues

[24]National Surface Transportation Infrastructure Financing Commission, *Paying Our Way: A New Framework for Transportation Finance* (Feb. 26, 2009).

Appendix I: Objectives, Scope, and Methodology

To determine the amount of revenue states contributed to the Highway Trust Fund Highway Account compared with the funding they received during the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) period, we completed four analyses using Federal Highway Administration (FHWA) data. We met with FHWA and other DOT officials to discuss availability of data and appropriate methodologies. We used FHWA estimates of payments made into the Highway Account of the Highway Trust Fund, by state, and the actual total apportionments and allocations made from the fund, by state. This is sometimes referred to as a "dollar-in, dollar-out" analysis. Because the contribution data takes about 2 years for FHWA to compile, for our analyses we used data for 4 of 5 years of the SAFETEA-LU period, 2005 through 2008, as data for 2009 were not yet available. The source data are published annually in Highway Statistics and commonly referred to as table FE-221, titled "Comparison of Federal Highway Trust Fund Highway Account Receipts Attributable to the States and Federal-Aid Apportionments and Allocations from the Highway Account." FHWA officials confirmed that it contains the best estimate of state contributions and also contains the total appropriations and allocations received by states from the Highway Account of the fund. We did not independently review FHWA's process for estimating state highway users' contributions into the Highway Trust Fund. However, we have reviewed this process in the past, and FHWA officials verified that they have made changes to the process as a result of that review.[1] In addition, we did not attribute any prior balances in the Highway Trust Fund back to states of origin because these funds are not directly tied to any specific year or state. We only examined the fiscal year 2005 through 2008 period; other time periods could provide a different result.

We performed alternative analyses to demonstrate that different methodologies provide different answers to the question of how the contributions of states' highway users compared to the funding states received. Using the same data as described above, we performed a "relative share" analysis, which compared each state's estimated proportion of the total contributions to the Highway Account to each state's proportion of total Federal-Aid Highway funding. We also examined how states fared using FHWA's approach for determining the Equity Bonus Program funding apportionments. We performed this analysis to

[1]GAO, *Highway Funding: Problems with Highway Trust Fund Information Can Affect State Highway Funds*, GAO-RCED/AIMD-00-148 (Washington, D.C.: June 2000).

show the outcomes for states based on the information available at the time the Equity Bonus program apportionments are made. The Equity Bonus program amounts are calculated using the statutory formulas for a subset of Federal-Aid Highway Programs. These include all programs apportioned by formula plus the allocated High Priority Projects. FHWA uses the most current contribution data available at the time it does its estimates. However, as explained above, the time lag for developing this data is about 2 years. Therefore, we applied the contribution data for 2003 through 2007 to the funding data for 2005 through 2009, the full SAFETEA-LU period. For these data, we (1) analyzed the total estimated contributions by state divided by the total funding received by state—the dollar-in, dollar out methodology—and (2) a comparison of the share of contributions to share of payments received for each state. We obtained data from the FHWA Office of Budget for the analysis of state dollar-in dollar-out outcomes, and state relative share data for the Equity Bonus Program. We completed our analyses across the total years of the SAFETEA-LU period, 2005 through 2009. We interviewed FHWA officials and obtained additional information from FHWA on the steps taken to ensure data reliability and determined the data were sufficiently reliable for the purposes of this report

To determine the provisions in place during the SAFETEA-LU period to address rate-of-return issues across states and how they affected the highway funding states received, we reviewed SAFETEA-LU legislation, reports by the Congressional Research Service (CRS) and FHWA. We also spoke with FHWA and DOT officials to get their perspectives. We also conducted an analysis of FHWA data on the Equity Bonus Program provisions which were created explicitly to address the rate-of-return issues across states. Our analysis compared funding levels distributed to states via apportionment programs and High Priority Projects before and after Equity Bonus Program provisions were applied, and calculated the percentage increase each state received as a result of the Equity Bonus.

To determine what additional factors affected the relationship between contributions to the Highway Trust Fund and the funding states receive, we reviewed GAO reports on federal surface transportation programs and the Highway Trust Fund, as well as CRS and FHWA reports, and the report of the National Surface Transportation Infrastructure Financing Commission. In addition, we reviewed FHWA data on the status of the Highway Account of the Highway Trust Fund. We also met with officials from Department of Transportation's Office of Budget and Programs and FHWA to obtain their perspectives on the issue.

Appendix II: FHWA Estimates Contributions to the Highway Trust Fund

Currently, FHWA estimates state-based contributions to the Highway Account of the Highway Trust Fund through a process that includes data collection, adjustment, verification, and final calculation of the states' highway users' contributions. FHWA first collects monthly motor fuel use data and related annual state tax data from state departments of revenue. FHWA then adjusts states' data by applying its own models using federal and other data to establish data consistency among the states. FHWA provides feedback to the states on these adjustments and estimates through FHWA Division Offices. Finally, FHWA applies each state's highway users' estimated share of highway fuel usage to total taxes collected nationally to arrive at a state's contribution to the Highway Trust Fund. We did not assess the effectiveness of FHWA's process for estimating the amount of tax funds attributed to each state for this report.[1]

According to FHWA officials, data from state revenue agencies is more reliable and comprehensive than vehicle miles traveled data, so FHWA uses state tax information to calculate state contributions. States submit regular reports to FHWA, including a monthly report on motor-fuel consumption due 90 days after month's end, and an annual motor-fuel tax receipts report due 90 days after calendar year's end. States have a wide variety of fuel tracking and reporting methods, so FHWA adjusts the data to achieve uniformity. FHWA analyses and adjusts fuel usage data, such as off-highway use related to agriculture, construction, industrial, marine, rail, aviation and off-road recreational usage. It also analyzes and adjusts use data based on public-sector use, including federal civilian, and state, county, and municipal use.

FHWA headquarters and Division Offices also work together to communicate with state departments of revenue during the attribution estimation process.[2] According to FHWA officials, each year FHWA headquarters issues a memo prompting its Division Offices to have each state conduct a final review of the motor fuel gallons reported by their respective states. FHWA division offices also are required to assess their state's motor fuel use and highway tax receipt process at least once every

[1]We last reviewed this process in 2000. At that time, we made a number of recommendations to improve the process and FHWA instituted improvements based on these recommendations. See GAO, *Highway Funding: Problems with Highway Trust Fund Information Can Affect State Highway Funds*, GAO-RCED/AIMD-00-148 (Washington, D.C.: June 2000).

[2]FHWA maintains a division office in each of the states and the District of Columbia.

3 years to determine if states are complying with FHWA guidance on motor fuel data collection.

Once the data are finalized, FHWA applies each state's estimated share of taxed highway fuel use to the total taxes collected to arrive at a state's contribution in the following manner. Finalized estimations of gallons of fuel used on highways in two categories—gasoline and special fuels—allow FHWA to calculate each state's share of the total on-highway fuel usage. The shares of fuel use for each state are applied to the total amount of taxes collected by the Department of the Treasury in each of the 10 categories of highway excise tax. The state's gasoline share is applied to the gasoline and gasohol taxes, and the state's special fuels share, which includes diesel fuel, is applied to all other taxes, including truck taxes.[3]

[3]Special fuels principally includes diesel fuel but also includes very small amounts of highway uses of liquefied petroleum gas, kerosene, natural gas, and biodiesel.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Phillip R. Herr (202) 512-2834 or herrp@gao.gov

Staff Acknowledgments

In addition to the contact named above, Steve Cohen (Assistant Director), Robert Ciszewski, Robert Dinkelmeyer, Brian Hartman, Bert Japikse, Josh Ormond, Amy Rosewarne, and Swati Thomas made key contributions to this report.

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