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Report to Congressional Requesters

September 2011

HIGHWAY TRUST FUND

All States Received More Funding Than They Contributed in Highway Taxes from 2005 to 2009

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Highlights

Highlights of GAO-11-918, a report to congressional requesters

September 2011

HIGHWAY TRUST FUND

All States Received More Funding Than They Contributed in Highway Taxes from 2005 to 2009

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 highway users contribute are known as "donor" states and states that receive more than 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.

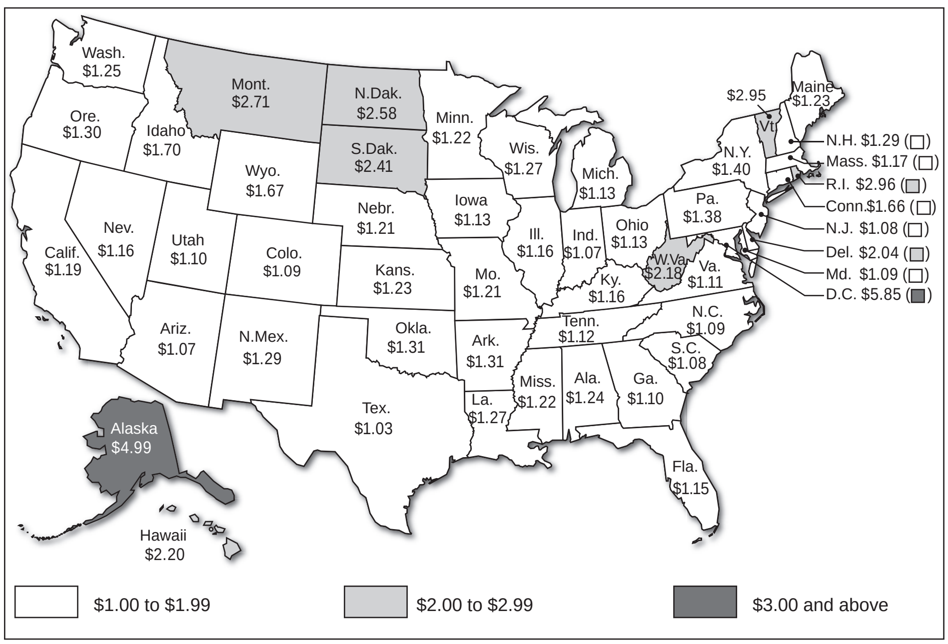
GAO is not making any recommendations. DOT reviewed a draft of this report and provided technical comments, which we incorporated as appropriate.

View GAO-11-918. For more information, contact Phillip Herr at (202) 512-2834 or herrp@gao.gov.

What GAO Found

From 2005 to 2009, every state received more funding for highway programs than they contributed to the Highway Account of the Highway Trust Fund. This was possible because more funding was authorized and apportioned than was collected from the states, and the fund was augmented with about $30 billion in general revenues since fiscal year 2008. 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, Fiscal Years 2005-2009



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 with 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. Additionally, using rate of return as a major factor in determining highway funding poses challenges related to performance and accountability in the highway program; in effect, rate-of-return calculations 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.

Contents

Abbreviations

CRS	Congressional Research Service
DOT	Department of Transportation
FHWA	Federal Highway Administration
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
TEA-21	Transportation Equity Act for the 21st Century

United States Government Accountability Office
Washington, DC 20548

September 8, 2011

The Honorable Nick J. Rahall II
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Peter A. DeFazio
Ranking Member
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)[1] authorized over $190 billion for the Federal-Aid Highway programs for fiscal years 2005 through 2009, and the Highway Trust Fund has been the principal source of funding for these programs. 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. This "user pay" system, wherein users contribute to the building and upkeep of the system, has generated debate about the funding distribution among states, and states have taken a strong interest in their respective rate of return on contributions. States that receive less than the estimated contributions paid in-state by highway users are known as "donor" states, while states that receive more than their estimated contributions are known as "donee" states. In June 2010, we reported that nearly all states received more highway funding than they contributed for fiscal years 2005 through 2008.[2] This occurred because, overall, more funding was authorized and apportioned

[1]Pub. L. No.109-59, § 1101, 119 Stat. 1144, 1153 (2005).

[2]GAO, *Highway Trust Fund: Nearly All States Received More Funding Than They Contributed in Highway Taxes Since 2005*, GAO-10-780 (Washington, D.C.: June 30, 2010).

than was collected in-state from highway users (states' contributions). The account was supplemented by about $29.7 billion from general revenue funds into the Highway Trust Fund since fiscal year 2008. The infusion of general revenue funds has changed the "user pay" principle and complicated the link between highway taxes and highway funding. The issue of states' rates of return and donor-donee states continues to be the subject of congressional debate, including during reauthorization of SAFETEA-LU.[3]

To better understand the relationship between states' contributions to the Highway Trust Fund and the amount of federal funding states received, at your request, we updated our June 2010 report and examined:

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

This update of our June 2010 report includes fiscal year 2009 data on the states' contributions to the Highway Trust Fund that was made available by Federal Highway Administration (FHWA).[4] To determine how the amount of revenue states contributed compared to funding states received (states' rates of return), we obtained and analyzed FHWA data, including estimates of payments made into the Highway Account of the Highway Trust Fund, by state, and the actual total apportionments states received during the entire 5-year SAFETEA-LU period. Because different methods of calculating a rate of return can provide different results, we analyzed states' rates of return using four different scenarios. 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

[3]Funding authorized by SAFETEA-LU was for fiscal year 2005 through fiscal year 2009. Congress has extended the authorization, and the current extension is set to expire on September 30, 2011.

[4]GAO-10-780.

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 the states' funding, we reviewed FHWA, GAO, Congressional Research Service, and other reports, including our body of work on surface transportation financing and the Highway Trust Fund. For each objective, we also reviewed Department of Transportation (DOT) and FHWA reports and interviewed DOT and FHWA officials. We also obtained information from FHWA on the steps taken to ensure data reliability and determined the data were sufficiently reliable for our purposes.

We conducted this performance audit from June 2011 through September 2011 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.

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 funding for the nation's surface transportation programs. In 2005, Congress enacted SAFETEA-LU, which authorized $197.5 billion for the Federal-Aid Highway Program for fiscal years 2005 through 2009. In a joint federal-state partnership, FHWA, within DOT, administers the Federal-Aid Highway Program and distributes most funds to the states through annual apportionments established by statutory formulas.[5] Once FHWA apportions these funds, the funds are available for obligation for construction, reconstruction, and improvement of highways and bridges on eligible federal-aid highway routes, as well as for other authorized purposes. The amount of federal funding made available for highways has been substantial—from $34.4 billion to $43 billion per year for fiscal years 2005 through 2009.

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

The Highway Trust Fund was established by Congress in 1956 to fund construction of the Interstate Highway System. The Highway Trust Fund receives 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. The Department of the Treasury collects fuel taxes from a small number of corporations (i.e., oil refineries or fuel tank farms) located in a relatively small number of places and not directly from states. As such, FHWA calculates motor fuel-related contributions[6] based on estimates of the gallons of fuel used on highways in each state by relying on data gathered from state revenue agencies and summary tax data available from Treasury as part of the estimation process (see app. II).

Most of the funds from the Highway Account of the Highway Trust Fund (about 83.3 percent) were apportioned to states across 13 formula programs during the 5-year SAFETEA-LU period.[7] Included among these are 6 "core" highway programs (see table 1).

[6]While we refer to these contributions as state Highway Trust Fund contributions, these are not based on actual contributions by the states, or taxes collected by them, or taxes paid by their residents, but rather an estimated allocation of national highway tax revenues based on the analytical model used by FHWA in calculating state bonuses for purposes of 23 U.S.C. § 105 (see app. II).

[7]The Highway Trust Fund is divided into the Highway Account and the Mass Transit Account. 26 U.S.C § 9503. More than 80 percent of the total revenue in the Highway Trust Fund is dedicated to the Highway Account.

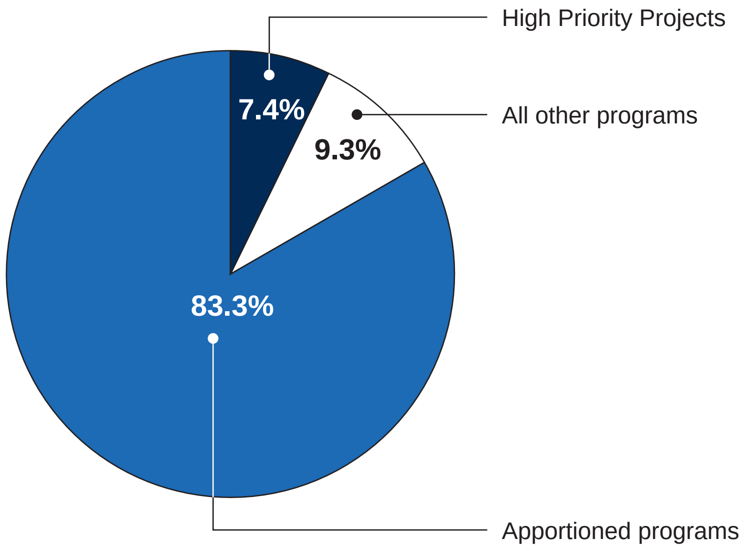
Table 1: Core Highway Programs

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

Source: FHWA.

In addition to formula programs, Congress also directly allocated about 7.4 percent of Highway Account funds to state departments of transportation through congressionally directed High Priority Projects, which provided funding for a total of 5,091 specific projects identified in SAFETEA-LU. The remaining funds, about 9.3 percent of the total, represent dozens of other authorized programs allocated to state departments of transportation, 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. 1).

Figure 1: Highway Account Funds—Apportioned Programs, High Priority Projects, and All Other Programs, Fiscal Years 2005-2009



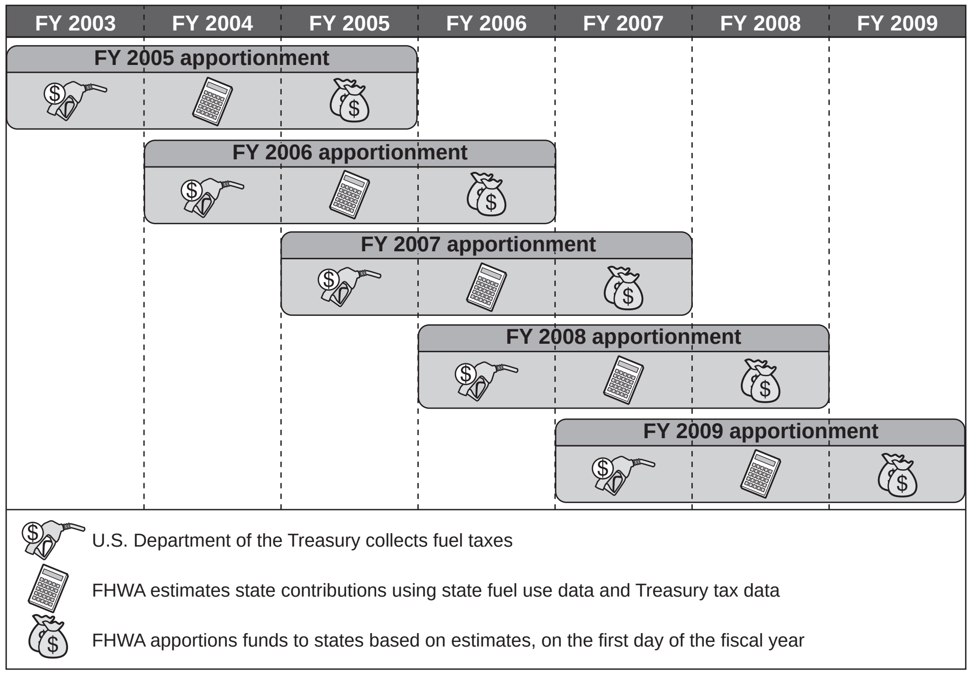
Source: GAO analysis of FHWA data.

Note: Apportioned programs funded through the Highway Account include: 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 programs.

Some of the apportioned programs use states' contributions to the Highway Account of the Highway Trust Fund as a factor in determining funding levels for each state.[8] As previously mentioned, FHWA has to estimate the fuel tax contributions made to the fund by users in each state. The collection and estimation process takes place over several years (see fig. 2), and thus, the data used to calculate the formula are two 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.

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

Figure 2: 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 authorized from the Highway Trust Fund were 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. Since then, each state has received a specific share of the total program (defined as all apportioned programs plus High Priority Projects) and 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 give states a guaranteed rate of return of 92 percent by fiscal year 2008.

In June 2010, we reported that every state but one received more funding for highway programs than users contributed to the Highway Account. 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 funding than was contributed during both fiscal years 2007 and 2008. 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, as the account was supplemented by general funds from Treasury.

We also reported that whether a state is viewed as a "donor" or "donee" state can depend on which of the four following methods of calculating states' rate of return is used:

1. **States' rate of return per dollar contributed to the Highway Account, using same-year comparison data.** This analysis compares funding states received from the Highway Trust Fund Highway Account with the dollars estimated to have been collected in each state into the Highway Account in that same year. For example, for fiscal year 2007, it compares the highway funds states received in fiscal year 2007 with the amount collected and contributed in that fiscal year. 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. 1 for a breakdown of these funds). This was the method used to calculate the results reported in our previous report that every state but one received more funding for highway programs than users contributed.

2. **States' rate of return per dollar contributed to the Highway Account, using time-lagged data, apportioned programs, and High Priority Projects.** This method applies the same dollar return calculation method but uses contribution data that were available at the time funds were apportioned to the states—the lagged-time data were 2 years old, due to the time lag between when Treasury collects fuel and truck excise taxes and funds are apportioned. It also uses a subset of Federal-Aid Highway programs including both programs apportioned to states by formula and High Priority Projects; it does not include other allocated highway programs or other funding states receive from other DOT agencies, such as the National Highway

Traffic Safety Administration and Federal Motor Carrier Safety Administration.

3. **States' relative share rate of return from the Highway Account, using time-lagged comparison data, apportioned programs, and High Priority Projects.** This third calculation method is based on a state's "relative share"—that is, the amount a state receives relative to other states instead of an absolute, dollar rate of return. 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. Each 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.

4. **States' relative share rate of return per dollar contributed to the Highway Account, using same-year comparison data.** This fourth method for calculating a state's rate of return involves evaluating the relative share as described in method 3, but using the same-year comparison data.

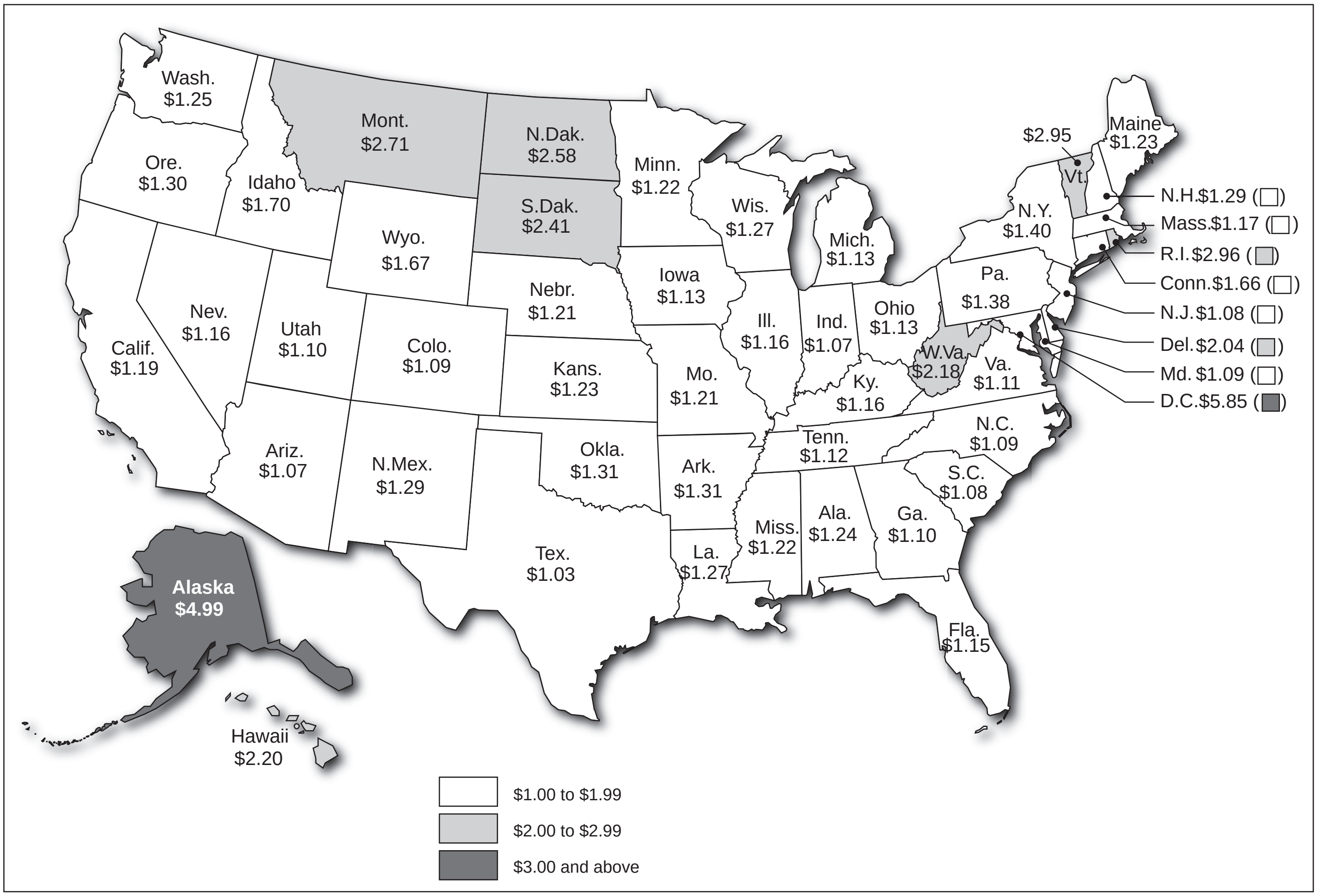
States Received More Funding from the Highway Trust Fund Than Was Contributed from Fiscal Years 2005 through 2009, but Rate of Return Varies Depending on the Calculation Used

States Received More Funding Than Was Contributed from Fiscal Years 2005 through 2009

Our analysis of the entire 5-year period of SAFETEA-LU shows that every state was a donee state, receiving more funding for highway programs than their users contributed to the Highway Account (see fig. 3). Funding received for each dollar contributed ranged from about $1.03 for Texas to about $5.85 for the District of Columbia. Every state was a donee state during the 5-year SAFETEA-LU period because overall, more funding was authorized and apportioned than was collected from highway users, since the account was supplemented by general funds from Treasury.[9] Since our June 2010 report, nearly every state increased its rate of return by at least 1 cent over what we originally reported. Hawaii was the only state that remained constant and did not have an increase on the rate of return in fiscal year 2009.

[9] 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 Treasury. We did not attempt to estimate what residual contribution in these prior balances is theoretically attributable to a state in our analysis.

Figure 3: States' Rate of Return per Dollar Contributed to the Highway Account of the Highway Trust Fund, Using Same-Year Comparison Data, Fiscal Years 2005-2009



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

States' Rate of Return Varies, as Other Methods Provide Different Results

Although our analysis shows that states received more than was contributed, other calculations 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 a donor using one type of calculation and a donee using a different type.

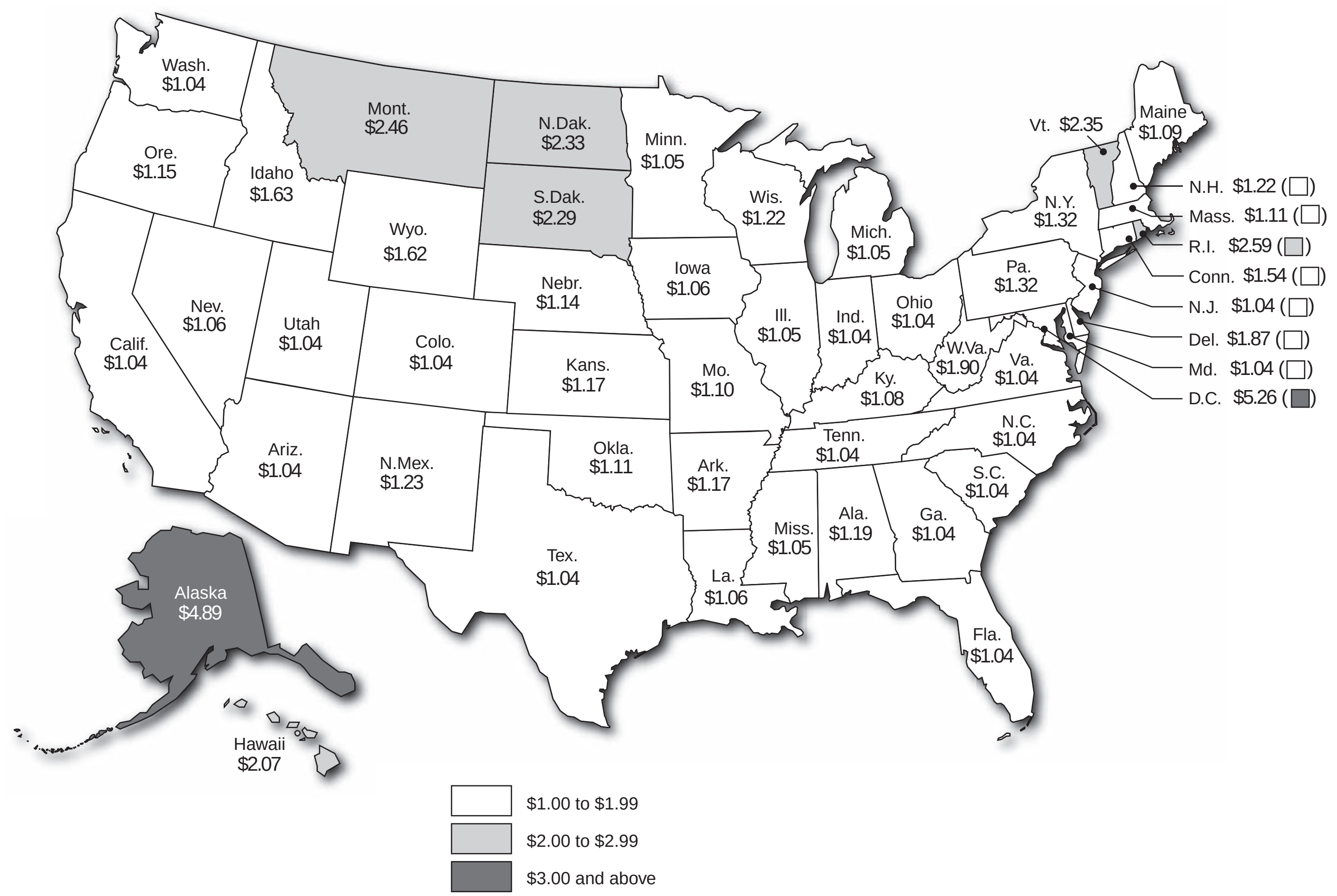
We found that each state received more in funding than its users contributed during the SAFETEA-LU period when using time-lagged comparison data to calculate states' rate of return per dollar.[10] The rate of return ranged from a low of $1.04 per dollar for 16 states to a high of $5.26 per dollar for the District of Columbia, as shown in figure 4. This methodology results in states generally having a lower dollar rate of return than our calculations using same-year data and differs in that we use a subset of Federal-Aid Highway programs including both programs apportioned to states by formula and High Priority Projects.[11] The results from our June 2010 report have not changed because fiscal year 2009 data were included in our 2010 analysis, and all states are donee states.[12]

[10]As previously mentioned, the method of using time-lagged data consists of calculating funding states received from the Highway Trust Fund Highway Account with estimated dollars that states contributed at the time funds are apportioned to the states. States' contribution data that are available at the time funds were apportioned to the states are 2-year-old lagged-time data, due to the time lag between when Treasury collects the fuel and truck excise taxes and funds are apportioned (see fig. 2).

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

[12]As previously noted, the second method of calculating states' rate of return consists of using 2-year-old data on contributions for apportionments, due to the time lag between when Treasury collects fuel and truck excise taxes and funds are apportioned. Apportionments are made on the first day of the fiscal year, and 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.

Figure 4: States' Return per Dollar Contributed to the Highway Account of the Highway Trust Fund, Using Time-Lagged Data, Apportioned Programs, and High Priority Projects, Fiscal Years 2005-2009



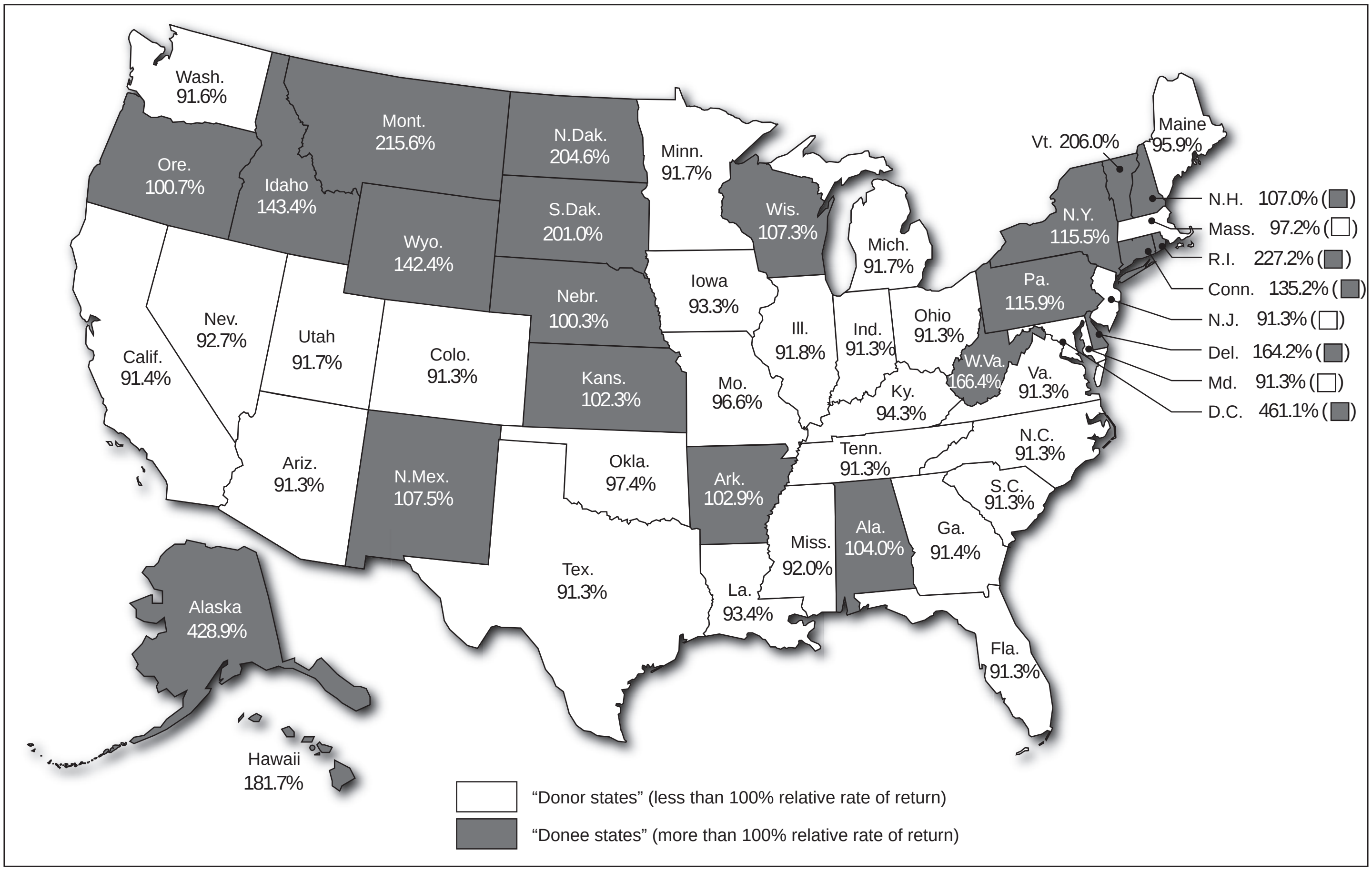
Sources: GAO analysis of FHWA data; Map Resources (map).

Note: Calculations compare the amount each state received through the apportioned programs and High Priority Projects in fiscal years 2005-2009 with each state's estimated contribution to the Highway Account in the corresponding revenue years (fiscal years 2003-2007).

A third calculation, based on a state's "relative share"—the amount a state receives relative to other states using time-lagged data—results in both donor and donee states. Congress defined this method in SAFETEA-LU as the one FHWA uses for calculating rates of return for the purpose of apportioning highway funding to the states.[13] 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 more than a 100 percent relative rate of return (see fig. 4). 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. Similar to the return per dollar analysis in figure 5, this calculation includes only apportioned funds and High Priority Projects allocated to states, and excludes other DOT authorized programs allocated to states (see fig. 1). The difference between a state's absolute per dollar return and relative rate of return can create confusion because the relative share calculation is sometimes mistakenly referred to as "cents on the dollar."

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

Figure 5: 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, Fiscal Years 2005-2009



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 fiscal years 2005-2009 with the estimated share of the national total that each state contributed into the Highway Account in the corresponding revenue years (fiscal years 2003-2007).

As we previously reported, using the relative share method of calculation will result in some states being "winners" and other states being "losers."[14] If one state receives a higher proportion of highway funds than it is viewed as having contributed, another state must receive a lower

[14]GAO-10-780.

proportion than it contributed. However, 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. From fiscal years 2005 through 2009, using same-year contributions and funding across all Highway Trust Fund Highway Account allocations and apportionments, California received $1.19 for each dollar contributed. This analysis shows California as a donee state (see table 2). Alternatively, when calculating a dollar rate of return using state contribution estimates available at the time of apportionment (as shown in fig. 3) and including only programs covered in rate-of-return adjustments, California remains a donee state, receiving $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 it 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

	Dollars	Share
Rate of return using same-year data		
California, fiscal years 2005-2009, received (includes all apportionments and allocations)	$19.3 billion	
California, fiscal years 2005-2009, contributed	$16.2 billion	
Calculation	$19.3 billion ÷ $16.2 billion	
Return per dollar using same-year comparison data, fiscal years 2005-2009	$1.19	
Rate of return using data available at time of apportionment		
California, fiscal years 2005-2009, received (includes apportionments from 13 formula programs plus funds from the High Priority Project Program)	$16.6 billion	9.07%
California, fiscal years 2003-2007, contributed	$15.9 billion	9.93%
Calculation	$16.6 billion ÷ $15.9 billion	9.07% ÷ 9.93%
Rate of return using apportionment-year data, fiscal years 2005-2009	**$1.04**	**91%**

Source: FHWA data.

Our fourth way of calculating a state's rate of return is not normally calculated by FHWA. It involves evaluating the relative share as just described, 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. When this analysis is applied to all states, approximately half of the states are donor states and the other half are donee states. Specifically, under this methodology, 25 states received less than 100 percent relative rate of return, and 26 states received more than a 100 percent relative rate of return. Compared with the results we reported in our 2010 report, our recent analysis with fiscal year 2009 data resulted in Louisiana, Maine, and Washington changing from a donor to a donee state using the relative share method for a state's rate of return in the same year. For instance, in our June 2010 report, the relative share for Louisiana was 97.97 percent, but it increased to 102.98 percent with the inclusion of fiscal year 2009 data. Conversely, Minnesota shifted from a donor to a donee state. In our June 2010 report, the relative share for Minnesota was 101.26 percent but it changed to 99.46 percent with the inclusion of fiscal year 2009 data, again using the relative share method for a state's rate of return in the same year. Table 3 shows the results of all states for the entire 5-year SAFETEA-LU period using the four analysis methods.

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, fiscal years 2005 through 2009	Year of apportionment comparison, fiscal years 2005 through 2009	Same-year comparison, fiscal years 2005 through 2009 (percentage)	Year of apportionment comparison, fiscal years 2005 through 2009 (percentage)
Alabama	$1.24	$1.19	101.05	103.98
Alaska	4.99	4.89	405.36	428.90
Arizona	1.07	1.04	86.98	91.30
Arkansas	1.31	1.17	106.42	102.89
California	1.19	1.04	96.75	91.36
Colorado	1.09	1.04	88.67	91.31
Connecticut	1.66	1.54	135.24	135.24
Delaware	2.04	1.87	165.77	164.17
District of Columbia	5.85	5.26	475.64	461.14
Florida	1.15	1.04	93.53	91.32
Georgia	1.10	1.04	89.03	91.36
Hawaii	2.20	2.07	178.66	181.73
Idaho	1.70	1.63	137.86	143.38
Illinois	1.16	1.05	94.19	91.75

	Return per dollar		Relative share	
State	Same-year comparison, fiscal years 2005 through 2009	Year of apportionment comparison, fiscal years 2005 through 2009	Same-year comparison, fiscal years 2005 through 2009 (percentage)	Year of apportionment comparison, fiscal years 2005 through 2009 (percentage)
Indiana	1.07	1.04	86.89	91.30
Iowa	1.13	1.06	92.16	93.27
Kansas	1.23	1.17	100.17	102.31
Kentucky	1.16	1.08	93.90	94.34
Louisiana	1.27	1.06	102.98	93.42
Maine	1.23	1.09	100.10	95.90
Maryland	1.09	1.04	88.95	91.35
Massachusetts	1.17	1.11	95.25	97.22
Michigan	1.13	1.05	92.11	91.73
Minnesota	1.22	1.05	99.46	91.71
Mississippi	1.22	1.05	98.87	92.01
Missouri	1.21	1.10	98.12	96.60
Montana	2.71	2.46	219.95	215.56
Nebraska	1.21	1.14	97.95	100.31
Nevada	1.16	1.06	93.99	92.74
New Hampshire	1.29	1.22	104.64	106.98
New Jersey	1.08	1.04	87.81	91.34
New Mexico	1.29	1.23	104.92	107.49
New York	1.40	1.32	113.78	115.50
North Carolina	1.09	1.04	88.78	91.34
North Dakota	2.58	2.33	209.50	204.64
Ohio	1.13	1.04	92.00	91.33
Oklahoma	1.31	1.11	106.78	97.39
Oregon	1.30	1.15	105.88	100.72
Pennsylvania	1.38	1.32	112.37	115.91
Rhode Island	2.96	2.59	240.76	227.18
South Carolina	1.08	1.04	87.40	91.33
South Dakota	2.41	2.29	196.19	201.04
Tennessee	1.12	1.04	90.92	91.35
Texas	1.03	1.04	83.99	91.32
Utah	1.10	1.04	89.24	91.66
Vermont	2.95	2.35	239.44	206.04
Virginia	1.11	1.04	89.98	91.33
Washington	1.25	1.04	101.51	91.62

State	Return per dollar: Same-year comparison, fiscal years 2005 through 2009	Return per dollar: Year of apportionment comparison, fiscal years 2005 through 2009	Relative share: Same-year comparison, fiscal years 2005 through 2009 (percentage)	Relative share: Year of apportionment comparison, fiscal years 2005 through 2009 (percentage)
West Virginia	2.18	1.90	176.73	166.36
Wisconsin	1.27	1.22	103.11	107.27
Wyoming	1.67	1.62	135.41	142.35
Total	**$1.23**	**$1.14**	**100.00**	**100.00**

Source: GAO analysis of FHWA data

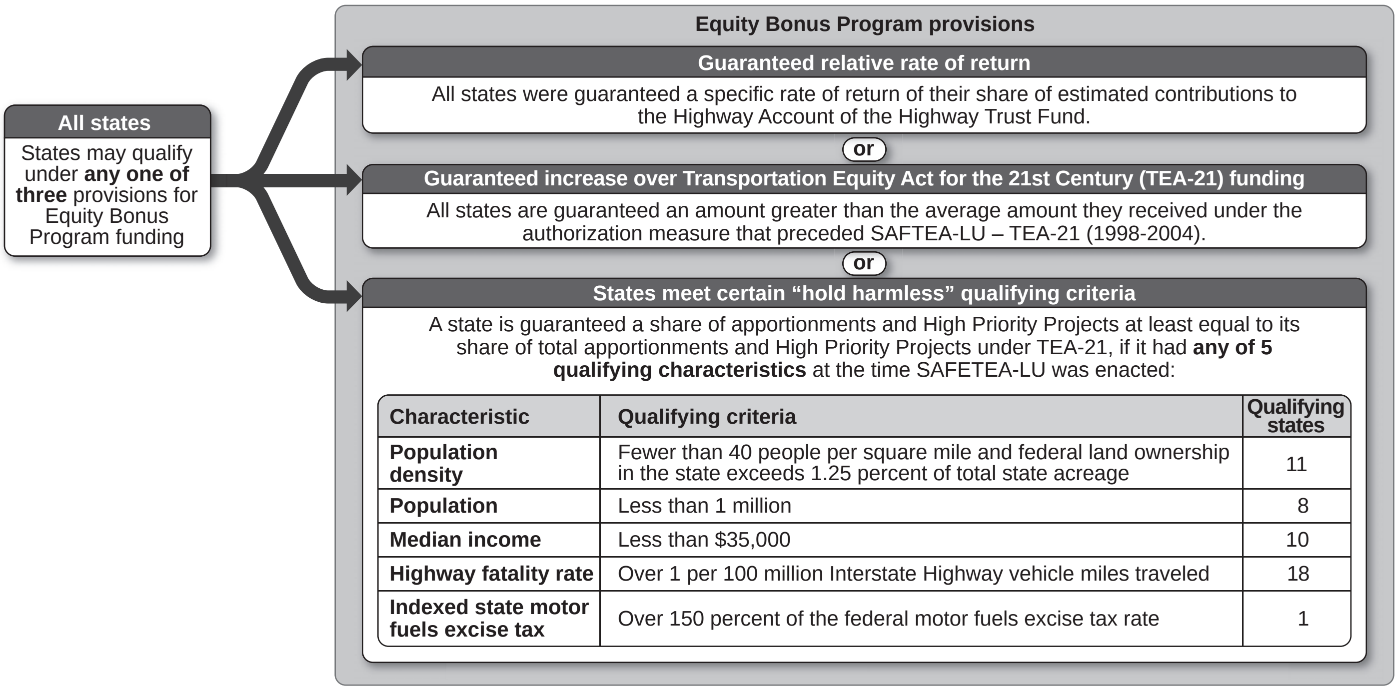
Note: Gray shading indicates donor state.

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

The Equity Bonus provisions addressed states' concern on the rate of return and provided more funds to states than any other individual Federal-Aid Highway formula program. Over SAFETEA-LU's 5-year authorization period, the Equity Bonus provisions provided $44 billion in funding authority to the states, while the second-largest formula program, the Surface Transportation Program, provided $32.5 billion. Each year since fiscal year 2005, about $2.6 billion stayed as Equity Bonus program funds and could 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: Interstate Maintenance, National Highway System, Surface Transportation, Congestion Mitigation and Air Quality, Highway Bridge, and Highway Safety Improvement. Because states can transfer funds among the core programs, the funding apportioned to any core program is not critical.

States may qualify for Equity Bonus funding by meeting criteria contained in one of three provisions (see fig. 6). A state that meets the criteria for more than one of the provisions receives funding under the provision providing the greatest amount of funding. FHWA conducts Equity Bonus calculations annually. However, with the extension of SAFETEA-LU authorization for 2 years, the Equity Bonus Program has not been recalculated. According to FHWA officials, since fiscal years 2010 and 2011 were funded at the fiscal year 2009 level, states simply received the same amount for fiscal years 2010 and 2011 as they did in fiscal year 2009.

Figure 6: Equity Bonus Program Criteria



Characteristic	Qualifying criteria	Qualifying states
Population density	Fewer than 40 people per square mile and federal land ownership in the state exceeds 1.25 percent of total state acreage	11
Population	Less than 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: Because states may have met more than one qualifying criteria under the hold harmless provision, 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 of return increased in steps, rising to 92 percent in fiscal year 2009. The second criterion—the guaranteed increase over average annual apportionments authorized by the Transportation Equity Act for the 21st Century (TEA-21)[15]—also varied by year, rising from 117 percent in fiscal year 2005 to 121 percent in fiscal year 2009.[16] The number of states qualifying under the first two provisions varied 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

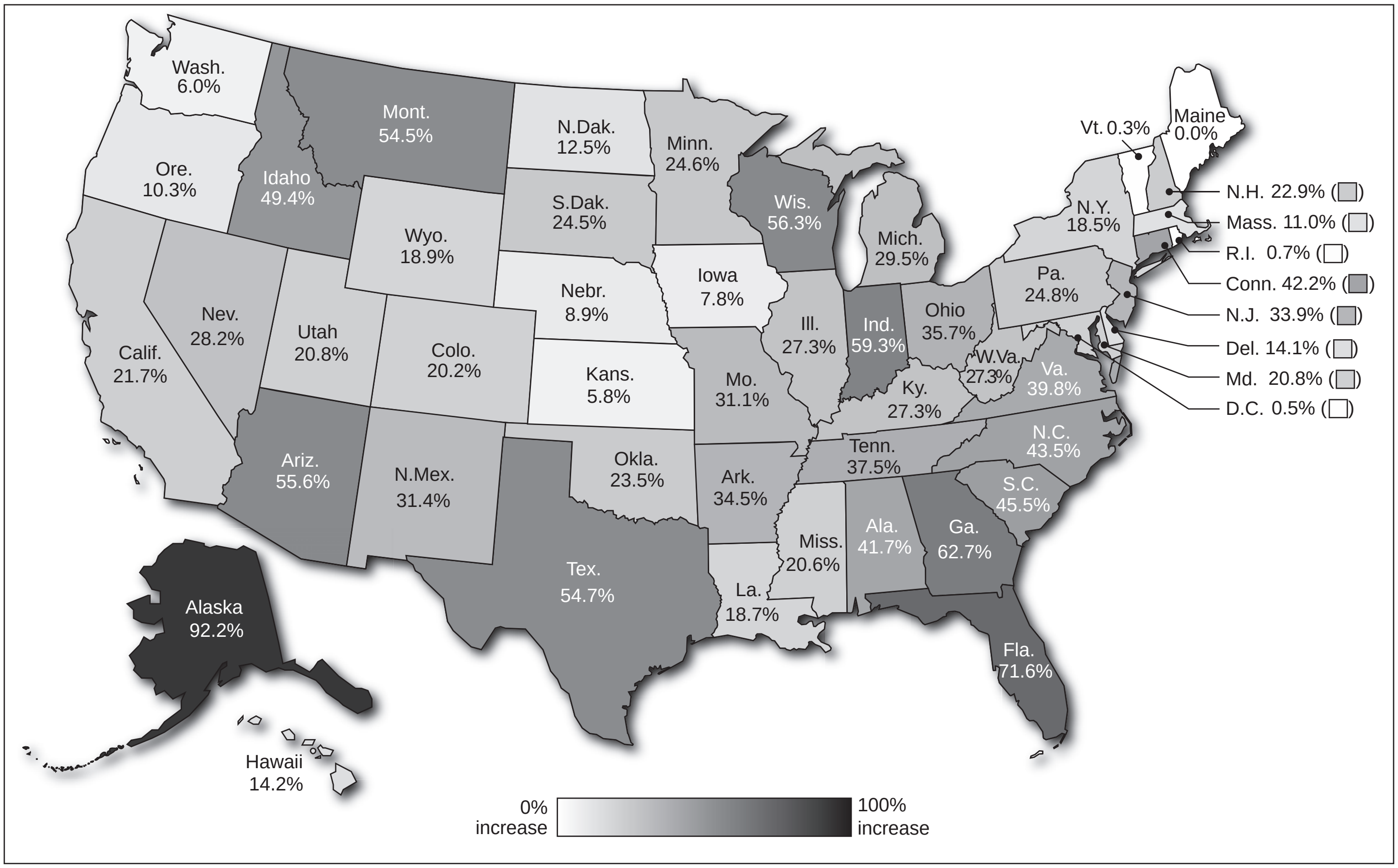
[15]Pub. L. No. 105-178, title I, § 1104, 112 Stat 107, 127-129 (1998).

[16]23 U.S.C. § 105(c).

characteristics. A number of 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. As a result, half of all states received at least a 25 percent increase in their overall Federal-Aid Highway Program funding over their core funding. Each state’s percentage 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 7.

Figure 7: Percentage Increase in Total State Apportionment and High Priority Amounts Due to Equity Bonus, Fiscal Years 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 further complicate the relationship between states' 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.

The infusion of significant amounts of general revenues into the Highway Trust Fund Highway Account breaks the link between highway taxes and highway funding. 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.[17] To cover the shortfall, from fiscal years 2008 through 2010 Congress approved the transfer of about $29.7 billion in additional general revenues into the Highway Account of the Highway Trust Fund.[18] This transfer affected each state's rate of return and resulted in all states being donees—receiving more funds than they contributed to the Highway Account. Taken as a whole, for fiscal year 2009, the general fund transfers had a significant impact on the states' rate of return, with the federal government paying about $42.4 billion to the states, while highway user fees paid into the Highway Account were $30.1 billion. 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.[19] 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. Because for many states the share of Highway Trust Fund contributions and general revenue contributions are different, state-based contributions to all the funding in

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

[18] The $29.7 billion transferred amount was about 35 percent of FHWA's budget for fiscal years 2009 and 2010 combined. Robert S. Kirk, Congressional Research Service, *The Donor-Donee State Issue in Highway Finance*, (Washington, D.C.: June 13, 2011).

[19] 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.

the Trust Fund are no longer clear.[20] 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.[21]

Using rate of return as a major factor in determining federal highway funding levels is at odds with re-examining and restructuring 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 the grantees receiving federal funds and do not use the best tools and approaches to ensure effective investment decisions.[22] 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.[23] 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.[24] 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

[20]This also complicates longer-term historical analyses of state-based rate of return for the Highway Account. During certain periods, general funds from 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.

[21]Rate of return does not apply to American Recovery and Reinvestment Act funding and was not used in the rate of return calculations for this report. GAO, *Recovery Act: Funding Used for Transportation Infrastructure Projects, but Some Requirements Proved Challenging*, GAO-11-600 (Washington, D.C.: June 29, 2011).

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

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

[24]GAO-08-400.

are ultimately not meaningful because they are overridden by other provisions designed to yield a largely predetermined outcome—that of returning revenues to their attributed state of origin.[25] Moreover, once the funds are apportioned, states have considerable flexibility to reallocate them among highway and transit programs.[26] 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.[27] This approach poses 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.[28]

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 unsustainable in the long 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, 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. The Congressional Budget Office forecasts another revenue shortfall in the Highway Account of the Highway Trust Fund by the end of fiscal year 2012.[29] Over the long term, vehicles will become more fuel efficient and increasingly run on alternative fuels. As such, fuel taxes may not be a

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

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

[27]GAO-04-802.

[28]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).

[29]Congressional Budget Office, *The Highway Trust Fund and Paying for Highways* (Washington, D.C.: May 17, 2011).

long-term source of transportation funding.[30] 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.[31] 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 future, policy discussions will need to consider what the most adequate and appropriate transportation financing systems will be, and whether 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 February 2009 report, including alternative approaches to the fuel tax, mileage-based user fees, and freight-related charges.[32] 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 report to DOT for review and comment. DOT provided technical comments, which we incorporated as appropriate.

[30]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).

[31]GAO-08-843R.

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

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. At that time, we will send copies to interested congressional committees and the Secretary of Transportation. The report will also 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 Offices 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 III.

Phillip R. Herr

Phillip R. Herr
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope and Methodology

This report addresses the following objectives: (1) the amount of revenue contributed to the Highway Trust Fund Highway Account compared with the funding states received during the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (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 (3) additional factors that affected the relationship between contributions to the Highway Trust Fund and the funding states receive.

This report updates and includes additional information for a related report issued in June 2010.[1] The main update to the prior report is the inclusion and additional analysis of fiscal year 2009 data on the states' contributions to the Highway Trust Fund that was made publicly available by Federal Highway Administration (FHWA). As a result, the analyses in this update are inclusive of the entire initial 5-year SAFETEA-LU period. Any analyses from the 2010 report that were not impacted by new data were included in this update as context.

To determine the amount of revenue states contributed to the Highway Trust Fund Highway Account compared with the funding they received during the SAFETEA-LU period, we completed four analyses using FHWA data. We met with FHWA and other Department of Transportation (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. The source data is published annually in Highway Statistics 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 actual total appropriations and allocations received by states from the Highway Account of the fund. We did not independently review FHWA's process for estimating states' contributions into the Highway Trust Fund. However, we have reviewed this process in the past, and FHWA made changes to the process as a

[1] GAO-10-780.

result of our review.[2] 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 performed alternative analyses to demonstrate that different methodologies provide different answers to the question of how the contributions of states' highway users compared with the funding states received. Using the same data as just described, we performed a "relative share" analysis, which compared each state's estimated proportion of the total contributions to the Highway Account with 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 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, 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 analyzed (1) 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

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

and reports by the Congressional Research Service (CRS), FHWA, and others as applicable. We conducted an analysis of the 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 through 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. We also spoke with FHWA officials to get their perspectives.

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

Appendix II: How FHWA Estimates Contributions to the Highway Trust Fund

Currently, the Federal Highway Administration (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. First, FHWA 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 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, because data from state revenue agencies are more reliable and comprehensive than vehicle miles traveled data, 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 report on motor fuel tax receipts due 90 days after calendar year's end. Because states have a wide variety of fuel tracking and reporting methods, FHWA must adjust the data to achieve uniformity. FHWA analyzes 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, 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

[1]We last reviewed this process in 2000. See GAO-RCED/AIMD-00-148. At that time, we made a number of recommendations to improve the process, and FHWA instituted improvements based on these recommendations.

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

every 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

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Staff Acknowledgments

In addition to the contact named above, Steve Cohen (Assistant Director), Jennifer Kim (Analyst-in-Charge), Brian Hartman, Bert Japikse, Delwen Jones, Max Sawicky, Josh Ormond, and Tim Schindler made key contributions to this report.

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